



**PROMO-LEX
ASSOCIATION**

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REPORT

**ON HUMAN RIGHTS VIOLATIONS
IN MOLDOVA**

2005 RETROSPECTIVE

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INTRODUCTION

Promo-Lex Association is a non-governmental not-for profit and apolitical organisation, following the public benefit and develops its activity on the whole territory of the Republic of Moldova. Promo-Lex Association was founded on 19 July 2002 being registered at the Moldovan Ministry of Justice.

Promo-Lex mission is contributing to the democratisation process of the Republic of Moldova through promoting and defending human rights and fostering the civil society. One of the main fields is the development, editing and distributing national reports on the protection of human rights and fundamental freedoms.

Being aware of the fact that such an activity requires an enormous work, special skills and obviously, much experience in the field, Promo-Lex Association launched the initiative of developing a 2005 annual report on human rights protection in Moldova. The fact that the Royal Norwegian Embassy accepted to finance such a young organisation like Promo-Lex proves that the organisation is trustworthy and credible. On the other hand, this financing implies doubled responsibility from behalf of the organisation and of the authors of the report, in particular. Thus, we tried to justify the credited trust by collecting an enormous volume of materials, based on real cases and stories, examined and even solved by promo-Lex during 2005.

During the last years, various state and non-governmental structures have had elaborated and published several human rights reports, but one cannot speak of a sample-model of such documents. Thus, the structure proposed for the present report has been approved by the authors, taking into account the great volume of information.

While drafting the report we took into account the multiperspectivity of the problems and consulted various organisations and persons in charge with the given problems. Being at the beginning, we are aware that the report couldn't be perfect and may have some drawbacks, so that the authors would be grateful for any comments and suggestions for its improvement.

We would also like to thank to all our partners and colleagues who contributed to the improvement of the texts, at the same time taking into account the authors liberty in tackling sometimes controversial, complex and even sensitive subjects. We are expressing our hope that the arguments and analysis brought in the report justify the donor's and partners trust.

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We would also like to point out the substantial contribution of the local authorities and law enforcement agencies from the Dubasari district, as well as the population of the Transnistria region who has shown attitude and interest in collaborating with Promo-Lex by providing us with information related to cases of human rights violations in the „security zone”, as well as in the region being under illegal Tiraspol regime.

We developed the report in the hope that the results of our investigation could help overpassing the crisis situation, serving to the decision taking bodies as an additional argument for adopting an unbiased approach of the problem and urgent solving of the related human rights violations.

1. GENERAL CONSIDERATIONS

The edification of a state governed by the rule of law means, first of all, the respect for human rights and fundamental freedoms excluding any kind of discrimination. The ensurance of human rights implies to the authorities (state governments) the essential obligation to protect their citizens against any forms of discrimination and guaranty their equality before the law. Looking at the experience of the highly democratic states, we can notice that the human rights protection system presupposes an efficient mechanism for the multilateral development of both the society in general as well as the individual in part.

The Republic of Moldova has already ratified the most important human rights documents, bringing its legal framework in compliance with the international standards. But the adoption of the normative acts does not necessarily means the strict respect for their provisions. The human rights are nothing else then a continuous phenomenon the society has to fight for and protect it against any attempts. The realisation and guaranty for the protection of human rights is extremely difficult for any society, regardless of its democratisation level and is much more difficult for the newly post-communist democracies, like the Republic of Moldova.

Since the proclamation of independence in 1991, the term „human rights” enjoys much appreciation and official recognition in the Republic of Moldova. Meantime, this term is being excessively and desperately used by the citizens, who consider that the simple fact of invoking the injured right or writing a petition to a high state official is able to solve their multiple problems. It became very frequent that the people address petitions to the ECHR as a last hope for justice after being wronged by Moldovan justice system, although their chances of success are limited because of various reasons.

The irreversible democratisation process is still very slow, and the positive changes in people’s behaviour, way of thinking and mentality are still very vague. In particular, this thing can be easily assessed when taken into comparison with the situation from the eastern part of Moldova, the so-called Transnistria region which is for more than 16 years under the dictatorship of a foreign and illegal regime. Thus, if the human rights situation on the left side of Nistru river is problematic, then in the eastern part it is catastrophic. This is why the chapter devoted to the human rights situation in the eastern part is more wide and thorough and contains much information based on real cases and situations.

The phenomenon of legal illiteracy was inherited from the soviet regime and has a huge impact over the human rights protection in Moldova. Most of Moldovan population do not know even the basic notion in the human rights field, the procedure and mechanisms of human rights protection. In order to combat this phenomenon, the Moldovan Parliament adopted on 24 October 2003 the National Human rights Action Plan (PNADO). This plan represent the most important document in the human rights field and is component part of the RM-EU Action Plan providing for the concrete actions for the ensuring of human rights for the year 2004-2008.

But, by the end of 2005 the results of this plan do not inspire much hope and optimism. Anyway, we consider that the objectives provided for in the plan are realistic and necessary and they can and shall be met.

The role of the non-governmental organisations in the field of human rights informing and awareness raising, which is a consistent part of the plan, is very big and can be realised through various activities. The impact of the direct contact of the human rights NGO’s with the representatives of various strata of population is still quite efficient. Thus, being in a double position (a human rights as well as civic education NGO) Promo-Lex decided to develop a alternative report on the protection of human rights in Moldova. For the good realisation of this task, the following objectives had been put forward:

- Objective and unbiased reporting of the current state of things in the field of human rights and fundamental freedoms protection, based on in depth monitoring and analysis of the cases examined by the organisation;
- Objective and impartial analysis of the cases reported in the local and national media and national and international thematic reports;
- Informing the national and international public opinion on the socio-political situation in the country and the repercussions it had on the human rights protection during the year 2005.

In spite all the efforts the civil society and Moldova officials have taken, the human rights situation in 2005 did not turn to good as much. On the contrary, a series of serious issues have been registered affecting a big number of the population.

We express our hope that the reported human rights problems will serve as a signal for the state structures and officials in charge with the protection of human rights and will lead to an improvement of the situation.

2. THE ENSURING OF HUMAN RIGHTS IN THE REPUBLIC OF MOLDOVA

2.1. Right to life, freedom and personal security

According to art. 4 of the Moldovan Constitution the fundamental provisions related to human rights and freedoms should be interpreted and applied in compliance to the Universal Declaration of Human Rights, other pacts, treaties and international documents which Moldova is part to.

The state guaranties the right to life and moral and physical integrity to everyone and no one can be subjected to torture, cruel, inhuman or degrading punishments or treatment. The capital punishment has been abolished. No one can be condemned to a capital punishment or executed except crimes committed during war time or when an eminent war danger exists and only under the conditions of the law.¹ Meantime, the personal liberty and security are inviolable.²

Thus, the stipulations of the Moldova Constitution have been adjusted to international standards, enshrining in its text the rights and freedoms guaranteed by the Universal Declaration of Human Rights, European Convention for the Protection of Human Rights and Fundamental Freedoms and other treaties joined by the Republic of Moldova. More over, since the proclamation of independence, the Moldovan Parliaments took efforts in adjusting the whole national legal framework to the international standards (here it is worth mentioning the modifications made to the Criminal and Criminal procedural codes during the year 2005).

Meantime, in spite of all these positive aspects related to the evolution of the legal framework, there were some derogations and even cases of violations of the given right related in particular to:

- the right to life;
- prohibition of torture and inhuman and degrading punishments or treatment;
- prohibition of forced labour;
- right to liberty and personal security;
- right to leave and return, including freedom of movement.

2.1.1. Right to life

Being a party to the European Convention and other international treaties, Moldova has the obligation to guarantee the right to life to any person under its jurisdiction. Looking from the prospect of the right to life as it is described in the Convention, we can say that the state set up a good and sound legal framework for protecting and insuring this right.

But in the course of 2005 there were some cases, which we consider as violations of the right to life, or more precisely as failures as regards the state positive obligation to guarantee the right to life manifested in state negligence to protect the right to life. The state has the positive „obligation to protect the right to life”,³ which is interpreted as a general obligation of the state to „ensure to any person under its jurisdiction the enjoyment of his rights and liberties as provided for by the Convention”. And this implicitly implies the state obligation to carry out effective investigations of the circumstances under which a person has been deprived of his life by the state agents.

The state structures do not provide any information regarding cases of violations of the right to life or accidents where the state agents had been involved. So, it should be stated that the access to this kind of information remains very difficult.

On 27 March 2005, two persons have stolen two arms as well as some cartridges from the target shooting of the Sports Club of the National Army. The police started immediately the search of the two offenders, but on 29 March 2005 when they caught them and tried to arrest them, one of them shoot one policeman and killed him. Another policeman was heavy injured.

We won't go further in details of the case, but one thing should be mentioned: both of the policemen did not wear anti-bullet vests which would protect them in case of shooting. This case shall be considered as a violation of the state obligation to protect the life of persons (in this case the life of police collaborators). Moreover, such an operation carried out with the aim of detaining very dangerous persons (armed and

1 Moldovan Constitution, art.24

2 Moldovan Constitution, art.25

3 European convention for Human Rights, art.1, art.2

previously condemned),⁴ presupposes an increased risk for the life and security of the policemen⁵. Thus, the authorities had the obligation to prevent such situations and provide the policemen with everything necessary for their security.

The second case relates to the aeronautic catastrophe,⁶ which took place on 27 May 2005 at the military aerodrome from Marculesti, Floresti district. As a result of this accident, 4 persons lost their lives. The main cause of the accident was that all 4 persons, member of the crew, were piloting a plain which exploitation term was expired.

The criminal investigation over the case established that the members of the crew were not guilty for the accident and they even tried to do their best for avoiding it. Thus, here we can speak again about the state obligation to protect its citizens and that the use of very old and overused equipment and machines put at risk the life and security of the people. It should be also mentioned that the families of all the members of the crew who died in the accident have not received any compensation yet from the state budget and the authorities fail to deal with the situation of these families.⁷

We consider that the authorities shall pay special attention to such cases in order to fully insure the protection of human rights, and in particular the protection of the right to life. Moreover, the violation of this right can be followed by a condemnation by the European Court. The court case law shows that there were cases when states were condemned for not taking urgent and operative actions for saving the life of its citizens who were in danger.⁸ The states are obliged to carry out an official and efficient investigation over such cases and over all the circumstances of the case.⁹ The state authorities shall take all necessary measures for avoiding and minimising the risks that put in danger the life and security of its citizens.¹⁰

Recommendations

- *Protection and ensuring of the right to life during operations carried out by the law enforcement agencies;*
- *Providing the people participating in special operations with personal security measures in order to protect them from an eventual danger;*
- *Carrying out official and efficient investigations over the accidents and cases of death under unclear circumstances and making public the results of the investigation;*
- *Periodical testing of the technical means and the strict ensuring of their usage instructions;*

2.1.2. Prohibition of torture, inhuman or degrading treatments or punishments.

The Moldovan legislation bans the use of torture, inhuman or degrading treatments or punishments and guarantees the protection of human beings against such kind of actions from the part of the law enforcement agencies.¹¹ This article was introduced in the Criminal Code together with its application on 12 June 2003.

The Criminal Code was hardly amended with article 309¹ which stipulates sanctions against encroachment upon provisions as regards prohibition of torture, inhuman treatments or punishments by the representatives of the law enforcement agencies on 30 June 2005. Till that moment the representatives of law enforcement agencies, having admitted of the encroachments listed above, were drawn to criminal responsibility according to article 328 of the Criminal Code,¹² but due to its specific make-up, the actions of torture could not be permanently framed in the stipulations of the present article.

In this context, the definition given by the European Court for Human Rights (hereinafter ECHR or the Court) for actions of this kind perpetrated by state representatives can be relevant. According to provisions of article 3 from the Convention there are five categories of ill-treatment and namely: the use of torture, inhuman or degrading punishments, inhuman or degrading treatments. By ECHR, the torture supposes that the victim has suffered serious consequences as a result of the manner of the treatment. In each case taken separately, the Court examines the degree of seriousness of the treatment applied in order to qualify it. The length of the treatment, its physical and psychic effects, the person's gender, age, health state of the so-called victim are of great importance in treatments qualifications.¹³

4 The authorities knew that the suspects could be armed with the stolen arms and cartridges. Also the authorities had information about their previous condemnation.

5 www.mdn.md/index.php?day=1160

6 <http://garda.com.md/53/investigatii/>

7 Regulation of the "way of performing the compulsory state insurance of the military and citizens serving their military service" approved by Government Decision no.214 from 10 April 1996

8 See case Osman versus Great Britain 1998.

9 See case Djordan versus Great Britain and /or Chilic versus Turkey.

10 See case Egri versus Turkey 1998.

11 Article 137 of the Criminal Code of Republic of Moldova "Inhuman Treatment".

12 Article 328 of the Criminal Code of Republic of Moldova "Excess of power"

13 The decision from 1978 in the case Ireland against.UK

In general, any actions can be considered acts of ill-treatment if they intentionally cause sufferings or serious physical or psychic injuries in order to obtain information or evidence from the person or from a 3rd party; his or her punishment for an action which the person or a third party has committed or is suspected of it; his or hers or a third party's intimidation or constraint; or on the grounds of any other manner of discrimination.¹⁴

The distinction between torture and other types of ill-treatment must be realized in conformity with "the difference of the intensity of the caused injury". Generally, the ill-treatment with serious consequences can also be considered a torture; the blows (violence) of a low or medium intensity, detention conditions, corporal punishment and racial discrimination can be called inhuman or degrading treatment.

Thus, the actions of torture, punishments or inhuman or degrading treatments may persist in the institutions of detention or in the military and paramilitary institutions.

In the course of the year 2005, ECHR issued 13 decisions which condemned the Republic of Moldova, but none of them referred to the use of torture by state representatives. At the same time, this fact indicates a perfect and real situation on this subject under no circumstances, taking into consideration the long-standing procedure before the Court, because the results of the examination of the complaints lodged in 2005 will be known in some years.

In the course of the year 2005 a list of encroachments of the provisions as regards the prohibition of torture, degrading or inhuman treatment or behaviour were found. At the same time, the creation of a defence and counteract mechanism of this phenomenon in the Republic of Moldova must be hailed. Thus, a criminal case corresponding to the provisions of article 3091 of the Criminal Code of the Republic of Moldova with regard to representatives of the authorities was initiated, simultaneously, 300 criminal cases were started in 2005 in conformity with article 328 of the Criminal Code stipulations, which constitutes 11,5% more in comparison with the year 2004 (269 criminal cases). From the total number of crimes, 81 criminal cases were started corresponding to article 328 par.2 letter a) "excess of power accompanied by the use of violence" and 10 criminal cases were started corresponding to article 328 par.2 letter c) "Excess of power accompanied torture".¹⁵

The phenomenon of inadequate behaviour of the authorities towards people deprived of liberty remains unexplainable and extremely alarming for the whole society. In penitentiaries the detainees are not re-educated, and the greatest majority commits other offence after being set free as a result of inadequate treatment. It may seem that 300 criminal cases are too little to call it phenomenon, but we must take into consideration the fact that this number of criminal cases doesn't represent the reality. During last year more news and information about such cases were broadcast in mass-media.¹⁶

The persons, who suffered as a result of questioning, being put to physical pressure or brutality, can address the organs of the local court according to the principle of the established territorial competence, but the result of their examination doesn't reflect the reality. We cannot say that these complaints are examined on an unsatisfactory level, but the major problem remains to be the belated addressing of these persons to the competent bodies.

Thus, with the time passing, it is almost impossible to assess certain corporal lesion on the body of the so-called victim caused as a result of the brutal actions of the representatives of the authorities. On these grounds, many complaints are reduced to a formal examination and therefore, to the issue of a formal decision. We cannot evaluate the real number of cases of brutality of detainees because no statistics is given on this subject.

However, we would like to relegate to a case of degrading treatment applied to citizen M.¹⁷ The person in question was ill-treated by the police fellow-workers from Dubasari. In the summer 2005 the person was suspected by the police of embezzling goods. He was ill-treated physically and mentally on the grounds that he avoided confessing his guilt of his own accord. As a result the petitioner lodged a complaint to the ombudsmen. Having learned this, police fellow-workers brutalized him repeatedly and detained him in accordance with the stipulations of articles 166-167 of the Criminal Proceedings Code of the Republic of Moldova. During the detention the defendant was ill-treated by the policemen countless times; as a result he lodged a repeated complaint to the parliamentary lawyers.

This complaint was handed out for examination to the Court of Dubasari district. The latter issued a resolution of intact of the criminal proceedings without holding medical-legal examination in the view of confirming or nullifying the evidence of the detainee or without giving hearing to him. So much the more, the court didn't even dispatch the copy of the resolution of the detainee in the view of offering him the possibility to lodge an appeal.

14 The definition given by UNO Convention for the prevention of torture, taken over by ECHR, for example in *Akkoc versus Turkey*, decision from 2000; *Salman versus Turkey*, decision from 2000.

15 The information as regards the situation of criminality on the territory of the Republic of Moldova during the period 1 January – 31 December 2005, offered by MI of RM.

16 Snapshots in mass-media with the suspected Serghei Gurgurov in the magistrates court, who was almost carried by the policemen. He was treated in such a cruel way as he could hardly move independently.

17 Practical case from the activity of "Promo Lex"

Conclusions and recommendations.

In conformity with the Human Rights National Action Plan,¹⁸ the Republic of Moldova has assumed the responsibility to provide every detention isolator of every police station with a doctor till the end of the year 2005 as to facilitate the access of the so-called victims to a medical examination. Unfortunately, this point has not been realized and the cases of brutality of the persons deprived of freedom continue. It is necessary to make some arrangements in the view of fulfilling the assumed obligations.

2.1.3. Violations and derogations as regards prohibition of forced or compulsory labour.

In accordance with the stipulations of article 44 from the Constitution of the Republic of Moldova „ (1) Forced labour is prohibited. (2) Forced labour is not considered:

- a) The military service or activities carried on in the military places by those who don't satisfy the compulsory military service in accordance with the law;
- b) The labour of a condemned person carried out in normal conditions during the detention period or during the release on parole;
- c) The service imposed in situations created by disasters or by other danger, and the work which is one of the normal civic obligations appointed by law.”

Practically all these stipulations can be seen in article 4 of the Convention.¹⁹ Here we can mention the fact that the legislation of the country is adjusted to the stipulations of the Convention by sanctioning the persons who encroach the legal provisions (the responsibility is assumed in conformity with the provisions of article 167 of the Criminal Code²⁰ and of article 168 of the Criminal Code).²¹ We can also mention that labour legislation offers lots of rights to the persons employed in the service, in the view of assuring the implementation of the provisions of the Constitution and the international pacifying force.

Both slavery and subjugation involves the work of the victim without consent, during an undetermined, substantial or potentially unlimited period. In order to assess the slavery it is necessary to reach a certain degree of severity of the treatment. Consequently, it is hardly probable that situations of such kind can be found in some country-member of the Council of Europe. In conformity with the provisions of article 15 of the Convention, some exceptions to the provisions of article 4 are prohibited, at the same time; the Court has not assessed any encroachment of this article till now.

In the Republic of Moldova, unfortunately, many cases which affect the right of not being imposed to forced or obligatory labour have been found. On these grounds we would like to examine two phenomena which face up to violation of this right in Moldova and namely:

- The traffic in human beings;
- The constraint of militaries to forced labour.

We consider that the traffic in human beings, in general aspects, may be qualified as the constraint to forced labour. In this context, the term “forced labour” denotes „any work or service imposed to an individual by threatening him/her with punishment in case s/he has not offered her/himself to realize this work”.²² Thus, in the course of the year 2005 246 cases of traffic in human beings were registered by the moral support bodies that constitute one case more than in 2004. Simultaneously, 59 cases of traffic of children were registered in comparison with 43 cases registered in 2004. We can also mention here the accession of 104 cases of procuring as compared to 103 cases registered in 2004. A quantitative increase in the number of cases of human beings traffic is ascertained.

On these grounds the feedback of this kind of offences in the society is extremely great. The main internal causes which encourage the traffic in human beings are unemployment and difficult social situation of some categories of population, as well as the negligence from the part of the civil servants. At the same time we cannot ignore the external causes which encourage the traffic, mainly the demand (requirement) of human beings in the developed countries. Secondary effects of traffic in human beings should also be mentioned. Thus, the social balance and labour force market are influenced by the departure of a great number of people abroad. Many localities remain half-deserted, children remain without their parents' supervision, the rate of divorces increases and the marriages rate and birth-rate decreases. All these have a negative impact on the life of the whole society and, respectively, on the humanity in general.

18 Human Rights National Action Plan for the period 2004-2008. Chapter 7. As regards the right to life, the right to physical and moral integrity. Paragraph a), criterion1, activities a) and b).

19 „ (1) No one shall be held in slavery or servitude. (2) no one shall be required to perform forced or compulsory labour. (3) For the purpose of this article the term „forced or compulsory labour” shall not include: a. Any work required to be done in the ordinary course of detention according to the provisions of Article 5 of this Convention or during conditional release from such detention; b. Any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service; c. Any service exacted in case of an emergency or calamity threatening the life or well-being of the community; d. Any work or service which forms part of normal civic obligations.”

20 Slavery and conditions similar to slavery

21 Forced labour.

22 The definition given by International Labour Organization (article 2 (1) from the Convention of ILM

The positive contribution of non-governmental organisations as regards the phenomenon of the traffic in human beings and human organs should be mentioned. „Anti-traffic” organisations (The Centre of Preventing Women Traffic „La Strada” etc.) confer preventive and restoration services to illicitly traded people. This organization undertake arrangements in the view of facilitating the access to justice of the victims of human traffic, organizes campaigns to inform of the consequences of human traffic, confers legal opinions, organizes press conferences, debates, etc.

It is necessary to mention the negative phenomenon of imposing forced labour upon conscripted militaries in 2005. During last year the military public prosecutors paid great attention to activities of prevention and interruption of derogations in the behaviour of the militaries during the military service. Thus, cases of imposing non-ratified work upon the conscripted militaries were registered and, as a result, 3 commanding officers of military unities were brought to criminal responsibility.²³ This number doesn't show the reality on the grounds that the conscripted militaries are not familiar with their rights and liberties and are not able to ask for timely help in the view of interrupting cases of this kind.

2.1.4. Violations and derogations as regards right to liberty and security.

As it has been mentioned, the state guarantees the right to liberty and security, which has been sanctioned by article 5 from the Convention.²⁴ The most numerous encroachments of human rights from the point of view of this right persist on this subject.

In our opinion, the most serious problem constitutes the perfunctoriness in the acts related to legal procedure, which certifies the person's deprivation of liberty. Thus, in accordance with the provisions of article 167 of the Code of Criminal Proceedings:

„(1) The body of legal proceedings has the right to detain the person suspected of committing an offence and the law makes provisions for prison punishment for a period longer than one year only in the cases:

1) If the person was caught in the act;
2) If the eye witness as well as the injured party shows directly that namely that person has committed the offence;

3) If there are some obvious signs of the offence on the person's body or clothes, at home or in the person's means of transport.

(2) In other circumstances which serve as basis to suspect the person of committing an offence, s/he may be detained only in case of trying to hide or if there is no permanent living place or his/her identity has not been ascertained.”

In practice there are very few cases when cogency listed above persist. Often the doubt of committing serious, very serious or extremely serious offences is confirmed by other tests (expert's report, documents, audio or video recordings, etc) but despite this the person is detained. In the official reports of restraint these grounds are shown formally, without being motivated. Further on, the examining magistrates issue arrest warrants for different periods, motivating their decisions formally as well „is accused of committing a serious offence, may dodge the organs of criminal pursuit, etc”.²⁵

Another serious problem which affects the person's freedom and security is the detention of persons in the state of inebriation at the police station.²⁶ Practice shows that the police bodies do not possess enough financial resources to bring the person to the state of inebriation during the narcologic test to establish the state of inebriation. On these grounds the persons in question are detained in jails „till their sobering up”. This fact is certified only by the policeman (here we mention the non-execution of the provisions of the National Plan as regards Human Rights considering the insurance of all the police stations with doctors), the fact of person's detention and the detention time „till their sobering up” is certified only by the policeman, which is quite doubtful and, moreover, abuses of detentions are possible.

Conclusions and recommendations.

- The modification of the provisions of article 166 of the Code of Criminal Proceedings by the introduction to paragraph 1, point 4 of the following context: „if the doubt of the offence is confirmed by other tests foreseen by article 93 from the present Code”.

²³ Press release of the Magistracy of the Republic of Moldova from 2 March 2006.

²⁴ (1) everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: a. The lawful detention of a person after conviction by a competent court; b. The lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law; c. The lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; d. the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority; e. the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants; f. The lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. (2) everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him. (3) everyone arrested or detained in accordance with the provisions of paragraph 1.c of this article shall be brought promptly before a judge or other officer authorised by law to exert judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. (4) everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. (5) everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation.

²⁵ These gaps of formalism were ascertained by ECHR in the cases Serban and Becchiev against Moldova, decisions taken in 2005.

²⁶ Official report of assessing the administrative contravention in conformity with article 127 of the Code as regards the Administrative Contraventions was worked out concerning the persons in state of inebriation.

- *The execution of the provisions of the national Plan of Actions as regards Human Rights considering the insurance of each police station with doctors.*

2.1.5. Violations and derogations as regards the right to leave and re-turn, in particular freedom of movement.

The right to free movement on the territory of the country is guaranteed by the Constitution. Such provisions are found in other important international documents as for example article 2 of Protocol 4 of the European Convention for Human Rights.²⁷

Evidently, this right is seriously modified within almost 14 years to all the citizens and inhabitants of the republic of Moldova. Freedom of movement is restricted by the illegal separatist system from Tiraspol.²⁸

At the same time, in the Republic of Moldova this is not the only problem concerning this subject. Thus, on 19 may 1997 the Constitutional Court recognized the non-constitutionality of some provisions in normative acts with regard to person's forcing to obtain „visa of residence” and „visa of domicile”. In that decision, the Constitutional Court doesn't dispute the necessity of registration and evidence of the population in rural districts, but it doesn't pronounce its opinion about this fact in detail. Subsequently, on 18 march 2002, the government of the Republic of Moldova emits the decision nr.333, which creates “Population State Register” and forces the citizens to document the registration of temporary and fixed residence. During the year 2005 the police bodies created lots of reports considering the provisions of articles 186,²⁹ 188³⁰ of the Code with regard to the Administrative Contraventions assessing encroachments in the dwelling without a visa in a certain place. In case of contest of the lawfulness of these reports in the magistrate's court the latter decides their revocation with the classification of the cases that is a very welcome fact. We find the creation of some reports not necessary (waste of time, groundless bother of people, illegal attraction to administrative responsibility) in order to finally find that they are non-constitutional. On the other hand, via such quantitative methods (steady number of administrative contraventions) the result of activity of some legislative bodies is evaluated.

Another major problem which refers to the violation of right to free movement is the eastern part of the republic, namely, the Transnistrian region. The impediments created by the non-constitutional organs from Transnistria in relation to the right to move will be referred to later. Here we shall refer to an encroachment of the right to free movement made by the military forces “of peace maintenance”. This happened on 19 July 2005 at the pacifying post nr.9 situated on the bridge over the river Nistru (highroad Chisinau-Cosnita). On formal pretext the pacifying bodies stopped an automobile with three people inside, two of them were “Promo Lex” fellow-workers and one was a USA citizen who would take pictures of that post. The persons were detained for five-six hours, respectively, their automobile; the possibility to move was limited. More than that, the pacifying bodies applied the fire arms from the endowment, shooting in the air in order “to steady the situation and to interrupt the illegal actions of the detained persons”. After the arrival of the Ministry of Reinstatement representatives and other organisations and structures the people in question were released and allowed to move. In this way we certify the violation of the right to free movement not only by the separatist forces supported by the Russian Federation but by Russian military forces directly, stationed contrary to the will of people and authorities of the Republic of Moldova.³¹

Another massive phenomenon of violation of the right to free movement is the establishment of a tax of 7 lei for each citizen of the Republic of Moldova when entering the territory occupied by the separatist system from Tiraspol. This tax is illegal because it imposes restrictions to all the people living on the territory in question or nearby as well as other citizens who convey this territory in transit. Simultaneously, this is a classical example of discrimination because it is aimed for the population of the Republic of Moldova, whereas the people of Russia and Ukraine are exempted of this tax.

Conclusions and recommendations :

- *Steady and insistent efforts in the view of assuring the right to free movement on the whole territory of the Republic of Moldova.*
- *The modification of the Code with regard to Administrative Contraventions by excluding the articles 186 “The residence without a passport or without the registration” and 188 „The admission of residence without passport or without registration”.*

27 (1) Everyone who lives legally on the territory of a state has the right to move freely and to choose the residence. (2) Everyone is free to leave any country, his native country included. (3) Exercising these rights cannot be the object of other restrictions, except those which, stipulated by law, constitute necessary measures for national security, public safety, maintaining public order, preventing criminal offences, health or moral protection or the protection of the rights and freedoms of others in a democratic society. (4) The rights acknowledged in paragraph 1 can also make, in certain determined zones, the object of some restrictions which, stipulated by law, are justified by public interest in a democratic society.

28 See details in Chapter 3 of the present Report

29 Residence without a passport or without registration.

30 Admitting the residence without passport or without registration.

31 The society and the authorities of the Republic of Moldova plead for replacing Russian peacekeeping military forces with an international civil mission. On the other hand, Russian Federation refuses to withdraw the military troops and munitions from the Eastern part of the Republic of Moldova, though it assumed this responsibility in 1999.

2.2 RIGHT TO PROPERTY

In accordance with the Republic of Moldova Constitution, the right to private property, as well as claims to the state are guaranteed. None can be expropriated except for a cause of public utility, established according to the law, with a right and preceding compensation.³² According to the Supreme Law of the Republic of Moldova, as well as the Additional Protocol to the European Convention for Human Rights, the right to property is inalienable and everlasting and can be cancelled only by law.

Although the generally recognized principles as regards the respect of the right to property have already been established in our country, this right has sufficient problems with the adoption of the law on property and the adhesion of the Republic of Moldova to numerous international acts.

In 2005, identically with the previous years, the Republic of Moldova was marked practically by the same types of violations of the right to property, these being completed with other breaches of law caused by external factors with much more serious consequences.

The encroachments referring to in this chapter can be classified in the following way:

- violation of the right to property in the security zone of the Republic of Moldova, by banning people access to their own agricultural portions of land;³³
- violation of the right to property of the this right has sufficient problems as regards political repression victims;³⁴
- problems related to the returning of the properties belonging to Metropolitan Bess Arabian Church by the Soviet authorities;
- wrongful use of legislation on the expropriation on public utility grounds;
- non-execution of the courts decisions on the closing down of the national budget,
- problems related to indexation of economy savings;
- other problems related to the protection of the right to property.

2.2.1 Violation of the right to property in the security zone of the Republic of Moldova, by banning people access to their own agricultural portions of land.

One of the most serious encroachments of the right to property in the Republic of Moldova were recorded in 2005 in the security zone in the district Dubasari.

The actual district Dubasari is an administrative territorial unit whose territory is situated on three "plateaus": Cosnita, Cocieri and Ustia. The first two are situated in the eastern part of the river Nistru, but the third is situated to the west of the river, in the riparian zone.³⁵ Simultaneously, the greatest part of the former district Dubasari, inclusively, the town Dubasari is under the jurisdiction of the illegal paramilitary forces of the so-called Moldovan Nistrian Republic (MNR).³⁶

All the lands situated behind the road tract Tiraspol – Ribnita,³⁷ constituting private property of the inhabitants of the villages Dorotcaia, Cosnita, Pirita, Cocieri and Molovata Noua have been abusively transmitted into the property of the local separatist administration by an internal decision of the local illegal authorities from Dubasari. This decision was adopted in 2000, but beginning with the autumn of the year 2004 the so-called frontier guards, militiamen and customs services banned people access to their property situated behind this road tract.³⁸ Although the representatives of the local and central public constitutional authorities declared themselves against these posts, the secessionist authorities, supported by the Russian peacekeeping forces from this region, continued banning the access to the land which truly belongs to the inhabitants of the district Dubasari.

The self-proclaimed authorities conditioned people access to their own agricultural lands by paying some „custom taxes”, which are often appointed by the „border guards” and militiamen themselves. At the same

32 Article 46 of the Constitution of the Republic of Moldova.

33 <http://www.azi.md/news?ID=33888>

34 According to art.1 of the Law nr.1225-XIII, dated 08.12.1992 on retrieval of politic repression victims, victims of the politic repressions are persons who suffered as the result of the politic repressions and namely: the interruption of human lives, the restraint measures taken by the state towards the citizens on the political, social, national or religious grounds by depriving them of their liberty, banishing, exiling, sending to forced labour in conditions of freedom limitation, expelling from the country and depriving them of citizenship, expropriating, internment with force in psychic institutions, or other ways of limiting the rights and liberty of people declared socially dangerous for the state and the politic system, realized on the basis of the decisions of administrative, judicial and extrajudicial state bodies during the period 1917-1989.

35 www.dubasari.org

36 See details to chapter 3 – Respecting human rights in the eastern region.

37 The road tract Ribnita-Dubasari-Tiraspol has been abusively occupied by separatist paramilitary forces, that installed „customs”, „frontier guards” and „militiamen” posts being supported by the representatives of Russian pacifying forces, contrary to Moldovan Russian peace Accord dated 21 July 1992, www.transnistria.md.

38 In autumn 2004, thousands of farmers and economic agents from the region were hindered by the representatives of the separatist forces to collect and transport the crop to the places mentioned above. The farmers who possess agricultural portions of land situated behind the tract Dubasari-Tiraspol request the help of international bodies and diplomatic missions accredited in Chisinau, <http://www.azi.md/news?ID=30365>

time, the force „ministries” of the secessionist region and namely the „security ministry” (MGB), often resorted to sequestration and seizure of agricultural products as well as of means of transport of the people of the region, who moved to the agricultural storehouses situated behind the road tract Ribnita-Tiraspol.

Before 2005 the access to these lands was limited, but beginning with March, 2005 the access was totally banned. Simultaneously, many constructions situated on the territories in question passed in the possession of the separatist system. It is necessary to mention that all the communities enumerated above possessed complexes for growing animals, for processing the agricultural products, storehouses for the agricultural products and other constructions and things important for agriculture, which constitutes the basic occupation of the people of the region. Actually, the farmers from these regions are forced to go abroad in search of a place of work to make provisions for their family.

The encroachments committed by the separatist authorities in the security zone can be classified in the following way:

- a) banning the access to agricultural portions of land, land constituting public property, buildings and other agricultural constructions;
- b) sequestering of agricultural machines and goods at the borders posts;

A. Banning the access to agricultural portions of land, land constituting public property, buildings and other agricultural constructions

Essentially, the most serious encroachment is depriving of the agricultural portions of land and piles of buildings situated behind the tract Ribnita-Tiraspol. Here we mention that in the district Dubasari the separatist authorities banned the access to more than 5000 landowners to 18000 hectares of land. This area represents lands which are private property of the inhabitants of district Dubasari, as well as other lands which belong to state and public spheres. Important strips of wood, some portions of lakes, etc. are meant here. In order to give a clearer view of the situation in the zone the statistical data on the surface of the illegally occupied lands are given below:

- the village Dorotcaia: the total area is 3831,15 hectares, 114,85 hectares constitute public property, 2636,30 hectares constitute private property of the inhabitants, 426 hectares are occupied by woods, 654 hectares constitute pastures ;
- the village Molovata Noua: the total area is 872 hectares of land, 60 hectares constitute public property, 390 hectares constitute private property of the inhabitants, 253 hectares are occupied by woods, 169 hectares constitute pastures;
- the village Cocieri: the total area is 1800 hectares, 181 hectares of which constitute public property, 1619 hectares constitute private property of the inhabitants;
- the village Pirita: the total area is 986 hectares, 526 of which constitute private property, 231 hectares constitute pastures, 229 hectares constitute woods;
- the village Cosnita: the total area is 1143 hectares, 1086 of which constitute private property, 57 hectares constitute woods.³⁹

In consequence, during the year 2005 these portions of land were not worked, getting into a lamentable state. Moreover, wild animals roam the lands behind the tract, thus, causing invaluable damage to the landowners.⁴⁰ The situation of the agricultural enterprises from the region was not favourable as well. „Promo-Lex” Association which monitored the activity of 6 economic agents from Dubasari who own agricultural lands behind the tract Ribnita-Tiraspol, found out that the loss which they supported vary between 600 thousand lei and 3 million lei per agent. In 2005 two important economic agents from the region began the procedure of insolvency as a result of the financial losses caused by lack of access to agricultural portions of land.

Nevertheless, as a result of banning the access to the portions of land in question, the small individual households, specialized in working the agricultural lands, suffered most of all. Thus, only in the village Dorotcaia almost 1400 landowners suffered. The problem of this region is more serious because nearly 92% of all the agricultural portions of land are situated behind the road tract Ribnita - Tiraspol, that is under the occupation of the separatist forces.⁴¹

Taking into consideration the fact that the rights of the owners of agricultural portions of land in the security zone are infringed by the authorities of an illegal system, supported by a foreign state and army,⁴² there is no other way of solving the problem except referring the matter to an international court as, for

39 www.dubasari.org

40 <http://www.azi.md/news?ID=33924>, The inhabitants of the village Dorotcaia plan to stake the Embassy of the Russian Federation in Moldova

41 http://www.osce.org/moldova/item_2_15957.html, Moldovan Mission seeks solution to Dorotcaia's bitter harvest

42 http://www.osce.org/moldova/item_2_15957.html

example, the European Court for Human Rights.⁴³ The petitioners assert that namely the Russian Federation is obliged to return all the moral and material damage caused to the landowners and their families, because it supported and continues to support the separatist system. On the other hand, in its capacity of a "guarantee state", it refused to defend their rights.⁴⁴

Another aspect of the problem of agricultural portions of land is that in 2004 the landowners found it impossible to collect the harvest. The year 2004 was favourable for farmers as the economic agents from the region invested enormously planning to obtain a rather good crop from the rented lands. Initially, the access to lands seemed to be a temporary problem, which would be solved in the shortest time. But at the end of the agricultural season 2004 the peasants and farmers' access was totally banned, especially with the agricultural machines, the harvest in this way being impossible. Agricultural products remained on the fields and the lands were not worked during the whole year 2005. Considering the fact that the process of political negotiations on the Transnistrian regulation were resumed, the agricultural leaders hoped that their problem would be positively solved.

If the landowners or land agents had had the possibility to collect the harvest from the fields in spring 2005, they would have managed to recover at least a part of the vested interests made in the agricultural year 2004.

Despite the obstacles created by the separatist administration, some individual landowners tried to avoid the so-called customs posts in order to work their fields and to collect the crop. It is necessary to mention that some portions of land situated behind the tract Ribnita-Tiraspol were however cultivated in 2004, but the production was stored in the storehouses from the fields which are also situated behind the tract. Both the economic agents and the landowners tried to transport the harvest from the fields to the village but their attempts were in vain.

B. Sequestering of agricultural machines and goods at the borders posts.

At the beginning of April 2005 the situation became explosive. Thus, a group of Transnistrian militiamen entered the village Dorotcaia in search of a tractor driver who would have avoided the "borders post", traversing the "border" with the tractor filled with cereal crops through a "lateral zone". Though the militiamen insisted to find and arrest him, they were soon driven away from the village by the people living there. From that moment the storehouses were sequestered by the separatist authorities, and the agricultural production was stolen by the representatives of these structures.

The OSCE Mission to Moldova got involved in solving the conflict as a result of efficient monitoring of the situation near the villages which possess lands behind the tract Ribnita-Tiraspol. The people from the security zone hoped in vain that this international organization would manage to solve the problems. The OSCE Mission to Moldova proved to be incapable to solve their problems because the separatist forces refused to converse as their position was encouraged each time by the support of the Russian Federation.

On 10 May 2005, the citizen T.G., leader of an agricultural cooperative accompanied by representatives of the OSCE Mission, managed to pass the militiamen post in a tractor that was property of the association. But some representatives of the "security ministry of MNR" appeared when he began to plough the land. The security employees from Tiraspol sequestered the tractor, arrested the leader of the cooperative who was treated harshly and lifted with force in a special car. The representatives of the OSCE Mission could not intervene because the militaries didn't want even to lead some negotiations. Further, the detained person was sanctioned, being obliged to pay a considerable sum of money in order to return the agricultural machines.⁴⁵

Public local and central constitutional authorities tried to improve the situation in these villages but uselessly. The reason was that the separatist bodies supported by Russian military forces could not be convinced. In this sense the activity of the Russian peacekeeping forces is obvious that favours these illegalities by their presence and conduct.⁴⁶

We consider that the final solving of the problem of the territories from the district Dubasari depends on the political will of the authorities of the Republic of Moldova, namely on the promptitude and consistency in the negotiations which take place within the Unified Control Commission. During the negotiations, the constitutional authorities from Chisinau did not have a clear strategy of solving the problem, thus, being often overtaken by the situation. The resolution of the problem would be possible unless the Moldovan officials had a clearly defined strategy in this sense. Though some concrete actions were taken at the beginning of 2006, they can not be considered sufficient for restoring the owners into their rights.

43 Actually, the legal experts of „Promo-Lex” Association represent the interests of nearly 2000 landowners from Dorotcaia, Molovata Noua, Cocieri, Pirita and Cosnita. The case is registered at the European Court for Human Rights and will be examined in a priority system. <http://www.azi.md/news?ID=36095>, The peasants from Dorotcaia attacked the Russian Federation at the Court in Strasbourg

44 On 26 April and 11 May 2005 thousands of owners of agricultural portions of land from Dubasari protested in front of the Embassy of the Russian Federation in the Republic of Moldova, demanding the respect of their right to property. The functionaries of the Russian Embassy refused to talk with the representatives of the local bodies and promised to examine the petition in the presence of the press. No answer and no reaction followed on behalf of the Russian authorities.

45 Case from the activity of „Promo Lex” Association.

46 See details to chapter 3, Human Rights in the Eastern region, Transnistria.

2.2.2 Violation of the right to property of the political repressions victims⁴⁷, problems related to the returning of the properties belonging to the Metropolitan Bessarabian Church by the soviet authorities.

Problems of returning the goods that were seized, nationalized or taken in other ways by the soviet authorities during the period 1917-1989, affect citizens of the Republic of Moldova more than 14 years. Though the Parliament of the Republic of Moldova has adopted normative acts⁴⁸ which stipulate that the goods that were seized, nationalized or taken in other ways will be returned to deported and later rehabilitated people or to their successors. This stipulation is not respected on the grounds that the legislation in function would not be perfect. Thus, the law stipulates that the way of returning the goods that had been illegally seized, nationalized or taken otherwise to rehabilitated people as well as the size of the payment for real estate will be decided upon by the Government. Though the executive committee has taken a resolution⁴⁹, it was declared unconstitutional.⁵⁰

as regards the mechanism of affording compensations for the goods seized, nationalized or taken in other way. In this way, the Parliament was nearly obliged to adopt a special law in this sense. However, during seven years the Legislative power of the Republic of Moldova has not adopted any changes in the law that would solve the problem in question.⁵¹

The associations in charge with the issue from the Republic of Moldova as well as other international bodies informed the authorities of the Republic of Moldova about the necessity of correct regulation of this problem. In this way, in October 2005 the Government suggested a bill⁵² on the modification and completion of the Law with regard to rehabilitation of the political repressions victims. The present draft law was not discussed by the Parliament during the year 2005. The Ministers seemed to wish to solve this problem, but the project in question doesn't but double the previous decision of the Executive Committee, which was partly declared as being contrary to the Supreme Law. Therefore, the problem of rehabilitated people remains unsolved during the year 2005, encroaching upon the rights to property of the people who are not able to recover their estate. The longer the provision act which stipulates the recovering of the estate is in function, the more serious this problem is, but there is no other act that would establish the mechanism of the indemnification. At the same time, the advanced age of the political repressions victims reduces the chances to regain their rights.

On the grounds of the legislation imperfection the judicial bodies examine in different ways the cases on returning the estate, which are often protracted unreasonably. The courts don't often take into consideration the normative acts and interpret the legal provisions differently although practice in this sphere has already been generalized.⁵³ It is necessary to mention here that the majority of the soviet repressions victims top the age of 75.⁵⁴

The case of Mrs V.S., who lived in the district Hincesti together with her parents and grandparents speaks for itself. In 1941 the whole family was deported in Kazakhstan, and her parents' and grandparents' estate passed into the possession of the community. 15 years later, in 1956, the family of Mrs V.S. returned to Moldova, but they were not allowed to settle in their native village. The state did not give back the goods which belonged to the plaintiff's parents and grandparents (portions of land, important buildings as, for example, houses, a hotel, an inn, a bath and other objects of social importance). The real value of the goods that had been seized constitutes nearly 250 thousand euro. In 2002, the plaintiff V.S. presented a petition to the court requesting the returning of the sum of 250 thousand euro. By a decision of the court in 2003, the plaintiff was disposed to receive the equivalent value of the sum of 180 thousand euro. One year later the decision in question was annulled by the Court of Appeal and the case was passed to be re-judged, the austere state budget being, thus, invoked.⁵⁵ After the re-judgement the plaintiff's petition was rejected as being groundless. This decision was attacked later again, and by the ruling of the Court of Appeal in 2005

47 During the periods 1940-1941 and 1944-1952 the authorities of the soviet occupation deported from Moldova to Siberia and Kazakhstan thousands of families, including children, old people and pregnant women. The whole estate of the families was nationalized and was never given back. For example, the mass deportation on 6 July 1949 was done according to the decision of the Political Bureau of the CC of the Communist Party of the USSR „With regard to the deportation of kulaks, former landowners, merchants and other categories as well as their families from the territory of the Moldovan SSR”. Only the decision in question stipulated the deportation of 11.280 families (40.850 persons) to Siberia and Kazakhstan from the MSSR.

48 Law nr.1225-XII dated 08.12.1992 with regard to rehabilitation of political repressions victims, www.justice.md.

49 On 26 May 1995 the Government promulgated the decision nr.338 „With regard to returning the estate, recovering its value and paying the compensations to repressed persons.” In point 2 of the decision was stipulated that if the estate of the rehabilitated people was not kept and can not be returned, its value will be recovered, but the extreme limit of the payment cannot top the sum of 200 lei for each deported family. Point 3 of Decision nr.338 stipulates that if the value of the estate cannot be established because of the absence of the necessary documents a compensation that constitutes not more than 90 lei is given to each deported family.

50 The Constitutional Court through its decision nr.41 dated 20.07.1999 ascertained that the returning of the illegally seized or nationalized estate to political repressions victims, retrocedating the value of the estate when the goods cannot be given back in products, as well as the establishment of the sum of payment for the buildings are constituent parts of the general legal system of the property. In accordance with the provisions of art. 72 p. 3 letter i) from the Constitution, the general legal system of the property and of the inheritance are settled only by the Parliament through an organic law. Therefore, the Constitutional Court has come to the conclusion that the compensations for the goods that had been abusively taken by the state from the political repressions victims must be regulated by a special law.

51 <http://www.azi.md/news?ID=34946>. The victims of the communist-Stalinist repressions took part in the meeting which gave rise to reaching 56 years from the communist deportations from 6 July 1949.

52 Government Decision nr.1074 dated 12 October 2005

53 The Supreme Court Plenum decision nr.35 dated 24.10.2003 as regards the generalization of the judicial practice of using the law with regard to political repressions victims' rehabilitation.

54 The hope to live and the medium age in the Republic of Moldova constitutes approximately 60-70 years.

55 During the legal session, the lawyer of the Court of Appeal from Chisinau, examining the case declared the following: "Where will you receive the salaries from if we accept your complaint and oblige the state to give the millions of lei?"

the plaintiff was allotted the sum of 8 thousand euro. Though the sum of 8 thousand euro represents only the third part of the real value of the goods, the decision was attacked at the Supreme Court of Justice by the representatives of the public authorities. After examining the case, it was handed over to be re-judged, the cogency of the claim being well-grounded. Actually, the courts are examining the deeds. It should be mentioned that the lawyers had contrary opinions, each one interpreting the law in their own way. The majority of the cases are protracted on the grounds of rejecting to establish the mechanism of paying the compensations to deported people.⁵⁶

Another relevant case is the examination in the court of the case on returning a portion of land constituting 166 hectares and the value of a boyar's mansion (a pile of buildings- a hotel, an inn, living buildings etc.). All the real estate was situated on the territory of the present municipal town Chisinau. Sisters L.H. and A.C., as well as their parents were deported to Siberia, the region Ivdel, in 1941. All the goods that they possessed were seized. Upon their return, the state refused to give back their estate. In 2003, the plaintiffs addressed the court. Till present the court is incapable to put forward a decision on the grounds of default of the official documents that would confirm the precise value of the estate. Though the real estate which belonged to the plaintiffs were demolished in 1987, the bodies of State Registration of real estate avoids to present the necessary documents under various pretexts.⁵⁷

These examples prove once more that the state officials do not take the necessary measures to set a mechanism of returning the estate seized illegally by the totalitarian communist system. This passivity of the central bodies is contrary to the national legislation as well as to international acts as, for example, article 1 of the Additional Protocol of the European Convention for Human Rights. The political repressions victims and their successors assert that the authorities of the Republic of Moldova do not use the national legislation and have no right to invoke the reason of lack of financial resources to pay the compensation.

Though the Parliament decision nr.1226 dated 8.12.1992 for the use of the Law with regard to the rehabilitation of the victims of the political repressions committed by the totalitarian communist regime (7 November 1917 - 23 June 1990) obliges the Government of the Republic of Moldova to initiate negotiations with the authorities of the Russian Federation, the successor of the USSR, with regard to paying some compensations. Moreover, the Stalinist repressions victims consider that till now Russia profits from the results of the labour and goods created during their illegal detention in the soviet camps, which remained on the territory of the Russian Federation and give as an instance the case of Germany which paid the compensations to the victims of the fascist regime.

We consider that the solution of this problem depends on competence of the Parliament which has to adopt a special law with regard to returning the estate and compensating the damage caused by the repressions (including moral damage). It would be useful to adopt a law similar to the Romanian one. On the basis of this law both personal and real estate are returned; if it is impossible, a compensation should be paid. In the case of the Republic of Moldova, in spite of the provisions of the law with regard to the returning of all the goods, the authorities invoke other provisions which ban the recovering of the portions of land to the former landowners that is, in our opinion, a serious encroachment of the principle of the respect for goods. Simultaneously, in the given situation the right to compensation can be defended legally without resorting to other methods.

The subject of the despoiled properties belonging to Metropolitan Bessarabian Church⁵⁸ was not solved even during the year 2005. Alongside with the mass deportation of the aborigines to Siberia, during the period 1917-1989 by the soviet system, the churches were the next point of the attacks of that system. The majority of the churches had been closed, some of them being destroyed or transformed into cereal storehouses. After being declared independent the Metropolitan Bessarabian Church, according to its status, is the historic, spiritual and canon heir of the Metropolitan Bessarabian Church which had functioned up till 1944.⁵⁹ The legislation of the Republic of Moldova stipulates the restoring of the properties seized during the soviet regime to people who were repressed or banished on political grounds. This legislation is also spread over all the religious communities. On the basis of the legislation in question the Metropolitan Bessarabian Church addressed the Government of the Republic of Moldova some complaints to retrocede its church properties forfeited abusively and detained by the state up to the present time. All these complaints had been rejected as being groundless. With all this, the Metropolitan Moldovan Church (Moscow Patriarchate) was favoured in comparison with other religious groups.⁶⁰ The Moscow Patriarchate did not find it difficult to recover practically all the properties, and in case the property was destroyed, the Government offered alternative compensations. The Metropolitan Bessarabian Church, on the contrary, is the only Church in the Republic of Moldova that did not recover any of the goods taken by the state. As a matter of fact, the roll of the European Court for Human Rights has registered a new case called „The Metropolitan

56 Case from the activity of Promo Lex Association.

57 Case from the activity of the Association of ex-deported and politically detained people from Moldova.

58 Though reactivated in September 1992, the Metropolitan Bessarabian Church was officially recognized in Moldova only in 2002, at the urgent request of the Parliamentary Assembly of the Council of Europe. All the governments of the Republic of Moldova refused, under different pretexts, to register the Metropolitan Bessarabian Church. In 2002 the PACE recommended the authoritarians from Chisinau to respect the ECHR decision from 2001, which obliges the Government from Chisinau to register the Metropolitan Bessarabian Church.

59 <http://www.azi.md/news?ID=31733> The state recognized the Metropolitan Bessarabian Church as the spiritual, canon and historic successor of the Metropolitan Bessarabian Church before 1944.

60 <http://www.freedomhouse.org/template.cfm?page=16&year=2005&country=6792>.

Bessarabian Church versus Moldova". Also, the Metropolitan Bessarabian Church has some difficulties as regards the revendication of its own archives detained until 1944, which creates great difficulties in the legal recovering of its properties.

We consider that the problem has a political nature and its solution depends on the central state authorities, who could adopt the necessary acts as regards the returning of the properties despoiled from the Metropolitan Bessarabian Church.

2.2.3 Wrongful use of legislation on the expropriation on public utility grounds.

The Republic of Moldova is still in the course of development being in a transition period to the market economy. This process stipulates the change and modernization of the country on the whole and the infrastructure as well. As a result, there are situations when the right of a person may be restricted on public utility grounds.

Though the legislation of the Republic of Moldova is in accordance with the European standards on this subject, but it is easily seen that the authorities do not respect the established legal provisions. Vivid examples can be found especially in the urban environment, where the need of change is evident but the authorities don't always take into account the rights of the owners.

If we classified the cases on expropriation, they would refer to expropriations on public utility grounds presenting national interest and public utility grounds presenting local interest. A specific procedure allowing the expropriation is stipulated in both cases. Thus, article 46 paragraph 2 of the Constitution of RM establishes the fact that no one can be expropriated except on public utility grounds, set in conformity with law, being justly compensated beforehand. The expropriation as a form of passing the properties from a person to the state has to go over a lot of stages, one of them being the publicity of the utility and the preceding petition addressed to the expropriate.⁶¹ In most cases the authorities first expropriate the persons and only after that make known the reason for that, and the expropriate is obliged to address the courts in order to demand some compensations. The principle of "the equality of arms" is encroached in this sense.

Below we have selected some "classical" examples of such encroachments.

Mrs N. P., living in a village from the district Calarasi, had a booth for selling vegetables in the centre of Calarasi near the motor road Chisinau-Ungheni. Based on the town Mayor's order, the booth was demolished under the pretext of building an aqueduct. Mrs N.P. was neither compensated nor offered any fair rewards. N.P. referred the matter to the judicial bodies. The law court from Calarasi ordered the payment of the cost of the booth and the grant of another territory for the booth on the grounds that a petrol station had already been placed on the territory. This settlement was maintained from February 2005 through the final decision of the Court of Appeal. With all this, the decision was not executed.⁶² It is obvious that the authorities demolished the booth under the pretext of building an aqueduct, but, in reality, the territory was used to build a PECO station. So, it cannot be said that this interference was necessary for public utility. Thus, the authorities often use legal pretexts in the view of committing illegalities.

Another relevant case of expropriation, this time on the public utility grounds presenting national interest. The situation of a group of peasants from Singera, can be considered a forced expropriation without respecting the norms established by the legislation. Through a decision of the Government from 21.12.2004 the territory belonging to some peasants were passed into the use of SA „Railways of Moldova” for the construction of a railway portion of line. At the beginning of January 2005, the railway employees began to install the railway portion of line Revaca-Cainari.⁶³ The way of expropriation was not legal, though the authorities invoked that it was public utility of national interest. The decision was not made public through Parliament decision, no suggestions of expropriation were addressed to the peasants. In spite of the multiple appeals of the persons deprived of their laws and the case brought before the court, the authorities did not take any measures to solve the lawsuit. In October 2005 the railway was already put into operation but the problem with regard to the compensation of the owners was not totally solved. Actually, on the one hand, the petitioners are still owners of the territories in question, on the other hand this portion of line operates yields good return to the state enterprise „Railways of Moldova”. At the same time, the authorities refuse to solve the legal requirements of the people who were arbitrarily deprived of their property in a affable way.⁶⁴

⁶¹ Thus, the RM Law on the expropriation on public utility grounds Nr.488-XIV from 08.07.1999 provides for the expropriation and its stages that the authorities must go over before taking the goods into their possession. www.justice.md.

the expropriate being obliged to prove the illegality of the actions of public authorities. More than that, such actions are lasting being protracted by the authorities.

⁶² Case from Promo Lex activity.

⁶³ The construction of this channel was necessary for ensuring the connection with the northern part of the Republic of Moldova, interrupted by the occupation of Railway Stations from Tighina by representatives of the separatist region from Tiraspol.

⁶⁴ Case taken from the Promo Lex activity

The first case deals with the expropriation presenting local interest, the second one deals with the expropriation presenting national interest, nevertheless, it is clearly seen that in both cases the right to property is infringed due to lack of competence of the employees who order the expropriation. As a result we have come to the conclusion that the legislation on the expropriation is not respected neither by those who establish these rules (the Government, the Parliament), nor by the officials of a lower rank.

In conclusion we could mention that the state central authorities should pay special attention to such cases, which can be placed among the most serious violations of the right to property. In this sense, the officials who are found guilty of violating these constitutional rights of the citizens, should be sanctioned.

2.2.4 Non-execution of judiciary decisions regarding the closing down of the national budget, problems related to the indexation of bank savings.

2.2.4.1 Non-execution of judiciary decisions regarding the closing down of the national budget

The year 2005 was marked by some positive changes as regards the adjustment of Moldovan legislation to the European standards. To this extent we welcome the adoption of the Executional Code that cancels the provisions from the former soviet code.⁶⁵

Although the code provides for the prohibition of any discrimination,⁶⁶ there are some omissions that can hamper court executor actions in the favour of the creditors, especially if the case relates to the execution of decisions on paying financial sums from the state budget. This aspect being corroborated with the high competences of the court executor cast doubts on the impartiality of the executional bodies when the case relates to the debtors in the person of state bodies or state institutions.

Meantime, the actions of the court executors would be declarative and illusive unless they find themselves in impossibility to execute the courts decision on the ground that the debtors don't have enough money to honour their obligations. If speaking about physical persons, the state could do nothing but improve the living conditions and living standards of the population.

At the same time, we consider that the state could set up a control mechanism of the legal persons engaged in debts towards the creditors. We should differentiate here two categories of legal persons: private and public.

A pertinent example is the case of M.C., pensioner from Chisinau, who in 2004 concluded an agreement of antepurchase with a printing house from Chisinau for editing a book. The printing house was situating in the centre of the town and was leaded by notorious persons, fact that removed any doubts regarding the honesty of the institution. The pensioner borrowed 13000 lei for paying the printing of the book. Although the money was paid beforehand, the book was not printed in time. The pensioner went to law asking for the reimbursement of the paid money. Through the Centre Court decision from April 2005 the complainant petition was fully accepted. A petition was submitted to the court executor who responded that there are several complaints against the given printing house which is incapable to pay and that its property cannot be taken off from it because it was taken on rent from another legal person. Thus, the pensioner remained only with the court decision in her favour and the money have not been returned till present. Unfortunately, such cases are very frequent in Moldova.

Unlike the execution of decisions against private persons, it looks like the decisions against state institutions are easier to execute, but the reality proves the contrary. According to the law,⁶⁷ the executory titles related to the incontestable closing down of money of the institutions financed by the state budget are transmitted for execution to the local public authorities, which together with the respective subordinating budgetary institutions are obliged to present for payment all necessary documents to the State Treasury. This legal provision is contradictory to the non-discrimination principle cited above, and sets preferential rules for the state bodies in cases of paying money to debtors. This provision makes impossible the actions of the court executor as regards the decision related to the closing down of the state budget. Thus, the public authorities or the legal persons being a part of the state budgetary system have the possibility to tergiversate the execution of decisions by invoking formal reasons or the lack of financial means.

The case of citizen S.V. is very relevant here. The Court of Appeal ruled a decision on 02.02.05 on the reimbursement of a sum of 100 thousands lei from the budget of Hincesti District Council. The executory

⁶⁵ On 15.02.2005 the Law no.443-XV, on the Executional Code was promulgated and entered into force on 01.07.2005. according to art. 1 of the Executional Code „the execution process is aimed at ensuring and protecting the rights and freedoms of the people and their associations, the interests of legal persons by means of forced execution of the courts criminal and civil decisions, decrees, resolutions, orders of other administrative bodies. For fulfilling this task, the legislation provides for the competences of the Executional bodies, their statute, way and conditions of the Executional process.

⁶⁶ According to art. 4 of the Executional Code the way and conditions of the Executional process cover also the public officials, physical persons without any distinction based on race, nationality, ethnic origin, language, sex, religion, opinion, political affiliation, fortune or social origin or any other status.

⁶⁷ Law no. 847-XIII from 24.05.1996 on the state budgetary system, with subsequent modifications in 2004.

title was handed to the court executor who refused to receive it because the obligation of reimbursing the money goes directly to the District Council and the executor does not have competences to force it to pay. The title was then sent to the District Council for benevolent fulfilment but for several month it was not satisfied. Moreover, the court declared as legal the executor's refusal to take the executory title for execution.

Another pertinent case is that of V.F., pensioner from Telenesti district, living at that time in Chisinau. The decision of the Telenesti Court from December 2004 disposed cashing the sum of 100 thousand MDL from the budget of the Telenesti District Council for the fortune nationalised from his parents in 1949. This decision remained irrevocable after its examination by the Supreme Court of Justice in August 2005. The decision was sent for execution. But the court executor refused to receive the execution title on the ground that the authorities are to execute this decision by themselves. The decision was resent to the District Council who in the lack of money did not execute it within reasonable time.⁶⁸

In conclusions it should be mentioned that the state authorities are to set up more rigid conditions for the private legal persons in the services sphere, so that to ensure the execution of obligations assumed by them before the creditors. At the same time, the state should set up a much more severe control over the execution of courts decision related to cashing sums of money from the institutions financed from the state budget.

2.2.4.2 Problems related to the indexation of people's bank savings.

Art. 1 of the Law no.1530 from 12.12.2002 on the indexation of people's savings in „Savings Bank” of Moldova, provides for the state obligation before the people who have deposited money in the Moldovan „Savings Bank” during the soviet period (private property of the depositors). For the execution of the given law, a Government Decision no. 179 on the indexation and way of payment of the money which were deposited in the bank during the soviet time was adopted in 20.02.2003. These acts provide for the payment of the given sums of money in two stages: in the 1st stage the money will be reimbursed according to the following scheme : for the first thousand rubla (rubla was the Soviet currency) deposited on any of the depositor's account, 1 leu shall be paid for 1 rubla deposited. In the second stage, the rest of money which is more than 1000 rubla will be paid as follows: 1 leu for 2,5 rubla deposited. The payment of money is done depending on the age of the depositor. According to the Law on the state budget for 2005, 57 million lei were allotted for this aim, from which 54.4 millions lei was paid to 72 thousand citizens according to the first stage of payment.⁶⁹

We can easily notice that the problem of the reimbursement of money deposited in the soviet banks still exists because there are no sufficient money in the country for covering the debts for all depositors. Moreover, the reimbursement is done by discriminating people according to their age.

2.2.5 Other problems related to the protection of the right to property.

According to the Law on property, the right to property is recognised to any citizen of the country and protected by the law. The owner has the right of possessing, using and disposing of his property according to his own will. Any interference in the private property from behalf of a third party is prohibited by law. The state guarantees the protection of these rights and also has the positive obligation to protect the citizen from any interference of the third party into his property.

The statistical data for 2005 show that over 16642 offences against property have been committed in the course of 2005 (thefts, robberies, smuggles, dilapidations, swindles).⁷⁰ The current law guarantees to each citizen the protection of the right to property establishing a criminal punishment for the offences against property. In accordance with the criminal procedural law, the victim has the right to a fair and multilateral investigation of the case and the victim is guaranteed many procedural rights. The criminal investigation is started at the victim's request and the law enforcement agencies start searching the offenders. Once the offenders are found and the case sent before the court the victims petition is considered fulfilled/satisfied. At the same time, it is very frequent that the court declares the person accused of offences against property not guilty and the victim in this case has no right to appeal the given decision or to start a new case by submitting a new petition to the police or prosecution office. The only thing which can be done here is the prosecutor himself starts a new case, which in fact does not take place.

So that we consider that the criminal procedural law shall be modified in this respect.

A last problem approached in this report regarding the right to property is that related to the valoric quotas of the farmers in the peasants collective farms (households). During 2005 there were hundreds of petitions from the farmers from all around the country. In 1999, after the denationalisation of the land, the former

68 Cases from the Promo Lex activity.

69 Ministry of Justice RM, letter no.04-18/312 from 17.05.2006.

70 MIA statistics for 2005.

soviet collective farms (kolkhoz) have been torn out and after paying all the debts the land and other remaining goods have been distributed to peasants. But many of the lands and goods were transmitted to the newly created economic societies. Although these new economic agents were created in accordance with the Law on privatisation and other normative acts, and the whole privatisation process was controlled by certain privatisation committees, during the last years many persons complain that the given economic societies have been formed in a non-transparent way, by hiding and not registering all the goods once belonging to the former collective farms. There are lots of collective complaints in this respect.

A pertinent example can serve the case of farmers from Baltata village, Criuleni district. Over 250 people living in the village did not receive their salaries for the years 2000-2002. After the liquidation of the collective farm, the obligation to pay the salaries went to the newly created commercial society, which also received a lot of fixed assets and other goods. After some time, the assets and goods were sold to another commercial society and the people were not given their money and appealed to the court.⁷¹

Similar situation happens in almost every village when peasants cannot understand and find out how there goods and property is used by the leader of the commercial societies.

In conclusion, we would suggest the creation of some commissions or bodies responsible for the supervision of activities of the public officials and firms running the collective property over the land.

⁷¹ Case from Promo Lex activity.

2.3. RIGHT TO INFORMATION, FREEDOM OF OPINION AND FREEDOM OF EXPRESSION

2.3.1. Right to information

According to the Constitution, the right of person to have access to any information of public interest cannot be limited. The public authorities, according to the competences they have, are obliged to insure the correct informing of the population on the public questions and issues and on the problems of personal interest. The means of information should not be subjected to censorship.⁷²

At the same time, very accessible and favourable conditions of information are provided for in the Law on information.⁷³ In spite the quality of the given law, it is not appropriately used by the public officials. The same conclusion was reached by many national and international experts.⁷⁴ Most of the complaints relates to the local public authorities who refuses on various grounds to provide the requested information.

While making a classification of most important aspects related to the ensurance of the right to information it will look as follows:

- Principles of access to information related to public authorities;
- Media access to information;
- Judiciary procedures of the right to information;

2.3.2. Principles of the access to information related to the public authorities

According to the Law on information, the providers of the information are the central and local public authorities, state administration officials: Parliament, President of country, Government, public administration, the judiciary; central and local public institutions – administrative, social-cultural and other non-commercial organisations founded by the state in the person of local administration finances from the state budget and any other physical or legal persons who in the virtue of law or contract with the public authority or public institution are entitled to perform some public services and possess some official information of public interest.

In accordance with the law, the public authorities have a very important role as regards the people insuring with public and special information. But the good implementation of the law depends to a great extent on the qualification and knowledge of the public authorities and of the insistence of the citizens in asking for the needed information. But, unfortunately, most of the public authorities do not know or do not want to respect and apply the law.

In most of the cases the people access to information is restricted by the attitude of the public officials. Contrary to the law, the officials requests information on the reason of asking the information, where it will be presented and for what purpose. The second aspect of providing the information relates to the form the information is solicited (the officials in general do not want to provide written answers). The third aspects relates to the term of providing the information which is 15 working days and which is very rarely respected.

According to the law the information can be classified in personal and official information. The personal information related to data about a private person whose disclosing would be considered violation of the inviolability of private life and is considered as confidential information. Official information is considered all the information provided, kept, systematised, selected, prepared by public officials or received by them from other public institutions or authorities. The access to official information can be limited only under the conditions strictly stipulated by the law.

2.3.3. Access of the Media to information

Republic of Moldova is ranking position 19 on the list of 27 countries of the post-Soviet area and Central and Eastern Europe as regards Media independence.⁷⁵ This indicator is very much concerning because to a certain extent it depends on the press how informed the citizens are.

72 Art. 34 of the Constitution,

73 Law on access to information no.982 from 11.05.2000.

74 <http://www.acces-info.org.md/index.php?cid=133&lid=146>

75 according to a global study developed by Freedom House, entitled "Freedom of the press in 2005", published on <http://www.freedomhouse.org>

On 31.12.2005 there were over 201 periodical publications in the Republic of Moldova.⁷⁶ From those, very few have a circulation exceeding 20 000 copies. If reporting the number of copies of the newspapers to the number of the population living in the country we can easily notice the decreased interest of the population towards the press and especially the trust they have in the information written in the press. The given state of things is also due to the bad quality of the information provided by the printed media.

As regards media access to information, it is enshrined in a special law and is included in the general access of the population to information. At the same time, the journalist profession is based on the right of searching and publishing information of public interest. According to the Law on press,⁷⁷ the freedom of the press is considered a fundamental rights protected by the Constitution. The state guaranteed to every citizen the right to express freely his opinions and ideas, the right to veridical information on the events from the internal and international life by means of periodicals and press agencies acting according to the principles of political pluralism. Thus, the media access to information constitutes a vital condition for the correct and rapid informing of the people on questions of general interest. According to the same law, the public officials are to present to the journalists and press agencies the solicited information in an operative and correct way, excepting confidential information, information related to the activity of the judiciary if this could impede the good investigation of the case or information considered state secret. Although it looks like the journalists access to the public information is broader, in fact the reality is the other one. Both journalists and the rest of population meet obstacles in soliciting information.

In this respect, the case of „Timpul” newspaper against the Moldovan Parliament can be cited. The case started in 2004 and the final decision was adopted in February 2005.⁷⁸ The case related to the interpellation of the director of the newspaper to Mrs Eugenia Ostapciuc, Speaker of the Parliament on asking the access to the minutes of the parliament plenary sessions for the autumn- winter 2002, on the ground that the plenary sessions are declared public. After a time exceeding the legal term of provided the information, the parliament sent a letter of rejecting the appellant solicitation. The reason was that: “The minutes are internal acts... the way of keeping and making public the minutes is provided for in the Regulation of releasing the minutes of the plenary sessions. Derogations from the regulation are not admitted”. From the given letter we can see that by invoking the internal regulations the parliament could reject any solicitation of information to the media agents. The newspaper sew the Parliament in the court. On 15.02.2005 the Supreme Court of Justice adopted a decision in the favour of the Parliament.⁷⁹ This decision proves that the groundless refusals of the public authorities to provide the solicited information are supported by the judiciary.

Another case related to the violation of the right to information related to the newspaper “Ziarul de Garda”. On 16 December 2005 the editor in chief of the newspaper, Ms. Aneta Grosu was arrested directly from the headquarters of the Court of Appeal on the ground of taking some pictures in the hall of the building. The journalist was called at the Court of Appeal to take a copy of a court decision on a given case. While waiting for the copy, she took some pictures in the hall. At the same time, two persons, one of which was wearing a judge robe were discussing on the corridor. When noticing that the journalist takes pictures they swooped upon her insisting with verbal aggressions on destroying the pictures. The guard service was called and the journalist was escorted to the Police Commissariat from Botanica sector of Chisinau. Although the journalist legitimated herself and accused the policemen of abuses she was not released until she destroyed all the pictures taken on the hall of the Court of Appeal and her lawyer interfered in the case.⁸⁰

As it was mentioned above, the right to receive information in any form is absolutely necessary for a journalist. But it should be mentioned that the journalists performing journalistic investigation are not protected by the law, being often subjected to abuses and aggressions from behalf of the law enforcement agencies.

The media right to information includes not only the right to receive information. But also that of diffusing it and presenting it to the public. According to Moldova Constitution, the media means are not subjected to censorship. Thus, they are free to diffuse any information which is not contrary to the law and does not affect the people rights and freedoms. But the reality shows that the state has imposed a harsh censorship over the media means, invoking various formal reasons. We will not stick on the case of „Teleradio-Moldova” Public Broadcasting Company, because it was widely monitored by national and international experts and bodies and forming the subject of separate reports. We will try to present other cases when the state restricts through its structures the activity of some media agents which are inconvenient to the power.

A pertinent example in this respect is the case of the Radio Channel from Singera. In its programme the journalists often criticised the activity of the local public authorities as regards the use of public financial means and application of the legislation. The activity of the central administration was also often criticised. Although the radio channel had all the documents related in the law, after the intervention of the communist deputy in the case, the activity of the channel was suspended and then closed by the Coordinating Council of the Audiovisual by invoking the reason that the health of the children from the town could be

76 Information provided by the Ministry of Justice, letter no.05/2787 from 13.04.2006.

77 Law on press no.243 from 26.10.1994, www.justice.md

78 www.timpul.md

79 Center Acces Info - „Access to information”, Chişinău 2006.

80 www.garda.com.md

damaged by the aerial of the radio station and that it stumbles over the activity of other TV and Radio Channels from the region. It should be also mentioned that all these happened twice during the electoral campaign for the local elections in 2005. After the elections, the activity of the station was retaken.⁸¹

Another controversial case took place on 18 October 2005 when the Coordinating Council of the Audiovisual has temporarily suspended the licence of the „Analitic Media Group” Company for the retransmission of the Russian Channel „Pervii canal”. The international organisations expressed their concern as regards the lack of transparency of the decision taking process at the Coordinating Council of the Audiovisual.⁸² The Council of Europe insisted on the ensuring of all normative acts related to the media activity and all the modifications made to them be adjusted to the European standards and expertised by European experts in the field.⁸³

Another grave problem related to the access to information is the small number of national TV and Radio channels or programmes, most of them being retransmitted from other countries, in particular from the Russian Federation. In this case, the whole volume of information aims at influencing the population on various issues and not on informing them, serving as an ideal source of propaganda. The national interactive programmes, debates or talk shows are very few on the national channels, the foreign ones do not reflect the Moldovan reality and do not offer people the possibility to discuss on some issues on the air.

Although there are some media agents not subordinated to the government, we cannot speak of an independent media, they being dependent on various political and financial groups.⁸⁴ This thing becomes much more obvious during the electoral campaigns.

2.3.4. Judiciary procedures related to the access to information

Although the legislation provides for an extra judiciary way of solving cases related to the access to information, it proved to be inefficient, most of cases reaching the court's tables. The judiciary way provides for starting the case on access to information in the administrative court⁸⁵ asking for the providing of the solicited information together with the payment of moral damages if necessary. Most of the cases submitted in 2005 related to the refusals of local public authorities to release information of public interest. Although such cases could be easily solved using the extra judiciary way of mediation, most of them are sent to the courts, after which the local authorities are obliged to pay moral damages from the local budgets made up from the taxes of tax payers.

„Promo-Lex” Association has monitored some cases of violation of access to information of ordinary citizens. Citizens T.I. and J.N. solicited the at the mayoralty some information related to the activity of the local council. The conflict began in 2004, but the decision was taken at the end of 2005. The Court of first instance from Nisporeni admitted the petition of the citizens and obliged the mayoralty to provide the required information and pay consistent material and moral damages to the complainants. The decision was maintained by the Court of Appeal becoming irrevocable and definitive. After that, the mayoralty submitted a petition of revising the case which was rejected by the Court of Appeal, but the Supreme Court of Justice accepted integrally the petition and the case was transmitted for re-examination. But the second time, the Court of Appeal cancelled its first decision. The reason was exposed in the Court's decision stating that in the virtue of their function (members of the local council), the petitioner can have access to the councils documents and not written information on that is needed. We consider that by adopted such a decision, the Court of Appeal wanted not to create a legal precedent of obliging local authorities to provide information to the public and paying moral damaged for restricting the access of the public to the general information.⁸⁶

Other similar cases have been monitored by the non-governmental organisation „Access Info”. Usually such types of cases are much tergiversated and not fully satisfied. Both the public authorities and the judiciary treat with indifference the people access to information, although there are some cases when the judiciary adopted decisions in the favour of the complainant, this thing speaking of a certain, although insignificant, openness of the judiciary to the international standards in the field. This was the case of the journalist I. B., assisted by the experts of „Access Info”, who asked the Moldovan Parliament for the permission to get acquainted with the financial report of the Parliament on the administration of resourced planned in the state budget for the year 2002. The Parliament sent to the journalist an explanatory note of the report on the execution of the state budget for 2002. The journalist filed a petition to the Supreme Court of Justice asking the Parliament to present the requested information. On 08.07.2005 the Supreme Court of Justice adopted a decision in the favour of the complainant and the Enlarged Civil and Administrative College of the Supreme Court of Justice refused the recourse submitted by the Parliament on this case.⁸⁷

81 <http://www.freedomhouse.org/research/freeworld/2005/Kuwait-PNG.pdf>

82 <http://www.usembassy.md/ru-HRR2005.htm>

83 <http://assembly.coe.int/Documents/WorkingDocs/doc05/EDOC10671.htm>

84 <http://www.usembassy.md/ru-HRR2005.htm>

85 The administrative court aims at combating and preventing the abuses and excesses of power of the public authorities, protecting the rights of the citizens, managing the work of public authorities and ensuring the rule of law. Law on administrative court no. 793, adopted on 10.02.2000.

86 Case from the Promo Lex activity.

87 Access Info - „Access to information”, Chisinau 2006, page 337.

It should be also stated that the criminal Code provides for the criminal liability of the public officials for intentional violation of the legal procedure related to the realisation of the right to information, if the given violation caused considerable damage to the rights and interests of the given person and related to information on public security, public health or environment protection. There were no such cases during the year 2005.⁸⁸

2.3.5. Access to the decision taking process

The access to the decision taking process can be classified in two categories: access to the work of the decision taking public officials and the publicity of the adopted laws and decisions.

The year 2005 was marked by many changes in this field and the public has finally gained the possibility to obtain information about the Parliament plenary sessions. The debates from the Parliament are aired on the National TV and Radio channels. As regards the meetings of the local councils they are public and there were no complaints registered in this regard.

Concerning the publication of the adopted decisions, there are some problems that should be found a solution. Thus, according to the Law no.173-XIII from 6 July 1994 on the way of publishing and entering into force of the official acts, with its subsequent modifications, promulgated by the president of the country, the decisions of the parliament, presidential decrees, decisions and dispositions of the government, the acts of the Constitutional Court and Court of Accounts, the normative acts of the specialized central bodies of the public administration and National Bank, the international acts are published in the „Official Monitor of the Republic of Moldova”, edited by the Press national Agency “Moldpres”, in the state language with translation in the Russian language. Unfortunately, the circulation of the Official Monitor is just 20000 copies per week, which is very small as compared with the number of the population.

Another issue of concern here is the exaggerated high price of the Official Monitor which constitutes 2% of the medium wage. The high price makes the given journal a luxury for a great part of the population, it being mainly used by institutions and some enterprises.

Meantime, in the course of the year 2005, the access to the official documents was partially limited by the suspending of the activity of the www.docs.md Internet site on the ground of a criminal charge against them. It should be mentioned that the given site provided for free any information regarding the adopted national laws, as well as international legislation and also many legal information. Also it should be mentioned that most of state institutions have their own sites in the Internet and on 21.12.2005 the official site of the Centre of Legal Information of the Ministry of Justice www.justice.md was launched, which includes a data base of the official acts. But, here we cannot help mentioning that the access to Internet is also a major problem of the most of the population, especially in rural areas.

2.3.6. Freedom of opinion and freedom of expression.

Each citizen is guaranteed the right of thought, of opinion and freedom of expression in public using words, images or other possible ways. The freedom of expression cannot be detrimental to the honour, dignity or right of a person to proper point of view.⁸⁹

Every person has the right to freedom of opinion and freedom of expression.⁹⁰ This right includes the freedom of opinion without interference from outside, as well as the freedom of searching, obtaining and spreading information and ideas through any ways, independent of the state borders. At the same time, the absolute right to proper opinion without unwarranted interference defines the special circumstances that can limit the freedom of expression and the right to information.⁹¹ Every person has the right to expression⁹² and this right includes the freedom of opinion and the freedom of obtaining and spreading information or ideas without the interference of public authorities and without considering the borders. The realities from the Republic of Moldova during the year 2005 proved that in some cases the central state authorities can intimidate the citizens, thus, violating their right to freedom of expression and freedom of opinion without any regrets.⁹³ The reaction of the state is morbid especially when the point of the discussions is the activity of the authorities. The freedom of expression can be pursued in large within meetings and public assemblies. With all this, state authorities do not seem to tolerate any kind of critic towards them. A vivid example is the case of ONG „Hyde Park” president Mr. Oleg Brega. On 7 July 2005 he took part in an authorized manifestation for staking the Parliament of the Republic of Moldova initiated by “Euro-Nova Media Group”. During the manifestation he was taken by the policemen for holding a placard with the context “A politicized CCA (Coordinating Council of Audiovisuals) is an obstacle in the way of the inde-

88 Art. 180 Criminal Code.

89 Article 32 from the Constitution.

90 Article 19 of the Universal Declaration of Human Rights.

91 Article 19 of the International Pact on civic and political rights.

92 Article 10 of the European Convention for Human Rights.

93 http://www.homeoffice.gov.uk/rds/country_reports.html

pendent press". Thus, about 12.00, when the official column of the presidents of the Republic of Moldova and Macedonia passed in front of the protesters, the latter allowed himself to whistle behind the official column in order to attract attention on the protest. After that two individuals in civvies approached Oleg Brega and warned him to stop and to hide the whistle. The situation was not clear as the persons did not introduce themselves. Later, the individuals in civvies pushed Brega, another hit him on the face, but the police did not interfere in spite of all his appeals. At the end of the meeting, Mr Brega was caught behind the Parliament by a young man in civvies who introduced himself as being the employee of the Bodies of the Interior. Together with other people he forced Mr Brega to get into a car being transported to the Police Station Buiucani. There he was concluded an official report of the administrative contravention. That very day Mr Brega was transported to the Law Court Buiucani, where he was penalized for having committing a "not so serious hooliganism".⁹⁴ Thus, sanctioning a person only if he expresses his point of view during an action of protest in a way that is not dangerous for other people cannot be tolerated in a democratic society. Speaking about the case mentioned above we can say that the police has made a tradition to punish those who try to express freely in public. The legislative bodies want to frighten the citizens not to take part in various demonstrations. The conclusion is: if you are active, you may be detained even if it is proved later that you have not infringed anything. The case of the Civic Association for the Liquidation of the Consequences of Molotov.

Ribbentrop Pact is relevant in this sense. On 1 December 2005, the association organized an authorized meeting on the occasion of the National Day of Romania. Soon they were warned by the Ministry of Justice to have violated the Law on the counteract of extremist activities because they pleaded publicly (in the discourse of the president of the organization, Prof. Dr. Historian, Iacob Golovca and through the placarded slogans) against the statehood of the Republic of Moldova and for the coalition with Romania. The same warnings were addressed to other people who exposed their ethnic origin and wish of reinstatement which, by no means, can be considered a stirring of a national feud and the liquidation of the state of the Republic of Moldova. Many public organizations were warned about the so-called violation of the law on counteracting the extremist activity, though the warning should be done only in case the person caused the extremist action, set forth a war crime or other crimes in the view of total or partial annihilation of any ethnic, racial, social, national or religious group that did not happen in reality. We consider that these warnings would be a coercion of the freedom of expression and freedom of opinion. But the perspective of liquidation of the organization according to that law would be a limitation of the freedom of expression.

⁹⁴ www.curaj.net

2.4. FREEDOM OF ASSEMBLY AND ASSOCIATION AND FREEDOM OF RELIGION

2.4.1. Freedom of assembly and association

All the meetings, demonstrations, manifestations, processions or any other assemblies are free and can be organized and held only in a peaceful way, without any weapons.⁹⁵ The Law on assembly stipulates the procedure of obtaining the permission to organize such meeting. The respective law stipulates that the progress of public assemblies must be empowered by public state administrative bodies, that is, by the mayoralties of the respective localities. The developments of meetings and assemblies can be restricted only in case they degenerate into conflicts and violate public security. Thus, the legislative power established the reasons for banning assembly development. There were cases when the delivery of the licence was refused on grounds not specified by law, as, for example, the opportunity to develop assemblies or other reasons related to it.

The year 2005 was full of political or other events, being, thus, marked by lots of meetings and other assemblies. Taking into consideration the fact that all the events took place in the capital of the republic, we requested the respective information from the Mayorality of Chisinau. During the year 2005 the Mayorality of Chisinau examined 190 declarations on assembly authorisation, refusing the progress of 26 assemblies. 13 petitions to annul the respective orders were addressed to the Court.⁹⁶

Thus, according to the data given above, 164 assemblies were held in Chisinau during the year 2005. It is a sufficient number to claim that the population resort to such measures more often in order to show their attitude towards some social or political problems.

According to the Legislation in force, there is an exhaustive list of cases when the demonstrations cannot be authorized. With all this, local public authorities often refuse under subjective pretexts to authorize the associations. The case of NGO "Hyde Park", which was repeatedly refused the authorization of some meetings, is relevant here. In consequence, the organization addressed the Court. For example, „Hyde Park” intended to stake the residence of the Embassy of Romania in Chisinau on the grounds of the attitude of the respective country authorities towards some ethnic Romanians, citizens of the RM as regards the Romanian citizenship. The mayorality of the capital refused the assemblies authorization twice (for 5 January 2005 and 22 April 2005), because the problem of the petitioners "was degenerated and cannot serve as reason for an assembly", or because other events organized by the authorities of the state took place at the same time (the summit GUUAM from 22.04.05, which, in fact was not held in the place requested by HP). Nevertheless, the municipal administration authorized a meeting in front of the Embassy of Romania on 30 November, on the day of the Romanians from everywhere. The action was peaceful without any incidents. „Hyde Park” Association contested in the court the orders of the Mayorality which refused the requests to authorize the pickets. All the national courts examined the first two files and rejected the request of the petitioner. On account of this, „Hyde Park” addressed ECHR.⁹⁷

In October 2005 another case with the same end took place. On Chisinau day „Hyde Park” ONG intended to organize in „Stefan the Great” park an action to promote the freedom of expression. The local public authorities rejected the request of the organization under the pretext that other cultural events organized by the Mayorality had to take place, which proved to be incorrect. In this case too the Courts considered that the right to assembly was not violated.

On the same grounds, the Mayorality Chisinau refused to authorize the meetings and assemblies organized by „Gender Doc-M” Public Association (association which defends the rights of sexual minorities) with regard to the development of a peaceful demonstration. Moreover, some representatives were detained without being working out official reports.⁹⁸

According to the stipulations of article 184 of the Criminal Code the violation of the right to assembly by illegal impediment of the development of meetings, demonstrations, manifestations, processions or any other kind of assembly or the participation of citizens in them (even the constraint to participate), is considered breaking of the law and is punished criminally. During the year 2005 no case of opening criminal files for such violations was attested.

The right to association is guaranteed by the Constitution as well as by international acts such as, for example, the Universal Declaration of Human Rights, the international Pact on civic and political rights, etc. It is necessary to mention that citizens' will depends greatly on the level of development of civic society, which can contribute to the decisional process as well as to favourable atmosphere for democracy development. In this way, public associations, whatever their profile, can support the citizens to reveal their position as well as their intention to change the course of things. Public associations are voluntary, inde-

95 Article 40 from the Constitution.

96 Information offered by the Social Humanitarian Interethnic Relations Direction of the municipal Council Chisinau, letter nr.206/s from 05.04.2006.

97 www.curaj.net.

98 <http://www.usembassy.md/ru-HRR2005.htm>

pendent, self-administrative systems organized via free manifestation of the will of the citizens associated on the basis of professional or other interests in the view of realizing the civil, economic, social and cultural rights, whose aim is not that of obtaining profits. The aims and tasks of public association are established by its status, regulations and other acts named status, registered in the way established by law.

In conformity with the information offered by the Ministry of Justice, on 31 December 2005, 3456 public associations were registered in Moldova. Local and republican NGOs are meant here.⁹⁹

As it has already been mentioned, public associations do not have the aim to obtain profit, rigours imposed to the organizations discourage the citizens to associate. Thus, even if they do not have financial activities the associations must present, during a year, nearly 42 declarations and reports to different state bodies as, for example, Tax Inspectorate, Ministry of Justice etc., which must be worked out by accountants in standardized forms. In this regard, public associations are made equal to commercial societies. On these grounds, many NGOs are made to pay fines and penalties simply because they did not present the declarations in time. As a result these organizations abolish or develop activities against law.

2.4.2. Freedom of religion

Freedom of religion is guaranteed by the state and must reveal itself in a spirit of tolerance and reciprocal respect. The religious cults are free and are organized according to their own regulations, in the conditions of law. Any manifestations of discord are banned in the relations between the religious cults. The religious cults are independent, separate from the state and are supported by it, including the facilities for religious assistance in the army, in hospitals, penitentiaries, in asylums and orphanages.¹⁰⁰

According to the information given by the State Service on Cults problems by the Government of the Republic of Moldova, on 01.01.2006 in the Republic of Moldova 21 Cults and religious associations that unite 2198 component parts were officially registered. They are: The Orthodox Church from Moldova (Metropolitan Moldovan Church); Orthodox Independent Church as part of Romanian Patriarchate (Metropolitan Bessarabian Church); Diocese of the Orthodox Russian Church of Old Rite from Chisinau; Roman-Catholic Diocese of Chisinau; The Union of Baptist Evangelic Christian Churches; The Seven Day Adventist Church (Conference Union); The Seven Day Adventist Church „Reformation Movement”; The Union of Evangelic Belief Christians Churches (The Pentecostal Cult); The religious Organization of Jehovah Witnesses; Jewish Communities Federation; Armenian Apostolic Church Parish; Religious Krishna Society from Moldova; Molocani Spiritual Christians Communities Union; Bahai Cult; “Peace Church” Community (Presbyterians); New Apostolic Church; Free Churches Union; The Last Testament Church; The Biblical Church; The Mesianic Jews Communities Union and the Lutheran-Evangelic Church.

The supporters of the orthodox Christian religion constitute 98%, the other 2% constitute representatives of other cults and religions.¹⁰¹

According to the same information of the State Service on Cults Problems it is necessary to mention that no request to register a cult was refused. With all this, there were complaints as regards the refusal of the authorities to examine some cults registration requests. In this sense, the approach of the OSCE Mission on the registration of the Muslim community in Chisinau is relevant here. The letter stated that “Moldova must register the Muslim community in the same as other communities had been registered”.¹⁰² The national legislation doesn’t provide for any discriminating stipulations as regards the cults, thus, all the cults are registered without ethnical differentiation or other discriminating criteria. During the year 2005, 116 new component parts of cults were entered up in the cult register.¹⁰³

The majority of the complaints addressed by the State Service on cults problems referred to aspects of religious activity of foreign people without authorities’ approval, the groundless refusal of local authorities to issue licence for cult dwellings construction, the postponement of construction works.

Essentially, the believers’ possibility to gather in dwellings and to pray represents the respect of the freedom of religion. Serious problems on this right of the parishioners appeared in 2005. In this sense, the impossibility to build a church in the village Corjova, the district Dubasari, is a relevant one. Thus, the Metropolitan Moldovan Church decided upon the building of a church on the territory of this locality, situated on the left side of the river Nistru under the jurisdiction of the Republic of Moldova. The flock of the village had partial material support from the local public authorities. They fulfilled all the precursory procedures to begin the constructions, and had the permit and the necessary projects. With all this, in spring 2005 when the parishioners began the construction(storing of building materials and the preparation of the soil for the foundation), they were prevented by the separatist forces from Dubasari, subdued to the power from Tiraspol. The separatists surrounded the building place and did not allow the storing of building materials.

99 Information offered by the Ministry of Justice.

100 Article 31 from the Constitution.

101 <http://www.freedomhouse.org/template.cfm?page=16&year=2005&country=6792>

102 <http://www.freedomhouse.org/template.cfm?page=16&year=2005&country=6792>

103 Information offered by the State Service on cults problems of the Moldovan Government, letter nr.169/01 - 8 from 29.03.2006.

Illegal authorities declared that this project must be coordinated with the Patriarch of the Whole of Russia and the Bishop of Transnistria. Despite the illegality of their requests, the parishioners had to present these acts as well. At the beginning of October 2005, when the construction of the church was to begin, the rector priest, living in the village Corjova, was arrested by Transnistrian militiamen for more than 3 hours. The following day the priest was obliged to leave the village to avoid revenge of the rebellious authorities who threatened him with physical scuffle if he insisted to continue the building of the church. Other parishioners who took an active part in preparing the documents and transporting the building materials were treated in the same way. Actually, the building of the church is banned, and the people living in Corjova don't have the possibility to carry on their orthodox rites because the constitutional authorities are not able to do anything. Another example of a religious entity discrimination is the authorities' attitude towards the Metropolitan Bessarabian Church which is the most disfavoured cult from the Republic of Moldova.

Another example is the case of the Romanian orthodox parish „Assumption of the Virgin” from Floresti, which was initiated as a parish of the Metropolitan Bessarabian Church after its recognition and the presentation of the acts for the registration of the parish State Service for Cults. The Service for Cults rejected the registration petition under the pretext that this parish is a component part of the Metropolitan Moldovan Church (Russian Patriarchy) and that Floresti district council did not issue any notification about the existence of the parish. As a result, the parish opened an action at the Court of Appeal from Balti. The action at law continued at the Supreme Court of Justice of the Republic of Moldova, that declared a final decision in favour of the parish. With all this, in 2005, Floresti district council did not carry out the decision of the Supreme Court from 30 march 2005. More than that, on 25 November 2005, the local police blocked the entrance to the church built by the Metropolitan Bessarabian Church. Meanwhile, the local authorities officialised the church with the name of another community belonging to the local structure of Moscow Patriarchy.

Many cases of refusing the parishes of the Metropolitan Bessarabian Church to build churches on the grounds of local public authorities decisional process involvement of other religious community representatives were registered. For example, the case of the parishes from Holercani and from Singera. Some mayoralties had the same attitude towards the cults Jehovah witnesses and that of the Baptists who were also refused the building of some places to pray.¹⁰⁴

Speaking about the discrimination among religious communities representatives, we can certify that the Law of the Republic of Moldova on identity acts and national passport system comprises discriminating stipulations through which the Metropolitan of Chisinau, subdued to the Russian Patriarchy is vested with diplomatic competence and privilege and possesses a diplomatic passport, unlike the chiefs of other religious cults registered in Moldova.¹⁰⁵

We want to mention that article 185 from the Criminal Code stipulates criminal responsibility for the organization, development or active participation in promoting religious beliefs or carrying out any religious rites that cause damage to people's health or other assaults upon the person or his rights or people instigation if he refuses to fulfil civic obligations. During the year 2005 24 files were opened against such cases.

¹⁰⁴ <http://www.freedomhouse.org/template.cfm?page=16&year=2005&country=6792>

¹⁰⁵ <http://www.usembassy.md/ru-HRR2005.htm>

2.5. RIGHT TO EDUCATION

The legal dimension of the right to education comprises the individuals' freedom and possibility to benefit from an adequate education sufficient for human conditions in the society. The Constitution of the Republic of Moldova establishes the general principles that assure the achievement of this result by the educational system.

These concepts had been established in the Supreme Law of the country beginning with the idea that education is a key element of the development of the individual as well as the society on the whole.

To continue this idea, we have to mention the international norms which guarantee each person his right to education. Thus, the states that approved the Pact on economic, social and cultural rights admit that must be aimed at multilateral development of the human personality and must contribute to respecting human rights and freedoms. Article 28 from the Convention as regards the rights of child establishes his right to derive advantage from education.

We have to mention the fact that in 2005 a new concept of the educational system reform began. Education, Youth and Sport Ministry of the Republic of Moldova elaborated the project of a set of laws in the sphere of education aimed at assuring the modernization of the national educational system.¹⁰⁶ The opportunity of elaborating the project was conditioned by the necessity to renew the educational system with the aim of integrating the Republic of Moldova in the European space and structures.

If the contents of this normative framework which must be fulfilled correspond to the results and origin of this project, in a conceptual aspect, the educational system will be equalled to European standards. On these grounds we conclude that the situation as regards the respect of the right to education in the Republic of Moldova does not correspond to all the necessary aspects and criteria being conditioned, firstly, by socio-economical situation from the country. That is why, according to the Ministry of Education, Youth and Sport of the Republic of Moldova a decrease of basic factors is foreseen in the following years. Thus, the educational system can be characterized by the following numbers: At present the capacity of the educational institutions constitutes 75%, but till 2010 the authorities prognoses its decrease up to 50%.¹⁰⁷

The general picture of the problem on assuring the right to education is reflected in a public opinion poll carried out by the sociological centre CIVIS,¹⁰⁸ in 2004, with the main title „State Policy on respect of right to education”. According to its results 65% of the respondents consider that the state does not assure the right and access to education in equal conditions, while 24% affirmed quite the contrary. At the same time, 49% declared that limited financing of education has an impact on the respect of their right to education.

Limited financing in the respective sphere is more evident and pronounced in the rural localities of the country. The vivid socio-economical differentiation between local and urban localities discriminate to a certain extent some social categories as regards the access to education in equal conditions.¹⁰⁹

At the same time, the difficult financial situation of the families from the rural localities creates hard conditions for a considerable number of children who do not attend school. This phenomenon is also determined by the absence of parents who went to work abroad. The press from Moldova reported many cases reflecting the situation certifying the fact that in the majority of case the infants remain with grandparents, relatives, neighbours or even without supervision. Local authorities and state empowered institutions must examine the respective phenomenon and take concrete measures to control this situation. The civil society can still play an important role in this sense by implementing various informational and educational programs. Lately, the number of uneducated children is decreasing due to the efforts of the civil society and mobilization of local empowered institutions, but the problem has not been solved completely.

The phenomena described above create conditions for infants' involvement in various illegal actions or even committing offences. According to official statistics offered by the Ministry of Internal Affairs of the Republic of Moldova in 2005, 18878 persons were drawn to criminal responsibility. 1009 persons were 14-15 years old and 1603 persons were 16-17.

One of the most important problems relating to this chapter is the low level of studying the official languages of the RM by the representatives of national minorities. The authorities did not create, during the years of independence, an appropriate educational system that would offer equal possibilities to the citizens of the country to involve in the society. Thus, to a great extent, the representatives of national minorities from Moldova don't have access to study in the official language of the country and, respectively, later they do not have the possibility to obtain administrative jobs and functions.¹¹⁰ We consider that the full realization of the right to education (stipulated in p.3 art.35 from the Constitution of the Republic of Moldova) of these categories of people is being violated.¹¹¹

¹⁰⁶ Official information and data, see <http://www.edu.md/?lng=ro&MenuItem=7>

¹⁰⁷ „State policy on realization of the right to education in the Republic of Moldova”, Report of the experts' group from the Republic of Moldova, presented at the International Conference of experts in the sphere of human rights held under the sponsorship of UNESCO in Kiev, Ukraine during the period 26-27 April 2006.

¹⁰⁸ the source

¹⁰⁹ For example, education expenses (leu per pupil) differ in various educational institutions.

¹¹⁰ For example, this situation persists in some localities from Gagauz autonomy, where the teaching process is carried out in the Russian language, though the population is of Gagauz or Moldovan/Romanian origin.

¹¹¹ The Constitution of the Republic of Moldova, Art.35 Right to education. p.3. The study of the official language is assured in the educational institutions of all levels.

2.5.1. The problem of the teaching staff.

This problem is also marked by lack of teaching personnel, more specific to rural localities. The problem of remunerating the teaching staff is still very important and affects the quality of the education. Till present, the level of remunerating the teaching personnel, as well as the majority of employees from the budget sphere, continue to be the lowest in the Republic of Moldova.¹¹² Comparatively, mentioning that the lowest average salary has been registered in agriculture, the salary in the sphere of education constitutes nearly 834 lei (approximately 50 Euro), while the minimum of existence value in 2004 constituted 679,9 lei per month on an average for a person¹¹³ (approximately 40 Euro).

Another aspect of the given problem is manifested by teachers' dissatisfaction in connection with the lack of insistence and firmness as regards the protection of wage interests of education employees on the part of hierarchically superior bodies from this sphere as well as the unions of this branch.¹¹⁴

The assurance of educational institutions with teaching staff has become an acute problem for the Republic of Moldova. The situation referring to this chapter can not tolerate any postponing. The continuing abandonment of the educational institutions by the experienced personnel and the refusal of young specialists to employ, especially in the institutions from the rural places will generate a major crisis in the following 3-5 years. The reason for abandoning the educational institutions by teachers is insufficient remuneration in primary and secondary education, especially in rural localities.¹¹⁵

The problem of the teaching staff is solved individually by each educational institution. Thus, in the majority of cases the courses are held by retired teachers or, in some cases, by people without the respective specialization. It is necessary to mention, in this context, the necessity of continuous perfecting of teachers. Improving the general level of the teaching staff and their instruction according to modern programmes and methods as well as providing the institutions with inventory and modern technology will guarantee equal minimum conditions to pupils from rural localities and would offer real possibilities for their further development.¹¹⁶

We consider that an important step done by the authorities as regards improving the actual situation and providing the schools from rural places with teaching staff was the modification of the Law on education. According to these modifications, young specialists, graduates of superior educational institutions with pedagogic profile, who will employ, according to their distribution, in rural schools, will benefit from a unique indemnification in the size of 30 thousand lei (the equivalent of approximately 2000 Euro) as well as a free of charge place to live during the period of activity.¹¹⁷

In the view of assuring the payment of the respective indemnification, the Government approved the Regulation of the Fund on supporting the young teaching staff from the rural places¹¹⁸ which must be stipulated annually in the Law on state budget. Thus, according to the Regulation mentioned above, within a month from the employment date, the young specialists will receive 7 thousand lei. Other 10 thousand lei will be paid after a year of activity, and the other 13 thousand lei – after three years of activity. The young specialists who graduated from secondary educational institutions of specialty will benefit from a sum of 24 thousand lei, that will also be paid in instalments. The successful use of these provisions is aimed at rejuvenating the teaching staff in rural places and eliminating the problems on lack of teachers in the rural environment.

Nevertheless, it is necessary to mention that these measures did not have a visible result.¹¹⁹ In our opinion, this fact must determine the authorities to continue their efforts in this direction. At the same time, some managers of rural educational institutions were not satisfied by the level of preparation of young specialists who were employed in rural institutions in 2005.

112 According to official statistics, the average wage in the budgetary sphere constitutes 920 lei, but in the real economic sector – 1.317 lei. In April, the medium remuneration of a wage-earner constituted 1.278 lei. In the budgetary sphere the average salary in April was 971 lei, but in the real economic sector – 1.437 lei. / Flux, Nr.71 from 2005.05.25/

113 *ibidem*

114 The rights of the teaching staff are not defended and promoted sufficiently. In this sense, it would be necessary to establish a basic salary at the level of the minimum consumption basket and to set up a system of indexation the wages in dependence on their rise.

115 For example, the president of the district Council of Education and Science Union from Riscani mentioned that some specialists teach several subjects simultaneously. Although, from 1 September till 1 December 2005 32 teachers left the schools from the district, but, on the other hand, 33 teachers were employed. At the same time, the representatives of similar institutions from Telenesti sustain that in order to cope with the programme, the teachers are overloaded. On these grounds, retired teachers are invited to work. There are, also, cases when certain hours are not taught by appropriate specialists.

At the theoretic lyceum from Glodeni there are 55 teachers. 17 teachers are retired, the rest are elderly people. Their average age is over 50 years. They do not resist because of low wages and hard living conditions in proportion to the prices that rise day by day. From 1 September till present approximately 30–40 teachers left. It also happens that teachers are absent a lot because of illness and pupils remain behind the educational programme. Last year only four young specialists came to work in the district instead of 50 persons that had been requested.

116 In their discussions with the members of Promo-Lex Association, the teachers from villages invoked the need of textbooks and maps, laboratories and necessary equipment, as well as computers and lack of access to internet.

117 Law nr. 418-XV from 16.12.2004;

118 Government Decision nr.1171 from 08.11.2005;

119 http://www.bbc.co.uk/Romanian/news/story/2006/02/060222_moldova_universitati.shtml Vasile Tarlev, prime-minister of the Republic of Moldova mentioned that in 2005 the medium age of 99 % of rectors of those 130 superior educational institutions subordinated to Science Academy was over 74.

2.5.2 Technical and material conditions of the educational institutions and their supply with didactic material

National legislation of the Republic of Moldova guarantees the annual granting of budget recourses for the educational system in the size of at least 7% from GDP to assure the development of technical and material base of educational institutions and their equipment on the level of international standards.

In these surroundings, finance for public educational institutions is carried out on the basis of norms approved by local and central authorities.¹²⁰ This criterion is determined by counting the expenses necessary for a pupil, in dependence on the type and category of the educational institution.

At the same time, the means for reparation and other expenses that assure the educational process are missing or these allocations represent an insignificant sum of money enough for minimum necessities. On these grounds, school and pre-school educational institutions are forced to ask for parents' voluntary financial support that is too difficult for many disfavoured families.

We consider that this fact is reflected unfavourably in the educational process and is nothing but illegality or the right to education without the conditions indispensable to this process can not be assured. At the same time, this phenomenon would stimulate the discrimination of pupils according to « financial power of their parents » in the perspective of state's obligation to assure equal compulsory education.

Technical and material base of educational institutions, especially in the rural places, is insufficiently assured even if a slight positive change of the situation is observed during the last years. A great part of educational institutions from rural localities lack gymnasiums and sporting inventory, didactic laboratories and conditions to feed pupils. The problem of supplying rural educational institutions with school literature and textbooks is still acute. The rent of textbooks, that is, paying some taxes for using them is considered by teachers as well by parents and pupils a violation of the right to education, as it is reflected negatively in the educational process. In the conditions of general poverty that has been mentioned, many parents cannot afford to buy or rent textbooks. In this way, the differences of financial situations are clearly marked, causing psychological damage or, otherwise, « inferiority syndrome ».

The bulk of school libraries do not have actual school and artistic literature their funds being in a great part completed in the soviet period with outdated literature in Cyrillic method of writing or in the Russian language, with books obsolescent in history which are not useful for teachers as well for pupils. The phenomenon of corruption in educational institutions from the Republic of Moldova has development due to the situation described above. In the RM the respective spirit is educated even beginning with schools, that is extremely dangerous. Often we were witnesses of shocking declarations of students or pupils as regards the phenomenon of corruption. They express their conviction about the necessity of such « relations » or the impossibility to struggle against this phenomenon.

We sustain that the expansion of corruption in the society is expressed by degrading democratic processes or, in the case of the Republic of Moldova, by lack of democratic traditions. As a matter of fact, the vice of corruption in educational institutions from the Republic of Moldova must be treated as factor which violates the right to education according to the following numbers: in conformity with some investigations carried out by Transparency International, students specify that teachers request bribes. Many complaints on the students' part have been registered in this sense, where they indicate concrete acts of corruption. The phenomenon can be explained by the fact that low wages often force teachers to look for other solutions to make up for their personal income. Many teachers from the Republic of Moldova continue to leave their working places as they cannot leave from their salary. The results of many investigations¹²¹ demonstrated that the phenomenon of corruption in universities from Moldova is getting alarming proportions. For example, according to opinion barometer, realized in November 2004 by Public Politics Institute it is certified that over 50% of respondents with higher education declare that the phenomenon of corruption is widely spread among lecturers, while 36 % of respondents with secondary education denounced corruption in schools.¹²²

In the same context we have to mention the fact that the Republic of Moldova has the greatest number of students,¹²³ for example, 221 students for 10 thousand inhabitants, as compared to 210 students in Germany. 6 Moldovan students out of 10 obtain higher education, while in Germany only 2. At the same

¹²⁰ art.62 from the Law on Education

¹²¹ According to sociological investigations of „STUDENTUS INCORRUPTUS” anticorruption initiative Group the information collected within the framework of a survey carried out in ten most important universities from Chisinau, Balti and Cahul: As regards the “admission”, it has been stated that 76,7% from the total number of respondents know different methods of illegal admission. During the years 2000-2004, 12,5% of students bought their admission, the offers being made by a middleman, a professor, a colleague or by a member of institution administration. According to the survey, the entrance to the university would “cost”, in medium, about 240 USD. None of those who resorted to illegal methods of admission declared the corruption. Being asked if they have ever paid for a mark or an examination, 28% of the interrogated people answered affirmatively, and mentioned that to pass an examination one must pay, about 25 USD”. Similar investigations have been carried out simultaneously in six countries from the south-eastern part of Europe with the help of some American experts and „Open Society Institute” from Budapest: Bulgaria, Croatia, Serbia, Macedonia, Albania and Moldova. As a result, the Republic of Moldova is situated on the top as regards the index of corruption in institutions of higher education, which constitutes 12,5%. /www.timpul.md Newspaper Timpul nr.246 from 8 July 2005/

¹²² Students are suggested buying presents for lecturers. Those who do not do this get worse marks. “Professors have already warned us that if we don't collect 300 lei each student, we will have bad marks at our license examinations. Professors affirm that our mark depends on the sum of money collected. In villages, teachers accept payments in the form of agricultural products hours of labour, sometimes they sell books which they obtain at a reduced price.

¹²³ As regards schooling and the level of studies, Moldova is situated among the first 20 countries in the world. Ziarul de Garda nr.51 from 8.09.2005 <http://garda.com.md/51/social/index.php>

time, the Republic of Moldova instructs specialists with higher education which goes beyond the necessary norm. On these grounds, the fact of adhering in May 2005 to the process of Bologna,¹²⁴ which is a component part of the actions of integrating the educational process into the European educational system is praiseworthy.

The adhesion to the Process of Bologna allows to mark some positive aspects for the Republic of Moldova: increases competition, allows the students to choose by themselves the country where they would like to study and to work and, implicitly, the level and quality of studies obtained in educational institutions from Moldova will increase as well. Consequently, the implementation of the Process of Bologna (as regards the number of specialists in the Republic of Moldova who overstep the necessary bounds),¹²⁵ will become an efficient opportunity in the view of solving the problem of employing young graduates and a way of checking up the quality of studies in the Republic of Moldova.

The right to study all the useful and necessary subjects for a multilateral development of the personality must benefit from an impartial treatment on behalf of the authorities and society. Alongside with including the courses "Habits of life" and "The sex retold to small children" in the educational system were generated in the society as serious and controversial. The course „Habits of life" has been introduced as a compulsory subject for the grades I-XII according to the Plan stipulated for the school year 2005-2006.

Finally, due to the pressures of some influential groups, especially of clerical institutions, the course was transferred to optional, and attendance of these hours for pupils of VIII-XII grades is possible only with parents' permission. The arguments invoked against this course caused the possibility degradation of pupils' morality particularly, and of the society in general.

Opinions in Moldovan society are different as regards the teaching of such subjects, but state authorities adopted a diplomatic position and offered the parents the possibility to decide by themselves. The problem still persists, as the lack of democratic traditions powerful clerical influence in the rural environment will again disadvantage the youth from these places in comparison with their fellow creatures from urban localities. It is thought that later they will be more vulnerable in front of various risks.

Another extremely controversial problem in the Republic of Moldova, considered by some experts a violation of the right to education, is the replacement of the course „History of Romanians" with the course „Integrated History". Thus, the majority of historians from Moldova consider that this issue has a political character, which is imposed by the representatives of the Communist Party and affects seriously the right to historic identity of the majority of Moldovan/Romanian population.¹²⁶

To a great part, the society is not against the new subject, but against its contents. At the same time, total lack of transparency on the part of state central authorities as regards the elaboration of these textbooks, the implementation of this idea as well as favouring the specialists who accept teaching this course as against those who do not accept it, are grounds that determined a great part of historians and representatives of civil society to oppose the experiment.

Considering this problem a legal dimension, we can formulate it as the violation of the freedom to religion and convictions as well as a more or less forced trial to change the identity of national and cultural values of the citizens. At the same time, it is regrettable that in conditions when primary secondary education institutions lack elementary textbooks, teaching staff, gymnasiums and respective inventory, the authorities find important financial recourses and make efforts in another direction, but not the necessary one. Through the semi-transparent character of such actions and means, the authorities do nothing but tension the social relationships.

Finally, we will refer to one of the clearest violations of the right to education in the Republic of Moldova. This case has the same political impression and dates back to summer 2002. We shall include this case into the list of problems of the year 2005 because the population has forgotten but the authorities continue to maintain the situation. It is about the situation of the University Extension „Dunarea de Jos" from Cahul, which was practically expelled from Moldova contrary to international practice. In 1998, within the framework of Euro region „Dunarea de Jos", the Governments of the Republic of Moldova, Ukraine and Romania decided in favour of the activity, in Cahul,¹²⁷ of a university extension from Galati, Romania.¹²⁸ The Romanian part earmarked important financial recourses to modernize the classes and to organize students' hostels,¹²⁹ and a group of teachers with didactic experience from Galati travelled daily to Cahul to teach in this educational institution. The students, their parents, the population, local authorities and the administration of the State University from Cahul felt an impulse and a direct positive change alongside with opening the extension.

¹²⁴ This process represents a framework by means of which the European states suggested the creation of a Unique European Space of Higher Education till 2010.

¹²⁵ The report on socio economical development of the Republic of Moldova, submitted by Statistics and Sociology Department in 2004, shows that in the last 10 years, in the conditions of labour force excess in labour market, higher education does not guarantee the placement in labour market according to chosen speciality. www.statistica.md

¹²⁶ The president of the Association of Historians from the Republic of Moldova, Anatol Petrencu declared: "The experiment of teaching the subject "History. Integrated course." Is an ideological and dangerous one, which has not been elaborated according to curricular and European standards provisions. ... the officials from education promote the untruth instead of supporting new reforms in historic education." www.infotag.md

¹²⁷ Town situated in the South of the Republic of Moldova near Ukraine and Romania.

¹²⁸ Locality situated within approximately 50 km from Cahul

¹²⁹ During that period (1998-1999) students' hostels from Cahul practically did not have electric power and heat, the state of students' dwellings was critical.

In summer 2002 the Ministry of education of the Republic of Moldova invoked formal reasons and refused to sign the interdepartmental Protocol of cooperation with Ministry of Education from Romania. Thus, it banned the activity of this extension in Moldova.¹³⁰ Local authorities representatives, the young and their parents as well as the civil society objected against this abuse, by means of which the right to education of the young was violated. The Centre for Human Rights from Moldova, institution of the Parliament of the Republic of Moldova, solicited from the Government „restoring the rights of the graduates of educational institutions from the Republic of Mol–dova who wish to continue their studies abroad.”¹³¹ At the same time, trying to defend the right to education of pupils and their parents, the League for Human Rights Defence from Moldova organized a round table and a videoconference in the view of discussing the respective problem. The authorities invoked the fact that „the legislation of the Republic of Moldova does not oblige the minister to sign agreements and protocols of cooperation, but only stipulates this fact...”¹³² In some months of protests and uncertainty, Romanian authorities were forced to evacuate the university extension offering equal possibilities to all the students to live in Galati and to study at the University from this locality.

National Courts rejected students’ petition addressed to the Ministry of Education and at present the students’ petition is registered at the European Court for Human Rights. The political character of this case is proved by the fact that Moldovan authorities ignored the economical and social factors of the activity of this university. Besides the favourable conditions created in Cahul, students gained scholarships whose equivalent constituted an average wage in economy (approximately \$50).

From 2002 students’ rights are ignored by the authorities of the Republic of Moldova, who did not come back to sign this bilateral document and avoid any discussion on this subject. More than that, signing the protocol of cooperation with Romania is not found in the list of activities of the Ministry of Education of the Republic of Moldova.¹³³

Conclusions

Even if the national legislative framework does not contain provisions contradictory to international implementations, deterioration of the educational system, lack of actual state policy and socio-economical crisis have created a series of problems as regards the achievement of the right to education.

From the presented information it is visible that the most important obstacle in the view of realizing the right to education is insufficient financial supply of the educational system so that this right would be provided equally to pupils from poor families and from rural environment.

The factors that determine the hard situation in the sphere of assuring the right to education is not determined only by socio-economical condition of the republic, but also by the unsteady political factor, which continues influencing the educational process from Moldova.

Recommendations

In order to solve the problems in the sphere of education the following measures should be taken: to finance the educational system appropriately (with at least 7% from Gross Domestic Product), to increase the wages of the teaching staff, to assure and develop technical and material base of the educational institutions, to put to school all the pupils and to realize a programme that would issue and assure all the educational institutions with the necessary didactic literature.

In the years to come central authorities must be aware of the fact that ideologisation of the educational system infringes the democratic principles and values and affects the full realization of the right to education in conditions equal to all the citizens of the Republic of Moldova.

At the same time, it is necessary to encourage the use of modern methods of teaching in the educational institutions from Moldova. Some teachers and managers of educational institutions plead for a variety of systems professional stimulation to develop the individual capacities of each pupil, the freedom to create a personal system of studies for a certain subject, stimulation of individual creative tendencies with an innovating character as regards the sphere of standard of study. At present it is determined by the state in proportion constituting 80%.¹³⁴ We emphasize here that we do not speak about lack of these, but the necessity to stimulate, because the legislation of this sphere allows it but the authorities do not support such phenomenon.

The last recommendation referring to this chapter is the necessity of international cooperation of the educational institutions in the view of improving ruling and teaching staff at the western level.

130 On the other hand, in 2002 the authorities created other similar institutions. For example, a subdivision of Chisinau subsidiary of Humanitarian Contemporary Institute from Moscow was founded in Ciadir-Lunga. / www.azi.md 13.07.2005/

131 The Centre for Human Rights from Moldova (CfHRM) Notification, signed by the parliamentary lawyer Alexei Pottinga, published in the Report on Human Rights in the Republic of Moldova in 2002.

132 From the answer of the Ministry of Education of the Republic of Moldova given to Parliamentary Lawyer, published in CfHRM Report on the respect of human rights in the Republic of Moldova in 2002

133 <http://www.edu.md/?lng=ro&MenuItem=5&SubMenu0=3>

134 Information offered to Promo-Lex Association by the teaching staff and the administration of some educational institutions.

2.6. RIGHT TO LABOUR AND SOCIAL PROTECTION

Any person has the right to labour, to free choice of labour, to satisfactory and fair labour conditions, as well as to protection against unemployment. The state is obliged to take measures to assure each man a decent way of living, that would assure his and his family's health and well-being, including food, clothing, place to live, medical care as well as necessary social services,¹³⁵. All these constitute an important and inalienable part of the human rights.¹³⁶ On the one hand, they are aimed at guaranteeing the social progress and living conditions improvement, but on the other hand, it is true that in any state, the right to social protection is closely connected with the economical conditions of the state.

It may seem that alongside with signing some international documents the Republic of Moldova has assumed a series of obligations as regards the assurance of a minimum of existence and a corresponding standard. But in reality these provisions have a recommendation character and, finally, depend on state resources. If the legislation of the Republic of Moldova was, to a certain extent, harmonized with the international documents, socio-economical conditions explain, in a large measure, the impossibility of creating efficient mechanisms to assure the respect of these guarantees in practice.

2.6.1. Right to a decent living

Any person must enjoy a decent way of living. Though decency is a criteria that can be appreciated, the legislation of the Republic of Moldova does not define this notion. In Moldova, the way of living of the majority of population is under the level of necessities and till present no minimum poverty threshold or minimum income guaranteed by the state has been fixed¹³⁷ and there exist no provisions on living standards. The income of minimum of existence is appreciated only by statistics, according to which 1/3 of the population of the Republic of Moldova lives under the minimum of existence.¹³⁸

First of all, this is a direct cause of the wages current which is at a very low level and cannot be compared with a decent way of living. Moldova is situated on the last place as regards the size of salary paid for a working hour.¹³⁹

Being in a difficult situation, some citizens of the Republic of Moldova addressed Promo-Lex Association intending to sue the state in national or international courts in the view of demanding the recognition of the violation of the right to a decent living, guaranteed by provisions of art.47 from the Constitution. Such intentions were firstly manifested by employees of the public sector and by pensioners. This phenomenon is characteristic especially during the cold period of the year, when the bills overrun the sizes of pensions and wages a lot.

2.6.2. Right to protection against unemployment

Unemployment is another social problem which affects the way of living of the population. In this sense the authorities are obliged to protect against the effects of this phenomenon.

During the year 2005, unemployment remedies offered by the state by means of National Agency for Labour Force Occupation (hereinafter NALFO) have reduced to conferring miserable indemnifications the possibility to re-qualify. On a declamatory level, this list is much more diverse.¹⁴⁰

In IIIrd trimester of the year 2005, the number of unemployed people in the Republic of Moldova constituted approximately 94000 persons,¹⁴¹ the rate of unemployment registering the quota of 6,3%.¹⁴² The unemployment quota is appreciated in conformity with the number of unemployed people registered at labour offices, but, in reality, the number of the unemployed is much bigger. The majority of the unemployed are not registered at the agency and do not benefit from some indemnifications from the state.

The fact that the state does not assure all the unemployed equal conditions is very serious, even if the unemployed workers' indemnification does not ensure an adequate way of living.¹⁴³ Not every person without a place of work can benefit from the status of unemployed worker. For example, the inhabitants of rural zones who possess agricultural plot of land cannot be given the status of unemployed worker. If they want to enjoy minimum guarantees of the system of medical assistance they are forced to buy the medical policy

¹³⁵ Constitution of the Republic of Moldova, art.43

¹³⁶ Pact on economical, social and political rights.

¹³⁷ There is no legal background as regards the establishment and guarantee minimum existence necessities (pensions, indemnifications, wages etc.)

¹³⁸ According to National Statistics Office, in 2004 minimum existence value constituted approximately 679 lei per person. Thus, the share of disfavoured or placed below the existence minimum people constituted 72%. At the same time, the poor population whose incomes do not cover 50 % of the existence minimum constitute 30,7%. Based on the categories of population, the maximal value of the existence minimum for the population able to work and for men constituted 762 lei. Minimum of existence for pensioners constituted 576 lei, being covered by pensions in proportions of only 56% - Newspaper Flux nr.57 from 20.04.2005.

¹³⁹ According to European Employers Federation (hereinafter EEFed) data, the size of remuneration in the Republic of Moldova constitutes 0,3 euro and represents 2% from the maximal European salary - 14,5 euro paid to employees from Denmark. The Republic of Moldova occupies the 25th position among 26 states as regards minimum wage (in size of 26 euro).

¹⁴⁰ Law on labour force occupation and social protection of people in search of a place of work nr.102 from 13.03.2003.

¹⁴¹ International Labour Office

¹⁴² According to National Statistics Office, the highest rate of unemployment has been registered in urban environment, that constitutes 10,8%, while in rural places this index constitutes 2,8%. www.statistica.md

¹⁴³ Law on labour force occupation and social protection of people in search of a place of work.

which constitutes a considerable sum in comparison with miserable incomes from agriculture.

In this context we want to certify that the right to work and social assistance for owners of agricultural parts of land, inhabitants of rural localities, is not assured at all. This problem will have negative effects on peasants, the establishment of their pensions included. The main causes of this phenomenon are not only judicial nihilism of the owners of agricultural portions of land, but also lack of unions that would consistently defend their rights.

In the Republic of Moldova poverty can be reduced only as a result of economical development and the assurance and distribution of fair income to the population.¹⁴⁴ Social policies of the governors must help the poor to obtain means that would give the possibility not only to diminish poverty, but to get rid of it. It is also important to create places of work that will reduce the number of the unemployed. So, the reality contradicts some governmental officials' declarations. They say that the number of unemployed workers is in continuous decrease and the living standard of citizens of the Republic of Moldova is higher.¹⁴⁵

The direct consequence of the conditions mentioned above is the migration phenomenon which is widely spread in the last years. Leaving the country in search of a working place generates a series of negative results for the society. Each fifth young man from the Republic of Moldova is works or is in search of work abroad.¹⁴⁶ The majority of the young consider that the most important action to improve their situation in labour market is would be the creation of new working places in labour market (70,8%) and the possibility to legal employment abroad (18,2%).

Having the status of illegal immigrants abroad, the rights of Moldovan citizens are not protected as they are often exposed to various risks. It is necessary to mention, in this context, the contribution of emigrants to the development and maintenance of national economy.

2.6.3. Right to labour protection

The most serious violations in the sphere of ensuring the right to labour are the following:

- lack of working places ;
- low wages;
- imperfection of social guarantees system;
- labour organization is not respected by employers;
- inefficiency of supervising bodies as regards the respect of labour legislation;

If in 1997 approximately 75% from the total number of citizens able to work had either a job or activities that ensured an income, in 2005 their number was reduced to 50%. At present, only half of the population able to work, about 1,3 mln people is employed or practice other activities that ensure incomes.¹⁴⁷

Approximately 13% of all the people employed in national economy activate in informal sector, and more than 34% have unofficial place of work.

On 1 December 2004 the sum of debts of social and economic agents for labour remuneration constituted 158 million lei.¹⁴⁸

A great part of blame as regards the respect of labour rights and protection goes to the authorities. For example, we consider that State Inspection for labour respect doesn't insist sufficiently on economic agents' respect of the conditions and provisions in the sphere. There is also, no evidence of cases of medical assistance offered to employees in the results of accidents or inadequate labour conditions. There is only evidence of persons who suffered during accidents at the working place and of persons who got professional diseases and were accorded disability degree.¹⁴⁹

Labour inspection has a great role of preventing accidents, enabled with the right to examine the cases of accidents before the courts.¹⁵⁰

We certify that the arrangements made by the state in the view of ensuring conditions of labour security and respect of employees rights are not sufficient. To rectify the situation great efforts are needed in the view of combating the phenomenon of irresponsibility of the employers for their employees' security and labour conditions.

144 Many national and international experts who elaborated the study „Republic of Moldova: Policies of economical development, creation of places of work and poverty reduction” have come to this conclusion. The study has been realized with the support of UNDP, Great Britain Department for International Development and International Labour Organization.

145 Newspaper Timpul nr.237 from 17.06.2005.

146 According to the investigations “The young in labour market” carried out by National Statistics Office about 75% of the young who have gone abroad or intend to go to work abroad come from rural localities. At the same time, about 70% of the young who have been interrogated declared they would go to work abroad if they were offered this chance. The study was realized in 2005. The age range of the young men who had been interrogated was 15-29 years.

147 660 thousand of them do not have wages, 400 thousand do hard agricultural work. In villages, only 28% of the population's incomes are obtained pecuniarily. These money incomes belong to doctors, teachers, public administration officials, nursery school teachers. The others manage as they can: they feed themselves from the agricultural work and commerce with agricultural products. /Centre of economic politics (IDIS), Newspaper Timpul, nr. 237 from 17.06.2005, www.timpul.md /.

148 Beginning with this year, the prime-minister Vasile Tarlev banned the National Statistics Office to publish data with regard to wages debts in national economy. The largest debts continue to be registered in agricultural sector. In January 2005 the average wage of a state employee constituted 870 lei – Newspaper Timpul nr. 220 from 29.04.2005.

149 From 195 work accidents registered in 2005, 124 were individual and 9 collective, 47 mortal, 86 serious and 16 resulted in temporary incapacity to work included. 104 accidents happened at private enterprises, 26 – at public enterprises and 3 accidents – at physical persons. In work accidents 19 women suffered seriously, one died; and 113 men: 67 suffered seriously, a minor included, and 46 died, a minor included. /Newspaper Timpul, nr.363 from 27 February 2006, www.timpul.md /

150 Law on Labour Inspection nr.140 from 10.05.2001

2.6.4. Right to social protection

The system of social protection of the Republic of Moldova presumes 2 interdependent aspects: the system of social insurance and the system of social assistance. Thus, when the payments for social insurance stipulated by the system of pensions and social insurance (pensions for age limits, disablement, successor) are not sufficient to assure the citizens a minimum standard of living, the system of social assistance (including indemnifications, social allocations, compensations) is applied.

The structure of pension system is inherited from the socialist period¹⁵¹ which provides different ways of reckoning pensions for different categories of employees, which creates unfair conditions for various categories of ensured people. In the Republic of Moldova the calculation of pensions is carried out differently for diverse categories of people. In this sense, an ensemble of laws is functioning to regulate the discrimination of calculating and establishing pensions¹⁵². We consider that this modality violates the principle which stipulates that the size of pensions must not be determined in dependence on the person, but his contribution to the fund of pensions.

Though in the last years health expenses increased significantly, the situation is still unsatisfactory as regards the necessities of the national system of health protection. Health expenditures in Moldova are nearly twice less than in the developing countries and 5 times less than in highly developed countries. Here about 200\$ come to each citizen.

Appropriate financial support of health protection would constitute at least 7% from Internal Gross Product of developing states.¹⁵³ This would be the equivalent of about \$70 per citizen in the Republic of Moldova, while, at the moment, it constitutes only \$46,7 USD. A great part of the population, especially from rural localities, do not have access to elementary health services. The majority of institutions from this sector meet great difficulties. At the same time, they do not have heat, aqueduct, sewerage at their disposal.¹⁵⁴

General health state of the population of the Republic of Moldova is constantly degrading as a result of all these consequences. For example, constant aggravation in the domain of tuberculosis is certified during last years¹⁵⁵ which is due to inadequate social state policies. The inclusion of tuberculosis and other social diseases being treated from compulsory medical insurance is an error, which leads to the increase of the number of ill people. Being included in the respective list, social diseases are treated only after their detection, while some preventing actions are ignored, taking into consideration the fact that about 450 thousand people from rural localities do not have medical insurance policy.

Thus, during the year 2005 in the Republic of Moldova, Transnistrian region included, about 5600 cases of tuberculosis were registered, 500 cases more than in 2004. Morbidity constituted 133,4 reckonings per one hundred thousand people, and cases of tuberculosis increased with 9,2 % as compared with the previous year.

Another serious problem for the system of social protection from Moldova is the insufficiency of doctors as well as their ageing. Young specialists do not accept the low salaries and inadequate conditions. Thus, the level of insuring the population with doctors lowered with 36,3 per 10 thousand inhabitants in 1998 to 29,5 in 2005.¹⁵⁶ The average age of doctors in Moldova is about 50 years.¹⁵⁷ Average wage of doctors increased to 1395,07 lei in 2005 as compared to 765,08 lei in 2003, of medical assistants – 865,12 lei as compared to 483,22 lei. With all this, the average wage of doctors in the Republic of Moldova is lower than the medium per country and, essentially, lower than in the neighbouring countries.¹⁵⁸

We consider that the families with many children, incomplete families, young families, the unemployed, disabled persons, pensioners and employees from the agricultural sector are the most disfavoured social categories of citizens. This demands increased attention on the part of the state as regards their social protection.

2.6.5. Situation of disabled people

In the Republic of Moldova the rights of disabled people are not assured completely. Hereinafter we shall describe the situation of this category reflecting major problems, noticed by our colleagues from AGAPE association.

¹⁵¹ Though the system of pensions was reformed beginning with 1 January 1999.

¹⁵² Law on state social insurance pensions nr.156 from 14.10.1998, Law on lawyer's status nr.544 from 20.07.1995, Law on prosecuting nr.118 from 14.03.2003, Law on customs service nr.1150 from 20.07.2000, Law on public service nr.443 from 04.05.1995, Law on pensions assurance to militaries and persons from order corps and troops of internal affairs bodies nr.1544 from 23.06.1993, Law on diplomatic service nr.761 from 27.12.2001;

¹⁵³ Recommendations of World Health Organization

¹⁵⁴ for example, about 70 rural primary institutions have no telephone connection, 42 are deteriorated and need replacement, 76 institutions need cardinal reparation, 42 rural health centres have no electrocardiograph, 32 centres have no laboratory equipment. The degree of wear of medical equipment from primary institutions constitutes 100%.

¹⁵⁵ In the Republic of Moldova 4295 cases of tuberculosis were registered in 2004 – Newspaper Flux nr.32 from 28.03.2005.

¹⁵⁶ The tendency to reduce the number of doctors from 11224 to 10616 is registered in the system of health and social protection during the years 2002-2005. In some districts the number of doctors constitutes 50-60% from the necessary one. Lack of specialists is evident, especially in family medicine, emergency medicine, laboratory medicine, anaesthesiology-reanimatology, pathomorphology. Source: Ministry of Health and Social Protection of the Republic of Moldova.

¹⁵⁷ Out of 639 of medical colleges 480 persons were employed according to their distribution. During the year 2005 the Ministry of Health and Social Protection distributed 311 doctors to be placed in medico-sanitary institutions.

¹⁵⁸ The greatest number of demands from Chisinau and from the territory come to doctors and medical assistants, who are offered from 396 lei to 800 lei per month (for medical sisters) and from 600 lei to 1000 lei (for family doctors). ANOFM

First of all, the right to work is being violated. Because of their deficiencies, disabled people are disfavoured when employing in labour market, whereas authorities do not offer any advantages. The right to social protection is not respected either, though, namely this right should be respected to assure the disabled people an adequate living. In 2005 pensions remained extremely low, especially for people disabled since childhood. These pensions (200-300 lei) do not offer a minimum for decent living, and more than that, do not cover the necessary expenses for medicines.

Another serious problem referring to this chapter is the fact that mothers who take care of a disabled child (for example I degree) cannot be employed and on these grounds get a miserable indemnification. According to legal provisions, the period of looking after an invalid is not included in the length of work. Thus when they get the retiring age, these people cannot have a pension.

The right to education of disabled people is also violated. The system of special education needs to be improved. For example, the signs language for deaf people and Braille writing system for blind people are not studied in special schools.

Disabled people do not have access to higher education. A quota from the budgetary places was reserved to disabled people in the preceding years. The fact was highly appreciated because these people were offered the chance to obtain higher education. Some years now this practice has been annulled and only a unique social quota still functions (for orphans, children from poor families, etc., for disabled children included). At the same time, not all the children with sight deficiencies who attend special schools have the possibility to graduate from general secondary school on the grounds that the only special institution for blind people is located in Chisinau. It is evident that this institution cannot assure conditions to all the children from the Republic of Moldova and even does not offer accommodation to pupils.

The access of disabled people to public offices and living buildings is still extremely limited in the Republic of Moldova. The majority of public institutions do not have platforms for perambulators or they are built incorrectly and cannot be used for this purpose. Means of public transport are also completely inaccessible for people who use wheels perambulators, units of transport recently acquired by local public authorities included. Pavements in Moldova are not organized in such a way as to ensure the circulation of wheels perambulators. Thus, the users of wheel perambulators are forced to circulate on roadways being exposed to danger. On these grounds, many people with locomotor's handicap cannot go to the doctor or to the grocery shop.

Recommendations

- Effective realization of legal provisions as regards labour protection and social insurance;
- Implementation of efficient mechanisms for the activity of National Agency for Labour Force Occupation;
- Effective insurance of mother and child health protection;
- Assuring minimum social protection to the inhabitants of rural zones;
- Local public authorities should create supplies of jobs for disfavoured categories (invalids, persons under 16, the young);
- Setting up and organizing public works for the unemployed without qualification;
- Mediating the employment process and according informational assistance as regards different aspects of labour market by labour force occupation Agencies;
- Professional orientation of adult population in dependence on the situation in labour market by creating a state system that would assure this process;
- Settlement of intergovernmental agreements that would regulate the status regime of migration of labour force and its placement abroad;
- Unification of labour market informational system;
- Improving the activity of National Agency for Labour Force Occupation as well as of Labour State Inspection;
- Completing the system of state insurance with insurance from private funds and professional insurances;
- Standardizing the legislation stipulating that the size of pensions must be determined according to the contribution given to the fund of pensions;
- Creating a system that would assure pensions to all the citizens employed to work abroad;
- Encouraging the admission of disabled people to educational institutions (especially to colleges and universities), by affording budgetary places, paying the educational fees at a reduced price, according credits etc. and reintroducing a special admission quota for people with handicap;
- To introduce the study of Braille system and, respectively, the language of signs in special schools for deaf and blind children;
- To introduce new specialities that are more requested in labour market in vocational schools for people with sight and hearing deficiencies;
- To improve the works of adjusting state buildings, living buildings and units of public transport;
- Purchasing means of public transport that are accessible for disabled people as well;
- Elaborating a mechanism to stimulate the employees in the view of offering jobs to disabled people and according tax facilities included..

2.7. ELECTORAL RIGHTS

Building a lasting democratic system begins with the way and conditions of organizing and holding electoral ballots. The Constitution of the Republic of Moldova provides for the right of each person who has achieved the age of 18 to elect and to be elected.¹⁵⁹ The will of the population constitutes the base of the state power, expressed by free elections, that are held periodically through universal suffrage equally, secretly, directly, and expressed freely. At the same time the state has the positive obligation to guarantee the expression of the free will of citizens by defending the democratic principles and the norms of electoral right.

„The states assume the responsibility to organize, at free intervals, free elections by secret vote, in conditions that assure the free expression of public opinion as regards the election of the legislative body”.¹⁶⁰

For the republic of Moldova, the electoral year 2005 can be considered as one with positive results in comparison with the period 2002-2004, but, at the same time, did not achieve the level of organizing and holding elections that existed in our country before 2001 (inclusively).

The parliamentary elections, which were held on 6 march 2005, constituted the main electoral event of that year. Some authors of this issue were actively involved in the activities of observing the elections. Further on we will give examples of electoral practical frauds and problems which, in our view, affected to a certain extent, the rights of Moldovan citizens.

First of all we have to mention the fact that civil society in general, and organizations specialized in this domain as for example, ADEPT Association, insist on improving the national electoral legislation and adjusting it to international standards by realizing OSCE, Council of Europe, Venice Commission and national and international observers' recommendations. The adjustment of the legal framework of Moldova to international documents which our country ratified has become a reality which cannot be postponed any more. Generally, a slight openness of the authorities to a partnership with the civil society was marked after the elections from 2005. A similar attitude is noticed from the part of Central Electoral Commission, which supports more and more initiatives of the civil society and takes part in elaborating diverse projects aimed at contributing to the improvement of electoral legislation and the establishment of practices of organizing and holding elections. With all this, we have to mention that this openness was just partial, while the electoral contestants, experts and the civil society noted numerous electoral disorders, abuses and frauds, accompanied by non-civilized behaviour and the use of "dirty" techniques of manipulating public opinion.

2.7.1. Universality of suffrage and right to take part in elections

We certify the fact that the principle of universality of suffrage was neither realized for the elections organized and developed in the Republic of Moldova in 2005. Thus, during the period 1992-2005 the citizens of the Republic of Moldova from the eastern region –known as „Transnistria”, did not have the possibility to exercise their constitutional right to take part in elections.

In our view, the most serious violation of electoral rights is the situation of the inhabitants from the eastern regions of the country, which is under the control of the separatist regime lead by a group of citizens of Russian Federation. It is still impossible to create adequate conditions for the inhabitants of eastern province to participate in the elections organized and developed by the authorities of the Republic of Moldova. The basic problem is the impossibility to inform the Transnistrian electorate on the grounds that the separatist authorities do not allow the electoral contestants to carry on information campaigns on this territory, and the press from Chisinau has limited access to the region¹⁶¹ and does not face up to local separatist propaganda campaigns.

The authorities of the Republic of Moldova are not still able to assure minimum conditions to their citizens from the Transnistrian region. Opening polling districts, organizing and developing electoral campaigns are not possible in the Transnistrian region during the last 14 years, which is a considered a glaring violation of the electoral rights of Moldovan citizens from this region. At the same time, special polling districts opened for the Transnistrian in the localities under the jurisdiction of the constitutional authorities do not meet all the conditions to guarantee elementary rights to the Transnistrian electorate (the absence of electoral lists and voting on additional lists, imposed obstacles, voters' fear and persecution as well as the long distance to the polling districts are the main deficiencies that impede the realization of the electoral right of this numerous category of citizens).

In this way, we consider that all these 14 years the citizens from the eastern part of the Republic of Moldova (about 500.000 inhabitants) are violated one of the fundamental rights, that is, the suffrage (the right to vote and to be voted) guaranteed by art.38 of the Constitution, art.21 of the Universal Declaration of Human Rights, art.25 of the International Pact on civil and political rights, etc. The Republic of Moldova is a "sovereign and independent, unitary and indivisible" state, is the indivisible and common motherland of all

159 www.justice.md or <http://www.president.md/const.php?lang=rom>

160 Article 3 of the Protocol nr.1 of the European Convention for Human Rights

161 see chapter 3 from the present Report: „Violation of human rights in the eastern part of the Republic of Moldova (Transnistria)”.

its citizens and its foundation (art. 10) is "the unity of the population".¹⁶² Or, in the existing situation, these stipulations are just declarative for the inhabitants of the Transnistrian region.¹⁶³

Another category of Moldovan citizens whose right to vote is violated are the students with temporary residence in university centre-towns. Though the problem is an old one (for example, during the general local elections from 2003 many cases had been registered when some students did not have the possibility to carry out their suffrage, while others had the possibility for multiple vote), the authorities did not elaborate a mechanism to ensure clear-cut conditions to students. Other problems connected with category of voters appeared during local anticipated elections held on 10 July 2005 in Chisinau. Even if the people with a temporary residence had already been included in the electoral lists, they considered that "the period of holding the elections was established intentionally to eliminate them from the electoral process, because the majority of students are on holidays out of town during this period".¹⁶⁴

The citizens of the Republic of Moldova who study in Romania have always asked during all the years, for the assurance of their suffrage. Their situation is special due to the great number of Moldovan citizens who study in that country. According to some official data, more than 15.000 citizens of the Republic of Moldova study in the university centres in Romania. Thus, it would have been possible to open additional polling stations at least in Romania. A great number of citizens of the RM that can be known by the authorities from Chisinau study or live here. According to the electoral Code of the Republic of Moldova, a polling station can serve at most 3.000 voters.

Another fundamental problem for the rights of a great number of citizens of the Republic of Moldova refers to people who are abroad and, to a great extent, cannot carry out their constitutional right to take part in an electoral poll. Electoral authorities and organs do not take into consideration the increasing number of people who are temporarily working abroad, which is still an unsolved problem, especially for those who do not have a sojourn right in the respective states. The empowered state organs might have found possibilities to open additional polling sections, at least in the countries where the number of Moldovan citizens is extremely large (Greece, Italy, Romania, Portugal, Russia, Spain, Israel etc.).

These problems have been notified to the national authorities through a Declaration of the European Parliament: "As regards the necessary measures to develop free and correct elections in the Republic of Moldova" which asked for the assurance of the suffrage of students, citizens from the eastern part of the country and from abroad. In this sense, Brussels solicited more states members of the European Union to find modalities that would allow to open additional polling stations on their territories in the view of facilitating Moldovan citizens' participation in the legislative elections from 6 March 2005. Moldovan authorities did not pay attention to the Declaration of the European Parliament, which leads to the conclusion that the governors from Chisinau does not want to respect the electoral rights of all the citizens of the republic.

Thus, the representatively of the elections in Moldova was not ensured in 2005 too. In the conditions when about 11% of the territory of the country (with a population of more than 500.000 inhabitants, that is approximately 15% of the population of the country) is not controlled by the constitutional authorities and while 20-30% of the active population of the country is working abroad, we consider that an increasing number of citizens are encroached the electoral rights. In our opinion, the absence of the mechanism of participation in elections of these categories affects the integrity of the electoral process and the adequate functioning of the whole national electoral system, aimed at ensuring all the citizens equal conditions of participating in a democratic electoral poll.

2.7.2. Authorities behaviour during electoral campaigns

Beginning with the year 2002 the relations between the central state authorities and local authorities from Chisinau were extremely tensioned, being characterized by the press and the civil society as a "cold war", carried to the detriment of interests of the inhabitants of the capital.

S. Urecheanu's giving up the function of Mayor of the municipality Chisinau in favour of member's mandate in the Parliament determined the representatives of central authorities to publicly announce the end of the "cold war".

A. Behaviour of local public authorities

During the years 2002-2004 Moldova was always in the consideration of diverse European institutions and bodies. As a result of monitoring, the European institutions warned the authorities about the existing problems, thus encouraging the progress of the electoral reforms through diverse recommendations in this sense.

¹⁶² Article 1 of the Constitution of the Republic of Moldova

¹⁶³ See the chapter on violation of human rights in the Transnistrian region.

¹⁶⁴ The elections from July-December 2005 were not valid because of the poor presence of the voters to polling sections. On 10 July 2005 about 27% of the voters presented at the polling stations, during the repeated elections held on 24 July 2005 even fewer voters came to the polling stations - about 20%. The elections could not be considered valid because, according to electoral legislation, at least 1/3 of the population registered in the electoral lists had to go to the polling stations. See <http://www.alegeri2005.md/chisinau07/>

The common recommendations of the Council of Europe and OSCE as regards the electoral rights and elections administration, approved by the Venice Commission in 2004, solicited the revision of the electoral legislation of the Republic of Moldova, but the examination delayed and some of the most important recommendations remained unchanged. Later the authorities declared that they can not intervene because of some aspects of the recommendations of the Venice Commission on the grounds that the modifications of the electoral legislation before the elections is unreasonable. The authorities did not take into consideration the previous experience of adopting and modifying the electoral legislation.¹⁶⁵

One of the most evident problems identified by the national observers during the elections from March 2005 is connected with the voters' evidence. Thus, it was ascertained that the electoral lists were not actualized periodically, which created premises to violate the suffrage of many voters. Due to this situation the electoral lists include many dead people or people who changed their residence, while some voters with suffrage are not included in these lists. The main cause of numerous notifications and complaints of this kind on the part of the voters, registered during the previous elections is explained in this way. Even if this problem represented a palpable subject for the previous elections as well (the number of voters included in the additional lists was about 10%), we ascertain that the necessary measures to definitely solve the given problem were not taken in 2005 either.

Local public authorities are obliged to actualize the electoral lists every calendar year, indifferently the year is electoral or not. With all this, local public authorities do not carry out such activities and wait for electoral bodies indications, which, on the local level, are created just before the elections. Neither the Central Electoral Commission intervened in time to ensure the respect of these demands.

In some localities, citizens with suffrage who went abroad are excluded from the electoral lists. On the one hand, this violates the constitutional right to vote, and, on the other hand, can lead to a significant decrease of the total number of people registered in the electoral lists. On these grounds, the issue of voters' books is suggested which, in the view of some experts, can solve many essential problems of the electoral process from the Republic of Moldova.

The administrative influence also constituted a problem for Moldova during the elections from 6 March 2005. This practice, inherited from the soviet regime, is still used by the governing political forces. Thus, a competition lacking fair-play was noticed, especially on the local level. Generally, the majority of electoral contestants were favoured by their representatives from the territory, where they own administrative functions or have influence.

This time as well a separate aspect of electoral frauds and abuses was the use of administrative resources. Many situations of this kind, committed by the representatives of the Communist Party of the Republic of Moldova (governing at present) on the national level and by representatives of territorial administrations on the local level. The spaces necessary to hold meetings with the voters were often used in dependence on the political colour of the applicant. For example, the Social Democratic Party from Moldova declared that "as a result of pressures on the part of the authorities, the administrations of some important state institutions from the capital refused to let out halls on hire. In some cases, due to these situations, there were confrontations between the inhabitants and the persons involved in the election campaigns, which ended with accidents that put people's lives and health at stake.

The leader of the parliamentary group of the ruling party, the Communist Party from the Republic of Moldova, Victor Stepaniuc rejected the accusations of the opposition which sustained that the governors fraud the elections, and declared: "We recommended all our Mayors to ensure equal conditions to all the electoral competitors in organizing meetings with the voters", affirming, at the same time, that in some localities representatives of the local bodies impede the meeting of some candidates from the lists of the Communist Party with the voters. In this context, we consider that such a position of a governing group leader is incorrect, because local civil servants (indifferent of the political colour or other criteria) should know the laws, become more responsible and competent in the subject and not to wait for the indications of party leaders in as regards carrying out their obligations and the respect of the legislation in force. As a matter of fact, the phenomenon inherited from the soviet system and still used in Moldova after 15 years of independence has been recognized through such declarations.

B. Behaviour of central public authorities

In this electoral campaign too the main state institutions (The Presidency, the Supreme Security Council, SIS, the Government, legal bodies etc.) were accused by electoral competitors as well as by observation missions, of involvement in the electoral campaign against the opposition. The State Authorities were accused that in this way they "create an intolerant atmosphere in the society and their practice is in contradiction with the legislation of the Republic of Moldova, human rights, democratic norms and values".

During the electoral campaigns the majority of civil servants, registered as electoral candidates, did not suspend their activity in the function they have ignoring, thus, the stipulations of art.13 par.3 of the Elec-

¹⁶⁵ the most important and significant modifications of the electoral legislation of the Republic of Moldova had been done in 1993 and in 1997 only some months before the parliamentary elections, which were nevertheless developed in a free and correct way. See for example, www.osce.org

toral Code of the Republic of Moldova.¹⁶⁶ Under the pretext of "work visits" on the territory, they developed electoral activities, making use of the whole administrative mechanism and power. In order to hide evident facts of this kind, they resort to actions which run counter to national legislation: for example, the access of journalists to such events is limited, the spread of the information with public character is banned etc.

In this context, we can highlight a very vivid example of the character of electoral campaigns in Moldova by making use of all the administrative state power by people who rule the state. Thus, on 03.02.2005, all the schools from Drochia district interrupted their educational process 2 hours earlier, but the teachers were forced to participate in the appointment with the candidate Nr.1 from the electoral lists of the Communist Party, Vladimir Voronin, the president of the country. Local civil servants were also forced to take part in that meeting.

The use of administrative resources for electoral purposes by the leaders of the country remains one of the most frequent problems of process of organizing and developing elections in Moldova. Thus, the representatives of the civil society certified that during a meeting of the most active members of the Communist Party enormous resources from the state budget were used for electoral purposes, which infringes the national legislation. On the 9 January 2005, "The Meeting of the Active of CPRM" was developed on the premises of the National Palace. During this event, many cars on duty were used, the event was supervised by the co-workers of the force structures, some of them confessed that they were on the spot at the orders of the superiors. In this way, we consider that art.38 par.5 let. b) of the Electoral Code of the R. Of Moldova, which stipulates prohibition of any form of financing and material support of electoral campaigns by the organisations financed from budget. During the ballot in 2005, as well as in the ballot for the general local elections in 2003, situations of distributing humanitarian aids to poor people by the first ladies of the state were registered. In 2005, especially at the beginning of the year, the use of financial and material resources reached considerable proportions. Diverse representatives and important international institutions warned the authorities about the non-democratic character of the electoral process.¹⁶⁷ The critics brought by the civil society, observers, electoral competitors and international bodies diminished the scope of the phenomenon towards the end of the campaign.

At the same time, in 2005 the practice of manipulating public opinion and the electorate continued, the competitors assumed merits for having realized diverse social programmes, financed from state budget or/and international donor bodies. In some situations, the representatives of the governing party informed the voters that the implementation of the programme of gasification (for example) will depend on the final result of the elections. Some representatives of local administrations confirmed the discriminating character of such programmes implementation.

The situation referred to in this chapter did not suffer essential changes for the local elections in Chisinau in 2005. There were situations when some candidates were supported by central public authorities.¹⁶⁸ At the same time, according to some data from the press, on 13 December 2005 the employees of Ministries and Government subdivisions were forced to present their employers the matching record of the identity card with the stamp « Voted » and the date « 11 December 2005 ».

C. Involvement of law enforcement agencies and other state bodies

In the electoral campaigns as regards the parliamentary elections from 2005 the national observers registered cases of pressures on some co-workers of law enforcement agencies on political grounds. Here are some examples in this sense : the colonel Eduard Maican, candidate on the lists of an electoral block declared that he was in-timidated and "threatened with scuffle" by his superiors from the Ministry of Internal Affairs. A police officer from Briceni was dismissed on the grounds of being present at an assembly of an oppositional electoral competitor. The officer was reemployed only after resorting to hunger strike. After an electoral assembly, a police inspector and the president of a district were warned not to allow the development of such events.

The existence of illegal biddings lead to the fact that some co-workers of the Ministry of Internal Affairs ignored the national legislation and their obligations to defend the rights and interests of citizens, irrespective of their political adherence. Thus, cases of exceeding the job obligations had been registered, As,

166 par.3 art.13 of the Electoral Code of the Republic of Moldova: the citizens of the Republic of Moldova who, in spite of the function they own, do not have the right to become members of parties or other socio-political organisations, as well as the members of the Government and civil servants suspend the function they have from the very moment of their registration as electoral competitors.

167 A. The Spokesman of USA State Department, Richard Boucher declared that the free and correct elections are more than the legal organization of the elections, while the international standards for democratic elections stipulate a fair ground for all the candidates and parties during the electoral period.

B. The declaration of the European Union from 9 February 2005 induced the Moldovan authorities to develop a correct and open electoral campaign, with an impartial and pluralistic reflection of the mass-media of all the parties and candidates and an equidistant attitude on the part of state administration compared to all the electoral competitors and their supporters. The European Union Presidency asked the authorities from Chisinau to ensure an open and correct electoral process, to pay attention to worries expressed by the evaluating mission of OSCE and to implement the common recommendations formulated by OSCE and the Venice Commission in June 2004.

C. The USA Senate approved of a resolution with regard to the forthcoming parliamentary elections from the Republic of Moldova and asks the Executive from Chisinau to assure the correctness transparency of the electoral process, to guarantee the free access of all the electoral competitors to mass-media and not to allow harassing, discrimination or intimidation of the representatives of the opposition.

D. The electoral processes in the Republic of Moldova became worse after 2001 and the EU will monitor closely the parliamentary elections from 6 March before improving the relations with Chisinau, declared the European inspector for external relations, Benita Ferrero Waldner in front of the European Parliament one day after signing the individual action plan UE-RM.

168 During a TV programme, the President Voronin, induced the electorate to vote the General temporary Mayor, V. Ursu accusing, at the same time, another candidate.

for example, the selective destruction of propaganda material, the restraint and maltreatment of people involved in the electoral campaign (electoral candidates included), searching the residents of the electoral competitors, being registered cases when the police and representatives of the Information and Security Service were present at the meetings of the representatives of the opposition with the voters.

Having learned about such actions, the Secretary general of the Council of Europe, Mr Terry Davis declared that "the police presence during assemblies of political formation, taking notes, to record those present or to film is unacceptable in a democracy". He specified that the police function is "to assure public order near the premises where such assemblies take place, without violating the democratic process", but the policemen who "violate the democratic process" by their presence at these assemblies and "the officers who give such indications" should be punished". We ascertain that such cases in Moldova have not been registered or announced, which leads to the idea that similar actions can take place during the following elections.

Thus, while the policemen were involved in illegal actions, some electoral competitors informed the courts and the competent bodies about actions of intimidation and threatening registered upon their upholders. In some cases there was a risk for the life and physical security of the respective people. Such situations were not very numerous, but the authorities were to blame for the few cases registered, because they did not assure the electoral competitors with the requested space or did not assure public order on the appropriate level.

The implication of fiscal or control bodies in the electoral campaigns from the ex-soviet space can have an extremely influential role. In this way, some printing offices were examined periodically by control and force bodies. On these grounds, they refused to issue electoral materials for some oppositional competitors.

Arresting some leaders of the oppositional parties as well as sue them at law, were appreciated by the representatives of the civil society and international institutions,¹⁶⁹ as means of electoral and political pressures. In this sense, the electoral Block "Democratic Moldova" (BDM) made public the video record of the declaration of an officer of criminal pursuit within the Centre of Combating Economical Crimes and Corruption (CCECC), where the officer affirms that he was pressed on the highest level in the view of finding reasons to accuse the leader of this political formation. The officer was arrested after broadcasting this material.

Simultaneously, law enforcement agencies did not announce the public opinion as regards the results of the investigation of the case of discovering some explosive materials on the eve of the elections from 6 march 2005. The announcement was made public by central public authorities of the Republic of Moldova.¹⁷⁰

2.7.3. Competences and behaviour of electoral officials

The beginning of the electoral campaign from 2005 was not successful due to the Decision of the Parliament of the Republic of Moldova nr.444-XV from 24 December 2004, as regards fixing the date for the parliamentary elections. At the same time, CEC was accused of not assuring transparency and correctness to the electoral process – because its decisions were not published in „Official Monitor”. For example, some deputies from the opposition addressed the Constitutional Court requesting the revocation of 5 decisions of CEC from the period 26-28 December 2004, motivating that art.2 of the decision "contravenes the provisions of art.76 from the Constitution and some decisions of the Constitutional Court, according to which the decisions of the Parliament are published in "official Monitor" of the Republic of Moldova and come in function on publishing date", but non-publishing the decision of the parliament supposes its absence. It is evident that the problem was not solved, a circumstance that allowed the opposition to declare that the day of local elections was also chosen with some encroachments (10 July 2005).

On 20 February 2005, between the hours 19.50 and 20.00, during the heading "Electoral Debate" (free of charge broadcasting time offered to some independent candidates), the public TV programme showed the film "Stop the extremism". The material carried a denigrating content against an electoral contestant. Later, one of the four independent candidates, whose time was used to broadcast the film, declared that he did not approve of using his antenna time to show the respective material. The leader of PCDP, Iurie Rosca (actually vice-president of the Parliament) was presented in the film as being a very aggressive person, the commentaries being followed by TV frames of the terrorist attacks from 11.09.2001. Later, the electoral competitor was refused the right to rebut.

The absence of prompt, legal and competent attitudes and reactions lead to the situation when the electoral competitors were not assured conditions of well-balanced competition.

169 The USA Ambassador at OSCE, Mr Stephan Minikes was worried about the arrests and attrition of electoral competitors, the employment of police and administrative bureaucracy in intimidating the simple citizens and voters

170 <http://www.azi.md/news?ID=33160> : „Vladimir Voronin confirmed the declaration of the vice minister of the Interior, Vladimir Botnari, as the police found in Chisinau many bottles with "Molotov cocktail". The chief of the state was more reserved as regards the assessment of the situation. While the vice minister of the Interior declared that the bottles with explosive had to be used in "terrorist actions", the president of the country just said that "it is just being investigated" /according to Info-Prim News Agency/

Though the level of preparation and competences of the members of electoral office of the polling sections was a little higher than during general local elections from 2003, this is still insufficient for a full insurance of the voters rights and correct management of the situation on the elections day. During this campaign there were situations when some members of the electoral office proved political partisanship or allowed intentionally the violation of the electoral regulations, which are obligatory for all the competitors without exception.¹⁷¹ These situations proved a very low level of democratic education among the population as well as the civil servants.

Even if the electoral bodies were informed about the serious problems referring to the state of electoral lists during the parliamentary elections, later it was found out that things did not change. For example, local electoral bodies from Chisinau did not carry out the necessary modifications in the electoral lists. Thus, some voters were not registered in the lists on 10 July, 24 July, 27 November or 11 December 2005, though they solicited their registration in the basic lists as far back as within parliamentary elections 6 march 2005.¹⁷²

Technical endowment of electoral bodies in Moldova is still a problem as regards ensuring transparency of decisions and acts issued by some electoral districts councils.

2.7.4. Behaviour of electoral candidates

The electoral campaign for parliamentary elections from 2005 was marked by continuous direct struggle between state presidency and capital Mayoralty. The main candidates avoided direct public debates,¹⁷³ preferring hard, sometimes lacking „fair-play“ accusations.

None of the electoral candidate fulfilled his obligation stipulated by art.38 par. (1) let. a) from the Electoral Code to declare in press, within a month from the beginning of electoral campaign, the financial means and other forms of material support of their activity. This aspect reduces the transparency of electoral processes. Electoral candidates also continued issuing electoral materials without indicating the obligatory information (the date, printing press and circulation).

We consider that a great role in making all the electoral candidates respect the provisions of the electoral legislation goes to Central Electoral Commission, and, respectively, assume a greater responsibility.

Some candidates distributed money and humanitarian aids for electoral purposes. The basic problem of such situations is that the humanitarian aids represent, to a great extent, donations of diverse international or foreign organisations and institutions, being destined to disfavoured categories of population, but, in reality, they are used by diverse political forces for electoral purposes. At the same time, the respective donations do not have information as regards their source, that is, whether the goods are donated from the personal account, from the party account or from other sources.

The majority of electoral competitors did not respect the obligation to displaying electoral posters only in special places for electoral bill sticking. The candidates posting them in unauthorized places, even in localities where the local public administration allotted sufficient panels for this purpose.

2.7.5. Informing the voters

As some European high officials, who visited Moldova during the electoral campaign from 2005 noticed, the problem of the access to mass-media for all the candidates remained unsolved, which means that the voters were not informed sufficiently or adequately.

The idea of reflecting the electoral campaign by audiovisual institutions, approved by Central Electoral Commission carried a restrictive character, which endangered the ample and exhaustive reflection of the electoral campaign.

In conditions when national TV and radio stations reflected, during the years 2001-2005, the activity of a single political force, the voters from Moldova might have needed much more information in the view of gathering evidence about the deeds and programmes of all the political actors on the Moldovan stage. The idea with regard to reflecting the electoral campaign by audiovisual institutions, as well as the situation created on the eve of the campaign (especially the refusal of some influential programmes to broadcast electoral publicity) had a negative impact on the possibility to inform, and, respectively, an important role on the electoral options of the majority of the population.

171 For example, during the local elections from Chisinau, the president of the country was allowed to vote while committing serious violations admitted by the members of the electoral office. The president obtained a voting paper by presenting only the identity card without the matching docket, respectively, the stamp "voted" was not applied. According to some data from the press, about 10% of the voters did not present to the polling stations because of the obligatory stamp "voted" in matching dockets of the identity cards.

172 In conformity with art.39 from the Electoral Code, the electoral lists are worked out by the Mayoralty, then are verified at the voters private houses. Every year (after 1 January), the authorities of local public administration specify the electoral lists at the voters' private homes and, at latest, on 1 march, they present the respective information to CEC.

173 The leader of the governing party (he is also the President of the country) ignored the invitations of electoral competitors to take part in programmes of public debates, avoiding each direct confrontation with his political opponents.

SDMP, one of the electoral competitors contested before the court the Decision of CEC as regards the approval of the Concept on reflecting the electoral campaign, while the Coalition-2005 recommended the authorities to exclude the restrictive provisions in order to exclude the informational void in reflecting the electoral process. Only towards the end of the campaign, the authorities accepted increasing the time allotted to the competitors for the debates.

The national TV station „Moldova-1” having a status of public company, did not respect similar conditions for all the candidates, having a partial, lacking equidistance behaviour. For example, it ignored the press conferences organized by some oppositional competitors registered in the electoral ride, but favoured constantly the representatives of the governing party also registered in the electoral ride.¹⁷⁴ As a matter of fact, electoral candidates as well as the civil society accused to a greater or less extent public TV and radio stations of censorship, self-censorship and misinterpretation of facts.

The situation referred to in this chapter was also marked by the fact that some independent TV stations announced they would not involve in reflecting the electoral campaign. Civil society, some electoral candidates and journalists from written press considered that this movement contravenes the democratic principles motivating that the means of mass information are obliged to inform the citizens about important events taking place in the country, the parliamentary events being a very important event for society. We sustain that a TV programme can reflect the electoral campaign and must inform the public about the electoral and political events in an equidistant way, but cannot refuse groundlessly the reflection of this competition, depriving its viewers of the possibility to obtain information about the messages of the participants in a ballot. In a market economy and authentic democracy, private TV and radio stations benefit most of all from marketing the electoral advertising space and the possibility to increase the audience during this period.

The governmental newspapers were not equidistant as well, publishing only positive materials about the governing party and negative ones about the opposition. At the same time, there were cases of forcing the subscribing to local or party newspapers, which promoted the policy of the authorities (the newspaper „The Flag” and „The Kommunist”). Sometimes, some Mayors were asked, during the meetings of the district Executive, to report on the measures taken by public local authorities in the view of increasing the number of people subscribed to the newspapers mentioned above.

The illicit favouring of governmental or the communist party publications happened while the authorities (the Ministry of Justice) refused to register the newspaper of another electoral candidate (SDPM), impeding, in this way, the full realization of its electoral right.

At the same time, there were cases of teasing and pressing independent publications (for example the newspaper „Unghiul” from the town Ungheni), when the access of journalists to information that presents public was banned by the representatives of local public administration.

During local elections from Chisinau, some competitors affirmed that the pages in the municipal newspaper „Capitala” and „Capitala-Stolita” contained electoral publicity in favour of the General temporary Mayor, electoral candidate Mr V. Ursu. According to candidate Oleg Cernei, the usual circulation constitutes 1800 copies, but the number from 7.12.2005 was issued in 100 thousand of copies, (50 thousand copies were issued in the Russian language), which were distributed in the voters’ mail boxes free of charge.

In all these cases the authorities did not take into account the Recommendation of the Ministers Committee of the Council of Europe as regards the reflecting in press of the electoral campaigns, according to which the “fundamental principle of editorial independence of press achieves a significant role during the elections”.

The International specialized Organization „Article 19” recommended the Moldovan authorities to define the term “press news”¹⁷⁵ and to classify the concepts “period of electoral debates” and “advertising materials”, contained in art.47 of the Electoral Code. At the same time, the experts of this organization solicited the countermanning of art.49 of the Conception, according to which audiovisual institutions were asked to avoid broadcasting materials signed by electoral competitors which contain insults that harm the honour and dignity of the person.

Thus, the absence of a correct and balanced reflection of the electoral campaign for the parliamentary elections affects the whole electoral system from Moldova. The presence and the activity of a free press during the elections is extremely important not only in the view of informing the voters, but, undoubtedly, for their final option.

174 The national TV station as well as other stations with a large cover showed programmes with electoral propaganda character in favour of the governing Communist Party (they describe the activity of the power and, respectively, of the electoral competitor - CPRM, denigrating the opposition and carrying out political partisanship). For the purpose of proving the control of authorities over means of mass information, we will resort to statistics: during two weeks the radio stations broadcast 137 news headlines about CPRM. The block “Moldova Democrata” was mentioned in 72 informative programmes, PCDP- in 25, SDPM - in 21. The governing party was supported by the radio stations “Evropa plus”, “Russkoe radio”, “Radio Moldova” and “Radio Gagauzia”. 89 radio news contained critics against communists, the greatest part was broadcast by Antena C (municipal radio station, which supported the Mayor of the capital, leader of BMD). The oppositional parties are most often criticized in news bulletins of state radio stations. CPRM was presented favourably in 189 news TV programmes, by NIT (45 news programmes), Moldova 1 (32), RIF TV (51), “Pervii kanal” (20) and TV Gagauzia (15) stations included. CPRM is followed by DMB- with 33 news programmes, especially by Moldova 1, Euro TV and TV 21.

175 art.46 of the Conception with regard to reflecting the electoral campaign stipulates: “in news bulletins of public or private audio-visual institutions the electoral events must be treated as press news”.

To a great extent, we can affirm undoubtedly that audio-visual programmes and stations in Moldova did not offer this time too a sufficient diversity of opinions and points of view, though later the situation was improved a little for local elections from Chisinau.

Taking into account the reactions and reports of the civil society, observers and electoral competitors, the recommendations of „Article 19” organisation and the common Declaration of USA, EU, CE and OSCE Ambassadors, accredited in Chisinau as regards transforming the Company “Teleradio-Moldova” in a public institution, we can affirm that during the electoral campaign 2005, the informational aspect constituted one of the most serious problems.

Excluding art.170 of the Criminal Code, which stipulated criminal responsibility for slandering, represented one of the few recommendations respected by national authorities in matters of elections and mass-media.

2.7.6. Observing and monitoring elections

The electoral ballot from March 2005 was monitored by international observers, foreign journalists, as well as by local independent observers. The civil society, which constituted in a national coalition, contributed a lot to monitoring and observing the electoral process. It was for the first time when numerous nongovernmental organizations from Moldova formed a national Coalition in the view of monitoring the process of the electoral campaign. The constitution and activity of this structure encouraged the majority of electoral competitors, determining them to adopt an adequate behaviour and state authorities to respect the rights of the opposition.

It is evident that the authorities are responsible for electoral problems and deficiencies, especially when they own public posts during the elections. Initially, the formation of a civic coalition in the view of monitoring the elections and finding out cases of violating electoral norms irritated the representatives of the governing party. On the grounds of being criticized, they accused the Coalition of political partisanship and threatened it with „financial control and checking” as well as forfeiting the respective grants. Soon after these threatening two organizations involved actively in implementing the project of monitoring and observing elections were visited by representatives of the Centre for Combating Economical Crimes and Corruption. This fact proved once more the abusive character and the level of involvement of the authorities from the Republic of Moldova, confirming some of the experts’ statements on the low level of democracy in the Republic of Moldova. Firm and correct position of international institutions and donators determined the authorities to show respect (even reserved) for national observers.

The first thing to mention in this context is the involvement of state Information and Security Service in the activity of national observers. There were cases of summoning the observers at the headquarters of this institution in the view of explaining the nature of their activity. Sometimes this structure carried out pressures on the administration of the enterprise/institution where the observer developed his basic activity. Another situation of this kind involves the case when a deputy, on a visit on the territory insinuated the fact that the observer in long service from this territorial-administrative unity could be dismissed from his function at the end of the ballot. At the same time, some observers were refused the access to public electoral information (statistical data, the process of actualizing the lists etc.).

Beside the national observation network, the parliamentary ballot from Moldova, was also in the attention of the international communities. Diverse forces from the Russian Federation manifested great and free of proper political nuances interests through some observation missions included. For the first time after declaring the Independence of the Republic of Moldova, the public opinion from the country and abroad had the possibility to learn the level of involvement of diverse forces from the exterior, that is Russian Federation and ex-soviet space in the electoral campaigns from Moldova, due to specific Moldova-Russian relations from that period. Thus, this time the authorities impeded some electoral activities (supposed to be illegal) of some Russian citizens by detaining and expelling them as well as forfeiting considerable sums of money and computers.¹⁷⁶

Russian observers declared that the authorities from Moldova refused to issue observer’s accreditation during the elections. These affirmations were doubted as they were made after their detention. On the other hand, the authorities from the Republic of Moldova declared that the observers from CIS (Community of Independent States) were not allowed to be present at the elections because they compromised their observatory mission at the elections from Ukraine. Similar situations and incidents with Russian observers were registered during local elections from Chisinau.

Finally, the International Mission for Observing Elections (IMOE) which reunited observers from the part of BIDDO/ OSCE, OSCE Parliamentary Assembly, Parliamentary Assembly of the Council of Europe and the

¹⁷⁶ Two criminal files for “Smuggling” had been worked out against two Russian citizens. 373 thousand dollars and 77,5 thousand euro were found in the flat hired by the Russian women. This sum exceeds the allowed quota of introducing foreign currency in Moldova without custom declaration. These and other detained people were accused of illegal staying and carrying out activities without a work license. The process of monitoring was carried out with the help of modern technique. Later, Moldovan authorities blocked several tens of observers from Belarus and three carriages of observers from Russia. One of the representatives declared during a press conference that both groups were coming to Moldova from behalf of CIS-EMO, being invited by a Moldovan organization. / www.azi.md , 23.02.2005, according to Interlic news Agency /

European Parliament decided that generally, parliamentary elections from 6 March 2005 were developed in conformity with international standards in matters of elections.

2.7.7. Conclusions

During the period 1992-2001 Moldova registered considerable success as regards the organization of democratic ballots, being one of the leaders from the region, but during the next local ballots the conditions became worse in an evident and constant way. In comparison with local elections from 1999, those from 2003 showed a clear decline,¹⁷⁷ so that the parliamentary elections from 2005 became very important in the view of confirming the democratic responsibilities of the Republic of Moldova.

The cases and situations described do not reflect the whole list of problems, but they are for sure the most numerous and frequent ones, which were able to affect the democratic character and even the integrity of the electoral process.

After the political consensus from 2005 the authorities of the Republic of Moldova assumed the responsibility to carry out some legislative reforms and modifications necessary for adjusting the judicial staff to international requests and standards, but very little was done during the year 2005 in this sense. The authorities should, first of all, re-establish the trust of the society in Central electoral Commission and promote a series of reforms, juridical ones included, that would create conditions to develop the campaigns in conditions of maximum transparency, fairness and impartiality.

In this context, we have to mention that many electoral irregularities and problems found out during parliamentary elections developed on 6 March 2004 were also stated during local elections from Chisinau,¹⁷⁸ even if the atmosphere was much more calm and correct. At the same time, positive changes were registered as regards reflecting the electoral campaign in mass-media. The conditions of participation for some electoral candidates remained unequal and unfair, because there were not assured adequate conditions for a correct and equal competition for all the participants in the electoral process.

In 2005, state institutions did not always function in a democratic way, which evidently affected the democratic degree and character of the ballots. In this sense, we refer to the critical situation connected with the informational vacuum that existed during the period 2001-2005, and consider that the restrictive character of the Conception as regards reflecting the electoral campaign was not necessary. On the contrary, a sufficient and multilateral report of the voter was requested. Another negative aspect was the direct involvement and pressure law enforcement agencies and other state structures.

Yet, one of the most serious worries for Moldovan society on the fully is the extremely low level of democratic education and culture among the voters, circumstances which doubt the free, democratic and conscious character of the citizens' votes.

An important role as regards the level of civic education and the democratic culture can be laid on mass-media public institutions from Moldova, which were controlled by the governing political forces during the period 1990-2005. Absence of real competition in the sphere of mass-media (especially electronic press) and absence of educational and public debates programmes for citizens contributed decisively to creating the situation that existed in 2005.

The electoral legislation too was far from being perfect, but we have to mention that after the parliamentary ballot from March 2005, the authorities carried out some modifications and accepted to discuss some aspects aimed at contributing to adjust the legislation to international standards, as well as to respect the recommendations of the Venice Commission and OSCE.

Beginning with these determinative aspects, it becomes clear that other negative aspects are nothing but a logical continuation of the situation described above.

Another conclusion is that dirty scenes and lack of fair-play have become a norm during electoral campaigns in Moldova. In the same context we mention that alongside with announcing the results, these situations are ignored by legal bodies or even by the competitors affected by accusations. Yet, during electoral campaigns such events are considered as "cynical procedures of manipulating public opinion, of influencing the electoral options of citizens, and, as a result, an instrument of defrauding the elections, characteristic to a non-democratic regime".

If we recorded the electoral problems, violations, abuses and frauds, they would be the following: partial and selective reflection of electoral events and competitors in public mass-media, attrition of the opposition by the police and other state bodies, intimidation of independent groups of the civil society, the use of administrative recourses for electoral purposes, administrative impediments in realizing the suffrage;

¹⁷⁷ Report of the Congress of Local Powers on local elections, Strasbourg, 11 July 2003, GG/BUR (10) 19, www.coe.int/T/E/Cirae/%5F5%2E%5FTexts/3%2E%5FReports%5Fcountry%5Fby%5Fcountry/Moldova/Observation_of_Elections/ELEC_MOL_CGBUR10_19.asp#TopOfPage

¹⁷⁸ In conformity with art.70 of the Constitution of RM "the function of deputy incompatible with any other function, with the exception of didactic and scientific activity". The Mayor of Chisinau refused the position after being selected deputy in the Parliament as, in conformity with art.109 of the Constitution and his explanations the vacant post of the Mayor cannot be substituted but through new elections. Thus, new local elections were held in the capital.

incompetence of the representatives of the electoral bodies; absence of equal conditions for all electoral candidates; absence of free access of electoral candidates to means of mass information; absence of clear conditions for carrying out the suffrage by certain categories of citizens; inappropriate registration of the voters in electoral lists; intensifying work visits on the eve and during the electoral campaign which are transformed in electoral assemblies during this period; the forced subscribing of civil servants to certain newspapers, that is a differentiated treatment applied to local civil servants; the activity of legal and control bodies is intensified on the eve of the ballots, people from the opposition exclusively being examined or arrested; illegal involvement of foreign experts in the electoral process, etc.

Yet we regret the failure of implementing the recommendations with regard to fundamental revision of the Electoral Code which causes worries, especially as regards impartiality of Central Electoral Commission because of its formation criteria, respect and protection of electoral candidates to a free electoral campaign, impartiality of mass-media, the secret character of the vote as well as transparency and correctness of counting votes and registration of results.

Therefore, we ascertain that the citizens, especially electoral candidates, address the courts more frequently. This phenomenon happens due to the activities of civil societies (informing and educating citizens as well as legal experts, civil servants or Party activists).

The effects are not visible yet, but it is very important that the phenomenon takes proportions from a ballot to another. At the same time, basing on the experience of the elections from 2005 we can see that parties and electoral competitors are not capable yet to defend the rights of their supporters. Often, the electoral competitors resort only to declarations and press conferences, without going over legal ways of solving the problems connected with electoral abuses and violations.

2.7.8. Recommendations

In the view of avoiding recurrence of the situation and electoral problems from 2005, the Parliament of the Republic of Moldova must adopt all the modifications and amendments of the Electoral Code prepared by the representatives of the civil society,¹⁷⁹ aimed at respecting the anterior recommendations of the international experts.

It would also be necessary to create a national campaign to permanently inform and educate the citizens. Freedom of press and assuring a civilized environment of competition for the means of mass information would be the basic requirements for the transparency of the electoral process as well as for the correct information of citizens.¹⁸⁰

The electoral officials require permanent and continuous training. Activities to instruct and educate the representatives of political formations, of local public administrations and the young are necessary as well.

Informing and educating citizens, transparency and independence of press institutions, cooperation and partnership of state authorities with non-governmental organizations, will represent basic activities in the view of correcting the problems registered during the elections 2005. In this context, we think that an accidental „Coalition-2007” and „Coalition-2009” would have a significant role in developing free and correct elections in Moldova.

In the view of realizing the electoral right of all the citizens on the whole territory of the country, we recommend the national authorities to make visible efforts to make the illegal regime from Ti-raspol allow the information, education and electoral involvement of the citizens from the Transnistrian region of the country, the activity of electoral actors and the formation of electoral bodies in this zone. Some foreign states as Russian Federation and Ukraine¹⁸¹ organized and developed elections in the eastern part of the Republic, motivating their actions by the presence of a great number of their citizens on that territory, while Moldovan constitutional authorities do not make any effort to assure and respect the rights of hundreds of thousands citizens from Transnistria, motivating that they lack control over its territory.

Examining all the declarations, investigating and examining the cases invoked by the competitors in the electoral campaign in the view of preventing the “dirty campaign” phenomenon would be the last but not the least recommendation.

¹⁷⁹ www.e-democracy.md

¹⁸⁰ Andre Kvakkestad (Norway, EDG), the chief of a delegation of observers from the part of the Parliamentary Assembly, who was present at the ballot held on 6 march 2005 mentioned that „mass-media, especially television, plays a crucial role in informing the public” and „...Elections without a visible campaign are like fish without water”. At the same time, the delegation appealed to all audiovisual institutions, especially to public television and radio, to assure large and equal access and an impartial reflection of the news to all the parties and candidates in the view of making the visions known to all the electorate of Moldova.

¹⁸¹ During the presidential elections from 2004-2005 Ukraine opened 7 polling sections in Transnistria. In 2006 Ukraine did not organize polling sections on this territory any more.

2.8. RIGHTS OF CHILDREN AND FAMILY

Starting from the international juridical instruments which protect the rights of children, the Constitution of the Republic of Moldova devotes the most important principles that must guarantee the rights of children on the national level.¹⁸²

Through the report child-interest-state, the international Convention on rights of child, completes this text with the following provision: „In all the decisions that regard children, taken either by public or private institutions of social protection, law courts, administrative authorities or legal bodies, the superior interests of the child must be taken into consideration with priority”.

It is necessary to mention that the aggregate of normative acts which settle the context of the rights of child and the specific situations connected with the protection of the rights and interests, have, to a great extent, a declarative character. Thus, even if they contain an important complex of principles and guarantees which refer to the priority of respecting the rights and interests of child, a part of them are not assured with an efficient mechanism of realizing and applying them in practice.

First of all we shall specify the lack of provisions with regard to the principle of “superior interests of child” in the national legislation, enacted in the international Convention on the rights of child. The Convention, as well as the principle of the superior interest of child, mentioned above, must be included in the national right and must benefit from a mechanism that would assure a real protection of the rights of child, and through which they could be invoked before the courts of justice. These principles are not reflected sufficiently in the legislative framework in certain sectors as, for example, medical assistance insurance, education and social security, that are rather significant spheres in the view of respecting human rights. The national authorities did not work out an efficient way to guarantee that “the superior interest of child” is that which guides the decisional process, while the society and state protection of child constitutes a first rate political, economical and social concern only on the national level. Or, taking into consideration the impact of some options, especially political ones, on the rights of children, will have to be a constituent part of this process. And, in the view of avoiding any discrimination in the environment described above, child’s interests must be put in foreground by the authorities, while his well-being and development must be guaranteed.

Each child must have access to the procedures of denouncing the violation of his rights. In the Convention there is no age limit that would consider a child incapable of putting forward a complaint or of demanding the trial of the violation of his right before a law court or another body, with or without his parents’ agreement. But any exclusion or limitation of this right must be done in the context of general principles, that of superior interest of child and that of non-discrimination. But the national legislative context conditions the possibility of the child to sue at law, and, more than that, to defend his right independently only after reaching the age when they obtain full capacity. Thus, the children who would like to address a complaint against his parents would not have this right even at a simple beginning of legal proceedings on the grounds that the notion of legal representative suggests the person to name this representative. In this case the minors without full capacity are represented by their parents, who are their eventual opponents. Moreover, the legislation does not provide for a modality of selecting the minors’ representatives in cases they are victims of their parents’ abuses.

Any slighting or abuse towards a child is nothing but inobservance of his rights and that is why such actions must be condemned by the society but the people guilty of committing them should be sanctioned. We consider that, to a great extent, the rights of child in the Republic of Moldova are violated under the following aspects:

2.8.1. Right to family

The family is the basic unity of the society as well as the natural environment for the child’s growth and welfare. Thus, each child who is, temporarily or definitely, deprived of his family background must be assured the right to help and special protection from the part of state officials.

At present, approximately 31 % of the children under 15 live with both parents, but 7% – without both parents.¹⁸³

Interning orphan children is a serious problem of the contemporary society. This alternative, created by the state for the children without parents’ care, keeps its old form of placement. Interned institutions predominate in the system of social assistance of abandoned children.

Till present developing and stimulating some surroundings for protecting the child who is in difficulty, by using alternative forms of institutionalizing, have reached significant results, but still need great attention from the part of the state in the view of proving their efficiency.

¹⁸² According to stipulations of art.50 (1) from the Constitution „Mother and child have the right to help and special protection, and (2) The children and the young enjoy a special regime of assistance in the realization of their rights.

¹⁸³ According to some data of legislative bodies in 2005 25.453 children remained without parental care (in comparison with 23.000 children registered in 2004) on the grounds of mass migration of the population abroad - Flux, The Issue from Wednesday nr.42 from 18.11.2005.

The great number of children interned¹⁸⁴ in orphanages imposes the replacement of alternative services of social assistance (centres of temporary placement for children, orphanages of family type and services of professional parental assistance) so much the more. The austerity of financing the whole interning system guaranteed at present by the state cannot still assure their level in proportion with the aims of the Convention as regards rights of child. On these grounds, promoting alternative services of social assistance financed by empowered organizations is timely.

The state must great attention to preventing the causes that lead to abandoning children¹⁸⁵ and their placement in assistance institutions. Among the most frequent cases of interning children are abandonment, health problems of the parents and their departure abroad.¹⁸⁶ The state is obliged to stimulate, especially the families with many children and those who are in hazardous situations in the view of preventing the phenomenon of abandonment¹⁸⁷ by creating favourable conditions for their development.

According to the data offered by the Ministry of Education, Youth and Sports, approximately 36% of the interned children are children with mental and physical disabilities, 27% are children from families with difficult living conditions, 19% – from families with risky situations (alcoholism, detention, drug addiction), and 16% are children whose parents died.

As a result of some calculations we ascertain that about 4000 children lacking family environments are children with physical or mental disabilities, but there are only two specialized institutions created by the state which, in our opinion, are not able to offer the necessary assistance to such a great number of children. We think that in such a situation the children who are placed in common institutions are deprived of proper care.

Thus, developing and diversifying community services of child and family support, day and night centres, recovery centres must constitute an essential task in the view of solving this problem.

The migration phenomenon, which extended a lot lately, influences the condition of an increasing number of children from Moldova,¹⁸⁸ who do not have the possibility to live and develop in family environments. These children are left in the care of relatives or neighbours, who do not offer the proper attention, and, most often, these children are exposed to the risks of not attending school, traffic, violence, vagrancy etc.

According to national legislation the minor child cannot go abroad without the agreement of both parents. This thing is considered to be in favour of the child to live in the family. We ascertain in the Republic of Moldova the phenomenon that the authorities ignore the legal provisions and, respectively, the rights of child. The society knows more and more cases when the children were taken out of the country with the permission of only one parent. The courts of justice do not always take into account the interests and rights of the child, preferring to delay the examination of cases years on end.

The case G., represented by the legal experts of Promo-Lex association before national as well as international courts is relevant here. Many years his wife was abroad. In 2003 she returns and manages to go back with two minor children of the family without the agreement of their father. The legal procedure started by the father of the minor children immediately in 2003 still continues, because the authorities delay to examine the case completely, objectively and impartially. Meanwhile, one of the children reached the majority, but the courts invoked this reason.

At the same time, some parents take their children to the occidental countries simply because they benefit from some subventions for maintenance. These sums are considerable for the living standard from Moldova and represent sure and guaranteed means of existence. In reality, the allocations for the child are not always used only for his own interests.

We consider that the necessity to prepare the future parents for new responsibilities must be highlighted. In the view of assuming these tasks, the government must make considerable efforts to set new methods of family education and future parents must be aware of their own responsibilities.

2.8.2. Right of the child to education and information

The state acknowledges the right of child to education,¹⁸⁹ and is obliged to assure compulsory and free of charge primary education to all the pupils and to encourage different ways of secondary education and to assure the access to higher education to all the children, in dependence on the abilities of every child. At the same time, it is necessary to take all the corresponding measures in the view of watching the use of school discipline in a way that is compatible with the child's dignity.

184 In the Republic of Moldova the number of interned children is three times higher than in European countries. For example, in Moldova there are 63 boarding schools and about 12 thousand children study there. /Newspaper Flux nr.50 from 01.02.2005, www.flux.md/.

185 the greatest problem of disabled children is their integration in society. Poor material conditions which many families from the Republic of Moldova have to confront makes the families to refuse to grow and educate their own children. As a result, these children remain either in boarding schools or homeless. /Newspaper Flux nr.14 from 15.07.2005, www.flux.md/.

186 According to data offered by authorities, in Moldova there are 25 thousand children of school age whose parents have gone to work abroad.

187 At present, 85% of the interned children have parents.

188 The Moldovans who went abroad left over 23 thousand children – the deputy minister of Labour and Social Protection, Anghelina Apostol, quotation from newspaper Flux nr.16 from 11.03.2005.

189 Article 35, the Constitution of the Republic of Moldova

"The child's education must be aimed at favouring the development of the child's personality and his mental and physical abilities. The child's education must be carried out in the spirit of respect for human rights and fundamental freedoms, in the spirit of respect for parents, for his cultural identity as well as the tolerance and the respect for other people's values."¹⁹⁰ We ascertain that in the Republic of Moldova the respective dispositions are not totally respected. At the moment we can mark multiple violations of these aspects. First of all we cannot speak about the free education as long as pupils are obliged to purchase the textbooks themselves.

The indexes of schooling the children certify a general positive tendency. Thus, the number of uneducated children decreased from 727 in 2004 to 221 children in 2005.¹⁹¹

2.8.3. Right to be protected against violence, ill-treatment and any type of abuses

The state is obliged to protect the child against any form of exploitation, and to assure conditions for each child not to be exposed to torture, punishments or inhuman treatments. The protection against any form of sexual exploitation, inclusively with the purpose of prostituting or using the children in activities with scurrilous character is also the task of the authorities.

During the last years the sexual abuse towards children becomes more frequent, while the authorities are not concerned with this problem. Although some measures had been taken in this regard, the number of children physically and sexually abused is still increasing. Children between 3 and 11 years are especially abused sexually, indifferent of their sex.¹⁹²

The phenomenon of human traffic is still increasing. In most of the cases, direct or indirect victims of human traffic are children. The new tendencies as regards human traffic registers the following structure: the increasing number of orphan children, of minors and those from disadvantaged families. It is also necessary to highlight the fact that the number of victims from the Transnistrian region is in progress.¹⁹³

At the same time we have to mention that the majority of illicitly traded and exploited children are from disfavoured families.¹⁹⁴ Therefore, we consider that our society does not always discerns the gravity of the problem of human traffic.

Ill-treating the minors, in the family included, is another serious problem for the Republic of Moldova. At present, speaking about an extremely complex phenomenon, the society is not sufficiently aware of the cases of abusing children. Generally, it is thought that abusing children implies only corporal punishment for „educational” purposes. In reality, ill-treating a child implies a larger view: there are cases of psychological ill-treatment, emotional ill-treatment or aggressive slighting, by depriving the minor of elementary conditions for his normal existence and development. We ascertain the fact that state involvement in combating this phenomenon is still quite reserved.

Yet, there are also some positive tendencies on the administrative level. This happens only in the situations when the cases of abusing children are registered or found out, but often measures of sanctioning the culpable people occur after having committed the deeds. The recovery of civil rights of the victims still remains on a low level.

2.8.4. Right to medical and social assistance

The health of the young today must be considered as a vulnerable point and should worry the society. Signing the Convention on rights of children the Republic of Moldova acknowledges each child's „right to enjoy the best health state possible and to benefit from medical services”.

The situation with regard to guaranteeing an adequate level of development and assistance represents nothing but the essential index of poverty. Approximately a third of the children before 5 years of age from the Republic of Moldova are affected with anaemia¹⁹⁵ and the cause is considered to be alimentary insufficiency¹⁹⁶ and not qualitative nutrition of pregnant women and of children. Misinforming the population, especially those from rural localities, and poverty of the population are some of the main factors that stimulate these negative processes.

¹⁹⁰ Article 29, Convention on rights of child

¹⁹¹ newspaper Flux, nr.52 from 12.04.2005, www.flux.md

¹⁹² The National Centre for Preventing Abusing Children (NCPAC). According to (NCPAC) it is very alarming that in many cases the violator is a close relative of the victim.

¹⁹³ Centre for traffic prevention „La Strada”, www.lastrada.md

¹⁹⁴ Three minors (Brethren Elena (14 years old), Marcel (16 years old) and Pavel (17 years old)) from Causeni district were sold in slavery by their own mother for 300 lei. More than three months they were forced to work 15–18 hours a day in Ukraine. Their parents were not aware of the problem even after the investigation of the case. / Ziarul de Garda nr.78 from 30 March 2006, www.garda.com.md /

¹⁹⁵ According to the results of health and demographic Study, carried out by National Scientific Centre of Preventive Medicine in 2005.

¹⁹⁶ The authors of the study (NSCPM) consider that anaemia can be prevented by offering women supplements (alimentary products and medicines) which contain iron, especially to pregnant women and small children.

The state must pay more attention and importance to developing an adequate system of medical care, at least on the elementary level. Such a system would present the advantage in the view of according the corresponding attention to developing a culture with regard to hygiene, alimentation and sanitary education.

The health state of the young from the Republic of Moldova must present a special concern for the society and for state authorities. The frequency of the diseases which affect children from the earliest ages certifies the absence of qualified medical assistance. The situation is valid especially for rural localities and zones, where the absence of qualified medical cadres, of the respective space and utensils is extremely evident.

The increase of the indemnifications offered by the state for looking after children from the age of 1,5 till 3 years constitute only 7,8%¹⁹⁷ from the value of minimum of existence that is necessary for the child's growth and development.

2.8.5. Aspects of juvenile delinquency

The specialists of legal bodies certify that the level of juvenile delinquency increases every year, but the levy of offenders becomes younger. During the last years only 15-16 years old minors were committing crimes, at present they are affiliated by children of only 9 years of age.¹⁹⁸

We consider that the main factors that directly condition the development of indices of juvenile delinquency are the violation of the rights of children in concordance with poverty, migration, abandonment, lack of education and precarious social assistance.

It is necessary to mention that most of the crimes committed by minors are thefts, serious corporal lesions, street hooliganism and crimes connected with preparing, consuming and traffic of drugs.¹⁹⁹ When speaking about girls, the juvenile delinquency is manifested by practising prostitution at an early age.²⁰⁰

It is known that children whose parents went abroad do not commit crimes out of necessity, but because they are not supervised and brought up in the corresponding way. Lacking the necessary attention, at an early age they obtain a complex of inferiority, while their wish to manifest is carried out by committing illegalities. Every 19th crime registered in 2005 was committed by a minor or his participation; they committed 2.538 crimes all in all.²⁰¹

The rights of detained children are seriously affected. About 85% of the minors from detention pending trial did not have any meeting with the advocate, while in 43% of the cases the detention period exceeds the maximum limit of four months,²⁰² stipulated by law.

The long detention terms of the minors lead directly to degradation of their personality. The need to promote alternative punishments²⁰³ is imposed as a priority necessity for the judicial system from Moldova. The detention of minors must be used as the last solution in the sense of criminal legislation. In cases when the punishment involving deprivation of liberty cannot be avoided, it must be reduced to a minimum and have exclusively educational character.

In conclusion it is necessary to mention that in the Republic of Moldova there is a normative – legislative cadre which protects and defends the rights of the child that corresponds to international norms. Simultaneously, there is a network of state institutions and nongovernmental organizations concerned with the problem of the rights of child. Yet, a great part of the problems with regard to the rights of children remain unsolved, the main obstacle being the general economical crisis from the Republic of Moldova. Namely the material and moral situation from the society, ignoring valuable aspects of social and cultural life generate the violence towards children. This phenomenon has become a reality with numerous and profound implications in all the social fields.

In the republic of Moldova the child is not protected sufficiently. The actions carried out in this direction have not had discount results yet. The respective problems request substantial efforts from the part of the state as well as of the society.

Recommendations

- *Rendering and educating public opinion with regard to problems of the child*
- *Adjusting the services of social assistance and interning children to European standards and, simultaneously, increasing their qualitative capacities.*

197 www.statistica.md

198 Newspaper Flux nr.05 from 10 February 2006.

199 According to the report of monitoring "respecting the rights of the minors in places of detention", carried out by the Institute of Criminal Reforms(ICR), www.irp.md, thefts constitute 90% of the total number of offences committed by adolescents, cases of robbery constitute 6%, illegal entry and destruction of goods constitute 2% each. A smaller number of percentages goes to murders, rapes and serious corporal lesions.

200 Newspaper Flux nr.05 from 10 February 2006, www.flux.md

201 According to data offered by MIA in 2005 2538 offences were committed by minors.

202 The report of monitoring carried out by the Institute of Criminal Reforms: „Respecting the rights of minors from places of detention”, www.irp.md

203 According to Institute of Criminal Reforms Director Igor Dolea – the Evaluation Conference « Implementing alternatives for children detention in the system of criminal justice »- quotation from newspaper Flux nr.146 from 31.10.2005, www.flux.md, over 70 children were convicted to non-remunerated labour in favour of the community.

2.9. RIGHTS OF WOMEN

The Constitution stipulates that all the citizens of the Republic of Moldova are equal in front of law and of public authorities, without any race, nationality, ethnic origin, language, religion, sex etc. Distinction.²⁰⁴ The equality among citizens is, as a matter of fact, a way of expressing equality among people, being one of the essential conditions of freedom, justice and peace in the world. We observe that the principle of universality established by the Constitution is completed with the principle of equality of rights, which is, in itself, the equality of chances which is accorded to all the citizens by the Supreme Law. The measures of protection concern labour security and hygiene, labour regime of women and the young, establishing a minimum wage on economy, weekly break, yearly paid holiday, carrying out labour in hard conditions as well as other specific situations. But the reality is completely different. Women are often discriminated and exposed to violence, being unable to defend their rights in an effective way.²⁰⁵

In experts' opinion, lately the society itself favours the incompetent behaviour of its members. This behaviour is the result of the reality existing in Moldova, and namely: poverty, the increasing level of unemployment, the acute incapacity of keeping the family from the official incomes of a simple employee. Thus, more and more conflicts as a result of the actual problems, while the family becomes the centre of gathering negative emotions which often generate violence and offences, women and children being direct victims

In this sense, the authorities must assume the responsibility for the created situation and work out and implement special programmes to support the victims of home violence, as well as liquidate the discrimination.²⁰⁶

If we classified the most important aspects which refer to respecting rights of women, they could be characterized in the following way:

- a. equal chances between men and women;
- b. violence in the family;
- c. women traffic.

To have equal chances means to lack barriers in participating in the activities from the political, economical, social, cultural domain and other spheres of life (on the basis of equality between men and women). Thus, the equal participation of men and women in all the spheres of life would correspond to the notion of gender equality.

During the year 2005, the Parliament of the Republic of Moldova discussed the bill with regard to assuring equal chances to men and women; the document was adopted in 2006. In conformity with the stipulations of law, we can classify this aspect in many subchapters:

- a. equality in public domain;
- b. equality in social economical domain;
- c. equality in the domain of health and education;

Equality in public domain refers to equal access to holding public functions, as well as the equality of electoral chances. The parties and social-political organizations should be obliged to assure equal rights and chances to their members: men and women, to assure their representation in leadership bodies and to assure their representation in the lists of candidates without sex discrimination.

A classical example would be the parliamentary ballot from 2005. 288 women and 565 men applied for candidates, which represents a twice difference. The Republican Party had the greatest number of percentage of women in the lists of candidates for the function of deputy – 30 of 57 candidates were women. The lists of the Popular Christian Democratic Party included 52 women out of 103 candidates, social-political Movement „Ravnopravie” included 29 women out of 69 candidates for the function of deputy, the Social Democratic Party and the Block „Moldova Democrata” included 24 women out of 103 candidates. After the authentication of the results of the parliamentary elections from 2005, there are only 18 women out of 101 Members of Parliament of the Republic of Moldova of the 16th legislative period.²⁰⁷

Equality in social-economical domain refers, first of all, to gender equality as regards employment in labour field. Because of hard social-economical situation in the country, employers often set forth requirements that would discriminate women and favour men. It does not deal with requirements of qualifying for the activities where sex peculiarities constitute a decisive factor due to the conditions and ways of developing the respective activities, but the employer's refusal to fulfil some obligations towards women, as, for example, the payment of the leave to look after a minor child, other obligations which appear in conformity with the legislation on labour. Placing announcements of employment with requirements and criteria that suppose priorities for one of the sexes occur very often.

Equality in the sphere of health and education would establish equal conditions as regards the access to educational institutions, to the educational process, to scientific and didactic activity. At the same time, any

205 Article 43 (2) from the Constitution

206 The magazine „Law and Life” 06.2005, Projects of community involvement in combating violating women, Adelina Bicu.

207 Elections 2005, the Association for Participatory Democracy ADEPT, Chisinau, 2005.

form of discrimination according to sex criterion as regards access of women and men to all the levels of medical assistance and to the programmes of preventing diseases and promoting health is strictly prohibited. Such phenomena were not identified during the year 2005.

We have to notice that Law nr. 318 adopted on 15.12.2005 views the adhering of the Republic of Moldova to the Optional Protocol of the Convention on eliminating all the forms of discriminating women, adopted in New-York on 6 October 1999. We hope that this act will contribute to improving the general state of things in this sphere.

Violence in the family, especially towards women, remained during the year 2005 a very serious problem. On these grounds, the authorities must solve it by implementing diverse programmes in the view of defending the rights of women in the society. The thorough analysis of hundreds of cases of home violence prove that the majority of violated women had legal reasons not to address the police. A complaint addressed to police or to the organs of the Prosecution Office will imply a long criminal inquest, which, in fact, will be aimed at punishing the offender but not at defending the rights of the victims. In this way we come to the conclusion that the activity of judicial bodies must be directed to the needs of the victims but not to the solution of a case and punishment of the offender. During last year the Ministry of Internal Affairs received 3083 complaints of home violence, 39 cases of savage behaviour from the part of the husband included, 25 cases involved corporal lesions and 14 cases ended with the death of the victim.²⁰⁸

As a result of this state of things, during many years diverse centres that support women in difficulties function in Chisinau, some nongovernmental organizations have open hot lines in order to accord assistance to the victims of home violence.

With all this, beside the fact that women do not want the law enforcement agencies to involve in their family relationships, they often tolerate the violent behaviour of their husbands. More than that, in the society, especially in the rural zones, there is a stereotype according to which the woman must suffer the violent treatment of her husband if she married him. In this sense, the development and stimulation of local public associations which are directed towards preventing home violence and emancipation of women is not only beneficent but necessary too. The activity of local public associations whose aim is human rights is quite relevant in this sense. A case which can be considered a phenomenon for the republic and refers to violating women was monitored by an association of this kind.²⁰⁹ Thus, the citizen N.M, inhabitant of a locality within the municipality Chisinau, aged 40, was permanently ill-treated and humiliated by her husband. The woman refused to divorce her husband as she minded the opinion of the people from the village. One day, during the "usual quarrels", the husband made an attempt on the life and health of his wife with an axe. The tragedy was averted due to the involvement of their neighbours. The violent husband was arrested for 30 days, after returning home he continued his violent behaviour towards his wife. This fact determined the woman to divorce him.

As it is seen, neither the arrest of the violent husband change the situation, that is the contraventional legislation is not always used for the good of the woman. Thus, causing not so serious corporal lesions is punished with a fine or a contraventional arrest for a term of not more than 30 days. If the wife denounces the violent behaviour of her husband, the letter, in most cases, is fined, but the money is paid from the family budget. In cases when the violent husband is arrested for 30 days, after detention he does not change his behaviour, but, on the contrary, becomes more violent and aggressive.

Usually, the women who are victims of home violence are unemployed and have reduced personal incomes, that is why they are practically forced to live with their violent husbands. The most vulnerable group of women who are often traded illegally, are victims of home violence. According to the data of International Organization for Migration, about 80% of the women traded for prostitution had been victims of home violence before they were illicitly traded.²¹⁰

The phenomenon of migrating abroad, especially of women, is connected with the state of uncertainty in the society as well as the impoverishment of the population. In most cases, the young girls accept to go abroad even if there is a risk to get in the net of the procurers. The situation has worsened because there is a great demand and well-functioning "prostitution infrastructure" (tolerance houses, night clubs etc.) in the countries where the young girls emigrate. Thus, women are cheated that they would be employed legally abroad, in this sense, the firms pay all the costs in the view of perfecting the necessary passports and visas, assuring the transport to the point of destination. Usually, the women from Moldova go abroad in search of a place of work (usually as a housewife) and find work with the help of relatives, friends etc. These women are, as a rule, more than 35 years old, but the young girls who are less than 35 risk a lot to become victims of human traffic.

According to the statistics offered by the International Centre for Protecting and Promoting Rights of Women "La Strada", 81,10% of the women who went abroad are used for sexual exploitation. Simultaneously,

208 <http://www.usembassy.md/ru-HRR2005.htm>

209 Case taken from the activity of public Association „My Generation” from Gratiesti, municipality Chisinau

210 <http://web.amnesty.org/report2005/mda-summary-eng>

only 6,30 % are employed as housewives, 4,72 % are obliged to beg, 2,36 % are used as ersatz mothers. The most solicited destinations for such activities are the countries from ex Yugoslavia, that registers 31,3% of the women from the Republic of Moldova, Turkey, that registers 22,05 % of Moldovan women. 90,0% illicitly traded women are not older than 25.²¹¹

During the year 2005, women traffic represented one of the most serious problems of the society.

At the same time, we notice the activity of the Parliament of the Republic of Moldova, which approved through law nr.17, from 15.02.2005 and the Additional Protocol on preventing, repressing and punishing the human traffic, especially of children and women, additional to the Convention of United Nations against transnational organized criminality, adopted on 15.11.2000 and signed by the Republic of Moldova in December 2000. It would be necessary to implement a national programme of actions aimed at connecting the national legislation with the provisions of these conventions. Central state authorities should implement these international documents, on the legal as well as on organizational and informational levels.

211 www.lastrada.md

2.10. RIGHTS OF DETAINEES

In the Constitution of the Republic of Moldova there are no provisions which guarantee the rights of detainees, but they are understood from the disposition of the preamble of the Supreme Law and, respectively, of general provisions on fundamental rights and freedoms.

With all this, the Parliament approved the Executorial Code, which stipulates the execution of the sanctions of criminal right. This Code regulates directly the use of rights and freedoms of the detained people and establishes, at the same time, their obligations, while the notion and purpose of criminal responsibility are defined in article 61 of the Criminal Code.²¹²

From the very beginning we will present the declarations of Mr Ion Plesca, vice-president of the parliamentary Commission for human rights, who mentioned that "in our insulators we have the hell on Earth. 8-9 people live in a room of 5-6 square metres. They sleep in turn, two hours each, changing their places. The prisons are not aired."²¹³

Parallel with these affirmation, after examining the "Information on courts activity for the year 2005", we certify that 14103 people in comparison 12751 people condemned in 2004, out of which 3193 persons were deprived of liberty(2005) in comparison with 3019 persons in 2004. The number of minors deprived of liberty is also increasing, which constituted 224 persons in 2005 in comparison with 194 people in 2004. We certify the fact that the number of condemned people increased effectively for a series of offences as, for example:

- intentional murder (art.145 CC of RM) from 240 to 274 persons;
- serious intentional damage of corporal integrity or health (art.151 CC of RM) from 274 to 368 persons;
- human traffic (art.165 CC of RM) from 26 to 59 persons;
- theft (art.188 CC of RM) from 212 to 276 persons;
- appropriation in big and extremely big proportions (art.195 CC of RM) from 544 to 640 persons;
- smuggling (art.248 CC of RM) from 101 to 248 persons;
- active and passive corruption (art.art.324-325 CC of RM) from 54 to 104 persons.

Taking into consideration the increasing number of people condemned to deprivation of liberty in 2005, as well as the number of people condemned for the types of offences mentioned above, parallel with the cited declarations we can conclude that actually, the situation in the sphere of the rights of detainees is quite alarming. Generally, the analysis of the way of respecting the rights of detainees can be carried out from the point of view of distributing and classifying the detainees, places of detention, personal hygiene, nutrition, according medical assistance, using measures of constraint, connection with the outside world, detainees informing, moral and religious assistance, right to work and education. We suggest examining the respect of the rights of detainees in the aspects where there are more violations and deviations as follows:

- Material situation in the penitentiary system
- Personal hygiene
- Nutrition
- Medical assistance
- Connection with outside world
- Detainees informing
- Re-educating, schooling and improving the cultural level of detainees

2.10.1. Material situation in the penitentiary system

Problem of punishing by depriving of liberty suggests not only the theoretical existence of the imprisoned, but also the presence of a material base in the view of equipping and organizing penitentiary institutions in such a way as to assure carrying out the role of the punishment. The penitentiary institutions must possess a special building that would assure the safety of detaining the persons deprived of liberty, to shelter the administrative, guard and supervising personnel. It must correspond to the regime of detention and possess separate rooms for the administration, the detainees, work, studies etc. As regards the places of detention from the Republic of Moldova, there are still many breaches of law because these institutions do not correspond to international standards, to a great extent because of lack of adequate financial support. In conformity with the legislation in force, the norm of the living space for a convict cannot be less than 4 square metres.²¹⁴ Practically, these conditions are not respected in penitentiary institutions. The cells are too small, they room more convicts than the established norms. In the prisons of detention pending trial there is no sufficient free air from the exterior, the light is poor, they practically do not have heating and ventilation. Generally, the detention institutions do not possess spaces for strolls in the open.

212 (1) The criminal punishment is a means of state restraint and re-education of the convict which is applied by the courts, in the name of law, to people who committed an offence, causing certain lacks and restrictions to their rights. (2) The purpose of the punishment is re-establishing social fairness, correcting the convict, as well as preventing committing other offences by the convicts and by other people too. The punishment must not cause physical suffering or humiliate the dignity of the convict.

213 www.info-prim.md

214 Article 244 paragraph 2 the Code of execution of the Republic of Moldova

2.10.2. Personal hygiene

As far as this subject matter is concerned, there are multiple deviations and encroachments in the penitentiary institutions. It is necessary to ascertain that, according to stipulations of articles 245, 246 of the Code of Execution, the convict is assured the possibility to satisfy the physiological needs in clean and decent conditions, according to his necessity, he is assured the possibility to bathe and is allowed to wear his own clothes. Yet, the detainees need to be assured with a bed and bed clothes, which must be changed at least once a week. These rights of the detainees are violated very often, the cause is the insufficiency of budgetary means, destined for maintaining the penitentiary institutions. After the inspections carried out by the Committee of Torture Prevention in diverse penitentiary institutions, a series of recommendations were set forth to the state. At present we have to ascertain the fact that exactly as previously, the needs of penitentiary institutions are not fully satisfied. This reason served as an argument to condemn the Republic of Moldova by ECHR in the case *Becîciuv versus Moldova* (paragraph 41).²¹⁵ The fact of insufficient material support of the penitentiary institutions could cost Moldova considerable sums in the quality of material and moral prejudice.

2.10.3. Nutrition

In conformity with stipulations of article 247 of the Executorial Code, the people deprived of liberty are assured free of charge warm food three times a day and, at the same time, permanent access to drinking water. In our opinion, the most serious violation can be certified on this subject-matter, simply because everyone can imagine the real value of the sum of about 3,6 lei per day.²¹⁶ We consider that the food in penitentiary institutions is on a level inferior to the established norms. This fact can and, probably, leads to more serious problems that affect the detainees' health. Moreover, what can we say about human treatment if the person is not assured the minimum of food necessary for physical existence. We sustain that insufficiency of food can be treated even as torture.

Here we will consider a problem certified in Insulator nr. 3 from Chisinau and Insulator of the detention pending trial of the General Police Station from the capital. These two insulators keep people preventively arrested by the bodies of legal proceedings from Chisinau. Not all the police stations have conditions to assure food to the detainees. Thus, food is assured only to the detainees from insulators nr.3 and that of the GPS from Chisinau. The majority of arrested people from Chisinau are kept in the insulators mentioned above. Only in the view of carrying out criminal proceedings, they are freed from the insulator and detained temporarily (during the day) in the cells of the Police Stations, where they are not fed. In cases when the arrested people are transported to the Police Stations, in the morning they are given the breakfast, which constitutes of a slice of bread and warm water. In rest, during the day they are not assured with food. This is, in our opinion, a major problem which affects seriously the rights of people who are deprived of liberty just temporarily.

Here we can also mention the declarations of Mr Andrei Vicol, general-deputy director of the Penitentiary Institutions Department: "Because of poor financial supply, the expenses for keeping the detainees cover only 47% of the needs. Only 3,6 lei are allotted for daily feeding of a person (practically, the equivalent of 0,3 dollars USA) which is much more less than the valid norms".²¹⁷ The declarations of Ion Zepca, deputy chief on logistics of the penitentiary from Cricova are also relevant, who says that "the daily nutrition of each detainee consists of 450 gr bread, 450 gr potatoes, 100 gr pickles and other vegetables".²¹⁸ As it is seen, the daily menu of a detainee does not even foresee meat, fish or dairy products, necessary for physical existence.

2.10.4. Medical assistance

In conformity with the provisions of article 249 of the Executorial Code, the people deprived of liberty are assured the right to medical assurance, which is offered as many times as it is needed or on demand, by qualified personnel, free of charge, being offered free of charge medicines. In conformity with stipulations of article 251 of the Executorial Code, the medical investigation is done initially, on reception in the penitentiary institution, during the detaining period on demand and periodically, but not less than once in six months. Here it is necessary to make reference to the case "*Sarban versus Moldova*", examined by ECHR. In this case, Moldova was sanctioned for not assuring medical assistance on the necessary level, and for banning the doctors outside the penitentiary institutions to accord medical assistance. We can also mention the repeated refusal of offering medical assistance to ex-minister of Defence, V. Pasat, who was in 2005 in detention pending trial. These two cases of refusing medical assistance lead to the conclusion that such encroachments and deviations are admitted with regard to the majority of detainees who demand medical assistance.

²¹⁵ ECHR pointed clearly that "As long as the Court ignores the fact of improving something, it means that the Government did not hold any significant improvements. More than that, the Government did not point out any increase of the public material support of the penitentiary system or the modification of the policy from the penitentiaries."

²¹⁶ In the Republic of Moldova, the price of a loaf of bread is about 3 lei.

²¹⁷ www.info-prim.md

²¹⁸ www.info-prim.md

Anatol Vizitiu, chief of the medical unit of the penitentiary institution from Cricova, relates that the given institution was supplied only with 10% of the total need of medicines. 63 cases of tuberculosis were detected. 863 persons were detained in this penitentiary, that is, 7,3% of all the detainees had been affected. With all this, the most serious problem here is according medical assistance by psychiatrist, because, according to the declaration of Anatol Vizitiu, 85% of the detainees from the penitentiary from Cricova had diverse psychic diseases, while the penitentiary lacks a psychiatrist.²¹⁹ We are sure that such a situation is common to almost all the penitentiary institutions from the republic.

In this order of things, we have to mention again that Moldova did not carry out its obligations as regards distributing a doctor to each Police Station in the view of examining the detained people. We underline that this fact can favour some abuses and deviations from the part of the police workers.

2.10.5. Connection with the outside world

The process of connecting the detainees with the outside world can be divided conventionally in six compartments:

a) the correspondence and telephone communication of the detainees, a right guaranteed by article 229 of the Executorial Code, which stipulates that the detainee has the right to receive and send from his own account letters, telegrams, petitions without limiting their number. Partially, the correspondence of the detained person can be censored, with the exception of the correspondence with the barrister, the Committee for Complaints, the bodies for legal proceedings, the Prosecution Office, the Court, the authorities of central public administration, international intergovernmental organizations. At the same time, the detainee has the right to a telephone communication at least once in two weeks of ten minutes length with the spouse, a relative, or another person he chooses. It is regrettable, but necessary to mention the violations and deviations with regard to public telephones in most of penitentiaries, so much the more in insulators of detention pending trial. When speaking about the correspondence of the detainees we certify cases of violating this right, as regards correspondence with persons with whom it should not be censored included.²²⁰

b) receiving and sending parcels, packages with provisions and banderols, a right guaranteed article 230 of the Code of Execution, There have not been registered serious violations and deviations as far as this subject is concerned. With all this, the most numerous deviations are certified in the Insulator nr. 3 from Chisinau, where daily there are queues of 30-50 persons who try to send packages to the detained relatives.

c) meetings, right guaranteed by article 232 of the Executorial Code, which confers the detained person the right to a short length meeting at least once a month, and long length meetings at least four times per year. The most numerous deviations can be observed on this subject. Thus, the procedure of allotting meetings is not strictly regulated by the legal norms, thus, leaving room for abuses and deviations from the part of administration of the penitentiary institution, which can profit from the occasion of allowing or groundlessly banning meetings.

d) strolls, rights guaranteed to the detainees in conformity with the stipulations of article 234 of the Code of Execution. As regards this subject, there are also many violations and deviations on the simple grounds that the Insulators of detention pending trials do not possess rooms for strolls in the open. During the detention in insulators (generally, in these institutions are temporarily detained persons whose guilt has not been confirmed yet by the courts, thus, at the moment they are not considered guilty according to the principle of innocence assumption) the persons deprived of liberty for periods from 2-3 days to 2-3 months cannot walk in the open.

2.10.6. Detainees information

In conformity with the stipulations of article 227 of the Executorial Code, persons deprived of liberty are assured the right to information broadcast by means of mass information, they are allowed to buy literature, newspapers, magazines, with the exception of the issues that propagate war, ethnical, national, racial, religious intolerance, the cult of violence and cruelty, issues with scurrilous character. In conformity with the stipulations of article 228 of the Executorial Code, the detainees have access to information on carrying out the punishment, the dispositions of the Criminal Code, the Law on access to information and other normative acts connected with punishment. Yet, there are deviations here too. "The detainees from Moldova do not have access to juridical information which they need in the view of defending their rights", declared the Chief of OSCE Mission Ambassador William Hill. Thus, in December 2005 OSCE mission donated those 18 penitentiary institutions from the country juridical literature to the sum of 6 thousand American dollars. The event took place with the occasion of the International Day of Human Rights, celebrated on 10 December.²²¹ Taking into consideration these facts, we can easily conclude the presence of other issues in penitentiary institutions.

²¹⁹ www.info-prim.md

²²⁰ some cases of complaints of the detainees from diverse penitentiary institutions towards the „Promo Lex” Association

²²¹ www.info-prim.md

2.10.7. Re-education, schooling and improving the cultural level of detainees

In conformity with stipulations of articles 259-261 of the Executorial Code, the detainees are offered the right to education, including professional education, they also benefit from actions aimed at improving their cultural level. Yet, there are some drawbacks here too. According to statistical data of the Ministry of Internal Affairs, in 2005 17878 persons were attracted to criminal responsibility, 16325-for the first time. At the same time, 2551 persons were let free from penitentiary institutions. It is unknown how many of 1553 persons repeatedly attracted to criminal responsibility during 2005 will be condemned and deprived of liberty included. It is not known if any of 2551 persons freed from detention places will commit crimes again. Making a simple analysis of these data, we can certify that out of 2551 people set free from detention places, about 60% are exposed to commit new offences and, respectively, attracted to criminal responsibility. Thus, we consider that it is necessary to take all possible and necessary measures (in spite of hard financial situation) in penitentiary institutions in the view of increasing the process of re-educating, schooling and improving the cultural level of the convicts. This thing will have a double impact. Firstly, the social-moral level of the convicts will increase, secondly, it will contribute to minimizing the relapse among the convicts.

Another aspect that would contribute to professional instruction of the detainee is his involvement in labour activities. It would be efficient to open different kinds of workshops in penitentiary institutions aimed at employing the detainees. In this way, the persons in question could use a lot of their free time performing productive and useful activities, these activities would assure the detainee with pecuniary means, and, finally, would contribute to his professional development. It is necessary to point the positive experience of the penitentiary from Cricova, where the detainees can be involved in producing building materials or confectioning diverse goods produced by "Zorile" factory. In this way they have salaries (about 1000 lei/per month and other legal privileges).

Another kind of deviation from respecting human rights in penitentiary institutions refers to carrying out medical-legal investigations, especially in cases of traumatism or death. In such cases, the procedure of carrying out such investigations is closed, the relatives or other close persons are not informed about the investigation, thus, the harmed party or relatives do not have the possibility to be present at the procedure or to suggest solutions. We cannot notice the fairness of the procedures in such cases because the doctors who ascertain the lesions are employees of the penitentiary institution and, respectively, are submissive to the administration of the penitentiary. Cases of violence among the detainees are met very often. The majority of cases refer to small incidents, yet, there are cases of using violence when the consequences are tragic. In this sense, it is necessary to mention an extraordinary case. During the plenary meeting of the Parliament from 24.11.2005, the deputy Vlad Cubreacov informed the General Public Prosecutor about the death of the citizen Veaceslav Cantaragiu,²²² who died at the beginning of November 2005 (death certificate from 05.11.2005). V. Cantaragiu (judo champion of the Republic of Moldova), was detained in a penitentiary institution and died as a result of traumatic break of the duodenum and a close trauma of the abdomen. They could be caused only by hitting. In this case it is important that the person died at the beginning of November, but the beginning of the investigations was solicited by the Members of Parliament on 24.11.2005. This fact proves that the competent bodies did not examine the respective case in quicker terms, which was indispensable as they had the possibility and the obligation to self inform.

Another problem of the penitentiaries is the lack of qualified personnel and, as a matter of fact, the insufficiency of supervising staff. For example, in that very penitentiary from Cricova, 863 detainees are supervised at night by only 6 people. The state must assure a better guard of the penitentiaries not only for the security of the penitentiaries, but also for the security of the supervising personnel and, eventually, of the population living near the penitentiaries.

Finally, we emphasize that human rights in penitentiary institutions are violated very often and more attention must be paid to this phenomenon. We comment this position by the fact that the situation in penitentiary institution nr.13 from Chisinau was discussed within a secret meeting of the Parliament from 28 December 2005, as a result of examining the report of a special committee of the Parliament, without making known the results of this document. The declaration of "AMN" Parliamentary fraction leader Veaceslav Untila is relevant in this case. He says: „the data presented by the committee are "shocking" and "out of common", the fundamental human rights are violated in the most brutal way".²²³ This declaration removes all the doubts which refer to the real situation from this penitentiary and reflects indirectly the real situation in all the penitentiaries from the country.

222 www.parlament.md (Parliament minutes, meeting from 24 November 2005).

223 www.info-prim.md(Chisinau29.12.2005)

2.11. RIGHTS OF MIGRANTS AND REFUGEES

Foreign citizens and the stateless have the same rights and obligations as the citizens of the Republic of Moldova, with the exceptions established by Law. Foreign citizens and the stateless can be extradited only on the basis of an international convention, in conditions of reciprocity or on the grounds of Court decision. The right of sanctuary is accorded and withdrawn only in conditions of law with the respect of international convention which encloses the Republic of Moldova.²²⁴

A series of laws have been adopted in the view of guaranteeing the rights of refugees and migrants in Moldova, as for example, Law nr. 269 from 09 November 2004 "Regarding exit and entrance in the Republic of Moldova", Law nr. 1518 from 06 December 2002 „With regard to migration”, Law nr. 1286 from 25 July 2002 „With regard to the statute of the refugees”.

Moldova adhered to the Convention on the statute of the refugees” concluded in Geneva on 28 July 1951, which defines the notion of the refugee as „the person who is out of the country whose citizen he is as a result of justified worries to be baited because of his race, religion, nationality, belonging to a social group or his political opinions”.

The notion given above implies that the refugee is the person who aims at shirking from certain conditions and environments from his origin country which he considers to be unbearable, and, as a result, trying to find protection in another country. So, the main trait of the refugees is the fact that they do not benefit from a proper protection in their native country or do not accept the protection in the limits offered. Thus, the state which offered the statute of refugee assumes the responsibility to accord the necessary protection, stipulated by the international standards.

Moldova commits itself to guarantee a series of rights to people who handed in applications to obtain the statute of refugee,²²⁵ simultaneously, in conformity with the stipulations of article 23 of the Law, it guarantees a series of rights to people who had been offered the statute of refugee.²²⁶

The notion of migration will be interpreted in proportion with two aspects:

- immigration, that is the process of establishing foreign citizens and stateless people in the Republic of Moldova;
- emigration, that is the process of establishing the citizens of the Republic of Moldova in other countries.

An immigrant is the foreign citizen or stateless person who obtained the right to establish to live, permanently or temporarily, in the Republic of Moldova and loses this statute the moment he leaves the territory of the country or obtains the citizenship of the Republic of Moldova in conformity with the legislation in force.²²⁷

The fact that they do not have citizenship of the republic of Moldova and their rights are more limited as compared to the rights of the citizens of the host country is common for both categories (immigrants and refugees). Thus, a series of deviations as regards respecting the rights of refugees and immigrants were found out. These deviations and deviations can be conventionally devised in three spheres:

1. Assuring translation services;
2. Assuring identity acts issued in conformity with the legislation;
3. Assuring the right to free movement.

Assuring the refugees and immigrants with qualitative translation services in the Republic of Moldova is insufficient. Thus, these categories of people often meet police workers who examine their identity. Almost no police station is assured with a translator who would be able to carry out a complete and objective translation. The situation is more extenuated when the refugee or the immigrant knows a language of inter-

²²⁴ Article 19, the Constitution of the Republic of Moldova

²²⁵ Law on refugees statute, nr.1286 from 25 July 2002, article 17 par.1:

- a) not to return or expel the applicant till the last application to offer the statute of refugee is solved;
- b) on staying in the Republic of Moldova till the expiry term of 15 days from the date of definite and irrevocable decision on refusing the applicant the statute of refugee;
- c) to examine the application within a month and offer the possibility to prolong it;
- d) to guarantee translation services and juridical assistance;
- e) to inform about the possibility to contact the representatives of UN High Commissioner for Refugees;
- f) to inform about the possibility and terms of attacking the decision on refusing the application;
- g) to assure the interviewing by a person of the same sex”

²²⁶ Law on the statute of refugees, nr.1286 from 25 July 2002, article 23:

- a) to remain on the territory of the Republic of Moldova and to obtain the corresponding documents in the view of confirming the identity and passing the frontier;
- b) to choose the place of residence and to move freely in the conditions established by the legislation for foreign people;
- c) to be employed by physical or juridical persons, to practise free professions, to do commercial and other juridical activities;
- d) to be paid and to benefit from other material rights which devolve from the activities performed, as well as by social assurance, on law conditions;
- e) to obtain primary education according to the conditions established by law with regard to citizens of the Republic of Moldova, as well as other forms of education in the conditions established by law with regard to citizens of other countries;
- f) to benefit from a treatment identical with that offered to the citizens of the Republic of Moldova as regards the freedom to practise own religion and to give religious education to children;
- g) to enjoy medical assistance in the system compulsory insurance, the same rights as the citizens of the Republic of Moldova on conditions of the legislation in force from the moment of being accorded the statute of refugee;
- h) to have free access to Courts and to administrative assistance ;
- i) not to be returned or expelled but on the grounds of national security or public order. In cases when these measures are disposed, the person in question cannot be sent to places where his life or liberty could be threatened on the grounds of race, religion, nationality, belonging to certain social group or political opinion.”

²²⁷ Art.1 of the Law on migration, nr.1518 from 6 December 2002, www.justice.md

national circulation (English, French), thus, the co-workers of the internal bodies who know this language can discuss with him, but the translation is not authentic from the legal point of view. The problem is very serious when the refugee or the immigrant does not speak any language of international circulation.

Translators are invited from the embassies of the respective countries who, often, do not have time to offer such services at that moment. On these grounds, the period of spending the time (practically, a deprivation of liberty) of the refugee or immigrant in Police Stations can be very long. Police bodies do not possess financial means aimed at employing translators from particular translation offices. It would be useful to stipulate in the budget of every police station a sum of money destined for paying translation services exclusively. The problem can be serious here in case the refugee or immigrant is suspect of having committed an administrative trespass or offence. In this case, the absence of translation services or assuring unqualified translation services can influence a lot of other rights of the person, as, for example, the right to a fair trial, innocence assumption, maybe even the unauthorised deprivation of liberty.

It would be necessary to select the co-workers in specialized sections of working with immigrants, who possess thorough knowledge of at least one language of international circulation (English, French).

Within a press conference held on 31 October 2005, the president of the Committee of refugees from Moldova, Hamit Asim, declared²²⁸ that in Moldova, the right of refugees to be documented with identity acts in Moldova in conformity with provisions of Law nr. 1286 from 25 July 2002 „With regard to the statute of refugees”. Thus, there have been registered about 60 cases of not insuring the refugees with identity acts during already 3 years. Here we have to mention that, in conformity with the provisions of the law mentioned above, the refugees are guaranteed the right to be given identity acts, but the maximum term for issuing this act is not specified. Under these circumstances, the long endowing of the refugees with identity acts influences negatively other rights as, for example, the right to work and the right to free movement.

Yet, the most serious problem which was certified during the year 2005 as regards the rights of refugees and immigrants is their intimidation by the legislative bodies. During the year 2005, the Ministry of Internal Affairs initiated and developed a series of special operations,²²⁹ aimed at finding out foreign people who live on the territory of the state without a visa of residence. Many violations of the rights of foreign people are certified within such operations. There were certified cases when reports of certifying the administrative trespass were worked out against these people, or cases when the latter was found in places not corresponding to the residence indicated in the identity act. Thus, the right of these people to free movement on the territory of the host state is glaringly violated. We have to remind that through a decision of the Constitutional Court, the stipulations with regard to the application of the residence in the identity act is declared unconstitutional. This fact is not taken into consideration as regards the immigrants and the refugees. Moreover, in this way are violated the provisions of the recommendation 1544 (2001) of the Parliamentary Assembly of the Council of Europe with regard to „The System of registering the visa of residence applied to immigrants, petitioners of asylum and refugees in member States of the Council of Europe: effects and remedies”, which recommend the countries from ex Soviet Union “to submit special programmes of rendering and informing the countries in question, which aims at eliminating the remnants of the system of registering the visa of residence applied to migrants, petitioners of asylum and refugees.”

The greatest problem is still the immigration of citizens from the country. We consider that this is the most serious problem at present, because many people go abroad, whose number cannot be established precisely. According to different sources, this number varies between 500 000 and 1 million citizens of the republic. We consider that these numbers reflect the reality on the grounds that the total population of the country was estimated to 3,388 mln persons according to the census from 2004, in comparison with 4,330 mln in 1989. Moreover, usually people able to work go abroad. They could contribute to the economical development of our country, but on various reasons, usually well-grounded ones, they prefer to work abroad. Despite the information about the harsh fate of many fellow-countrymen from abroad, their exposing to diverse risks, the fact that they do not benefit from medical care and do not have fair labour and paying conditions (in comparison with the native population), as well as the fear to be eventually expelled, Moldovan citizens continue to go abroad.

Emigration implies the presence of more problems. Here we should mention that in order to go abroad, these persons resort to the „help” of diverse citizens or tourist firms, which „guarantee” their normal removal to „the respective country”. A great part of those who wish to go abroad are cheated. They are obliged to pay enormous sums of money in the view of perfecting the acts necessary for the removal, they also give many personal acts and documents; some of them are not found later, while the procedure of re-establishing them is long and hard.

We must not forget that alongside with the departure of Moldovan citizens (who, in the majority of cases are able to work and almost all have families) abroad, the number of destroyed families, of children without supervision or even abandoned ones increases.

228 www.info-prim.md (Chisinau 31 october 2005)
229 www.info-prim.md (Chisinau 5 July 2005)

2.12. Rights of national minorities

The Republic of Moldova has assumed a series of responsibilities on international level in the view of respecting human rights and, implicitly, of national minorities. The national legal cadre has been adjusted to international requirements and standards and assures the respect of the rights of national minorities. Thus, we can affirm with certitude the fact that, at least theoretically, it cannot create obstacles in the view of fully realizing the rights and liberties of people who belong to national minorities.

The Department for Interethnic Relations (DIR) has been created by state authorities in the view of promoting and implementing the state policy in the linguistic and interethnic relations sphere as well as in the view of assuring the direct contact between the state and national minorities. Within this department there is a "coordination council functioning as a consulting body. Leaders of ethnic-cultural associations are constituent parts of this council". They have a House of Nationalities, which is subordinated by DIR.²³⁰

The end of the 80s was marked by the national revival on the actual territory of the Republic of Moldova, in the Transnistrian region included, culminating with the linguistic reform (returning to Latin alphabet) and, finally, obtaining the independence of the soviet regime. This process was followed by negative phenomena, which tensioned inter-human relations on political, ethnical and linguistic grounds.

But, alongside with declaring the independence of the Republic of Moldova, the situation suffered positive changes as all the inhabitants of the country were offered equal chances and possibilities (indifferently of the ethnicity, race, nationality or language) to involve in the society. On 27 august 1991, the date of declaring the independence of the country, all the people living on the territory of the Republic of Moldova were offered citizenship.²³¹ Thus, the representatives of ethnic minorities from Moldova had initially equal rights and were not exposed to discriminating actions. They took part in the process of privatisation, in electoral ballots, while their representatives were elected in public central and local functions.

To a great extent, the press from the Republic of Moldova continues to reflect the challenge of interethnic and interregional relations mainly "from the point of view of political elite". This is the conclusion of the experts of Independent Journalism Centre from Moldova, which monitored the written press from the Republic of Moldova, the Transnistrian region and Gagauz autonomy included, during the period March-December 2004.²³² Generally, we can ascertain that the situation of national minorities in Moldova corresponds to civilized standards of living in a polytechnic society. One major problem which can be marked within interethnic relations from Moldova is the linguistic one, but it is not due to the imperfection of the legal framework.

In the Republic of Moldova the legal cadre referring to human rights and national minorities is relatively complex and satisfactory. On these grounds, the stress which was previously laid on offering and guaranteeing some rights by means of law, in actual conditions should be put on increasing the potential of the authorities and the supposed beneficiaries in the view of realizing these rights.²³³

2.12.1. Linguistic issue

In the Republic of Moldova the linguistic issue has always been the most serious divergence. While some representatives of national minorities refuse to study and use the Romanian (Moldovan) language,²³⁴ the authorities of the Republic of Moldova do not take the necessary measures to assure optimal conditions in the view of studying this language by the national minorities; issuing efficient policies of social integration would exclude the isolation of the national minorities on the basis of linguistic principle. A well-balanced conception is necessary in the view of reducing the tensions and to avoid the linguistic intolerance. It is essential to respect the interests of the Moldovan majority as well as the national minorities in the view of preserving the interethnic dialogue.²³⁵

The recommendations of European institutions²³⁶ with regard to cancelling the obligatory provisions for broadcasting publicity exclusively in the official language of the Republic of Moldova encouraged some economical agents to totally ignore the non-Russian population. It is necessary to mention the fact that from 1992, hundreds of thousands of people graduated from higher educational institutions without studying the Russian language, or, if so, they learned it on a very low level.²³⁷ Especially in the rural localities, inhabited mainly by native population, the young did not know or study the Russian language. In these conditions, we can affirm that in Moldova there is a generation of Russians who do not know the Romanian language

230 Basic study with regard to the current situation in the sphere of human rights in the Republic of Moldova, Chisinau, 2003

231 Law of the Republic of Moldova with regard to citizenship was considered by European experts as one of the most liberal in Europe.

232 Agency Infotag, 22 February 2005, www.infotag.md

233 Harmonizing inter-ethnic relations – challenges and opportunities, Igor Botan

234 In the Republic of Moldova the representatives of the majority ethnicity do not agree with their common identity. The results of the test carried out by Institute of Public Policies and IMAS, published at www.azi.md on 25.10.2005 show that 95% of the respondents consider themselves Moldovans, and only 5%-Romanians. During the census from 2004, 2,2% of the citizens of the Republic of Moldova declared themselves Romanians, while 18,8% mentioned the Romanian language. / www.statistica.md/

235 The approval of the consulting Committee of the Council of Europe with regard to realizing the Framework Convention for the protection of national minorities in the Republic of Moldova CM(2002)44

236 For example, the High Police Inspector for National Minorities of OSCE, Mr. Max van der Stoep in 2000: "Such an obligation of using the state language in private sphere and in commercial advertising would be a contradiction with the freedom of expression guaranteed by art.32, paragraph 1, of the Constitution of the Republic of Moldova and the international obligations of the Republic of Moldova".

237 Reduced number of hours, lack of didactic material, lack of teachers and, of course, lack of interest. /Situation known from the practice of Promo-Lex Association/

and another of Romanians who do not know the Russian language. With all this, the authorities prefer to limit to optimistic affirmations as regards the existence of a "harmonious bilingualism", without taking measures in the view of rectifying the situation.²³⁸

Using the publicity and announcements exclusively in the Russian language violates the rights of those who do not know it and is considered a discrimination. Such a case was presented by the representatives of Promo-Lex Association in the national courts. A young lady bought a food product on which the text and the conditions of a contest of the consumers of that product were written in Russian. On the grounds of not knowing that language, the young woman missed the participation in the contest and decided to bring an action against the producer. Although the producer recognized the incorrect behaviour and declared that they did not have enough space to place the respective announcement in the official language of the state, the courts rejected the petitions of the young woman. As a matter of fact, we consider that this was possible on the grounds that the national legislation of the Republic of Moldova does not define the term "discrimination".

At the same time, we want to attract attention to the fact that this situation is characteristic to commercial sector, dominated by urban zones and, respectively, by speakers of the Russian language.²³⁹ We consider that the situation is very serious as far as the subject "medicines" is concerned. The instructions and the information related to the use, way of administering and other important information about the given medicine is mainly in Russian, including those imported from non-Russian countries. Broadcasting advertising information in proportion of 70-75% in Russian, which is the language of a minority which constitutes only 5,9% from the total number of the population also affects the fundamental rights and freedoms of speakers of other languages in the view of obtaining information in their native language.²⁴⁰

A separate chapter referring to linguistic aspect is the problem of mass-media in Moldova. The linguistic divergences between the minorities and native population are emphasised and, of course, reflected in press. At the same time, there is a substantial lack of poise among different national minorities as regards their access and presence in mass-media. The authorities must offer a greater support to national minorities who are disfavoured in this field, especially to the Ukrainian minority, so that to assure a fair access and presence in the media.²⁴¹

To a great extent, the linguistic issue affects not so much the rights of the majority as the rights of the national minorities from Moldova. The ignorance of the official language can be a real obstacle for the representatives of national minorities when they want to advance in function. This fact was confirmed by some Gagauz legal experts and prosecutors, for example. In these surroundings, we consider that namely state authorities are responsible for creating equal conditions to all the citizens, indifferently of the race, language, religion etc.

The Constitution of the country as well as other national normative acts which are applied to people belonging to national minorities and to all the citizens of the Republic of Moldova, contain provisions which refer to the principle of equality and non-discrimination. The criminal provisions stipulate sanctions against linguistic discriminating acts, as well as sanctions for creating obstacles in the "languages functioning" on the territory of the Republic of Moldova. With all this, due to the situation described earlier, in the society there are sometimes diverse incidents of linguistic discrimination without knowing cases of sanctioning people who ignore the stipulations of the Criminal Code.

Art.1 of the Law with regard to the rights of national minorities from the Republic of Moldova stipulates the following: "persons belonging to national minorities are meant those who reside in the Republic of Moldova and are its citizens, have ethnic, cultural, linguistic and religious peculiarities which differentiate them from the majority of the population-from the Moldovans-and consider to be of another ethnical origin". Art.2 of the same law: "any person belonging to a national minority has the right to choose if s/he belongs to the respective minority or not". First of all, we have to mention the fact that state authorities themselves encourage such a phenomenon, trying again to impose the society the notion of "Moldovan" language. For example, during the general census of the population in autumn 2004, the respondents were influenced to declare that they are Moldovans, not Romanians, and they speak Moldovan, not Romanian language.²⁴² On this very subject we can mention the fact that the people who want to correct or include in the acts and documents the identity of Romanian ethnicity instead of the Moldovan one, the authorities refuse this thing

238 The data of the census from 2004: among ethnical minorities, 6,2% Ukrainians, 4,4% Russians, 1,9% Orthodox Turks and 7,1% Bulgarians declared that they usually speak the Moldovan language. / www.statistica.md /

239 The results of a test-study, realized by IPP and IMAS, show that civic identity of the Moldovans is weakly outlined, and, though they are numerically in the majority, from the point of view of conception and the social capital, they are in the minority. www.azi.md from 25 October 2005

240 The information about the language often used by the population was obtained within the census from 2004. From the total number of the inhabitants of the country, 58,8% declared that they usually speak the Moldovan language, 16,4% said they speak the Romanian language, 16,0% speak Russian, 3,8% speak Ukrainian, 3,1% speak Gagauz and 1,1% speak Bulgarian. 0,4% of the population speak other languages and the same number of the population did not indicate the language they usually speak. / www.statistica.md /

241 The approval of the consulting Committee of the Council of Europe with regard to the realization of the Convention-framework for the protection of national minorities in the Republic of Moldova CM(2002)44

242 The group of experts within the international Mission of observing the census in the Republic of Moldova: „the census was organized in a professional manner”. Still, there were “some problematical subjects”. The group of experts mentions that the subjects from the questionnaire which refer to nationality and language were the most delicate, especially registering the answers “Moldovan” or “Romanian”; that is why it concluded that special attention should be paid to using these data. Though the reports on the territory showed that the respondents gave spontaneous answers to these questions, seven of ten groups of observers reported cases when the reviewers encouraged the respondents to say they are rather “Moldovans” than “Romanians”. The daily Flux, Nr.68 from 19 May 2005.

and resort to diverse actions aimed at discouraging people as regards putting forward such petitions.²⁴³

Another kind of incidents having a similar character are registered on the communicative level. Thus, some representatives of the national minorities who refuse to study and use the official language insult those who do not address them in Russian. The phenomenon "speak humanly", used by speakers of Russian against those who speak Romanian became emblematic. A serious case took place in Chisinau on 13 September 2005 when the director of a pharmacy was mocked and hit just for the fact she spoke in Romanian. The victim, Valentina Grebincea, sustains that a woman of about 40 insulted her using obscene language, then hit her with the fists and legs in the abdomen only because she answered in Romanian when being asked in Russian.²⁴⁴

The absence of state policies as regards the social-linguistic integration of national minorities lead to such situations, and we can affirm that at present, the majority population is not satisfied with the fact that during 16 years the national minorities do not possess or use the official language, even the young, who obtained marks in this subject in educational institutions. On the other hand, many representatives of the national minorities from Moldova motivate the lack of interest to learn the Romanian language by lack of efforts on the part of the state.

2.12.2. Justice and public administration

According to art.9 of the Law Nr.514-XIII from 06.07.95 "On judicial organization", the judicial procedure is carried out in the Moldovan (Romanian) language. People who do not know or speak the official language of the Republic of Moldova have the right to get acquainted with all the acts or works of the file or to speak in a court via an interpreter.

To a great extent, there is only one serious problem referring to this chapter, that is, absence of qualified persons and a system that would assure qualitative translation to people who need this thing during a trial session. People who are employed in the courts in the quality of translators do not possess a licence or a diploma that would certify their knowledge in the sphere, though they try to make the translation as complete as possible. As a rule, interpreters assure the translation from Romanian into Russian, but do not assure the translation in the languages of less numerous minorities from the Republic of Moldova. On the other hand, the majority of trial sessions in Comrat are carried out in Russian as there is a crisis of translators in the Romanian language.²⁴⁵ In 2005 Promo-Lex Association a registered a complaint on the part of an inhabitant of Cahul district, who invoked the refusal of the judges from Comrat in the view of assuring a translator.²⁴⁶ In this way, we consider that the right of the person to be informed and to defend during a trial processing in the language s/he understands was violated.

Generally, we can certify that ethnical minorities are well represented in justice and there seems to be no discrimination based on religion. Absence of relevant statistics makes the evaluation of the representation of ethnical and religious minorities in justice more difficult. With all this, there is no discrimination based on ethnical or religious reasons, while all major ethnical groups are represented in justice. According to the opinions of some interviewed people from the autonomous territorial unity „Gagauz-Yeri”, where the Gagauz ethnics are in the majority, this ethnical group is represented rather well in justice. With all this, a judge speaking Russian mentioned that the requirement stipulated by the law to know the official language, the Moldovan (i.e. the Romanian) can be an indirect impediment in advancing in a superior court.²⁴⁷

The access of citizens to public functions, carried out according to proper formula, can encourage the moderate spirit and discourage the extremism.²⁴⁸

In the Republic of Moldova, the right of minorities and their possibility to perform public functions is generally respected. There can be a problem for Roma minority, who do not have representatives in public institutions and courts. This situation was created due to the absence of qualified Roma cadres.²⁴⁹

243 <http://www.ziua.net/prt.php?id=176508&data=2005-05-20&ziua=1b440c42563c04cfc4d1d3f36d2620d7>

In April 2004, Mihai Ciubotaru addressed Civil Acts Office of Rascani district, Chisinau, a file with the necessary documents where he solicited correcting his name and surname from his birth certificate in conformity with literary norms of the Romanian language, and the name of his parents. He also solicited the registration in his birth certificate of the nationality "Romanian" instead of "Moldovan". The file of Ciubotaru Mihai was sent to the Civil Acts Office from Balti, which is his birth place. After more than two months of analysis, the Civil Acts Office Riscani from Chisinau transmitted Ciubotaru Mihai the identical copy of birth certificate that he requested. But the solicited modifications were not totally carried out. Cebotari become Ciubotaru, leaving Mihail instead of the solicited Mihai. The surname of the parents was changed in "Ciobotaru". The civil servants from Chisinau refused to change "Moldovan" into "Romanian". Ciubotaru Mihai demanded a written explanation with regard to all these omissions, which was immediately refused by the chief of Civil Acts Office. His acts, issued in the soviet times, corrupted his name, and he became Mihail Cebotari of "Moldovan" nationality. Ciubotaru, fighting with the justice from Chisinau in the view of recognizing his Romanian nationality according to the norms of the Council of Europe and the Universal Declaration of Human Rights is determined to go even to the European Court for Human Rights. (ECDO).

244 <http://www.jurnal.md/articol.php?id=3747&cat=2&editie=415> si <http://www.jurnal.md/articol.php?id=3761&cat=&editie=416>

245 Comrat is the capital of Gagauz autonomy. The courts examine the majority of cases and issue decisions in the Russian language, even if there are three official languages declared in this region (Romanian, Russian and Gagauz (Turkish)).

246 On the basis of art.49 from the Code of Civil Proceedings of the Republic of Moldova, the repeated participation of a judge in examining cases is inadmissible. Thus, there are situations when the cases are sent to be examined to other courts.

247 The study "Indicators of justice reforms for Moldova". ABA CEELI, November 2002

248 The study "Harmonizing interethnic relations – challenges and opportunities", Igor Botan

249 Ion Duminica, doctor of political sciences: „In the course of its history, the Republic of Moldova did not have Roma possessing degrees of doctors or academicians. I am the first Rom in the Republic of Moldova who became doctor of political sciences, at least one who acknowledges his identity. Personally, I know many Rom personalities who do not want to admit their identity. This state of things derives from the stereotypes that are formulated as far as the Roma are concerned. I consider that the appearance of more Rom personalities will contribute to ignore the groundless disrespect for this population. In my function as chief of the Section „The History and Culture of Roma from the Republic of Moldova” within the Institute of Interethnic Investigations of the Academy of Science from Moldova, I try to change the negative image of the Roma”. /The daily Flux, nr.9 from 10 march 2006, www.flux.md/

2.12.3. Minority groups

The experts from the Institute of Public Policies, in cooperation with IMAS initiated the report „Ethno barometer – the Republic of Moldova”, which aims at monitoring and evaluating actual ethnical situation from Moldova, studying the dynamics of the representations and stereotypes of different ethnical groups, building and affirming ethnical and national identities, knowing and being aware of the impact of public policies in the sphere of ethnical minorities. According to the study, the interethnic climate in the Republic of Moldova is characterized by the „tensions between Moldovans and Russians”. Each ethnicity perceives the actual reality differently, which depends on the level of education, living environments and belonging to a certain group. „Thus, the Moldovans are numerically in the majority, but minor as far as concepts or capital are concerned. The factors that characterize the Moldovans are tolerance and trust, having, at the same time, the lowest level of accepting the other”.²⁵⁰

According to the results of the general census of the population from 2004, the territory of the Republic of Moldova (with the exception of the territory under the control of the separatist regime from Tiraspol) is inhabited by representatives of numerous ethnicities. The main ones are the following: Ukrainians- (8,4%), Russians (5,9%), Orthodox Turks (4.4%), Bulgarians (1,9%), etc.

The proportion of schooling population who study in the Romanian/Moldovan language is 79,4%, in Russian – 20,4% and in other languages – 0,2%. Other teaching languages in primary and secondary education are: Ukrainian, Bulgarian, etc.

In this context, it is necessary to mention that the representatives of national minorities do not have equal rights and conditions. For example, in the Republic of Moldova practically there is no literature and press in the Ukrainian language, though this minority is the most numerous and the relationship with this country is very close. The same situation can characterize the Gagauz minority, which does not benefit from the autonomous statute in the view of developing its own language and culture, as it pleaded at the beginning of 90s.²⁵¹

Generally, during last years in the Republic of Moldova there were not registered situations that could affect the rights of national minorities or phenomena with racial or xenophobe character. On the contrary, actions with such a character carried out against the majority are periodically registered in the Republic of Moldova.²⁵²

A. Gagauz minority

In 1994 the Parliament of the Republic of Moldova constitutes Gagauz autonomy in the south of the country,²⁵³ aiming at satisfying national needs and preserving national identity of Gagauz people, their plenary and multilateral development, at thriving the language and national culture etc.²⁵⁴ Through the same law, there were established three official languages in Gagauz Autonomous Territorial Unity (GATU Gagauz-Yeri): Romanian, Gagauz and Russian. Gagauz autonomy has an area of more than 1831 square km and more than 170.000 inhabitants.²⁵⁵

After ten years of autonomy we can affirm that, as far as the linguistic matter is concerned, the situation is similar to that from the Transnistrian region of the Republic of Moldova, being under the control of separatist regime from Tiraspol. The same as in Transnistria, public administration, press and education in Gagauz autonomy is mainly in Russian, though the number of Russian people living here is insignificant (less than 5%). To a great extent, the problem is created due to the fact that central public authorities of the Republic of Moldova do not promote a policy of supporting non-Russian minorities and even do not have such a strategy.

For example, about 80% of NGOs representatives from Gagauz autonomy cannot take part in seminars and meetings organized in Moldova in the Romanian language.²⁵⁶ During last years, the press from Moldova related an increased interest from the part of Gagauz minority representatives in the view of studying and knowing the Romanian/Moldovan and Gagauz(Turkish) languages. We consider that absence of a national policy of integrating all national minorities under the linguistic aspect (at least assuring the system of education with the necessary programmes, materials and textbooks) violates the rights of these categories of people. Public opinion from Moldova considers that incoherence of governmental policies towards national minorities can be exemplified by isolating Gagauz minority in the limits of an administrative-territorial autonomy, while the previous policies had the task to create a positive image of our country in international structures.

250 The daily Flux, Nr.145 from 27 October 2005

251 Although the majority of Ukrainians, Bulgarians and Gagauz people indicated as their mother tongue the language of their nationality, every second Ukrainian, every third Bulgarian and every fourth Gagauz usually speak Russian. Moldovans who usually speak Russian constitute 5,0% from the total number. / www.statistica.md/

252 Attempts of arson at the residence of “The House of the Romanian Language” were registered repeatedly. The authorities did not find the people who committed the deeds.

253 The Venice Commission appreciated positively the quality of the respective Law and the way the Republic of Moldova solved the „Gagauz problem”.

254 Law on special juridical statute of Gagauz-Yeri from 23.12.94

255 <http://www.Gagauzia.chamber.md/region.html>

256 The daily Flux, Nr.54 from 17 April 2006

We have already mentioned the interest of the population, especially of the young, as regards studying the Romanian language, so that central as well as local public authorities must assure this right to all the inhabitants of the autonomous region.

There are 55 educational institutions in the Gagauz autonomy, from which in 51 the teaching process is performed in Russian language and in 4 in the state language. Only some disciplines in a few schools are taught in the Gagauz or Bulgarian languages. The situation is more difficult in mixed localities where Gagauz and Moldovan people live and the education process is in Russian, leaving to the pupils and parents no alternative. Many schools lack teachers of Romanian and the subject is not taught at all. The libraries also lack Romanian and Gagauz literature. Most of books are old and in Cyrillic alphabet and new books are very rarely brought. On the other hand, for the maintenance of the Gagauz language it is important to use it widely, inclusive on official level in the region.

Finally, all these factors have a negative impact on the socio-linguistic integration of the national minorities in the society. The autonomous status of the region offers large possibilities for promoting and developing the rights of the Gagauz minority, but in practice, these possibilities cannot be realised. On the other hand, some political leaders from Gagauzia use the autonomy and problems of the Gagauz minority for blackmailing and making pressures on the central authorities from Chisinau, being allies with the authorities from Tiraspol.²⁵⁷

Although, there are some positive changes for the Gagauz culture. Here we can mention the producing in 2005 of a documentary film about the Gagauz people „Gagauz corner. People and autonomy”. The realisation of the film was possible due the financial support of the Ministry of Foreign Affairs of the Norwegian Royalty on the anniversary of 11 years of Gagauz autonomy within the Republic of Moldova.²⁵⁸

B. Ukrainian minority

In our opinion, the Ukrainian minority is disadvantaged as taken into comparison with other minorities. Although it represents 8,4% from the total of population, it does not benefit from sufficient press, literature and TV and Radio programmes in the Ukrainian language.²⁵⁹ In spite the fact that Moldovan legislation provides for possibilities of editing and distributing newspapers and magazines in minority languages, there are only few such press outposts edited by the Ukrainian community active in Moldova.²⁶⁰ This thing was also reported by European experts in the field some years ago, but the situation remained unchanged.²⁶¹

The education of the representatives of Ukrainian minority is performed in Russian. This thing explains the fact that the Russian teaching institutions constitute – 20,4% while institutions which teach in other minority languages constitute – only 0,2%.²⁶²

We consider that the situation of Ukrainian minorities is a result of the inefficient activities from behalf of the socio-cultural Ukrainian organisations as well as a bad state policy in the field.

C. Russian minority

Most of studies, researchers and reports developed by various national and international bodies have ascertained that the Russian minority is granted more privileges than the others.²⁶³ At present, the things are distortionary by the simple fact that since due to the soviet time inheritance the Russian minority is privileged in comparison with the others.

We consider that all national minorities living in Moldova shall be treated equally and granted equal rights as regards right to education, access to the media funded by the state, right to use their language, to promote their culture and language.

²⁵⁷ For example, the case of Ivan Burgudji, who is in Tiraspol as „Gagauz representative in Transnistria” and leader of a „human rights organisation”. Burgudji was in his time one of the leader of the paramilitary secessionist groups during the period 1990-1994. In 2002 he was accused of committing electoral offences hampering the run of elections in the Gagauz autonomy. For avoiding criminal responsibility, he went to Transnistria.

²⁵⁸ Info-Prim Neo press agency, 22.12.2005, www.info-prim.md

²⁵⁹ Coordinating Council of Audiovisual from Republic of Moldova delivered broadcasting licences to people belonging to national minorities. The representatives of Russian minorities have been given 33 licences, Gagauz – 14, Bulgarians – 5, Ukrainians – 1. At the same time, the Consultative Committee is concerned about this law and encourages the authorities to support the Ukrainian minorities in attenuating this misbalance. /Consultative Committee on the Framework Convention on National Minorities. Opinion on the Republic of Moldova ACFC/OP/(2002)3, art.9.

²⁶⁰ Additional actions are to be undertaken for obtaining a balance between different minority groups as regards the access to and presence in the Media. Public channels prepare and air 30%, 35% of their basic programmes (main news, social and cultural programmes) in the Russian language, in line with their transmission in the state language. It shall be also noted that the programmes of „Radio Russia” can be aired 12 hours per day, as well as 3 Cable TV channels with programmes produced in Russia. As compared to this situation, the Ukrainian minority enjoys less opportunities in this field. This situation is more acute in rural areas where some communities live isolatedly and have not all necessary facilities for creating their own media. The Ukrainian minority, although it is the largest, remains disadvantaged and needs more support from behalf of Moldovan authorities. / Consultative Committee on the Framework Convention on National Minorities. Opinion on the Republic of Moldova ACFC/OP/(2002)3, p.56/

²⁶¹ The Moldovan authorities, through the monitoring and information division of the Department of Interethnic Minorities shall revise the situation and look forward to find an equitable balance between the communities. The Government shall for example to pay special attention to the creation of local media in rural localities, especially in the areas inhabited mainly by minorities. The local newspapers and radio channels in the minority language of that community are excellent means of helping those people to preserve their language and identity (in particular the Roma people who seems to be the most disadvantaged). / Consultative Committee on the Framework Convention on National Minorities. Opinion on the Republic of Moldova ACFC/OP/(2002)3, p.57/

²⁶² The total of population studying in Romanian /Moldovan is 79,4%, in Russian – 20,4% and in other languages – 0,2%. Other languages of study in the educational institutions are: Ukrainian, Bulgarian, English. / Informative Note on the children's situation in Moldova in 2005, www.statistica.md /

²⁶³ The recent Law on National Minorities enforces the position of the Russian language vis-a-vis other minority languages. The Consultative Committee considers that the authorities shall assure themselves that the measures taken in the favour of one particular minority group are not unfavourable for the others. / Consultative Committee on the Framework Convention on National Minorities. Opinion on the Republic of Moldova ACFC/OP/(2002)3, p.115/

With all these, even in the situation when the Russian minority is obviously privileged, the interethnic climate in the Republic of Moldova is characterised by tensions between Moldovan and Russians. Thus, according to a study realised by the Institute of Public Policies in collaboration with IMAS,²⁶⁴ the Moldovans think that their relationship with the Russian community was better 15 years ago than at present. The Russians also think that their relationship with Moldovans is worse now.

D. Roma minority

The Roma community from the Republic of Moldova lives preponderantly in the rural localities from the northern-eastern part of the country as well as in some localities from the centre and western parts of the country. To a great extent, the representatives of the Roma minority continue to face the same problems like other minorities, especially economic, social problems. The Roma minority does not have representatives in local authorities and lack equal opportunities as the majority of the population. For example, most of Roma did not took part in privatisation process and that is why do not own land.²⁶⁵

The unemployment rate is much higher within the Roma community due to the fact that Roma people face discrimination in employment. Thus many of them went abroad for finding a job. Very often the emigration process of Roma people is encouraged by the local authorities.

As a rule, Roma people do not take part in the decision-taking process and live in extremely poor conditions (lack of water, normal infrastructure, lack of electricity, gas etc). the medical assistance is also inadequate.²⁶⁶ The Roma communities do not have shops or drugstores in their villages.²⁶⁷ according to a national study the main problems faced by the Roma are the lack of knowledge as regards their rights, un-schooling of children, lack of medical assistance.²⁶⁸

Under such conditions, the Roma become victims of abuses from behalf of authorities. For example, in 2005 in Edinet town a group of 30 Roma people have been arrested and ill-treated by the police during 2 days without any reason, and then were released also without any explanation.²⁶⁹

We consider that regardless of the financial possibilities of the country, the authorities shall first of all take all necessary measures for sensitising the Roma people on the need for the schooling of children and supporting them in this field as well as involve the Roma community in the decision taking process at local level. The authorities shall create schools and kindergartens in localities inhabited preponderantly by Roma and create all necessary conditions for them to obtain vocational studies and job required by the Roma community (teachers, doctors, lawyers etc.).

With all these, there are some positive changes as regards situation of the Roma. For example, there are some successful Roma non-governmental organisations which are very active and have an extreme role in promoting the interests of the Roma community.

Conclusions

To a great extent, the situation of national minorities is not very different from that of the majority of the population. The Moldovan society, constituted from various ethnic groups shall continue its efforts and positive tendencies for the integration and peaceful coexistence within the society. As a good example as regards the realisation of these goals is the activity of the non-governmental sector which managed to build viable relationships with representatives of all minority groups, including ties between the both sides of Nistru. This thing helps in promoting democratic and anti-discrimination principles which will be anyway assimilated by the society and political class. It is the civil society that shall be supported and encouraged to promote further these values and educate the community in the spirit of democracy, tolerance and non-discrimination.

Meantime, the state authorities shall fasten the process of integration of all minority groups within the society, by offering them equal chances and ensuring the rights of all the citizens, regardless of their nationality. In this respect, a thorough and multilateral research on the problem of national minorities and on the positive experience of other states in dealing with this is required. The elaboration of a National Strategy of linguistic integration of representatives of all ethnic groups is very much welcomed.²⁷⁰

In the view of human rights protection of all ethnic groups living in Moldova, as well as correct approaching of all the aspects of the protection of national minorities and of the de-Russification of non-Russian minorities, developing strategies and national programmes, the Republic of Moldova needs the support of international structures...

264 www.azi.md, 25 October 2005

265 The Roma people did not receive land, because according to the Land Code no. 228 XII from 25.12.1991 only people working in collective farms can receive land in property. The land being the only source of income in rural areas, the Roma are forced to go to seasonal works in Ukraine and when they come home they are to bribe the border service in order to pass the border otherwise being deprived of their money. / www.credo.md /

266 See: <http://www.azi.md/news?ID=39660>

267 www.credo.md

268 Conclusion of the Women Political Club (CPF) 50/50, Union of Young Roma „Tarna Rom” and Association of Roma Women „Juvlia Romani”, who have implemented the programme „Roma women can succeed”. The project was launched by the Action Group for Equal Opportunities of the Stability Pact for South-East Europe and implemented during the period September 2005 – June 2006.

269 The ground for detention was making them confess on the place where another Roma person was staying but after the interference of civil society, some members of the Parliament and the media they have been released. During their detention they have been subjected to inhuman and degrading treatment/ Amnesty International Moldova, www.amnesty.md/

270 It should be also mentioned that even after the declaration of independence, the policy of Russification of the entire population of Moldova still continues and created disapproval within the society. There are no efficient strategies and programmes for the study of the state language in schools and kindergartens.

2.13. THE RIGHTS OF SEXUAL MINORITIES

During the last years, the Republic of Moldova express its firm intention of accessing the European Union and commitment towards the rules and requirement of this organisation. One of its basic rules is the elimination of any discrimination practice, including discrimination on the basis of sexual orientation of the person.

According to international standards, the lesbians, gays, bisexuals and transsexuals (hereinafter LGBT) have the right to protection from behalf of the state in the case they are threatened, subjected to degrading treatment or become victims of offences motivated by intolerance, hate or unrecognising of their sexual orientation. As well, these persons have the right to form organisations, associations and movements for the protection and promotion of their rights and interests and to create their media means.

According to the information provided by the LGBT organisation „GenderDoc-M”, the main problems faced by the LGBT community in Moldova are created or supported by the authorities.

It is a general rule, that some states accept with difficulties this phenomenon refusing or avoiding to adopt laws which guarantee the non-discrimination of people based on their sexual orientation, but finally they conform to the situation. The Republic of Moldova is one of such states. There were various recommendations from international organisations and forums. But major changes did not occur. According to „GenderDoc-M”, during 2005 there were registered several cases of violation as regards the rights of sexual minorities.

The LGBT community from Republic of Moldova pleads for the adoption of an anti-discrimination law considering that the lack of such a law favours the discriminatory factor.

Thus, one of the major problem of the LGBT community still remains the refusal of the authorities to authorise their meetings. In May 2005, the Chisinau mayorality prohibited the organisation of a LGBT meeting. The given decision was contested in the court and was cancelled by the court but after the date when the meeting was planned. The decision of the mayorality contained the following clause „Moldova has a low on minorities and we keep to that law”.

As well, the court examined a case of divorce where the child remained under the custody of the lesbian woman, fact that reveals that unlike the authorities, the courts apply correctly the international standards as regards non-discrimination.²⁷¹

In general, the Moldovan society has a negative attitude towards LGBT community. The pressure on the authorities come from behalf of the citizens and religious institutions.

The LGBT community also face discrimination and intolerance from behalf of the law enforcement agencies.²⁷²

Just in the beginning of 2005 a case of discrimination of the ground of sexual orientation at the working place was registered at the “Gender-Doc M” organisation, the person being dismissed from her work.

As well the Military Commissariat refused to release a military service certificate needed for obtaining identity acts on the round that the solicitor was a gay.

Another example is the case of a foreign citizen who was deprived of his identity acts and brought for several time to the police station and threatened with extradition just on the round of his sexual orientation.

These are only some examples provided by „GenderDoc-M”, which also state that the LGBT community is persecuted and intimidated by the authorities, the general society and even by their relatives.

Although the sociological polls show that only 50% of the doctors consider the homosexuality as an illness most of the doctors have an hostile and discriminatory attitude towards the patients with a different sexual orientation while providing general medical assistance. That is why much work is to be done as regards the medical assistance and treatment for the persons belonging to LGBT community.²⁷³

It seems that the Moldovan society is not prepared to accept the public presence of LGBT phenomenon.²⁷⁴ A reason for this can be the soviet period when the homosexuality was considered as a offence, even criminal offence and was treated as a disease. The lesbians and gays being forced to hide their sexual orientation in public and in private life for avoiding persecution.²⁷⁵

²⁷¹ Information offered by „GenderDoc-M”

²⁷² www.gay.md The case of two boys who were brought to the police commissariat no. 5 from Botanica sector being intimidated, physically and morally abused and blackmailed by the police officers. The case was submitted to the court and now is under investigation at the Prosecution Office.

²⁷³ Evaluation of the mental health policy of the LGBT in Moldova, GenderDoc-M si CReDO, January 2006, www.credo.md

²⁷⁴ According to “GenderDoc-M”, during the last 12 years at least 10 homosexuals died because of violent acts.

²⁷⁵ Study on the human rights situation in the Republic of Moldova, Chisinau 2003, p.74

3. HUMAN RIGHTS PROTECTION IN THE EASTERN PART OF THE REPUBLIC OF MOLDOVA (TRANSNISTRIA REGION)

3.1. GENERAL INFORMATION

„The Nistorean Moldovan Republic” (RMN), known as „Transnistria” is the result of the separatist movement from the eastern part of the Republic of Moldova. At the beginning of the 90ies the separatist leaders were for the maintenance of the USSR and Transnistria entry into the reformed Union as an autonomous and independent entity.²⁷⁶ Expressing the interests of the Union’s centre and of the conservative soviet forces, the movement from Tiraspol managed to gain „self-determination” in line with the Chisinau power. This thing obviously revealed the aim of the separatists to cease the Moldovan leave from the USSR.

The separatists tried to prove the existence of a legal ground for the creation of an independent and sovereign republic in Transnistria, by invoking the ethnic and historical specifics of the region which was for ages a Russian land and never being a part of the Romanian state.

The territory subordinated to Tiraspol²⁷⁷ officially recognised as Republic of Moldova is bordered by the eastern border of the Moldovan Soviet Socialist Republic from 1990 and by the Nistru river, excepting the town Tighina which is on the right bank of the river but is controlled by the separatist forces and some rural localities from the left bank of Nistru, which remained under Moldovan jurisdiction. These proper zones of Chisinau control in Transnistria which reach even the Ukrainian border divide the „RMN” territory, thus it not presenting a territorial unity so far. Although, the greatest part of the territory is controlled by the Transnistria authorities, who managed to set up and develop a series of state competences in the region.²⁷⁸

More than 300 thousand of people are citizens of the Republic of Moldova,²⁷⁹ that is more than half of the population living there. According to the last census, approximately 500 thousand people live in Transnistria. At the same time, the Russian authorities declare that over 200.000 Russian citizens live in the eastern part of Moldova which obliges Moscow to take care of its citizens and defend their rights and interests. Unfortunately, the Moldovan officials do not invoke these figures and this argument in order to make the foreign forces to adopt a civilised behaviour towards the Moldovan sovereignty and integrity, but also towards the Moldovan people from the region. This modality of Russian expansion is widely used in other similar regions like in South Osetia and Abhasia from Georgia. Moscow stimulates the obtaining of Russian citizenship for the people from these region, afterwards invoking the citizenship reason for promoting its aggressive policies in the regions, by violating the human rights of the mass population.

While the bulk of the population is waiting for their release from dictatorship, terror and criminality (we will further bring arguments in the favour of the given statement) and the Moldovan authorities together with various international bodies seek solutions for the definitive and peaceful solving of the conflict, the Russian Federation continues its encouraging and supporting actions for the consolidation of the Transnistrian regime²⁸⁰, neglecting the principles of the international law and civilised norms between the states.

During 2005 the Republic of Moldova authorities made various modifications to the legislative framework aimed at the full integration of Moldovan citizens living in Transnistria in the life of the country. Thus, the procedure of confirming the Moldovan citizenship was simplified and the Moldovan passports are given for free to the Transnistrian citizens. At the same time, Moldovan officials have intensified their discourse on the Transnistrian issue on the international arena soliciting for international involvement in the settlement of the conflict.

As a consequence, the western states imposed circulation restrictions on their territories for 17 leaders of Tiraspol²⁸¹ Also in 2005 EU and USA gained observers status in the negotiation processes for the settlement of the Transnistrian conflict, and the Transnistria part of the Moldova- Ukrainian border is monitored by an European Mission.

276 Here and hereinafter the notion Transnistria is used as a geographic term meaning the Republic of Moldova territory from the left bank of the river Nistru, later self declared as „Nistorean Moldovan Republic”.

277 Info and details about „Transnistria”: see the report of the New York City Bar Association Report on Transnistria - www.nycbar.org

278 Separatism and its impact on the process of statehood edification in the Republic of Moldova, Ina Rurac, IPP, www.ipp.md

279 According to the data from the Ministry of informational Development: www.mdi.gov.md

280 For example, Moscow often host meetings of the leaders of the self-proclaimed separatist republic from the post-soviet area (Abhasia, South Osetia, Nagorno Karabakh and Transnistria).

281 In summer 2004 Transnistrian authorities have assaulted and devastated the Moldovan schools teaching on Latin alphabet from the region, where more than 5000 pupils are studying. (<http://www.osce.org/moldova/13428.html> or <http://www.osce.org/item/8490.html>). They also banned the access for the peasants from the Dubasari district (over 5000 farmers) to their agricultural land (<http://politicom.moldova.org/articole/eng/714/> or <http://www.osce.org/activities/13035.html>) etc.

It should be pointed out that at present Transnistria is seen not only like an area where the most negative things happen, such as drugs and armament traffic, human trafficking, but also like a region threatening the security of the whole European continent. The settlement of the Transnistrian conflict and the security in the region became a priority for the international community fact that cast some hopes for the people in the region who are permanently persecuted and terrorised by an illegal regime.

In 2005 the civil society had also a very important role in informing the international public opinion on the situation from the Transnistria region. The efforts of promoting and defending the rights of the people from Transnistria undertaken by the Promo-Lex Association in 2005 have been supported by various national and international organisations which expressed their conviction that only the demilitarisation and democratisation of the region, the withdrawal of the foreign troops and consolidation of the civil society are the main conditions for the ensuring of the fundamental rights and liberties of the people.

The „Helsinki” International Federation declared the Transnistrian region a „domain of special concern”, having as start point the fact that the people of the region do not have access to international and European mechanisms of human rights protection, the imposing of restrictions as regards the activities of the civil society in the field of defence of human rights from behalf of the security services and public administration.

Most of international institutions and organisations are concerned over the situation of human rights in the Transnistria region and take more visible actions in the view of the region’s democratisation. The governments of many European states and the neighbouring states got involved in the process, excepting the Russian Federation which, defying the international community continues to support an illegal, repressive and dictator regime in Europe.

For 13 years a process of negotiations headed by the Russian Federation was mimed, a process that strengthened the position of the Tiraspol regime.

Although the existent negotiation format was extended in 2005, involving the EU and USA as observers in negotiations on the settlement of the Transnistria conflict. It should be also mentioned that even the new format of negotiations, the so called “5+2”, did not satisfy a great part of the population who wished more than a consultative and observer statute for EU and USA, taking into account that the representatives of the separatist regime who have been violating the human rights in the region are full rights members in negotiations.

But the modification of the format did not register any positive changes yet, fact that made the Moldovan officials to intensify their appeals to the international community on its full involvement as regards international pressures on Russia and Transnistria authorities to respect the international norms and respect the obligations assumed before the international community.²⁸² Much attention was paid to the execution of the ECHR decision on the case Ilascu and others vs Republic of Moldova providing for the immediate release of the political detainees from the separatist prison, the withdrawal of the Russian army from Transnistria, multilateral informing of the population on the events and the access of the civil society in locations under the Transnistrian jurisdiction.

The inefficiency of the newly created negotiation format is also proved by the numerous cases of flagrant human rights violations in the security zone. The peacekeeping forces, being also under the jurisdiction of the Russian officers, avoid any actions sanctioning the separatist regime. On the contrary, they do nothing else than favouring the paramilitary forces of the separatist regime to consolidate Transnistria statehood. The Moldovan representatives in the negotiations state that the Russian and Transnistria observers from the peacekeeping forces do not accept complaints from behalf of citizens from the right bank of Nistru, so that they are not included in the reports of the military commandments. Under such conditions, the Control Unified Commission (CUC) has nothing to examine, or the examination of complaints from citizens is one of its main obligations.²⁸³

Due to these actions, the population from the region see the peacekeeping forces as mere representatives of the separatist region. For more than 14 years, there were no actions proving the neutrality of the Russian peacekeeping forces. On the contrary, due to the open collaboration the positions of the Russian and Transnistrian representative have never been controversial, but mutually supported and completed. More over, the absolute number of the peacekeeping troops members are settled on the territory controlled by the Transnistrian authorities, being in direct contact with them.

282 On 22 March 2005 the Republic of Moldova made an official solicitation to the Un Commission for Human Rights to exert pressures on the separatist authorities and Russian federation to release the political detainees from prisons and ensure the human rights in the region. (Ministry of Foreign Affairs press release: www.flux.md)

283 CUC was set up on the basis of Agreement “on peaceful settlement of the conflict from the Transnistrian region of the Republic of Moldova” signed by the Russian President Boris Eltin and Moldovan President Mircea Snegur. Thus, only these two states are responsible for the fulfilment of the given bilateral agreement and Russia, according to the document, is not only a mediator but also a contracting party engaged in respecting the territorial integrity of Moldova but also the rights of people from the region. Thus, art.5 obliges the parties to remove any obstacle for the free circulation or eventual blockades and guaranty the security and necessary conditions for the returning of the evacuated people. For 14 years these conditions have not been respected by both parties. The Moldovan authorities did not insist on the human rights protection and the Russian authorities avoided getting involved in the protection of human rights which are violated in mass by the Transnistrian authorities.

The Promo-Lex association has analysed the situation of the peacekeeping posts dislocated in the security zone and reached the conclusion that after the signing of the Moldova-Russian agreement from 21.07.1992 and due to the biased position of the peacekeeping forces, the illegal bodies of the Tiraspol regime took the control over some important localities and objects situated in the security zone, like the city of Tighina, villages Chitcani, Corjova, Roghi, the Hydrocentral from Dubasari, the road Ribnita-Dubasari-Tiraspol, etc. Mainly, through the peaceful occupation of these strategic objects and localities the occupation regime managed to get enforced and gain powerful control in the negotiation process. After that, a lot of other breaches of the Agreement's provisions took place. The interference of the Russian Federation in the negotiation process is well known to everybody, but the international community limits itself just on stating the negative role of the Russian support granted to the Transnistrian regime without making any pressures on Russia or impose any sanctions.

3.1.1. The Russian support and influence in the eastern part of the Republic of Moldova.

The Russian Federation did not yet fulfilled its obligation assumed during OSCE Summit in Istanbul in 1999 of withdrawing its troops and ammunitions from the territory of the Republic of Moldova. The reasons invoked for the non-fulfilment of the obligations regarding the prohibition of evacuation from behalf of the Transnistrian authorities are lacking any moral, political and legal justifications, because the Transnistrian officials ruling the region since 1990 are Russian citizens, governed by Russian laws and most of them having Russian diplomatic passports (there were cases when Russian officials asked foreign embassies to release visas to the Transnistrian officials).²⁸⁴ The Moldovan authorities, the civil society, as well as most of population (64%) consider that the major problem in the conflict settlement is the presence of Russian military forces²⁸⁵ and undermines the efforts of the international community to eliminate the threats to the European security.²⁸⁶ In this respect, the immediate withdrawal of the Russian forces from the territory of the Republic of Moldova will undoubtedly lead to the creation of necessary premises for the conflict solving and consolidation of peace and security in the region. Meantime the ensuring of the human rights and fundamental freedoms of people living in the region will finally be made possible. During the year 2005 the international community solicited for several times the Russian Federation to honour its international engagements and cease the activities of undermining the territorial integrity of its neighbouring states. But Russia still continues to ignore the requests of international community and adopts a very uncivilised behaviour towards Moldova and Georgia. Contrary to international practices and rules, as well as provision of the bilateral agreements, the Russian officials and deputies continue to visit the Transnistrian authorities without even notifying the Moldovan counterpart on this, encouraging and supporting in this way the separatist regime. Meantime, the psychological situation within the military from the Operative Group of the Russian Army, dislocated on the territory of the Republic of Moldova, is extremely tensioned. According to the psychologist of the group, Irina Polkina, the military serving their services in the group having another opinion that that of the official opinion „are persecuted in various ways, sometimes the persecution leading to suicide”. At the same time, according to a Declaration made by the Helsinki Committee from Moldova, which had monitored the atmosphere from the military troops, „the commanders have solved their financial problems by selling enormous quantities of ammunitions and using various methods of money laundering”. The psychological torture of the military of the 14 Army is made consciously and on purpose by the Russian authorities in order to aggravate the situation and to further justify the impossibility of withdrawing the military forces and weaponry from Transnistria.²⁸⁷ The number of people from the region who are enrolled in the Russian army is considerably increasing. Thus, on the one hand, the people are encouraged and motivated by obtaining of the Russian citizenship, and on the other hand the Russian authorities waste less for the treatment, transportation and housing of the Russian military. On 8 February 2005 the Ministry of Foreign Affairs of Moldova presented to the Embassy of the Russian Federation in Moldova a note expressing its indignation as regards the modality of organising an official visit of a Russian delegation to Transnistria, qualifying the visit and declarations made during the visit as an interference in the internal affairs of the Moldovan state.

It should be pointed out that this note was one of the few reactions of the Moldovan authorities in the course of 13 years of negotiations to the open position of the Russian party in the view of supporting the separatist regime and flagrantly violating the Moldova-Russian Agreement from 21 July 1992 and the international law norms.

²⁸⁴ The head of the EU Commission Unity for Moldova, Hilde Hardeman declare: "it is clear that if Russia wants to put an end to the conflict can do it whenever wants. Igor Smirnov is a citizen of the Russian Federation and travels very often to Russia and it should be stated that Russia has never tried to do anything, repeating that it is impossible to continue the withdrawal of the weaponry from Transnistria because Smirnov does not allow it. Let's be serious, Smirnov does not allow to Putin? Only we can do is to laugh at this statement". www.reporter.md/RPA3TO043/ / 22.02.06 / 14:00 Hilde Hardeman: Russia holds the key to the Transnistrian problem.

²⁸⁵ <http://www.azi.md/news?ID=39467>

²⁸⁶ During the OSCE Ministerial Council, the Minister of Foreign Affairs of Moldova has qualified the Russian troops from the territory of the Republic of Moldova as "troops of foreign military occupation". Bernard Bott, Foreign Minister of Netherlands, declared that the withdrawal of the Russian troops from Transnistria is the key element for the solving of the conflict. The same opinion was shared by most of 55 foreign ministers present at the OSCE reunion. The USA State Secretary, Colin Powell, declared that US would agree to support financially the withdrawal of the Russian troops from Transnistria in the case the financial resources are the reason for not evacuating the weaponry from the zone.

²⁸⁷ „Russian soldiers from Transnistria: with their psychic down to the ground”, Flux Newspaper, nr.19 from 20 Mai 2005, www.flux.md.

We ascertain the fact that the authorities from Moscow did not change their behaviour until now, applying various unjustified and groundless economic pressures on the Republic of Moldova.²⁸⁸ Meantime, all the human rights violations taking place in Transnistria are not granted any attention from behalf of Russia. On the contrary, the Russian Federation is always invoking the lack of influence over the Tiraspol regime when it is required to release the political detainees and to guarantee the protection of human rights and liberties of the people living in the region. And when some responsive actions are taking against the separatist regime, Moldova is accused of breaching the provisions of some „documents” signed by the parties. Moscow has never hide its sympathy and support for the separatist regime from Tiraspol.²⁸⁹

At the OSCE Ministerial Reunion from Sofia in December 2004, the Minister of Foreign Affairs of Moldova, Andrei Stratan, declared the following: “We consider the presence of the Russian troops on the territory of the Republic of Moldova as military occupation”, “Their presents runs counter the political will of Moldovan constitutional authorities and defy the international principles and norms unanimously recognized by the international community. The arguments brought for justifying the tergiversation of the process of troops and weaponry withdrawal for more than two years are illegal.”

The civil society has initiated a media campaign in the view of collecting information on the crimes committed by various leaders of the Transnistrian region during the armed conflict from 1992 and after the signing of the Moldova – Russian Agreement. The aim of that initiative was the subsequent solicitation for the punishment of those criminals by the Hague Tribunal.²⁹⁰ The Romanian Senator Ilie Ilascu, former political detainee in Tiraspol and participant in the 1992 events expressed his concern over the lack of investigation from behalf of Moldovan law enforcement agencies (General prosecution Office, Military prosecution Office, Ministry of the Interior) on cases of genocide committed by foreign citizens in 1992.²⁹¹ The same situation is valid for other post conflict events.

3.1.2. The role of peacekeeping forces

The Russian Federation participates in the negotiation process on the settlement of the Transnistrian conflict as a mediator. According to the Agreement concluded between Russia and Moldova on 21 July 1992 the Russian troops are obliged to keep neutrality and respect the legislation of Moldova.²⁹² The role of the peacekeeping forces is to guarantee the ensuring of the human rights in the security zone.

After ceasing the evacuation of weaponry and munitions from Moldova (2001), Russia has been bringing arguments on the need of the military troops presence in the Transnistrian region for the purpose of guarding the weaponry and ammunitions dumps. In this context, it should be mentioned that neither the Moldovan authorities nor other international structures have access to those stocks. So that, no one knows for sure the quantity and contents of those stocks and the conditions of keeping them and the potential threat they present for the region.

During the period 1992 – 2005 the activity of the peacekeeping forces proved to be inefficient and served to a great extent for coverage of the activities of the separatist regime. A simple analysis of the cases presented in this report proves the biased character of the peacekeeping forces and the inefficiency of the existent negotiation format.²⁹³ We consider that Moldovan authorities have tolerated too much the situation and the behaviour of the Russian peacekeeping forces during the period 1992-2005.²⁹⁴

The issue of peacekeeping forces inefficiency and biasness in the process of eace keeping and solving the Transnistrian conflict is on the agenda of many international forums.²⁹⁵

The civil society, the national and international public opinion consider that after the ECHR Decision on the „Ilascu case”, and in particular pursuant to the Russian position and behaviour during 2004-2006, Russia

288 Restrictions on exporting some food products were imposed only against economic agents registered in Moldova and did not touch the Transnistrian economic agents. As well, the Russian Federation delivers natural gas to Transnistria on a lower price that to Moldova and the threat on increasing the prise and the energetic blackmail was address only to Moldovan party.

289 The Press Agency “Olvia-Press” (www.olvia.idknet.com – the official page of the Tiraspol „authorities”) informed that the Russian Ambassador in the Republic of Moldova Nicolai Reabov, conveyed a message of felicitation to the separatist leader on the occasion of 60 years anniversary after the end of the World War II. The Russian Ambassador addressed Igor Smirnov as a president of the Moldovean Nistrean Republic. This fact is of much concern as the person who was granted such a quality has usurped the state power in the Republic of Moldova. The Russian authorities beach systematically the provisions of art. 55 of the Vienna Convention from 24 April 1963 as regards the Consular relationships and art. 5 of the Treaty of friendship and cooperation between Moldova and Russia providing for refraining from any actions that would prejudice the sovereignty, independence or territorial integrity of the contracting parties.

290 The Campaign „On the way to Hague” initiated by the lawyers of the „Ziarul de Garda” newspaper.

291 Ziarul de Garda. Ilie Ilascu: “Here we can speak not only of Igor Smirnov and his band, but also of the bloody colonel Kostenko, who killed over 200 innocent people, civilians who did not took part in the war. This Kostenko is now doing very well, living in Russia”. Ilascu expressed his scepticism over the investigation starter by the General prosecutor’s Office against Sevtov–Antiufeev. “I was wondered when the Prosecution Office asked for evidences in the case of the Deputy Vlad Cubreacov disappearance, and nothing in the cases of Antiufeev, Sevtov, Alexandrov or Kudreavyi — all the names of the same person. I met him during the 1992 was and I know he had organised murders”.

292 The document is signed between two equal parties: Moldova and Russia who both recognise the territorial integrity of the Republic of Moldova and the presence of the Russian peacekeeping forces dislocated according to the Russian and Moldovan agreement.

293 The following parties take part in the negotiation process: Moldova, Russia, Ukraine, OSCE and separatist leaders, and since 2005 USA and EU have been accepted as observers, the new format being known as “5+2”.

294 By the end of 2004 the Minster of Foreign Affairs pleaded for the modification of the peace keeping mechanism and bringing it in line with the international and OSCE standards. Thus, the gradual replacement of the current peacekeeping forces with an multinational observers mission of military and civilians under OSCE mandate is needed.

295 The “peacekeeping” forces from Transnistria have been and continue to be used by Moscow as a coverage and defence shield for the Transnistrian authorities. /Mihai Grecu, Anatol Taranu, Russian troops in the Republic of Moldova, Chisinau 2004/

is and shall be considered as an aggressor, which cannot be a mediator in the negotiation process with guarantee statute. Meantime, the civil society approach the possibility of excluding the Russian Federation from the negotiation process.²⁹⁶

The representatives of the Russian peacekeeping forces take part in various illegal acts of the separatist. A pertinent example in this case would be the presence of Leonid Gluskov at Vasilevca in the night of 10 March 2005, in the attack of the paramilitary separatist forces against the locality, where they have ill-treated the population and the local police and have taken the local telephone station estimated at 20.000 USD.

In the last years, the peace keepers have been involved in many scandals, being accused of breaching their statute of neutrality. Their attitude differ considerably from one situation to another and every time their behaviour is in favour of the separatist regime, violating flagrantly the human rights of the local population.²⁹⁷ Thus, during the period of the „schools war” the Russian peace-keeping forces²⁹⁸ got not involved in any way, refusing to provide help to Moldovan policemen, OSCE, UN and Red Cross representatives in supplying the children with water, food and other necessary goods. The same was the case when the Moldovan peasants were not let to go to their lands.

Another clear case of peace-keepers' support to the separatist authorities took place on 7 October 2005, in the presence of Promo-Lex lawyers. The Russian colonel Boris Kramcenkov, military commander of Dubasari town declared that due to their observers' statute they can do nothing in order to release our colleague Alexandru Postica, Promo-Lex lawyer and „EuroTV” journalist, Lilia Grosu from arrest.

But when the Moldova police officers came to the place of incident, the same commander tolerated the threats of the Transnistria militia and asked the Moldovan representatives to leave the „Transnistrian territory”.

On 19 July 2005 Russian peace-keepers used the “Kalasnikov” arm against the civilians and adopted an aggressive behaviour against two representatives of Promo-Lex.²⁹⁹ although these acts have been recognised by the international community as illegal, the Russian officers refused to recognise their guilt bringing grave accusations to the civilians.

The incident was provoked by the colonel Dudnikov who stopped the car of the Promo –Lex lawyer and asked for the immediate destruction of the camera film on the ground that no one can take pictures in the security zone.

The lawyers explanations that the pictures have been taken before entering the security zone were in vain. The pictures were taken before entering the zone by the ABA/CEELI intern from USA. Moreover, there were no street signs showing that photographing is forbidden. Immediately the Russian superior officers arrived at the place of incident.

Representatives of the Moldovan local authorities have been also called.³⁰⁰ At a moment, the colonel Dudnikov who was periodically speaking on the phone, pointed his arm at civilians who gathered to watch what happens. Due to the prompt and professional intervention of a Moldovan policeman victims among the civilians were avoided.

The incident took place on the bridge over Nistru between Vadul-lui-Voda and Cosnita localities, which are both under Moldovan jurisdiction. Now the case is under investigation and the Promo-Lex Association has all the proofs in order to prove the illegal character of the arrest: previous filming and photographing in the zone without no reactions from behalf of the peace-keepers, lack of traffic indicators or signs prohibiting it, video recording of the events from 19 July 2005.

3.1.3. Production, keeping and commercialising the ammunition and armaments

The constitutional authorities does not control in any way the eastern part of the country. The economic, industrial and human potential of the region, inherited from the soviet regime allows the production of armaments at local factories. After 1992 the Transnistrian separatist region was under the in the sight of the international community, being known for the commercialisation of armaments, trafficking in people, drugs etc.

296 Tony Vaux and Jan Barrett developed a research entitled „Interests in conflict. Moldova and the Transnistrian impact”, published in 2003 at Humanitarian Initiatives. The authors pointed out that the main causes impeding the settlement of the conflict as well as the whole development of the country are the Russian interests and influence in the region and the presence of the Russian troops on Moldovan territory. The negative impact of the created situation influences and affects the local population.

297 Devastated the schools with Romanian teaching on Latin script, systematic harassment of teachers, pupils and parents, evacuation of schools from the region, banning the access of Moldovan peasants to their land, occupation of the railway stations, limitations to the freedom of movement, persecution of the Moldovan policemen etc.

298 We mention mainly the Russian peacekeeping forces, because it is they that hold the control of the peacekeeping mission. All the key and governing functions were distributed among Russian officers. The Moldovan and Ukrainian officers are just simple assistants.

299 <http://www.humanrights.md/rom/news/Cronologia%20faptelor.htm> , Helsinki Committee webpage

300 The Russian colonel Boris Kramcenkov drove a car “Mercedes”, registered by the Transnistrian authorities.

The problem of arms production and commercialisation, including the „dirty bombs”, was always in the centre of national and international media attention,³⁰¹ which reported for several times on this issues, information which was later confirmed by the President Voronin and Prime- Minister Tarlev. The Chisinau governance affirmed they have evidences of arms commercialisation from Transnistria to the Hussein regime, separatist forces from Chechnya etc. the presence of the „dirty bombs” in the region was confirmed in 2005 by the British journalists as well as by former soldiers or separatist officials.

Another important issue is the presence of the Russian military ammunition dumps in the region. There is still not possible to form an international inspection group for these dumps. On 22.02.2006 the head of the European Commission Unity for Moldova, Hilde Hardeman, declared that Russia and Ukraine play double roles in the zone. The representatives of these two states “benefited from a preferential treatment in visiting the military dumps from Transnistria, were the OSCE representative, for example, was not accepted during the last two years”. The fact that the separatist regime had been producing and commercialising arms and ammunitions was confirmed by the generals Aleksandr Lebed and Valery Evnevici, and by the commander Mihail Bergman, former officer in the 14th army.

Meantime, the Russian ammunition are kept inadequately in the military dumps. An eventual explosion from these dumps could be compared with the explosion of an atomic bomb of 10 kilotons that could lead to the destruction of entire localities from an area of 4,5 km for from the epicentre. The formed crater would have a radius of 1,5 km and a depth of 75 m. thus, an eventual explosion at the military dumps from Cobasna could lead to a humanitarian and ecologic catastrophe in the northern-eastern part of the country and the neighbouring part of Ukraine on a surface of between 500 and 3000 sq. km. The threat of the explosion has been confirmed by the separatist leaders either.³⁰²

Because, de facto, it represents an unrecognised and uncontrolled entity where no one can be held responsible for what happens, Transnistria became known to the international community not only as an arms producer but also as a potential basis for terrorists.³⁰³

3.1.4. The situation from the security zone

On 21 July 1992, Moldova and Russia signed the Agreement on the principles of peaceful settlement of the conflict from the Transnistrian region of the Republic of Moldova. After signing the agreement, the parties ceased the military actions and constituted the „Security zone” in the view of restoring the rule of law and respect for human rights of the people. The Russian troops who have previously fought in line with the separatist military forces against the Moldovan military forces,³⁰⁴ have been granted the statute of „peacekeeping forces”. Taking the control of the joint military contingent they had to maintain neutrality.³⁰⁵ The security zone covers to a great extent the territory involved in the war (mun.Tighina, villages

301 For example, 1. “Politiceskii jurnal” magazine from Russia published on 25.04.2005 an article on the disappearance of two emitters of nuclear explosions, as well as of the so-called “nuclear bags”, from the depots of the former 14th army, dislocated on the Moldovan territory.

2. The ammunition dump from Cobasna is most probably the biggest ammunition dump from Europe – results from the study developed by a French journalist during a year and a half in the Transnistria region. „The ammunitions are stored in open air and the smallest mistake is sufficient for producing and explosion” – declared the journalist Javier Deleu for Radio France International. But the armaments and ammunition from Cobasna bring enormous incomes to those who commercialise them through the Ukrainian borders to all corners of the world, including Caucasus and even to some African states. The separatist have even “dirty bombs” - “in fact they are anti-hail rockets”, being completed with radioactive substances. Such a bomb can be bought in Tiraspol for 200 000 USD, which is an infinitesimal price as taken into comparison with the damages only 1 kilo of this substance can cause to an European metropolis like Paris or London. According to the same source, Moscow is the first interested in maintaining this state of things, but the people set up in the region benefit at the same level from the people from Kremlin. (Chisinau 28.02.06 Info-Prim Neo /ccv/)

3. The British publication “Sunday Times” (www.timesonline.co.uk) has also mentioned that the terrorists can buy radioactive rockets in the Transnistrian region. A huge investigation article on this theme was published on 8 May 2005. according to it, at least 38 Alazan rockets from the Transnistrian Region have been filled with radioactive substances – strontium and cesium. The specialists note that these rockets can be used by the terrorists as “dirty bombs” which can cause damages of millions of dollars and a mass panic. These rockets are part of those over 50 000 tons of ammunitions stored by the Russian army in the Transnistrian region.

These statements confirm the concerns of the national authorities and impose the necessity of creating an international inspection over the military dumps from Cobasna, as well as of immediate removal of the remaining ammunitions and troops from the region.

4. The reports of United Nations, “Amnesty International”, US State Department and Defence Department of Great Britain contain data on various persons and firms from Chisinau linked with the Transnistrian structures who are involved in commercialisation of armament in various conflict zones of the world. (for example, the Aero-com case, published in Ziarul de Garda).

5. <http://www.flux.md/news/modb2.php?action=show&idu=6286&cat=Editia%20de%20Vineri&rub=Eveniment>

302 Moldova on the way to democracy and stabilization. From the post soviet space in the world of democratic values. Chisinau, Cartier Printing house 2005 p.125

303 Ziarul de Garda: „Transnistria can become a base for terrorists”, declared Robert Cooper, General Director for External Affairs of the Committee of Ministers of the European Union during an interview at BBC in September 2005, after his visit to Moldova. “I do not know if some of the ammunitions of the terrorists from Beslan come from Transnistria, as had been declared by the Moldovan Prime Minister, but it would be possible. So as Osama bin Laden has used Afghanistan for a base for terrorists, the existence of any black holes for traffic is extremely dangerous”. “We need time, declared Robert Cooper, but we hope to reach a solution, especially after Romania joining the EU, when Moldova will be our neighbour and included in the neighbourhood policy of the EU. The EU extension brings us closer and closer to the frozen conflicts.”

304 See ECHR Decision on Ilascu and others vs. Russia and Moldova: for example § 59 - „In a declaration written to the Court by the representative of Mr. Lesco on 19 November 2001, Ms. Olga Capatina, former volunteer recruited by the Ministry of Health and Social protection during 15 March - 15 August 1992, stated she had been working during that time in the staff of the Russian army, at the centre of commandment and espionage of the 14th Army, under the name of Olga Suslina. On this occasion, she sent to the Moldovan Ministry of National Security hundreds of documents confirming the participation of the Russian troops in military operations and their massive support with armament to the Transnistrian part. She also collected information proving that the military actions of the separatist had been dictated by the 14th Army, which coordinated its activities with the Defence Ministry of the Russian Federation”.

§62 – „In a book published in 1996 at “Vneshtorgizdat”, and entitled “General Lebed – enigma of Russia”, the author Vladimir Polousin describes the support provided by the Russian Federation to the Transnistrian separatists. The creation by the General Lebed of the General Russian - Transnistrian Defence Headquarters and the participation of the 14th Army in military operations against the “Moldovan enemy” are also mentioned in the book. Anatolie Muntean, Nicolae Ciubotaru, War on Nistru (1990-1992), AGER Economistul Printing House, 2004, pag.237: „on 1 and 2 July 1992 the positions of the national army battalions have been bombed with heavy gun (cannon) The attacks have been supported by the 14th Army ...”.

305 See ECHR Decision on Ilascu and other vs Russia and Moldova: §91 – „Article 4 provides that the former 14th Army of the Russian Federation, stationed on the territory of the Republic of Moldova respect rigorously its neutrality, and art. 5 prohibits the use of any blockade or sanctions setting as an aim the removal of any obstacle for the free movement of people, goods and services.”

Varnita, Chitcani, Parcani, Roghi, Corjova, town.Dubasari, villages Cocieri, Molovata Noua, Pirita, Cosnita, Pohrebea and Dorotcaia).

The upcoming events proved that various Russian structures and authorities, including the peacekeeping forces, have favoured the illegal actions of the separatist regime. Thus, the most frequent human rights violations took place mainly in the security zone.³⁰⁶

The representatives of the Tiraspol regime organise from time to time various provocations in some localities from the security zone or near it, the people being subjected to intimidation, aggressions which aim at insuring a full control of the separatists over the region. For example, the citizens from Corjova, Dubasari district are ready to accept the occupation of the separatist region instead of various economic benefits (for example for gasification)³⁰⁷, because most of the economic activities carried out by Moldovan authorities in there are stopped by the separatist.

For example the installation of the telephone lines in Corjova by the Moldovan Moldtelecom was stopped by the Transnistrian authorities. The representatives of the paramilitary forces and the Kazaks from the region³⁰⁸ impede the activity of the local public administration in order to compromise the development of the localities. The pressures over the public officials increased and they are constantly threatened, persecuted and intimidated.³⁰⁹

During the cold period of the year, (December - April) when the river is frozen the supply of the localities Cocieri and Molovata Noua with food and other necessary items is practically paralysed, because the only link with the right bank is unfunctional and at the customs posts the transported goods are taxed 100 % of their value.

Illegal customs posts have been also installed in Tighina (Bender), on the western part of river Nistru, fact that creates problems to the people because they cannot commercialise their goods in the capital or in other places, because huge taxes are imposed if passing the customs post for the goods (between 20 - 100% from the value of products) and for transiting the Transnistrian territory. The villagers from Copanca organised some protest manifestations in summer 2005, applying similar rules for the villagers from Cremenciug, which is under Tiraspol jurisdiction. These fact lead to the cancellation of the imposed rules for the villages of Copanca.

Also on this portion of the security zone (Dubasari district region) over 5000 landowners had no access to their agricultural lands. As regards to this, the Chief of the OSCE Mission to Moldova, H.E. William Hill mentioned: "Although there are no arms fire in the security zone of the eastern part of Moldova, the situation continues to be tensioned, and such state of things cannot be tolerated so far". He expressed his concern about the political barriers the landowners have to meet in exerting their legal rights.³¹⁰

On 11 March 2005 at 01.00 a.m. a great number of paramilitary special forces have occupied the village Vasilevca, Dubasari district.³¹¹ They took off the equipment from the telephone station installed by Moldtelecom, ill-treated the local policemen³¹² and intimidated the villagers who opposed resistance. The law enforcement agencies from Moldova qualified this incident as a terrorist act, but like in other similar cases the guilty persons remained unpunished.³¹³

The localities from Transnistria, being under the jurisdiction of the constitutional authorities (Molovata Noua, Cocieri, Roghi, Vasilevca, Cosnita, Pohrebea, Pirita and Dorotcaia) are considered by the separatists as „temporary occupied by the Republic of Moldova”.

Thus, the separatist military forces do not lose any chance to destabilize the situation. There were previous cases of attempt to install militia posts in Dorotcaia, and in 2005 the separatist „authorities” made public a simplified procedure for obtaining the Transnistrian citizenship.

306 The real situation from the localities under the Transnistrian jurisdiction cannot be fully studied and analysed, because the total lack of transparency and free access to those territories for Moldovan law structures and civil society.

307 The Russian Federation delivers natural gas to Transnistria at a much lower price. As well neither Russia nor Gazprom solicit the payment of debts for gas from Transnistria.

308 See ECHR Decision on the case Ilascu and others vs. Russia and Moldova: §60 – „The plaintiffs declared that thousands of Russian Kazaks came to fight for the separatists; The Kazaks Union, Russian association was recognised by the Russian authorities. They stated that their coming was not impeded by the Russian authorities, although the Moldovan President Mircea Snegur asked for that. On the contrary, officers from the 14th Army received since the beginning of March 1992 over 800 Kazaks whom they also armed. They also stated that if in 1988 not a single Kazak was living in Moldova, now there are over 10 000 of them living in Transnistria. The Court states that many of the documents of the case, as well as many depositions collected by the delegation ascertain the mass arrival of Kazaks and other Russian ethnic groups in Transnistria in order to fight for the separatists. It also states that the Russian government did not deny these facts”.

309 Valeriu Mitul, Mayor of Corjova, Dubasari district is periodically threatened, even with death by the chief of the separatist militia from Dubasari. Some of the mayors are charged with “undermining the MNR statehood”

310 www.azi.md 28 July 2005

311 The locality is situated on the left bank of Nistru, at the Moldovan border with Ukraine. It is the only locality from the Transnistrian segment of the Moldova-Ukrainian border being under the RM control. <http://www.azi.md/news?ID=33371>; <http://www.azi.md/news?ID=33392> and <http://www.azi.md/news?ID=33471>

312 The Ministry of the Interior press release informs that “the workers from the Police Commissariat from Dubasari have been brought by force to the Militia post from Dubasari, being subjected to an inhumane and degrading treatment and released at around 04:00 a.m, after 3 hours. For committing actions attempting to the life and health of the people, by causing great material damages or provoke other grave consequences, with the aim of undermining the public security and intimidating the population or of imposing some decisions to the public authorities (terrorism – Criminal Code), the Prosecution Office from Dubasari started criminal investigation”.

313 The General Prosecution Office has identified three persons who took part in the events from 10 and 11 March in Vasilevca: 2 representatives of the separatist regime: chief of the road police, Mihail Smantana and chief of militia from Dubasari, Fiodor Palicisin, as well as one representative of the peacekeeping forces, the Russian officer Leonid Gluscov. AP FLUX, according to a press release of the General Prosecution Office of Moldova.

Another similar case took place in 2005: unknown persons have posted during the night pictures of some public officials from the Dubasari district accompanied by messages full of hatred and instigating to violent acts against them. The pictures of the mayor of Dorotcaia, A.Lesco were from the seventies, when he was young, this fact showing that the separatists have access to the information and dossiers of Moldovan citizens.

At the same time, the so called Transnistria „security bodies” had started a series of criminal files against many public officials. In the letters from the security the “accused” are threatened with various sanctions, arrest or forced bringing to Tiraspol.

There were also cases when the militia retained without any reason the people from the villages of the security zones, these cases being condemned by OSCE Mission as well as Moldovan authorities. With all these, being solicited to take some measures as regards the people security in the region and in particular as regards the public officials (body guards, permit for wearing an arm etc.) the Moldovan authorities gave no answer.

Often when people come to Promo-Lex, they invoke the neglect and disrespect for the most basic procedural rules in examining and investigating the cases. Thus, on 1 October 2005 citizen Iurie Cotofanu from Corjova village, who is also a district counsellor was retained and brought to the police commissariat from Dubasari. A judge was also brought to the commissariat to speak with the counsellor. But when it was found out that the mayor of the village, the Promo-Lex lawyers and the press from Chisinau were also present there, the judge had just warned him not to continue his activity as a counsellor for Moldovan authorities. Meantime, they suggested him to run for local elections held by the separatists.

Pursuant to our experience in the work with cases from the region we can state that the separatists retain inconvenient persons for a period less than 3 hours (the procedure is called like in the soviet times: “invited for discussions”), where they are threatened. The retained persons are also “asked” not to forget about their families and take care of them. After such “discussions” and “suggestions” they are released. After such a discussion on 7 October 2005 the priest from the Corjova village left the village and the region without announcing the reason for that.

The Tighina (Bender) town is also in the security zone.³¹⁴ Although it was first under the Moldovan control, the constitutional forces had to withdraw because of constant pressures and provocative acts of the paramilitary forces which had been fully supported by the peacekeeping forces. Step by step, the separatist region took the whole control over the location, as well as over some other „satellite locations” by the use of force and other criminal acts.³¹⁵ During 2003-2005 the following provocative acts have been registered in the Tighina town and localities surrounding it:

- Occupation of the Tighina railways;³¹⁶
- Blocking the circulation of trains for the road track from Ribnita and Tighina;³¹⁷
- Illegal arrest of the journalist Dinu Mija from the National TV Channel Moldova -1;
- Retaining of the tracks with food and oil for the TB Hospital for Detainees from Tighina. Over 5000 detainees (ill with TB), have been deprived of humane detention conditions³¹⁸ - heating, electricity, water, food and medicines during the cold period of the year;³¹⁹
- Adopting a decision on the evacuation of the Police Commissariat from Tighina;³²⁰
- Destruction of the Police office from Tighina which belonged to the Moldovan Ministry of the Interior;³²¹
- Attempts to put the police office on fire;³²²
- Assault and devastation of the Romanian schools teaching on Latin script;
- Prohibition for food and water supply of the children from the boarding school from Tighina;³²³

314 See ECHR Decision on Ilascu and others vs Russia and Moldova, §91 - „According to art. 3 of the agreement the town Tighina was declared a region under security regime and administered by the “local self-administration authorities, with the agreement of the Control Unified Commission”. CUC was given the task of keeping the public order in Tighina, in line with the police.”

315 Only in the Chitcani village, which is between Tiraspol and Tighina, during 1992 – 2000 tens of people have had disappeared. See: http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=2259

316 <http://www.azi.md/news?ID=30254>; <http://www.azi.md/news?ID=30700>

317 <http://www.azi.md/news?ID=30277>

318 Aleksandr Posudneviski, chief of the separatist local administration of Tighina/Bender declared the following „in 2005, we have activated the expelling of Moldovan structures and the isolator for TB detainees from Tighina”. „Timpul de dimineata” newspaper, no.392 from 10 April 2006

319 <http://www.azi.md/news?ID=22711>; <http://www.azi.md/news?ID=20905>; <http://www.azi.md/news?ID=24856>; <http://www.azi.md/news?ID=25581>; <http://www.azi.md/news?ID=26385>; <http://www.azi.md/news?ID=22096>; <http://www.azi.md/news?ID=27129>; <http://www.azi.md/news?ID=27233>; <http://www.azi.md/news?ID=27293>

320 <http://www.azi.md/news?ID=26491>; <http://www.azi.md/news?ID=21785>; <http://www.azi.md/news?ID=28120>; <http://www.azi.md/news?ID=25312>; <http://www.azi.md/news?ID=28156>; <http://www.azi.md/news?ID=25446>; <http://www.azi.md/news?ID=30516>

321 <http://www.azi.md/news?ID=27950>

322 <http://www.azi.md/news?ID=32273>, 21.12.2004

323 <http://www.azi.md/news?ID=30702>; <http://www.azi.md/news?ID=30497>; <http://www.azi.md/news?ID=30546>; <http://www.azi.md/news?ID=30382>; <http://www.azi.md/news?ID=30052>

- Arresting 2 police officers and criminal investigation started against the other two. Persecution of their family members;
- setting up illegal border posts and customs;
- illegal imposing for paying taxes etc.;
- dismissing from work the persons of Moldovan/Romanian origin and their permanent psychical terrorisation;
- Obliging the workers to take part in the Transnistrian public holidays and fests.

3.1.5. Actions against law enforcement agencies

The Moldovan –Russian Agreement from 21 July 1992 sets out that the control for the Tighina (Bender) town should be taken by the both Moldovan constitutional forces and Transnistrian paramilitary forces. The peacekeeping forces are also dislocated in Tighina. But immediately after the agreement was signed, the paramilitary forces with the help of the Russian peacekeeping forces have taken the control over the town.

During the last years a series of incidents against the representatives of the law enforcement agencies took place. Here we can mention the devastation and putting on fire the police commissariat from Tighina, retaining the policemen from the region and creating impediment in their work. There were also cases of arrest of local policemen and revenge against their families. The release of the policemen from the arrest of the „local security bodies” means in fact the evacuation of these persons and their families from the region. On 29 March 2005 two Moldovan officers from Tiraspol and Parcani have been arrested³²⁴, then the policemen have been evacuated to Chisinau, without being provided a living space or other minimum conditions of life.³²⁵ The actions against the law enforcement agencies are coordinated by the MGB, being obediently executed by the local administration from Tighina. The General Prosecution Office has started criminal investigation on these two cases.³²⁶

With all these, the law enforcement agencies of the Republic of Moldova managed to release some foreign citizens who have been kidnapped and kept in hostage in the localities under the Transnistrian control.³²⁷

3.1.6. Monitoring the Transnistria segment of the Moldova-Ukrainian border

During the last years, the Moldovan authorities have tried to regain control over the entire customs area, but at the beginning the Ukrainian Government did not accept the Moldovan proposals. After Yushchenko came to power, the Ukrainian forces started discussions in the view of official collaboration in the field of customs control over the imported, exported and transited goods through the Moldovan (Transnistria segment)-Ukrainian border. Thus, the presidents of Ukraine and Moldova made a common appeal to the European Union as regards an EU monitoring of the Transnistrian segment of the border.

Since 1 December 2005 the Transnistrian segment of the Moldovan-Ukrainian border is under the monitoring of the European Union's observers.

3.1.7. The rights of internally displaced people from the Transnistrian region of the Republic of Moldova

An old, but very up-to-date problem for the Moldovan authorities and from the prospect of human rights protection is the situation of the refugees (internally displaced persons) from the Transnistrian region during the armed conflict from 1992.³²⁸ Initially, the central authorities engaged themselves in providing those people living spaces and other necessary living conditions, adopting in this regard a series of normative acts.

From various social, political and, in particular, economic reasons³²⁹ for more than 14 years of negotiations the situation of these persons is in the sight of Moldovan authorities but not improved in any way.

324 <http://www.azi.md/news?ID=33682> from 4 April 2005325 „Timpul de dimineata” newspaper. Article „Being declared for search by the separatist, two policemen cannot return home” by Valentina Basiul (www.timpul.md)

326 Interview with Valeriu Prudnicov, Police Commissar of Tighina (Bender) published in Novaia Gazeta, 20 July 2005 p.2

327 www.azi.md, 4 January 2005 and 28 March 2005, Novaia Gazeta 6.04.2005 p.2 „The hostage saved by ... the mobile phone”

328 ECHR Decision on Ilascu case §82 – „On 22 June 1992, The Moldovan Parliament launched an appeal to the international community and apposed to the “new aggression initiated by Transnistria on 21 June 1992 by the forces of the former 14th Army”, which through its destructive actions forced a lot of people to quit their homes. The international community was determined to sent experts at the place of incidents in order to put an end to the “genocide” against the local population”.

329 Government Decision no.172, from 17 March 1992 “On some urgent measures for the help of refugees who were forced to leave their homes from Transnistria region”. Government Decision no.658, from 21 October 1993, “On providing housing to citizens who were forced to leave their homes in the eastern part of the Republic of Moldova” Government Decision no. 1410 from 20 December 2004, “On the Action Plan regarding the providing the internally displaced people with housing”

By signing the agreement on 21 July 1992, the Russian Federation and Moldova (contracting parties of this international document) engaged themselves to discuss on creating new possibilities and conditions for the immediate return of the internally displaced persons back and on the protection of their rights.³³⁰ We ascertain the fact that even this thing was not approached by the parties, neglecting in this way not only the rights of persons remaining in the Transnistrian region but also those who were forced to leave their homes, families, work.

By the time, the homes and properties of the refugees have been occupied by the Kazaks who came in the beginning of the nineties.³³¹

The statute of these persons is still uncertain because the quality of "refugee" can be applied just to foreign persons, or the Transnistrian region cannot be considered a foreign state. Thus, these persons found themselves in a vicious circle and without having a definite statute they cannot enjoy their rights and freedoms.³³²

In the last year the representatives of this category of persons have organised frequent protests in front of the central administration asking for the fulfilment of the assumed engagements. But in some case, the protest manifestations ended with incidents provoked by the forces of order. The basic problem raised by the refugees was that of housing. Hundred of families³³³ live in inappropriate conditions and they threat with asking political asylum in Romania or other western states. It should be also mentioned that a group of persons evacuated from the Transnistria region have occupied by force a locative block built in the centre of the town for the Members of the Parliament.

Since 1992 not only people have taken refuge to Moldova. For example, the Tiraspol State University is still evacuated and activates in Chisinau and the teachers of the university still live in dormitories in inadequate conditions. Many of them did not reunite their families yet.

330 Article 5 p.2 from the Moldovan-Russian agreement on peaceful settlement of the conflict from the Transnistrian part of the Republic of Moldova, signed on 21 July 1992 by the Russian and Moldovan Presidents.

331 „Report on human rights protection in the Republic of Moldova (including the Transnistrian region), p.26, Chisinau-2002, CHDOM

333 According to the "Transnistria" Culture and Law Organisation there were initially over 1000 such families in Moldova, that is over 3000 persons. www.azi.md, 13 December 2004 „Transnistrian refugees create problems to the governance from Chisinau”

3.2. THE HUMAN RIGHTS SITUATION

3.2.1. The legal framework of the Republic of Moldova regarding the Transnistrian region

It is obvious that the legal framework of the Republic of Moldova should be applied on the whole territory of the country, including the Transnistria region, but in fact for more than 15 years it cannot be applied on a territory under foreign control. The country Constitution provides that the Republic of Moldova is a sovereign, independent, unitary and indivisible state (art.4), with its territory inalienable and state borders established through organic law in accordance with unanimously recognised principles and norm of the international law (art.3). Any attempt against or deviation from these norms shall be treated in the light of the Criminal Code of the Republic of Moldova.

Moldova was recognised as a state entity within its current borders by the whole international community, including the Russian Federation. In the course of 1992 – 2004, Moldovan authorities have been negotiating on the Transnistrian conflict, without adopting any concrete plan or clear strategy over which could include stages, steps and the official vision on the final settlement of the conflict. The negotiations were held according to various plans drafted by foreign interested forces from Moscow who, by use of economic, energetic and military pressures, made Moldovan authorities to accept some „compromises”. Thus, several bilateral acts had been signed that allowed the separatist leaders to act independently from the economic point of view.

The events from 2003-2004³³⁴ have practically obliged the authorities and the civil society to mobilise its efforts in the view of finding out concrete solutions for the situation. Thus, on 22 July 2005 the Law „on the basic provisions of the legal special statute for the localities from the left bank of Nistru (Transnistria)” was adopted filling the gap in the existent legal framework as regards the juridical, economic, social, security and customs matters and aiming at restoring the territorial integrity of the country and ensuring the human rights of people under Moldovan jurisdiction.

The new legal framework is quite democratic and meets the international engagements assumed by the Republic of Moldova was highly appreciated by the international community.³³⁵

Later on, the Moldovan Government adopted a mechanism on providing principal guarantees to the Transnistrian population, in particular, guarantees for the property rights protection of the legal and physical persons. The access of the population to the most social services guaranteed by the Moldovan authorities like pensions, salaries, scholarships is still not possible. Meantime, in 2005 the population from the region have already obtained some first facilities from the Moldovan authorities.³³⁶

3.2.2. Right to life, physical and moral (psychic) integrity

Due to the difficult political situation, the law enforcement agencies of the Republic of Moldova did not exert effective control over the Transnistrian region. Because the Transnistrian authorities have created their own judiciary and law enforcement system, the real collaboration of the law enforcement agencies is practically impossible.

This state of things creates conditions for finding solutions at the level of subdivisions of the law enforcement agencies, which in order to investigate cases make use of unofficial appeals to their colleagues from the other bank of the Nistru. But this unofficial collaboration leaves enough place for human rights violations of the Moldovan citizens.

So, there were cases when the persons have been detained by the constitutional authorities but were further transmitted for investigation and judging to the separatist “judiciary bodies”, fact that put at risk the persons security, life, health and freedom of these people. We consider that the transfer of innocent persons (taking into account the principle of presumption of innocence until the judgement is adopted and the fact that the Moldovan authorities are entitled to investigate and examine cases) for investigation and judging to the illegal separatist forces represent a serious violation of the people’s right to life and physical and psychic integrity. The state has the obligation to protect the rights and freedoms of its citizens and is also responsible for their violation, or the transfer of people (even on unofficial way) to the illegal and unconstitutional bodies,³³⁷ still represents a grave problem for the ensuring the rights of Moldovan citizens

334 The refusal of the Moldovan authorities to accept the Russian Plan of conflict settlement, known as the “Kozak Memorandum”, devastation of schools, occupation of the railways from Tighina etc.

335 With a single exception – Russian Federation. According to the Russian authorities, the law “complicates the perspective of resuming the negotiation process and hardens the efforts of the mediators in providing necessary support in drafting a special statute for Transnistria, within Moldova”. This position, in our opinion is noting more than an inadequate behaviour from behalf of the Russian Federation towards Moldova, breaking not only the principles and norms of the international law, but also violating through its behaviour the rights of thousands of people.

336 Reconfirming the Moldovan citizenship and free release of identity acts, facilitation in the registration for economic agents from the region, etc.

337 The General Prosecutors Office opened criminal files for some separatist leaders, other being declared for search by international bodies (like Interpol). We consider that transferring people to be investigated and judged by such persons contravenes to the Constitution and human rights documents.

under its jurisdiction.³³⁸

The life and security of the people cannot be guaranteed by an illegal regime, which has usurped the state power and keep it in a military way. Numerous cases of murder or disappearances of inconvenient persons remained undiscovered and even have been not investigated by the law enforcement agencies.

We can state that in the course of 13 years, the Transnistrian territory has been partially "cleaned " of inconvenient persons. A great part of them took refuge to the right bank of Nistru, the other being simply liquidated.³³⁹

Such practices exists till now, sometimes for a different reason – depriving them of their property. Thus, there were cases when people suddenly died just before perfecting documents on the property over some important fixed assets.³⁴⁰

Sometimes there are cases of murder just in the street in a mafia way, the victims being representatives of the business, police or local administration.

Many ex-workers in the law enforcement agencies recognise that the Transnistrian militia uses the force against the suspected or arrested persons in order to obtain confessions and consider that without torture most of cases wouldn't have been discovered. Some data show that in over 80% of the cases the torture is used as a means of discovering the offences.³⁴¹

The criminal code of Transnistria still provides for death penalty in case of serious criminal offences but the execution of the penalty is still under moratorium.

People's security

"The threats against the citizens from the prospect of their origin can be classified into two categories. The first is represented by the threats addressed to citizens who have taken an active civic position. For example the people requiring Smirnov resignation or the integration of Transnistria within an integral Moldova are constantly threatened with use of violence.

The NGO's representatives, especially youth Ngo's are also threatened with violence because their civic activities (like the threats against the leader of the Liberal Youth Union from Transnistria, Mihail Korobelnikov lead to the fact that he solicited and received political asylum in Germany, attempts to the life of Andrei Ponomariov, leader of the „Pilgrim-Demo" organisation which collaborates with the USA Embassy to Moldova made him emigrate from the country; non-stop provocations against the opposition leaders Alexandr Radcenko and Nikolai Buciutki, the first being subjected to physical violence and the second to attacks with chemical substances).

The second category is represented by increased criminality in the region. In spite of the fact that by the end of the nineties, there were serious excesses as regards the separation of powers within the criminal world in Transnistria and many leaders of the local mafia have been killed, the region still presents an extremely high level of criminality, much more higher than in the rest of Moldova.³⁴²

3.2.3. Right to information, freedom of opinion and freedom of expression

The situation of the Media, and especially of the press is very complicated in the region, because to a great extent it is controlled by the separatist regime. The soviet practice of aggressive manipulation of the population through various propagandistic media sources are still successfully used by the regime and the media subordinated to them.

„The Tiraspol administration takes total control over the majority of the Media institutions from the region, using financial or other kinds of methods for this purpose".³⁴³ The OSCE representatives for the freedom of the press recommended international bodies to support the newspapers reflecting opinions and points of views different from the official ones, in order to "stimulate the pluralism of opinions".

But these very journalists are always under pressure for their views and opinions. For example, the newspaper „Man and his Rights" from Tiraspol became during 2004-2005 the target of permanent criminal attacks. The headquarters of the newspaper was frequently visited and devastated during nights.

338 For example, the case Zingan Vitalie from Taslic village, Grigoriopol district which was reported in details by „Ziarul de Garda" newspaper. Note: the law enforcement agencies from the Republic of Moldova transmitted the case to the "law enforcement agencies" from Transnistria.

339 „Human Rights in the Transnistrian region of the Republic of Moldova", p.30, Chisinau-2000, published by the Interdepartmental Commission for the coordination of state policy in the localities from the left bank of Nistru.

340 For example, the case Lutenco from Dubasari (p.2 Novaia Gazeta newspaper from 7.12.2005)

341 „Man and his Rights" newspaper

342 Flux newspaper no.31 from 2 September 2005

343 Extract from the Final Report of the OSCE representative for freedom of the press, Miklos Haraszti, developed according to the information provided by superior counsellor, Alexandr Ivanko, being on a documentation visit to Moldova. The report was developed with the financial support of OSCE Mission to Moldova.

The technical equipment was destroyed and the computer hard disk as well as other accessories were stolen. Later on, the office of the newspaper as well as the private houses of the journalists have been bombarded with stones, the doors have been burned, aggressive texts have been written on the walls and doors, etc. many human rights organisations from Moldova, Belarus, Russia and Ukraine made an appeal to the international community and condemned the actions of the separatist regime against human rights organisation from Tiraspol.

The repressive measures became more harsh after the journalists made public their pro-Yushchenko position during the electoral campaign in Ukraine. For any specific activity the journalists from Transnistria have to receive accreditation from the state structures and state the reason of visit and the character of material which is going to be published or aired.

After receiving such an accreditation the journalist is monitored by the local security. It should be also mentioned that in most of cases, the Moldovan journalists are refused accreditations. An exception of this rule is when some international events are organised, and they are given accreditations in order to „show” the democratic and transparent character of the regime.

The lack of the accreditation may have unexpected consequences for a foreign journalist, especially for a journalist from Chisinau, which are also considered foreigners by the regime. Thus, on 7 October 2005, the journalist of the municipal TV Channel „EuroTV” L.Grosu was retained and interrogated for more than two hours by the local militia because she tried to take an interview in the Corjova village.

While the international structures and journalists associations plead for the elimination of legal provisions limiting the activities of the media³⁴⁴, the Transnistrian legislation prohibits the creation of media institutions by foreign citizens, including citizens of the Republic of Moldova.³⁴⁵

Meantime, for registering a media outlet, the authorities ask for detailed information concerning the periodicity, volume, circulation, contents, sources of financing and even categories of people the outlet will address. The Law on the press of Transnistria also prohibits the debates in the press regarding the change of the state regime.

Thus, Promo-Lex was informed of a case when people have been arrested because they started a sociological poll in the region. After being interrogated for a period of time, they have been expelled from the „Transnistrian territory”.

Even the ordinary people or foreigners are not in full security is having with them a photo or video camera. For example, in the centre of Tiraspol no one is allowed to take pictures. There were cases when Moldovan people or foreigners didn't know about this restriction and took some pictures and being noticed by the police have been brought to the security and harshly interrogated.

Their materials were also taken off.³⁴⁶ During the last years, the Moldovan journalists started some collaboration projects with their colleagues from Transnistria and during discussions it was noticed that many of them were afraid of talking freely about the problems of the society or the problems they face in their career.

3.2.4. Right to education

The right to education in the localities under the separatist control is violated from all points of view and these violations favoured in a way the awareness of the people and international community on the illegal and criminal character of the separatist system and made the Moldovan authorities to internationalise the solving of the conflict.³⁴⁷ It was mainly the events from the summer 2004³⁴⁸ that demonstrated to the international public opinion that the negotiations cannot be continued in the old format which was fully leaded and influenced by Russia.

The problem of the education in the region is in suspense until the separatist regime is removed. Although a „temporary solution” for the Romanian school have been reached³⁴⁹, their problem was not completely

344 Centre for Promoting Freedom of Expression and Access to Information: „Mass-media and Legislation”, Universul, Chisinau, 2003, p.14

345 Art.7 p.3 from the Law on press from 16.03.1993

346 It should be mentioned that during the last time, the representatives of the illegal regime from Tiraspol try to avoid such behaviour towards the foreign citizens in order to mislead the international public opinion. Wishing to prove the democratic character of the regime and hoping to gain understanding and support from the international community as regards the recognition of the Transnistrian state, the separatist leaders invite foreign officials and give interviews to the foreign journalists (except those from Moldova), arguing their standpoint and avoiding any incidents that would prejudice the image of the regime.

347 A study on the situation from the educational system in the Transnistrian region after its separation from the rest of Moldova entitled „Right to education in Transnistria and the International Community attitude towards this” was carried in 1991 by Oldrich Andrysek (representing in the period 1998-2003 the UNHCR in Moldova) and Mihai Grecu (former Moldovan diplomat). The study was published in the „Helsinki Monitor” newspaper at the end of 2003. www.republicamoldova.org

348 Only 7 schools from the region managed to defend their right of studying in Romanian language according to the curriculum of the Moldovan Ministry of Education. For this reason they had been constantly persecuted, threatened and humiliated. In summer 2004 the schools had been occupied by the separatist militia, the building had been devastated and the literature as well as other documents from the schools had been taken off. The children from the orphanage from Tighina had been left without water and food the international organisations being impeded to provide them water and aliments. See: <http://www.osce.org/item/8553.html>, <http://www.osce.org/moldova/13428.html>, <http://www.osce.org/item/8490.html>, <http://www.osce.org/item/8471.html>

349 The Transnistrian authorities do not recognise the Latin script. Explanation: The ECHR Decision on Ilascu case: „...the soviet authorities imposed the writing of the Romanian language based on the Cyrillic script, which after that became the Moldovan language and occupied the second place after the Russian language (Note: Extract from a document published on the OSCE website on 10 June 1994 and elaborated by the OSCE centre for conflict prevention. The document was titled „Transnistrian conflict: origins and principal problems”).

solved³⁵⁰ because 2 of the 7 schools still remained evacuated³⁵¹ and the building of the „Evrca” Lyceum from Ribnita built from the Moldovan government budget cannot be used yet, because it is occupied by the Transnistrian forces.

The temporary registration of the Romanian schools imply commercial conditions for the rent of the buildings and payment for various services provided by the “state”.³⁵² It should be also mentioned that this decision can be cancelled at any moment and with no reason.

As regards the situation of the schools it is necessary to mention the following information: some doctors declared to the parents and teachers of the schools that during summer and autumn 2004 enormous quantities of medical material needed for the first aid help have been prepared by the separatists.

This fact shows that a possible provocation scenario was prepared by the separatists, but it was not put into practice because of the international resonance and harsh critics brought to the separatist regime.

The teachers and pupils of the given schools are isolated because the collaboration and contact with the didactic staff from other institutions is very much discouraged. During the last time, the Transnistrian authorities ban their participation in various meetings and events organized in one of these schools. Meantime, for the second year already the graduates from the pedagogical school from the region cannot serve their “practical period” at these non-state institutions.³⁵³

The attempts to increase the number of schools teaching in Romanian are repressed severely. While the unofficial polls show that many people would love their children learn in Romanian, the appeal to carry out a transparent poll was neglected. One of the attempts of teaching in Romanian in a Transnistrian school known to the public opinion was that of the teachers from Grigoriopol, the didactic staff as well as the parents had been slandered by the local media and they were labelled as “state enemies”.

One by one, they were asked to revise their options being threatened with dismissal and lose of house. The children and teachers had been intimidated when giving explanations on the use of Romanian language based on Latin script and the local administration organised series of routine controls to see what language is used in teaching.

The activity of the parents and teachers association was prohibited and its president was arrested. In the beginning of 2003, „the education ministerial college of MTR” decided to “oblige the leaders of Romanian schools to introduce the Transnistrian curriculum till 1 March or clarify their statute till 1 April 2004”.³⁵⁴

Other two educational institutions are still evacuated from the region. The Tiraspol State University is still evacuated in Chisinau and the Medical College from Tighina is now in Ungheni.

The separatist authorities exert constant pressures over the teachers and their families. Thus, the children of a teacher from the “Lucian Blaga” Lyceum from Tiraspol have been ill-treated by local militia. On 18.11.2005, Alexandru and Maxim Schibinski, aged 12, and respectively 15 years old have been stopped on the way to school by two civilians who summoned them to follow them to the militia office. The children had been placed in the cellar of the militia office and physically aggressed. Later on the militia justified their actions invoking the organisation of a campaign of cleaning the city of tramps.³⁵⁵

The director of the „Lucian Blaga” Lyceum, Ion Iovcev has been threatened by phone by unknown persons with revenge against himself and his family.³⁵⁶ The director of the institution submitted a complaint to the prosecution office and the case is now under investigation. The Promo-Lex lawyers assist Mr. Iovcev in this case.

The educational blocks of the „Evrca” Lyceum from Ribnita are still under the control of „local authorities”,³⁵⁷ while the school administration rents the halls from a local kindergarten. All the goods belonging to the lyceum had been confiscated when the institution was occupied by the militia and had not been given back.³⁵⁸

On 1 September the pupils of this school celebrated the first day of the educational year on the bank of Nistru because they could not go to their classes. The pupils from the „Lucian Blaga” Lyceum celebrated the date just in the street, being supervised by tens of militiamen and for some months they had to go the schools from other villages (Copanca, Causeni district; Varnita, Anenii Noi district and Tighina).

350 Those 7 educational institutions have been registered by the Transnistrian authorities as non-state institutions, that is institutions of a foreign state. The registering allow them to gain the statute of legal person and gave the right to develop activities on the Transnistrian territory.

351 The „Mihai Eminescu” Lyceum from Dubasari is evacuated in Corjova, the „Stefan cel Mare” Lyceum from Grigoriopol was evacuated since 2002 in Dorotcaia. Thus, the pupils and teachers are transported every day to other places in order to have classes and they have to pass the state posts where they are checked and sward at by armed people who are often drunk.

352 Except these schools, the education is assured from the public money. But the parents of these children do also pay taxes in the local budget, they being discriminated as regards the access to free education.

353 Maria Roibu, Novaia Gazeta, 3 August 2005, „Moldovan schools: quiet summer?”.

354 Study developed by Oldrich Andrysek and Mihai Grecu “Right to education in Transnistria and the International Community attitude towards this”

355 www.azi.md, 21.11.2005

356 www.azi.md, 21.11.2005

357 Moldovan Government allotted more than 1 million lei (cca.100.000USD) for the construction of the school's buildings.

358 www.azi.md 23.09.2005: Ambassador William Hill, Chief of the OSCE Mission to Moldova, called the Transnistrian authorities to give back the confiscated building to the Romanian Lyceum from Ribnita. “The local authorities from Ribnita had de facto stolen that building. They have to give it back with no delay and without any conditions”.

Over 5000 pupils studying in these schools are treated discriminatorily by the local administration and even by representatives of the local community. Thus, these pupils do not have access to the sports halls of the city. Because they are regarded as traitors of the Transnistrian statehood. Meantime, some parents and teachers who are permanently persecuted,³⁵⁹ consider that „there is no consistency in the negotiator's activities",³⁶⁰ who in the course of 14 years did not manage to guarantee their rights. Due to these problems, intimidations and persecutions, the number of pupils willing to study in these schools is decreasing.³⁶¹

The education related issues also cover the situation of the pupils of Moldovan/Romanian origin who are obliged to study in the Moldovan language based on Cyrillic script³⁶², according to the Transnistrian curriculum. Because this invented language does not exist³⁶³ and the Russian language is predominant in the region, the literature and other didactic materials in Moldovan with Cyrillic script is completely lacking. Thus, the pupils study according to the manuals printed during the Soviet time. Some parents are obliged to transfer their children to Russian schools³⁶⁴ or pay extra money for additional classes taught according to the Moldovan curriculum and manuals printed in Chisinau.³⁶⁵

Another problem related to the right to education is that of higher education. The higher educational institutions do not offer equal chances to all the graduates. Most of the institutions teach in Russian language and according to the Russian curriculum. The graduates from the Moldovan, Romanian or other universities are not accepted for a job, until they pass the „equalizing" procedure, which is nothing else than a sort of „filtering". Meantime, according to the „official" data, over 73% of the graduates study at universities, so that there is a deficiency in labour force, that is why the authorities intend to adopt a state strategy of reducing the number of students by involving them in the labour market.³⁶⁶

According to the local press, the situation in the educational system is deplorable, most of the didactic staff, especially in rural areas, is aged between 50-55. The methodological basis of teaching is also very poor and does not correspond to the today requirements. At the same time, much accent is put on the patriotic education and the history of the Transnistrian Republic which is based on aggressive propaganda against Moldovan people and state. The education from the Transnistrian schools is identical to that from the soviet time.

3.2.5. Right to property

The right to property can present one of the most solution for the solving of the Transnistrian „equation". In the course of 14 years, the state property was to a great extent privatised, and the businessmen, including a great part of the current political power managed to accumulate by legal or illegal means some capital. It is obvious that being afraid to lose their property gained on illegal grounds they are now against any reforms and changes in the field. Another issue is the great interest of Russian companies in the region.³⁶⁷ Here we can mention some Russian deputies (like Viktor Alksnis and Serghei Babuin), who openly support the separatism in Moldova in order to gain economic profit from the privatisation process in Transnistria. The value of the property being privatised in Transnistria is considerably diminished.³⁶⁸

The privatisation process was accelerated after the refusal of Moldovan authorities to sign the „Kozak Memorandum", proposed by the Russian Federation and after the change in Moldova external policy. In fact, it is quite probable that the very direct and flagrant human rights violations taking place in the region and the breach of the international and Moldova law was done on purpose in order to subtract the public opinion attention from the illegal privatisation process implemented by the Transnistrian authorities.

359 For example, the teachers from the „Evrica" Lyceum from Ribnita, have been criminally charged of „doing illegal operations in foreign currency", because they accepted their salaries in Moldovan lei, and of „shirking from paying taxes" (that is taxes on the salaries paid from Moldovan budget).

360 www.azi.md, 10.10.2005, Statements made by the director of the Theoretical lyceum from Ribnita, Mrs. Eugenia Halus.

361 For example, the number of pupils from the Lyceum „Evrica" decreased from 860 in 2002 to 470 in 2005. Some parents recognized that they were forced to transfer their children to other schools immediately after the 2004 events, being threatened with dismissal from work.

362 „...it should be mentioned that even the official „Moldovan" schools from Transnistria, teaching in Moldovan based on Cyrillic script face many difficulties. The schools are badly equipped with didactic material and technical equipment, because the authorities are not much interested in their fate. The pupils learn from the soviet manuals, while their colleagues from the Russian and Ukrainian schools learn from new manuals donated by Russia or Ukraine. As a consequence, a great number of parent decide to send their children to Russian schools. According to a report of the Ministry of Education of Transnistria, in 1999, the children of Moldovan origin represented over 32,6% from the total number of children, while only 13% of them attended Moldovan schools. In vocational or higher institutions only 6% of the students were Moldovans. / Oldrich Andrysek, Mihai Grecu: „Right to education in Transnistria and the International Community attitude towards this", 2003/

363 „...it should be mentioned that even the official „Moldovan" schools from Transnistria, teaching in Moldovan language based on Cyrillic script face difficult conditions. The schools are poorly equipped with logistical materials, the books and manuals are old and from the Soviet time, while their Russian and Ukrainian colleagues are supplied with new and modern manuals (some of them donated by Russian Federation or Ukraine). As a result, many parents send their children to Russian schools. According to the report of the Ministry of Education of Transnistria, in 1999, although the pupils of Moldovan origin constituted 32,6% of the total number of pupils in Transnistria, only 13% attended Moldovan schools. In vocational and high institutions only 6% were „Moldovans". / Oldrich Andrysek, Mihai Grecu: „Right to Education in Transnistria and the Attitude of the International Community", 2003/

364 More and more children are transferred by their parents in Russian schools, because these have normal offices and adequate studying conditions.

365 Many children do their homework in two notebooks, one in Moldovan with Cyrillic alphabet and another in Moldovan with Latin alphabet. These children are supported in secrecy by their teachers and are prepared for getting admitted in Moldovan or Romanian universities.

366 Valentina Ghelto, „vice-minister of education". Novaia Gazeta 31 August 2005 p.7 „On the eve"

367 „Moldova on the way of democracy and stability. From the post-soviet space in the world of democratic values", Cartier 2005, Chapter VI „Transnistria: military, political and other kinds of risks and provocations", § 6.3 Process of illegal privatisation, p.137

368 For example, the Electrical Central was sold to a Russian-Belgian company for 29 mln USD, while its real price was estimated by the experts at about 200 mln. USD, with a capacity of bringing 2 milliard USD annual profit.

On 1 January 2005, the Moldovan Law from October 2004 on privatisation of enterprises from the eastern part of Moldova entered into force. The given law cancels the privatisations done before its entering into force. At the same time, Moldovan authorities declared that they will guaranty the right to private property, fact that creates confusions as regards the functionality of the given law.

It should be also mentioned the right to property of the ordinary people from the separatist region was neglected during the privatisation process. Thus, they participate neither in the privatisation with patrimonial bills developed during 1994-1995 nor in the privatisation of Transnistrian factories and enterprises. The rights of the Moldovan citizens had been also neglecting when these factories and enterprises were privatised only in the favour of Transnistrian authorities, because after the declaration of Independence they have been declared as belonging to the Moldovan people.

The collapse of the soviet empire and the devaluation of the soviet rubla brought to poverty millions of citizens from the newly independent states, which financial resources had been guaranteed by the USSR and deposited in the "USSR Savings Bank". Recently, Transnistrian „authorities" initiated an indexation procedure for the deposited money similar with that used in Moldova in 2002.

Another issue related to the right to property is the situation of the victims of the political repressions originating from the Transnistrian region. Although there is a legal framework on this in the Republic of Moldova, the lawyers from Promo-Lex have been notified of frequent refusals from behalf of Transnistrian local authorities to release any documentation from the archives related to the confiscated or nationalised property. The authorities refuse even to register such solicitations from the Moldovan citizens.

The paramilitary forces, illegally dislocated in the „security zone" often violate the right to property of the local people over their agricultural materials or technical equipment. The persons who dared to process the land were fined and arrested and the technical equipment and utensils were sequestered. Only after paying a huge some of money they have been returned to the owners.³⁶⁹

3.2.6. Electoral rights

The organisation and run of democratic and fair elections means the ensuring of some basic criteria of equality among all electoral competitors. The democratic character of elections is also reflected in the people access to the objective and multilateral sources of information regarding elections, the quality of the information provided in the media and the competitors access to those media as well as in the transparency of the electoral process. Obviously, all these criteria can be respected only in a democratic society or in the case a government is aspiring and trying to keep to the democratic values and principles.

For more than 14 years, the people from the Transnistrian region are deprived of their political and civil rights and freedoms, the electoral right being the most obvious in this respect. In fact, the people are obliged to take part in simulations of elections and electoral campaigns.

In this respect, Promo-Lex was informed on the fact that in the village Corjova³⁷⁰, the local militia is visiting every family threatening them with persecutions and sanctions in the case they participate in national elections. But when the local elections are held, the villagers are also visited by the militiamen but, at this time, with the aim of forcing them take part in elections. During the local elections from December 2005 the citizens were invited after elections to take part in a lottery organised by representatives of electoral competitors, they being offered in this respect various electoral materials which were numbered or otherwise marked. So, after elections, it was quite easy to check who took part in elections. Before the election day, the militia itself called people to go to vote through an amplifactory installed on a vehicle. During the national elections (Moldovan elections) the paramilitary forces start verifying any "suspect" person and use various methods for impeding people to vote. For example during the census carried out in 2004, a person from Corjova was retained and his acts and documents have been confiscated in order to find out information about the questioned persons. Moldovan authorities did not react or do anything in order to protect its citizens and obtain those documents with valuable information about people. During national elections, the separatist forces declare "exceptional state" in the region, organising ample demonstrative military applications with the use of most modern military technology, concentrates their troops, munitions and armoured cars in the security zone. All these activities are meant to discourage the Moldovan citizens to take part in elections. Having an impressively aggressive administrative apparatus, only people obedient to Smirnov can obtain a function in the local administration.³⁷¹ The few attempts of the independent people to run for elections turned to nothing, because the elections are falsified³⁷² by the representatives of the separatist regime.³⁷³ Meantime, the local security and law enforcement agencies took an aggressive

369 In September 2005, after such a case, a farmer was retained, arrested and fined with. \$1000 (the medium income of a local farmer is about \$50 per month).

370 Village Corjova, Dubasari district is situated on the left bank of Nistru. In 1992, the villagers fought against the separatist regime, but after signing the Moldovan – Russian agreement in 1992, the Russian peacekeepers allowed the paramilitary forces to occupy the village. Thus, for 13 years, the locality is de jure under Moldovan jurisdiction, but de facto under Tiraspol control.

371 According to some studies, over 1/3 of men are involved in military or paramilitary structures. 372 According to the Freedom House report: During presidential elections from 2001 Smirnov got 103% of the votes in Ribnita district.

373 In December 2005 a change of forces within the local legislative body was mimed. But the new "opposition" from the parliament did never pronounced themselves against Smirnov or his actions.

behaviour against the competitors from the opposition or those who plead with integration in the Republic of Moldova.

During the elections from March 2005, in Ribnita lots of leaflets containing threatening information against a local competitor had been distributed to the population.³⁷⁴ Also the Promo-Lex Association was informed about concrete cases of falsification made by the electoral bodies of courts in order not to allow people from the opposition to take a public function.³⁷⁵ The case of the electoral candidate Catan Alexei from Ribnita is very pertinent in this respect. The electoral bodies as well as the local court did not take into consideration the electoral frauds committed during the elections and proved by Alexei Catan. That's why, with a difference of 1 vote his contra-candidate won the elections. Alexei Catan is the chairman of the Parents association of the Romanian Lyceum „Evrca” from Ribnita.

The organisation of free and fair elections would not favour Smirnov, because they will show the real aspiration of the population and will discredit the idea of Transnistrian statehood. But without the organisation of a free and fair suffrage the fate of the region cannot be decided upon.³⁷⁶ For their ideas and courage to criticise the actions of the separatist authorities, some leaders of the opposition (previously officials of the separatist regime) have been harassed, defamed and threatened. In 2004 – 2005 the separatist authorities have organised a referendum on the revocation of the deputy Radcenco but it failed because of weak participation in elections.

3.2.7. Freedom of assembly

The lack of democratic protest manifestations, a well informed public opinion and an active civil society in the region is a confirmation of the fact that it is governed by a totalitarian and dictatorial regime based on the undermining the Moldovan legislation and international human rights documents.

In the case when attempts of such manifestations are made, the Transnistrian roads are blocked by the local militia and political police (MGB) who impede any kind of manifestations.³⁷⁷ Previously in autumn 2004 the paramilitary forces removed any resistance opposed by those 3000 workers of the Tighina Railways, who protested against mass dismissal on the ground of transferring the Railways under the separatist control.³⁷⁸

“A component part of the policy promoted by Tiraspol is the creation of youth organisations in order to promote rudimentary and radical opinions among the population. This constitutes a real danger for the whole society, as the youth is inclined towards nationalistic and radical views supported by radical activities. Such ultrachauvinistic youth organisations like „Transnistrian Union of the Patriotic Youth”, „The Brave”, „League of the Slav Youth”, „Breakthrough” have been created and successfully activates in the region. Under the MGB control, these organisations organise regularly military type reunions near the village Ternovca. Most of their actions aim at intimidating people from the oppositions and in March 2004 they have organised a pogrom at the Jewish cemetery from Tiraspol. The pogrom was very long and organised during the period 13 March – 30 March. Over 20 funerary monuments have been destroyed and other 50 have been profaned. Although the militia and local public authorities have been notified about the action, no measures to stop the vandalism had been taken”.³⁷⁹

The civil society from the region comprises over 600 non-governmental organisations which are, to a great extent, created or controlled by the political police (MGB, local successor of KGB). This structure approaches each organisation or individual separately using various methods for this purpose. Some of the leaders of the organisations became famous due to their xenophobic³⁸⁰, aggressive and radical actions.³⁸¹ These NGO's are controlled by one of the leaders of the local MGB, Dmitry Soin, being declared for international search for murder. Meantime, some movements and NGO's are supported and encouraged by various political forces and officials from the Russian Federation. For example, in June 2005, Modest Kolerov, head of Direction for Interregional and Cultural Relationships with Foreign Countries of the Russian Presidency, declared during his meeting in Tiraspol with the members of “Breakthrough” organisation that the youth graduating from Transnistria universities are much solicited in Russia. “France needed a Napoleon in order to be raised up. If Transnistria, with its social active spirit, with its youth, who got used of being in the centre of events, starts providing Russia with “Corsicans”, it will influence for sure the social and political life in Russia”.³⁸²

374 The materials did not contain any information about the authors or distributors.

375 Dmitry Rupel, OSCE: “The current situation in Transnistria, as the freedom of expression of freedom of the press or the political pluralism is concerned, don't create a favourable atmosphere for free democratic elections in the region”.

376 This would be possible if implementing the „3D Plan” (Demilitarisation, Decriminalisation and Democratisation) proposed by the civil society from Moldova.

377 For example, on 7 October 2005 the place meant for the construction of the church was surrounded by some militia cars and tens of militiamen and civilians. The constructors and local law enforcement agents (representatives of Prosecution office and police from Dubasari) have been intimidated and threatened and one representative of the Promo-Lex association and one journalist from Chisinau have been arrested.

378 <http://www.azi.md/news?ID=30680> from 3 September 2004

379 Flux newspaper, no.31 from 2 September 2005 www.flux.md

380 During 1994-1995 the representatives of these organisations took part in the devastation and besiege of the Romanian schools from the region. Further these organisations have been reorganised and renamed for several times.

381 For example, the „Breakthrough” organisations organised in 2005 various protest manifestations in front of the OSCE Mission in Tiraspol, breaking and removing the OSCE flag from its headquarter etc.

382 the Austrian publication Die press, cited by www.azi.md 21.06.2005 in the article „ Kremlin's emissary to Tiraspol encourage the Transnistria youth to conflict with Chisinau authorities”

In this regard, it should be mentioned that the Transnistrian youth are involved in various propagandistic activities aimed at avoiding and marginalising the “democratic education” of the young people. In September 2005 the Superior School of Political Sciences “Ernest Che Guevara” was created. After 3 months of courses, the students become specialists in PR and political sciences. The aim of the school the courses taught there is according to the head of the school the prevention of orange revolutions and consolidation of the Transnistrian statehood.

At the same time, there were cases of persecution, intimidation and even attempts to the life of the representatives from the opposition (one local and one regional deputies working for a local human rights NGO).³⁸³ They have been the target of many direct and indirect attacks. Firstly, leaflets containing defamatory information about them have been spread over near their houses warning people not to let their children or old persons alone in the streets because these two are maniacs, psychics and present real danger for children and old people. In Tiraspol some young people have carried throughout the town a coffin with the portrait of one of the deputies – A. Radcenco, and the door of his house was burned three times. Nicolae Buceatchi was sprinkled with red paint by a young persons just in the street..

V. Bodnar, one of the representatives of Tiraspol in the Unified Control Commission and the leader of the Ukrainian community in Transnistria was immediately dismissed after wearing orange colours in the support of democratic forces from Ukraine.³⁸⁴

Because of constant persecutions of the authorities, many representatives of the civil society have also left the region. This is the case of the leader of „Pro-Europa” Association who declared that his organisation is forced to work illegally in Transnistria after it took in 2003 a position against the Kozac Memorandum. The members of the organisation have been also opened criminal files on the charge of “undermining the constitutional regime” of Transnistria.

The Promo-Lex association ascertains that after its involvement in human rights protection in the region, it also became the target of various intimidations, persecution³⁸⁵, interception of phone calls, breaking the office door as well as the subject for many defamatory and misinforming reportages in the Transnistrian media (TV and Radio channels).

The presence and activity of some organisations or political parties sharing and promoting democratic values or the idea of an integral state cannot be tolerated in Transnistria.³⁸⁶ the “Constitution” and the “legislation” qualify such organisations as “attempts to the statehood of the Transnistrian state”. At the same time we ascertain the lack of reaction and attitude towards this from behalf of Moldovan authorities. The local population is disappointed by the inactivity of Moldovan authorities and civil society.

Both the constitutional authorities of Moldova and the donors share a reserved attitude towards the consolidation of the Transnistrian civil society. The researchers Tony Voux and Jan Barrett, after making a study in 2003 concluded that: “the donors need the non-governmental organisation in order to have their programmes implemented, but pay little attention to the development of such organisations...”. “...It is important to admit that especially in Transnistria the main task is to develop the civil society and not to implement some projects. This implies the necessity of long term relationships and more liberty for the non-governmental organizations. There are possibilities to work with the civil society from Transnistria especially in the view of their organisational development...”.³⁸⁷ But in December 2005, the leader of the Transnistrian region, Igor Smirnov, prohibited the activity of non-governmental organisations financed by international institutions or organisations. It should be mentioned that, contrary to the authorities expectations, this fact made possible the registration of many organisations at the Moldovan Ministry of Justice and continue to work with Transnistrian population but on the other bank of the Nistru.

The students from Transnistria doing their studies at Moldovan universities have also founded a public association in Chisinau aiming at promoting and defending the rights of Transnistrian students.

The local trade unions are also controlled by the local authorities and their activity and positions is very weak and insignificant.

3.2.8. The right to work and social protection

First of all, we will start with the case of schools who work according to Moldovan curricular on in Romanian language, based on Latin script:³⁸⁸ in line with the violation of the parents and pupils right to education, the aforementioned actions violate also the right to work of hundreds of teachers working in these schools. Meantime, pressures over parents are made at their working places, they being threaten with dismissal or lowering in grades or positions. This is a well known practice of the soviet regime to work with the “difficult

383 «The Man and His Rights » newspaper.

384 The pro-Russian forces leaded by Victor Yanukovich took 90% of the votes in the Transnistrian region

385 On 12 July 2005 Promo-Lex has organised a round table on the topic “The freedom and security of the people in the Dubasari region”, soliciting the transfer of the peacekeeping forces from Vadul-lui-Voda to the road track Ribnita-Dubasari-Tiraspol. On 19 July 2005 the organisers have been retained by the Russian peacekeepers.

386 The activities of the “Integrity” organisations have been impeded and during 2003-2006 there were cases when the representatives of the civil society from Chisinau have been retained, interrogated and “expelled” from the Transnistrian region.

387 Tony Vaux and Jan Barrett, “Interests in conflict. Moldova and the Transnistrian impact”, Humanitarian Initiatives, 2003

388 Ssee the chapter Right to education

elements of the society". The spouses of the teachers are also harassed and intimidated at their working places in order to determine the teachers to give their cause.

The right to work is seriously injured for the people from the security zone. For example, the people from villages Corjova and Varnita are forced to accept the „Transnistrian citizenship" in order to keep working at the enterprises from Dubasari. Otherwise, they are retained 30% of their salaries because working as foreigners.

If taking into account that the region is highly militarised (over 1/3 of the men are employed in various military and paramilitary structures), the regime needs enormous sums for their maintenance. Under these conditions, are numerous cases when the sick persons are deprived of their invalidity degree in order not to receive any invalidity pension.

Meantime, Promo-Lex was informed by a citizen about frequent cases of sudden death of old people in rural areas. The given citizens declared that he ascertained that during a short period of time, many pensioners or people who were to receive pensions the next year died suddenly and under suspect circumstances. The given situation relates to a rural locality mainly populated by Moldovans and Ukrainians and which has no adequate medical care centre or access to the media. The complexity of the phenomenon is not known by the public opinion and by the Moldovan authorities.

In the course of the last 15 years, the enterprises from the region have considerably degrading. According to the experts, 70-80% of the technical machines and utensils are old and cannot be used any more. In spite these facts, the enterprises continued to work, putting at risk the life and security of the employees. During the first three months of 2005, 6 persons died at their working places.³⁸⁹

Since the adoption of the RM Law on the basic provisions on the special legal status of the localities from the left bank of Nistru no.173 from 22.07.2005, the constitutional authorities adopted for the first time a set of legislative acts guarantying the rights of people living in Transnistria. The guarantees relate to the maintenance of the current system of social protection (salaries, pensions, scholarships, social facilities, medical assistance, etc.) and provide for the access to social services for all categories of population living in the region. The protection level in Transnistria should not be lower that in the rest of the country.

Meantime, the Moldovan Government maintains the working places for the workers of the law enforcement structures from the Transnistrian region ("militia", "customs", "frontier guard service"), for the workers from prosecution offices, courts, notary, bar association as well as their access to working places on the whole territory of Moldova (excepting leaders and officials from the state security ministry"). Moldova also guarantee the recognition of the working period for the positions listed above.

According to the opposition press from the region, about 60% of the population capable of work from the region is unemployed. This situation is worse in rural areas. The soviet type collective farms proved to be inefficient and face serious difficulties.³⁹⁰

3.2.9. Freedom of thought, conscious and religion

The right to freedom of thought, conscious and religion are largely exercised in the heart and mind of the individual. Only when the individual express his thoughts and beliefs, the states finds out about their existence and character, and the freedom of expression is not only a foundation for democracy, but also a preliminary premise for the exertion of other several human rights and freedoms.³⁹¹

Under the conditions of total dictatorship set up in Transnistria, the population cannot attach freely its beliefs and thoughts, has no freedom of expression or access to information. Moreover, as regards the freedom of religion, the Transnistrian authorities do not tolerate any cults or confessions other than the Russian orthodox cult. For example, the vicar Bot-nari profaned an Evangelist grave in the village Roghi.³⁹²

The local authorities from Dubasari prohibit the construction of a church in Corjova³⁹³, on the ground that the documents released by Moldovan authorities are not valid. The Russian Orthodox Patriarchate³⁹⁴ avoids getting involved in defending the rights of its flock in order not to create discomfort to the separatist leaders whom it has previously decorated with high distinctions of the Russian Orthodox Church.

The situation is the same in the village Roghi, where the church built by the local flock was occupied by the Tiraspol representatives and the chairman of the Parish, Iurie Vidru was banished from the village³⁹⁵ and declared "enemy of the Transnistrian people".³⁹⁶

389 These are only the registered cases, but usually not all cases are registered for not offering a negative image and avoiding paying compensations etc.

390 "Agriculture beyond Nistru: A broken boat going to bottom", published in "Timpul" newspaper no.221 from 6 May 2005, www.timpul.md

391 Guide (Vade-mecum) of the European Convention for Human Rights.

392 Flux newspaper, no.48 from 22.12.2005, www.flux.md

393 The church from the village was destroyed by the soviet authorities

394 The parish from Corjova as well as form other villages in Transnistria is subordinated to the Russian orthodox Patriarchate

395 The villages Roghi and Corjova are under double jurisdiction of the Moldovan and Transnistrian authorities, but the Moldovan authorities have no access to the villages.

396 Flux newspaper, no. 48 from 22 December 2004 www.flux.md

In their study entitled "Interests in conflict. Moldova and the impact of Transnistria" and edited with the support of DFID in 2003, Tony Vaux and Jan Barrett ascertained an extremely close relationship between the Transnistrian authorities and the Orthodox Church "...in exchange for fuel, sugar, etc the church supports the state. The church is like a big market, told an observer ...".

3.2.10. The right to health

The quality of the medical assistance in Moldova does not conform to any European minimum standards in the field, but due to the implemented reforms and support of the international community in the medical sphere, the situation has considerably improved as compared to the situation in the Transnistrian region.

The number of people appealing for medical assistance on the right bank of Nistru is increasing.³⁹⁷ The people say they prefer buying the medical insurance card and receiving Moldovan citizenship in order to benefit from adequate medical assistance and humane attitude from behalf of doctors.

In May 2005 a case which proves the real situation in the medical sphere took place. The citizen Natalia Rusu from Napadova, Floresti district (under Moldovan jurisdiction) appealed to the emergency hospital from Camenca³⁹⁸ concerning the health conditions of her 1 years old daughter. The doctors from Camenca declared that they are not able to provide the necessary medical assistance and made an appeal to the doctors from Chisinau and to the Sanitary Aviation of Moldova. Later on, the mother said that the Sanitary aviation did not go to Camenca because the town is under Transnistrian authorities and they are not allowed on the territory and the doctors from Chisinau said that they had no telephone connection with the doctors from the left bank of the river.³⁹⁹ In fact, these two invoked reasons reflect the real situation. Moldovan representatives always invoke the lack of access to the Transnistrian territory in fulfilling its obligation to secure the life and health of its citizens, fact that extremely discourages the population from the region.

The Transnistrian authorities do not recognise the specialisations and probations carried in Moldova and that is why the doctors from the both banks are practically deprived of possibilities to communicate and collaborate with each other and exchange experience. Or, Moldova doctors have quite a good reputation in treating several diseases. For example, Moldova has a rich experience in treating renal diseases, creating its first haemodialysis section in 1980 and the first renal transplant centre. The cardiology, neurology and oncology centres being highly appreciated in the whole region. Even the doctors from Transnistria hospitals suggest their patients to go to Chisinau for treatment. Many women from Transnistria come to Chisinau in order to give birth to their babies, because the situation in the Transnistrian maternities the situation is much worse than in the rest of Moldova.⁴⁰⁰

The Transnistrian conflict had a negative impact on the demographic situation and the system of health protection in the region.⁴⁰¹ For example, in 2003 the birth rate was with 40% lower than on the left bank of the river, and the mortality rate was higher. Also, the infantile mortality rate was extremely high, fact that denotes that the quality of medical services during pregnancy and birth is inadequate. The abortion is used as a basic contraception. The number of HIV infected people and unwilling pregnancies is also higher in Transnistria. All the HIV infected cases registered in the first months of 2005 represent Transnistrian region. The soviet type medical system is still preserved. There are no family planning centres or information centres with medical profile for young people. Still in 2005, with the UNFPA support in Camenca⁴⁰² the first Centre for Reproductive Health was inaugurated which is equipped with modern medical equipment and medicines and the staff working in the centre attended the UNFPA courses.⁴⁰³

The biggest issue in the medical sphere remains the financing. The doctors from the hospital state that the medical institutions are not supplied with the necessary medicines.

3.2.11. The rights of national minorities

The expression of national minorities is avoided in the Transnistrian region, preference being given to the soviet type ideology of approaching the non-Russian ethnicities. The separatist propaganda declare the Transnistria as a multiethnic state, but the degree of discrimination against the non-Russian ethnicities is much higher than during the soviet time.⁴⁰⁴ Thus, there are 3 representative ethnic groups: Moldovans 33-40%, Ukrainians -28%, Russians 25-30%, and respectively all these languages were declared official languages.

397 <http://www.flux.md/news/modb2.php?action=show&idu=13550&cat=Editia%20de%20Vineri&rub=Social>398

Natalia Rusu appealed to the doctors from Camenca, because the localities Napadova and Camenca are neighbours both situated on the bank of Nistru. Camenca is under the Transnistrian control.

399 „Why the Sanitary Aviation has no helicopters?”, „Timpul de dimineata” newspaper, no.228 from 27 May 2005, www.timpul.md

400 Being considered an emergency, the birth cannot be refused on the ground of lack of citizenship or medical insurance card of the patients. www.flux.md

401 Study developed in November 2005 by UNFPA

402 In the north of the Transnistrian region

403 www.flux.md Study and material developed by Natalia Costas, published in FLUX (Chisinau) and Angelica Jelnova, „Novaia gazeta” newspaper (Ribnita), within a project implemented by the Independent Journalism Centre entitled „Consolidation of collaboration relationships among the journalism from all the regions of the Republic of Moldova”, supported by DFID.

404 The anti-Moldovan and even anti-Romanian actions and feeling are much encouraged.

In reality, appropriate conditions are created only for the Russian ethnicity, language and culture. The great majority of schools, TV and Radio channels, the printed and electronic media, the official acts are in Russian. All these acts represent a linguistic discrimination in the region for the language, culture and education of their ethnic groups is not promoted at all.

While the Ukrainians, Bulgarians and Gagauz people would be offered the possibility to promote their language and culture, the Moldovans are being persecuted for more than 14 years for claiming the realisation of their rights, in spite the fact that they represent the majority of the population.⁴⁰⁵ They have no possibility to buy a newspaper or book written in Romanian (based on Latin script), study according to manuals written in this language or use their language in public administration or business. They cannot even attach in public their ethnic affiliation. The situation from the educational sphere reveals with much detail the situation of the majority and minority groups in Transnistria.

In fact, several studies and the results of the last census from 2004 prove that the separatist authorities carried a constant policy of ethnic and linguistic purge of the major population.⁴⁰⁶ Thus, if in 1989 Moldovan represented over 40% of the population,⁴⁰⁷ in 2004 they represent only 31,9%. At the same time, the population of Russian ethnicity increased from 24 up to 30%.⁴⁰⁸

3.2.12. The rights of women and children

Because of poverty, the prostitution took amplitude in the Transnistrian region. Most of minors practicing prostitution are obliged to provide sexual services in the city Odessa from Ukraine.

The actions and behaviour of the military and paramilitary forces from Transnistria affect a lot the children who happen to be present in events involving these structures. For example, the leader of a local NGO, Oxana Alistratova was retained in 2004 together with her minor child who was very much affected and frightened by the abusive actions of the authorities. Later on, the authorities recognised the abusive character of the arrest, but the child needed much time to recover.⁴⁰⁹

The lawyers of the Promo-Lex providing consulting to a person from the Transnistrian region in the view of obtaining the statute of refugee in a European state on the ground that her 11 years old child was kidnapped and raped by influential people in the region enjoying support and protection from behalf of the officials.⁴¹⁰

The fact that arms and ammunitions are produced and commercialised without a strict control and the population holds illegally arms in the region, often causes incidents when children become victims of improper use or keeping of arms.⁴¹¹ After the 1992 events, the population still keep illegally arms in their homes and this represent a real danger for the population and for children in particular.

The invalid children are deprived of any social assistance (the invalidity pension is about 18 USD). The private associations and institutions are the only solution for families with invalid children. But the interdiction on international financing of NGO's made the situation of such families even more difficult.

The women and children do not benefit from minimum medical guarantees or services.

The juvenile delinquency in the Transnistrian region looks like this: there are over 1.100 minors registered at the low enforcement agencies, from which 48 are drug addicts, 103 children abandoning schools, 296 having no occupation. In 2005 there were about 1.000 crimes committed by minors, including 4 murders, 34 banditism acts, 112 plunders, over 400 thefts and other crimes. At present there are over 15.000 persons in Transnistria registered as drug addicts. According to the local militia, these data do not even slightly show the real situation in the country.⁴¹²

3.2.13. The rights of the military

The enrolment in the Transnistrian „army” is compulsory for all the citizens of the region.⁴¹³ If the young men reaching the age of 18 refuse to get enrolled in the army they can be criminally charged. Under such circumstances, in order to avoid penal sanctions, they get registered in the localities from the left bank of the river.

Another issue which shall be touched is related to the health state of the soldiers. Over 1/3 of the total number of the soldiers are declared incapable of work by the medical commissions of the „military commissariats”. On the one hand, this reveals the high level corruption in the system, and on the other hand the

405 Moldovans constitute a clear majority in the rural area and among the native population.

406 Mihai Grecu, Anatol Taranu „Policy of linguistic purge in Transnistria”, Chisinau-2005

407 http://www.worldwindow.md/trans_ru.html#population

408 <http://www.regnum.ru/news/transnistria/509073.html>

409 Novaia Gazeta 9.02.2005 p.1

411 A minor child found an arm in his grandparents house and accidentally killed himself. (Novaia Gazeta 2.02.2005 p.7)

412 Flux newspaper no.05 from 10.02.2006, www.flux.md

413 All the inhabitants are obliged to receive the Transnistrian „citizenship”, otherwise being subjected to administrative sanctions.

general health state of the youth and population in the region and the poor medical assistance offered by the state. Being enrolled in the army, the young men are subjected to ill-treatment and humiliation by the officers or their upper colleagues who have inherited these army traditions from the soviet and Russian army (the "bullying" phenomenon).

The enrolment of youth possessing Moldovan citizenship in the Transnistrian army is possible due to the fact that the constitutional authorities do not keep an evidence of its citizens living in the region.⁴¹⁴ The young people from Transnistria being registered by the Moldovan military commissariats are not enrolled in the separatist paramilitary forces. It should be mentioned that Moldovan authorities did not develop an efficient mechanism of keeping an evidence over the youth from the Transnistrian region in order to offer them the possibility to get enrolled in the national Army of Moldova.⁴¹⁵

Because of constant subnutrition, abusive attitude and other precocious conditions, some soldiers cannot fulfil their military obligations and end in criminal charges or desertion.⁴¹⁶

The alimentation of soldiers is covered by the state just in proportion of 20% of the minimum necessary, and the parents are to bring to their children food from home. As in the rest of Moldova, the soldiers are involved illegally in constructions, agricultural works, etc. serving as cheap labour force.

The bullying phenomenon (constant harassment of young soldiers by their colleagues) inherited from the soviet army and improved by the Russian army,⁴¹⁷ is frequent in the Transnistrian army and sometimes wear a xenophobic and antinationalistic character. The Promo-Lex lawyers assisted a soldier who deserted from the army because of constant ill-treatment and harassment on ethnic and linguistic background. There were cases of torture of Moldovan soldiers⁴¹⁸ who became invalids afterwards. Some of the soldiers become invalids due to the inhuman conditions of life in the army and ill-treatment from behalf of their colleagues.⁴¹⁹

3.2.14. The rights of detainees

The most serious problem related in this chapter is that of the political detainees, condemned illegally by the separatist regime in 1992.

On 8 July 2004 the European Court for Human Rights condemned the Republic of Moldova and the Russian Federation for the illegal detention of 4 Moldovan citizens in the prisons of the Transnistrian "authorities". But for more than two years, the Tiraspol authorities defy the international community and the high instance, refusing to release from prison the two remaining political detainees. All the efforts made since present gave no results. The Russian authorities adopted a completely inadequate behaviour in this case, doing nothing for the release of the two persons.

Due to ill-treatment they had been subjected for more than 14 years of detention their health state worsened a lot. As a revenge, their rights are constantly violated by the prisons administration. They are not allowed to receive visits, packages, to receive necessary medicines and medical care, their correspondence and press is subjected to censorship.

The political detainees Andrei Ivantoc and Tudor Petrov-Popa sent on 10 June 2005 a new application to the European Court for Human Rights. The application was also signed by all the members of their families who asked for the recognition of the violation of art. 5 of the Convention (right to liberty and security), art. 3 (prohibition of torture), and art. 8 (right to private life and family).

The constitutional authorities declare they cannot anything more than solicit the support of the international community in the view of executing the ECHR decision, that is the unconditioned and immediate release of the detainees.

Nevertheless, we consider these efforts insufficient and the international community exaggerates with its diplomatic appeals and avoids the direct involvement in the case by imposing political and diplomatic sanctions to the Russian authorities,⁴²⁰ which do not only tolerate the human rights violations in the region, but also encourages and finances it.⁴²¹ The release of political detainees shall be done immediately and unconditionally, because otherwise a dangerous precedent of non-respecting a ECHR decision can be set up, fact that would obviously compromise the European democratic values and institutions.

414 Report on the state of human rights given the alleged refugee claims of Moldovan nationals abroad, Resource Center for Human Rights, Chisinau, 2004

415 The constitutional authorities refuse the enrolment of young people registered at the separatist "military commissariats".

416 Article „Lawlessness or who to make a soldier and invalid.....", published by Novaia Gazeta newspaper from 28.09.2005 p.9

417 For example the tragic case of the Russian soldier Andrei Sychev, who became in 2006 an invalid. www.humanrightshouse.org/dllvis5.asp?id=4115 - 17k or english. pravda.ru/topic/hazing-94 - 42k

418 Report on the state of human rights given the alleged refugee claims of Moldovan nationals abroad, Resource Center for Human Rights, Chisinau, 2004

419 Article „Lawlessness or who to make a soldier and invalid.....", published by Novaia Gazeta newspaper from 28.09.2005 p.9

420 The relatives of the political detainees and representatives of the civil society have organised several protest manifestations in 2005 in front of the Russian Embassy to Chisinau.

421 Since the introduction of the new customs regime at the Moldova-Ukrainian border on 1 March 2006 (Transnistrian segment), the Russian Federation has sent „humanitarian help" and transferred enormous sums of money for the pay of salaries and other payments, instead of helping Moldovan authorities to redress the situation.

The overall situation of detainees in the republic of Moldova is deplorable. This thing was recently recognised by the Parliamentary Commission which examined the situation of prisons and pre-trial detention centres. The situation from the Transnistrian prisons is not even known to the Moldovan authorities, civil society or international community. But the incidents that took place in 2005 in the prison from Tiraspol can serve as an incontestable argument for proving that the situation in Transnistrian prisons is very grave and the rights of detainees are seriously violated.

In summer 2005 at the prison no.2 from Tiraspol 1000 detainees from the total number of 1100 went on hunger strike as a protest against the inhuman detention conditions. 200 detainees have maimed themselves provoking serious injuries in the area of arms, neck, stomach, etc. the medical assistance after the incident consisted only in bandaging the wounds.⁴²² The situation of the detainees after the incident is not known to the public opinion till now.

But the letters sent to non-governmental organisations and to the press can serve as proofs that the detainees are subjected to inhuman and degrading treatments and punishments.

After analysing the letters received by the organisation as well as other press articles, the Promo-Lex lawyers outlined the most serious problems in the Transnistrian prisons:

- Extremely bad quality of food and lack of adequate products;
- lack or limit in using the electrical light;
- The detainees can take a bath twice a week for 10 minutes (sometimes without warm water). Those 10 minutes allotted for bath are for a number of 15-20 detainees at only 6 showers;
- Periodically, the prison is visited by masked and armed persons who beat the detainees without any reason and without taking into accounts that there are sick persons or invalids among them;
- when some delegations arrive, the situation change completely and the administration tries to show that everything is according to the existent norms;
- the detainees cannot write letters or complaints;
- other inhuman conditions of detention.

3.2.15. Right to free movement

Reminding about the situation of the persons and families evacuated from the Transnistrian region, we can mention that they have the possibility to visit their relatives from the region, but the other category of population who had fought on the side of Moldovan authorities cannot return to their places or even visit their relatives because they are searched till now by the Kazaks or paramilitary forces.

The representatives of central authorities⁴²³ are also limited in their right to free movement within the country they de jure represent and govern. Only once in 2005, the Moldovan President accompanied by the members of Government were admitted on Transnistrian territory. It was during the funerals of the president's mother in the village Corjova, Dubasari district.

The Minister of Reintegration of the Republic of Moldova was not allowed by the frontier guards to go to Tighina in order to participate in the Unified Control Commission.⁴²⁴

A special situation is attested as far as the access of Moldovan law enforcement agencies to the Transnistrian territory is concerned. The situation is even more tensioned for police workers from the security zone, especially villages Corjova, Roghi, and Vasilevca from Dubasari, as well as in mun. Tighina and its neighbourhood. Daily the Moldovan policemen are humiliated at the posts set up at the Dubasari Hydrocentral, where they are forced to take off the police uniform or cross the river in winter on ice.

The access of Moldovan or foreign journalists is very limited in Transnistria.⁴²⁵ In order to make a reportage in the region, the journalists have to receive accreditations from the separatist authorities announcing the aim, place and other details of the reportage. There were cases when the OSCE Mission to Moldova was banned the access to Transnistria. Usually, these events took place when the OSCE Mission tried to get involved in solving some difficult cases⁴²⁶ or during inspecting visits to the military dumps.

422 OSCE Report on Human Dimension

423 The list of officials who are banned the access to the Transnistrian territory are posted on the informative panels at the border, near the persons under criminal search. It includes the Moldovan president, Prime-Minister and other high officials of Moldova.

424 According to the Moldova – Russian Agreement from 21 July 1992, the given locality is controlled by the both parties. Each time the agreement is breached by the separatists, the Russian peacekeepers do not involve in any way invoking their observation mission. But at the same time, they block any actions of Moldovan law enforcement agencies which would affect the interests of the separatist regime.

425 Taking into account the published materials, their frequency and character, the Russian journalists are favoured in the region.

426 During the asiege of schools, the representatives of OSCE, UNESCO, UN, Red Cross have been banned the access to provide humanitarian aid to children and persons from inside the schools.

The perception of the „transit tax”⁴²⁷ is also considered a violation of the right to free movement. The Agreement from 21 July 1992 clearly stipulates the condition of free movement for persons and goods. In fact, the separatist region encouraged and supported by the representatives of the Russian peacekeeping forces, have managed to consolidate the power which was illegally taken 15 years ago. In order to preserve it, they make use of force and permanent human rights violations. The transit tax is taken even from the persons from the security zones, but is not asked from Russian and Ukrainian citizens.

In the beginning of 2005 the Moldovan authorities decided to limit the circulation on the Transnistrian territory for the diplomatic missions accredited in Chisinau. Thus, the diplomats had to receive the permission of the Ministry of foreign Affairs of Moldova in order to pay a visit to Transnistria. The measure was taken due to the “critical situation from the eastern part of Moldova, provoked by the destabilising actions of the separatists and in the light of Vienna Convention on diplomatic relationships from 18 April 1961”. After some incidents with the Russian ambassador who ignored the given requirement and harshly criticised it, the Moldovan authorities cancelled their decision within a month after its adoption.

Another violation of the right to free movement is considered by the Promo-Lex experts the persecution of the people from the security zone on the ground of holding Moldovan identity acts or other documents released by Moldovan authorities. First of all, we can mention the cars registered at Moldovan bodies, which are confiscated when passing the border. After that the “offenders” are taken off their driving licences, documents attesting the property over the car and are obliged to pay huge fines and get registered at the Transnistrian bodies and receive Transnistrian driving licences. The problem is quite serious for the Transnistrian acts are valid only within CIS and not in other countries.

The people living on Transnistrian territory are forced to accept Transnistrian citizenship in order to receive the necessary acts. The Moldovan authorities make themselves guilty of the fact that do nothing in order to help the Transnistrian people with the acts and protect them in case of troubles on this ground with the Transnistrian forces.⁴²⁸ Transnistria is regarded by its own citizens like a reservation and not an entity integrated in the world.

But the most serious violation of the right to free movement was the case of those over 5000 peasants being under Moldovan jurisdiction but having their private land on the Transnistrian territory (villages Dorotcaia, Pohrebea, Cosnita, Pirita, Molovata Noua and Cocieri), whose access to their own land was banned by the paramilitary forces set up on the traffic road Ribnita-Tiraspol. In April 2005, the constitutional authorities have temporarily suspended their participation in the work of the Unified Control Commission on the ground that the Transnistrian part “did not comply with its obligation to insure the right to free movement of persons, technical equipment and goods with the purpose of processing the agricultural land”.⁴²⁹

On 12 July 2005 the Promo-Lex Association organised a round table on the topic „Freedom and security of the People in the Dubasari Region”, which gathered representatives of the Government, local public administration, civil society, Media and people from the regime who became victims of the illegal acts. After the event, Promo-Lex made a press release informing the public opinion about the grave human rights violations that take place in the Dubasari region, soliciting the transfer of the peacekeeping forces from Vadul-lui-Voda to the road track Ribnita-Tiraspol, with the aim of ensuring the rights to free movement to the people from the security zone.⁴³⁰ These recommendations have not been examined and the peacekeeping forces still insure the peace in the Moldovan capital⁴³¹, which is under full Moldovan jurisdiction.

At the illegally settled border posts unjustified taxes are required and often the persons who transit the territory are to pay inexplicable fines. For example, the citizen Maletchi had to pay a fine of 10% from the cost of his car, because he did not declare it during the customs control.⁴³² The aggressive and brutal behaviour of the border’s employees dissatisfy not only Moldovan citizens, but also the foreigners who have to transit the Transnistrian territory.⁴³³

During the last year, one can notice the mass forced imposing to have Transnistrian citizenship. It is helpful reminding that the Transnistrian acts are valid only on Transnistrian territory and Russian Federation. This fact impedes the free movement of the population from Transnistria who prefer to receive the Russian citizenship, because it is granted in a preferential way to Transnistrian people.

427 The illegal regime from Tiraspol adopted a decision on imposing a transit tax for foreign citizens, including Moldovans and except Russian and Ukrainians who don have a residence in Transnistria.

428 P.2 Novaia Gazeta newspaper from 31.08.2005 - article „Not only about passport”

429 www.azi.md 20.04.2005

430 After 7 days, on 19 July 2005 Promo-Lex representatives had been stopped by the Russian peacekeepers and staged an incident during which the Russian soldiers used a „Kalasnikov” against tens of civilians. Only due to the prompt interference of a policeman the incident did not end with victims among civilians. Our lawyers were accompanied by a US citizen.

431 Vadul-lui-Voda is part of Chisinau municipality, Republic of Moldova capital

432 “Novaia Gazeta” publication from 9.11.2005, p.7

433 „Transnistrian customers ...”, Timpul de dimineata newspaper, no.205 from 25 March 2005, www.timpul.md

3.2.16. Right to fair trial

Another fundamental right provided by the European Convention and flagrantly violated by the Transnistrian authorities is the right to fair trial. Art. 6 of the ECHR provides for every person to be judged by an independent and impartial instance, set up according to the law. As regards Transnistria, we can state that the courts being instituted by illegal, criminal and dictatorial bodies cannot judge the population which is *de jure* under Moldovan jurisdiction.

Meantime, in the support of these statements comes the fact that even during the soviet time, there were in the region only local courts, the superior ones being established in Chisinau and Moscow. Thus, after 1992 some judges from the first instance courts became automatically judges in the Supreme Court or in the Constitutional Court of Transnistria. These persons having no adequate qualification and receiving these posts due to their loyalty and obedience to the power, can do nothing else than faithfully serve the interests of the power that invested them in their functions. There were cases related by the press when the judges acted illegally by imposing the complainants to withdraw their complaints and accept the situation but were not punished or sanctioned because of their relationships with the high administration.⁴³⁴

The retained persons do not benefit from their basic rights. They are not even informed about their rights, being interrogated in the absence of a lawyer. Sometimes, the persons interrogated as witnesses are threatened with criminal sanctions if not accepting to collaborate with the judiciary and investigation bodies. Often they were to make false decisions in order to help the bodies to solve the case to their own interests. There were also cases when the depositions made by witnesses were later used for accusing them. Torture is one of the main method in obtaining confessions and the electric shock is frequently used to make the suspect recognise his "guilt". The exact date and time of retention is not always registered by the investigation and police bodies. The retained and arrested persons are not subjected to medical examination neither at the beginning of arrest nor in the end. The people who had been tortured are released from arrest on the days when the medical institutions are closed. But, anyway these institutions are not independent and cannot act according to their mission and the law and do not receive the necessary certificates.⁴³⁵

Frequently the people from the region appeal to the national judiciary instances, but their request is refused on the ground of lacking control over Transnistrian territory. It should be also mentioned that very often the people address to Moldovan institutions too late, when they got aware that they cannot find the truth in the local courts.

We consider that there is a need for the adoption of a special mechanism for the people in Transnistria to make possible for them to choose the court they want to defend their rights. This fact would also make possible the knowledge and evaluation of the real situation, of the real cases of human rights violation as regards the right to a fair trial in the Transnistrian region.

3.3. CONCLUSIONS

After the armed conflict in 1992, the separatist regime was consolidated due to the political, diplomatic, legal and especially economic support of Moscow. Thus, we can state with certitude that during 1992-2004 Moldova has lost full control over the Transnistrian territory and an unrecognised and illegal "state" – like entity was created in Tiraspol by the means of several criminal, abusive and illegal methods. The international community did not always pay enough attention to this region,⁴³⁶ and the Moldovan government did not manage to draw the international community attention and get it involved in the region in the view of ensuring the human rights and liberties of the people who unfortunately happened to live in Transnistria.

The year 2005 proved to the international community what an important and very negative role the Russian Federation plays in the region. The presence of military troops, arms and ammunitions, the peace-keeping forces, the multilateral support Russia is offering to Smirnov regime, on the one hand, and the lack of any reaction from behalf of Russian authorities regarding the flagrant human rights violations committed by its citizens, its refusal to interfere and stop the human right catastrophe on the other hand, preserves the current situation and even contributes to its worsening.

The population from the both banks of the river remains divided and affected in the same way by the general situation from the eastern part of the country. The situation is extremely difficult, especially from the political point of view, which in its turn influences negatively the other important aspects like the democratic values, human rights, rule of law and people prosperity.

434 The following cases can serve as pertinent examples:

a. Petco N., described in the opposition press.

b. in 2005 a Transnistrian citizen sued at law the President Igor Smirnov, but with the help of judges the case was not examined.

c. Sokolova case – the citizen went on law against a deputy, "Novaia Gazeta" newspaper.

435 Report on the state of human rights given the alleged refugee claims of Moldovan nationals abroad. Resource Center for Human Rights, Chisinau 2004

436 For example, during the 75 session of the Commission for Human Rights (Geneva 26 July 2002), after the hearing of the Report on the Republic of Moldova, the Commission concluded "the necessity for including more detailed information on Transnistria".

The year 2005 was full of events related to the Transnistrian problem, but at the same time it is easily noticed that the human rights situation considerably worsened. The eastern part of the country remained under the control of a foreign illegal regime, that keeps the power due to the military force. The human rights violations known to the public are just a few in comparison with what really takes place in the region, because neither the civil society, press, human rights organisations nor the constitutional forces have access to the Transnistrian territory. Thus, the public opinion is informed just partially over the human rights violations and only in cases of mass and flagrant violation like the devastation and asiege of schools, situation of the peasants from the security zone, the detainees revolt in the Tiraspol prison.

We consider that during 2005 the Moldovan authorities, civil society and international community adopted an adequate approach to the existent problems and a series of concrete steps for the improvement of the situation were taken forward

The Promo-Lex experience and activities carried out in the Transnistrian region or with Transnistrian people in 2005 proves that the population from the eastern part of the Republic of Moldova pleads for the democratic development of the whole country and for the consolidation of the international efforts in solving the Transnistrian conflict, the removal of the Russian troops from the region and the demilitarisation and democratisation of the region.

The people are waiting for some changes from the outside, because they think that under the existent conditions they are not able to change anything. Here, it should be also reminded the lack of democratic traditions, civic initiatives from behalf of people and the power manipulation and intimidation of the population in order to make it inert and not get involved in the public life. The role of the media, the repressive forces and criminal groups in manipulating and threatening people is also very impressive. We cannot help mentioning about the high militarization of the region which is controlled by a Stalinist type security regime. Moreover, taking the experience of the Russian Federation and Belarus the Transnistrian authorities have recently prohibited the activity of NGO's, independent media and other institutions financed from abroad.

The Promo-Lex Association ascertained that the number of people who are dissatisfied with the situation is permanently increasing. People expect the Moldovan authorities to put an end to the injustice taking place there and set up the rule of law in the region. More and more people, including the civil society and the opposition press, speak in the favour of an international protectorate over the Transnistrian region in the view of democratisation of the region. They are also disappointed by the little influence and pressure the international community makes over the Transnistrian leaders in the view of protecting the human rights of thousands of people living there.

After the "liberation" of the region, the society would need at least 3-4 years in order to learn the lessons of democracy. From the Moldovan experience, we can state that some positive changes in the view of democratisation of the Moldovan society were felt only after 5-7 years of transition and now we can affirm with certitude that Moldovan civil society is prepared and ready to help its compatriots in getting integrated into Moldovan society and assimilating the democratic values.

3.4. RECOMMENDATIONS

There were numerous studies, researches, reportages written about Transnistria and Transnistrian conflict and several national and international forums had been organised on this very subject. It looks like nothing from what a young and small public association can recommend would be a news or sensation. Although, the experience of the organisation grounded on its presence in the field and constant communication with the local population has the aim and task to reflect and transmit to the public opinion and to the decision taking bodies, in particular, the human dimension and the real state of things from the region in an objective and impartial way.

We would also like to outline that there were many documents and reports adopted on Transnistrian issue. The national and international experts and politicians limited themselves at a short and periodical monitoring of the situation, ascertaining various human rights violation taking place at that very moment in the region. But none of them was able to influence or stop the crimes against the local population committed by a foreign illegal and criminal regime. After many years, we are in the presence of people disappointment and mistrust in the efforts and good will of the national structures, civil society and media, as well as international human rights institutions. The population is revolted that their desperate situation described with hope to experts and journalists serves simply as sensational material. To a great extent, after making their jobs, the experts leave the country and people remain with the same problems and helpless and having to face new risks because of denouncing the regime. At the same time, the people from the region are much revolted of the fact that the situation from Belarus is considered more grave than that from the eastern part of Moldova.

The situation created around the Transnistrian issue influence decisively the general state of thing and social, political and, of course, economic environment in the Republic of Moldova. Thus, we can state that the events from Moldova was negatively influenced by the Transnistrian factor and as a result people from the both banks of the river had to suffer.

The information from this chapter is presented maybe in a too emotional way for a report, but it is difficult to remain unmoved when speaking with local population who is waiting for more than 16 years to become free of the criminal and mafia regime, to enjoy the same rights and freedoms like people from other places. The suggested recommendations are not taken from other reports or documents, the reflect fully the people aspirations and hopes as regards the settlement of Transnistrian conflict and promotion of democracy and human rights in the region.

The first step in solving the conflict is the removal of the Russian troops, arms and ammunitions from the Transnistrian territory, that is the fulfilment of the engagements assumed by the Russian Federation during the OSCE summit in 1999.

The second important and decisive step would be the modification of the negotiation format by limiting the influence of the Russian Federation and its negative role in the integration process of Moldova. Russia has no moral right to pretend itself in the role of peacekeeper and defender of the Russian citizens rights in the region, because pursuant to its aggressive and unfair policy the whole population of Moldova has to suffer, including the people of Russian origin. As a guaranty-state and signatory party of the Armistice from 21 July 1992, Russia must assume its international responsibility of protecting and defending the human rights of those 500.000 people from the region.

As well, the peacekeeping forces shall be unconditionally replaced by European or international mission of civil observers. The general population, civil society and the political opposition expressed their conviction that only an international mission could be able to insure the region's liberation, development and democratisation..

There is a need for the elaboration of a national strategy and an efficient juridical mechanism of registering and examining the civil, administrative and criminal cases brought before the judicial bodies by Transnistrian population. The bulk of the population regrets the passive attitude of Moldovan decision makers and law enforcement agencies towards the justice administration issue. In the course of years, the separatist forces got stronger only because of the inefficient and tardive actions from behalf of Moldovan authorities, which never invoked the breach of the Moldovan-Russian agreement or of the human rights documents. The law enforcement agencies continue till now to neglect the petitions from its citizens, invoking the lack of effective control over the region and leaving the Moldovan citizens into the hands of a foreign and illegal judiciary system.

Another necessity for Transnistria would be the encouragement and consolidation of the democratic institutions. It was not accidentally that the illegal regime from Tiraspol forbade in December 2005 the financing of the NGO's and independent press by international organisations. This fact reveals the fright the regime has of the democratisation process and development of the democratic institutions in the region. The contact and collaboration between the civil society from the both banks would prove to the international community the illegality and groundless of the arguments brought by the separatist regime in the favour of Transnistria sovereignty and independence. As well, the civil society would intensify its efforts in consolidating the society and overcoming the divergences generated by the division of the Moldovan society, by implementing for this purpose the most efficient methods and actions and involving in the process many remarkable personalities.⁴³⁷

The multilateral informing of the population is a very acute problem which need immediate solving. The illegal regime shall accept the civilised rules and allow the activity of independent and opposition medias, including international ones in the region and not impede the broadcasting of Moldovan programmes on the Transnistrian territory. The same thing is valid for the activities of non-governmental organisations. The restoring of the telephone connection between the two banks is also extremely necessary.⁴³⁸

Another important problem is that of the free circulation of goods, products and persons. The whole responsibility for this failure lies on the shoulders of Moldovan authorities, who avoid denouncing the Moldovan-Russian Agreement from 21 July 1992. The cases described in the report reveal the complexity and gravity of the phenomenon which in its turn affect a lot other rights and freedoms of the local population, as well as, of all Moldovan citizens, like the right to property, right to vote and be elected, right to information, assembly and education.

The real situation from the eastern part of Moldova is not completely known neither to Moldovan authorities no to international community. The problem of Transnistrian region is approached only in the context of Transnistrian conflict settlement and the issue of production and commercialisation of arms, trafficking

⁴³⁷ For example, the Norwegian researcher Johan Galtung, one of the most remarkable representatives as regards the education for peace, got much involved in conflict resolution and peace building.

⁴³⁸ Due to the fact that the telephone national operator "Moldtelecom" does not recognise the Transnistrian telephone numeration plan and the Transnistrian part refuses the implementation of the Moldovan numeration plan, the telephone connection between the two banks of the river remained suspended and the only possibility is to use foreign operators according to international tariffs which are too high for local population.

in drugs and human beings and large possibilities for terrorists. We consider it necessary to ask for an immediate permission from the local authorities and their protectors for making a real assessment of the situation, carrying out sociological polls, meetings with the representatives of all national minorities, representatives of the civil society, local administration, youth, etc

The fate of over 500.000 persons shall not be neglected, because they have been constantly subjected to threats, humiliations and human rights violations for more than 16 years. The fate of two political detainees kept in Tiraspol prisons shall figure on all official agendas and common efforts shall be made in order to execute the ECHR decision.

Also the Moldovan authorities shall make public all the criminal cases started against Transnistrian leaders or officials on the charge of usurping the state power and committing human rights violations against the local population. At the same time, they can offer the Transnistrian people the possibility to address freely the judicial instances of Moldova and to serve the military service in the National Army. A national strategy of country reintegration is needed in this respect.

Another important issue which shall be addressed urgently by the authorities is that related to the identity acts and other documents (driving licences, military evidence, registration of cars) released by Moldovan authorities which are taken off by the Transnistrian frontier guards. There are tens of people fined and robbed daily at the border and customs because of this. The Moldovan authorities shall declare invalid all acts and documents released by Transnistrian authorities unless they stop the persecution of people on the ground of possessing Moldovan documents and force them accept Transnistrian documents instead of Moldovan ones.

The Moldovan society and, in particular, the official authorities shall get aware that any avoiding of taking an attitude towards what happens in Transnistria leads inevitably to human rights violations there.

We encourage the Moldovan authorities to continue with insistence its appeals on the international arena and also the international community to approach the situation from Transnistria, first of all, from the light of the need for human rights protection and generally accepted international norms and do not let the Russian federation to play its geopolitical games in the disadvantage of legal rights and freedoms of the local people.

4. CASES AGAINST MOLDOVA BROUGHT TO THE EUROPEAN COURT OF HUMAN RIGHTS. DECISIONS ADOPTED IN 2005

Through the Parliament Decision no. 1298 from 24.07.1997, the Republic of Moldova ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in Rome on 04.11.1950. The Convention was signed by Moldova as early as on 13.07.1995 and entered into force just on 12.09.1997.

Through this decision, the Republic of Moldova engages itself to respect and ensure the human rights principles and norms established and recognised by the whole European community. At the same time, the Court has the competence to ascertain the violation of the Convention provisions or of its additional protocols and generate changes in the domestic legislation of the member states in the view of adjusting that to the convention provisions.

More over, through the Decision of the Plenary of the Supreme Court of Justice on the application of the European Convention in the domestic courts it was established that the ECHR Precedents will have the power of a law when being applied in judging similar cases in the national courts.

Thus, the jurists as well as judiciary staff have to pay special attention to the Courts precedents. Since the ratification of the convention until the end of 2005 there were adopted 26 decision by the Court against Moldova and only in 2005 there were 13 decision taken.

Further we will list only the decisions taken during 2005 when the Republic of Moldova was found guilty of violating the European Convention as well as the cases declared inadmissible by the Court.⁴³⁹

Cases declared inadmissible.

Case „Gritco vs Moldova” related to the petition lodged by Mrs. Gritco, complaining that since 13 August 1999, it is impossible to have executed a court decision related to the payment of a sum of money from a private firm starting its liquidation procedure. The European Court declared the petition inadmissible considering that art. 6 par. 1 of the Convention was not violated.

Case „Ciorap vs Moldova” related to the petition of Mr. Ciorap which on the violation of several articles of the Convention. In particular, he complained on inhuman treatments he was subjected to during his detention, detention conditions, lack of medical assistance, right to fair trial, right to private life, right to information. The European Court declared the petition partially admissible.

Case „Spiritual Governance of Muslims vs Moldova” contains a petition related to the Government refusal to register the given religious cult on the ground that not all necessary documents have been presented. The SGM appealed government decision in the court and the Supreme Court of Justice rejected the appeal on the same ground. The European Court of Human Rights declared the petition inadmissible on the ground of not exhausting all national remedies.

Case „Penteacova and other vs. Moldova”, related to the petition of a group of citizens who suffered from renal chronic insufficiency and needed haemodialysis in their treatment which cost from 60 to 450 lei. The petitioners invoked the fact that the state does not guaranty their rights declared in the Constitution (right to life, inhuman treatment, right to fair trial, etc.). The Court declared the petition inadmissible.

Cases ended in friendly settlement.

Case „S.A. „Combustibil Solid” vs. Moldova”. The case related to the non-execution of a court decision obliging the Ministry of Finance to pay to the petitioner an imposing sum of money. After lodging a complaint to the Court, the Ministry of Finance paid the sum and the Government concluded a friendly agreement with the petitioner.

Case „Paritchi vs Moldova”, also relates to the non-execution of a court decision on the returning of two houses nationalised by the communist regime in 1945. On 7 October 2003, the Government concluded a friendly agreement with the petitioner on paying a sum of money instead of the nationalised houses. The

439 Cases from CoE site: www.coe.int

petitioner accepted, but later informed the Court of maintaining its complaints because she was not paid moral damages.

Case „Meriakri vs. Moldova”, related to a petition sent by Mr. Meriakri who was violated his right to correspondence during his detention, in particular his correspondence with the European Court. In the beginning, the Government suggested the friendly settlement of the case by paying the petitioner moral damages and presenting public excuses for reading his correspondence. The Court obliged the Government to pay moral damages to the petitioner.

Cases where the Republic of Moldova was found guilty for violating the European Convention.

Case „Popov I”, judgement from 18.01.2005. the parents of the petitioner have been deported in 1941 in Russia and Uzbekistan and their home was confiscated. According to the Law 1225 from 08.12.1992 on the rehabilitation of political repressions victims, the petitioner lodge a complaint on returning his parent's house. Chisinau Centre Court decided on 5 November 1997 on returning the house to the complainant. During 1997-2004 the decision remained unexecuted. When the petition was already sent to the Court, the Court of Appeal admitted a petition of revising the judgement from 05.11.1997. the petitioner invoked the violation of art. 3, art. 6 al.1, art. 1 of Additional protocol and art. 13 of the Convention. ECHR Judgement from 18.01.2005 ascertained the violation of art.6 al. 1 ECHR and art. 1 of the Additional Protocol. The Court ruled the payment of 5000 euro for moral damages and 1000 euro for expenses.

Case „Ziliberberg”, judgement from 01.02.2005. the petitioner, Cristian Ziliberberg, being a student participated in the protest manifestations organised in front of the Chisinau municipal council on 18.04.2000, expressing his disagreement with the Mayoralty Decision of cancelling the free transportation for students in the public transport. The petitioner was arrested and opened an administrative case according to art.174/1 par.4 of the Code of Administrative Contraventions. He was detained at the police commissariat for more than 5 hours. The Centre Court imposed a fine of 36 lei to the petitioner, which was appealed at the Tribunal. On 4 may 2000, the Chisinau Tribunal examined the case in the absence of the petitioner and rejected the appeal. The petitioner addressed a cancelling contestation which was also rejected. On 12 June 2000 the petitioner paid the established fine, otherwise he would be arrested for not respecting a court decision. The petitioner complained before the Court the violation of art. 6 par.1 of the Convention. The Court's judgement from 01.02.2005 recognised the violation of art.6 par.1 of the Convention and ruled out the payment of 1000 euro for costs and expenses.

Case „Rosca”, judgement from 22.03.2005. this case relates to the decision of the Court of Appeal from 17.04.2001 on the payment of a sum of money to the benefit of the petitioner by a bank institution. Through the decision of the Supreme Court of Justice from 11.07.2001 the cancelling recurs of the Prosecutor General was admitted. The petitioner complained to ECHR the violation of art.6 par.1 and art.1 Additional Protocol. On 22.10.2004, as a result of the Government notification on the case, the Prosecutor General submitted a petition on the revision of the case asking for the cancelling of the decision from 11.07.2001. On 15.12.2004, the Supreme Court admitted the petition on revision and ruled that the decision from 11.07.2001 violated art.6 par. 1 ECHR, thus the decision of the Court of Appeal remaining irrevocable.

After that, the Government invoked the fact that the petitioner lost his quality of the victim and cannot appeal any more to the Court. Through its judgement from 22.03.2005, the Court ascertained that the quality of the victim was not lost and recognised the violation of art. 6 par.1 of the Convention and art.1 Additional protocol. The Court imposed the Government to pay 3500 euro material damages and 2000 euro moral damage, 690 euro costs and expenses.

Case „Dumbraveanu”, judgement from 24 May 2005. the case relates to a police worker who was to be given an apartment based on the Chisinau Tribunal decision from 22 June 1998 on imposing the Chisinau Municipal Council to provide Mr. Dumbraveanu with living space. On 8 September 2000, the court decision changed the decision of the Tribunal imposing the Municipal Council to pay t the petitioner 180,357 lei instead of providing with living space. The tribunal decreased the given sum to 111,240 lei but its decision was not executed until 11.09.2003. The ECHR judgement from 24.05.2005 recognised the violation of art.6 par.1 of the Convention and art.1 of the Additional Protocol and ruled the payment of 3400 euro material damages, 1360 euro moral damages and 390 euro costs and expenses.

Case „Scutari”, judgement from 26.07.2005. The parents of the petitioners have been deported in 1949 in Siberia, Russian Federation and their whole property was confiscated. According to the Law 1225 from 08.12.1992 on the rehabilitation of the political repressions' victims the petitioner went on law. The Court of Orhei ruled on 26.07.2001 the payment of 41 000 lei as a compensation from the Finance Direction of Orhei Council. Although irrevocable, the decision was not executed until 20 February 2004 after the Government had been notified about the case. Through its judgement from 26 July 2005, the Court recognised the violation of art. 6 par.1 of the Convention and art. 1 of the additional protocol. The petitioner was paid 1250 euro as moral damages.

Case „Ostrovat”, judgement from 13.09.2005. the case related to a prosecutor who was on probation and was accused of bribery. On 22.07.2002 the petitioner was arrested by the secret services. He was released a warrant of arrest which was prolonged for several times. On 15.11.2002 he was released from detention but on 04.04.2003 was condemned to 10 years of imprisonment being arrested within the court. The petitioner complained on the detention conditions from the pre-trial centre of the Ministry of Justice during the period 18.10.2002 - 15.11.2002 and 04.04.2003 - 13.12.2003. in particular he complained on the surface of the living space where he was detained with 10 more detainees and the medical and hygienic conditions of the cell, the impossibility to meet his daughter and wife and to keep correspondence with his mother as well as the impossibility to have an effective recourse at national level. Through its judgement from 13.09.2005 the Court recognised the violation of art.3, art.8, art.13 of the Convention and ruled for the payment of 3000 euro moral prejudices and 1500 euro costs and expenses.

Case „Becciev”, judgement from 04.10.2005. the case relates to the petition addressed by the director of the SA Concern „Apa Canal-Chisinau”. On 21.02.2003 Becciev was arrested by representatives of the centre for Economic Crimes and Corruption. On 23.02.2003 was released a warrant of arrest for a period of 30 days. The petition against the order of arrest was rejected. Further the arrest period was for several times prolonged on the same grounds. The petitioner complained the violation of art.3, as a results of inhuman treatment he was subjected during the arrest time from 23 February 2003 since 1 April 2003 and of art. 5 par. 3 and 4 of the Convention. In its judgement from 4.10.2005 the Court recognised the violation of art. 3, art. 5 par. 3 and 4 of the European Convention and ruled the payment of 4000 euro moral prejudices and 1200 euro costs and expenses.

Case „Sarban”, judgement from 4 October 2005. Based on the Prosecutor General resolution from 8 October 2004 criminal investigation was started against the secretary of the Chisinau Municipal Council, Sarban on the charge of buying illegally 40 emergency cars by the Municipal Council. On 12 November 2004, the petitioner was arrested by the representatives of the Centre for Economic Crimes and Corruption (CCCEC). On 15 November 2004, Buiucani Court issued a warrant of arrest for a period of 10 days. On 18 November 2004, the Court of Appeal cancelled the court decision and ruled for the home arrest of the petitioner. With all these, on 19 November 2004, CCCEC again arrest Sarban, on the charge of abuse of power. On 22 November 2004, Buiucani Court again issue an warrant of arrest for a period of 10 days. The Court of Appeal on 25.11.2004 maintain the court decision. On 26 November 2004, Buiucani Court prolonged the warrant of arrest for 30 days. On 2 December 2004, the recourse of the petitioner was rejected and on 21 December 2004 the criminal investigation was closed and the file sent to the Centre court. During the detention period the petitioner asked for several times medical assistance on the ground that his health went very bad, which he was not provided. During his detention he could not speak with his lawyer either. The petitioner complained on inhuman conditions within the cell he was kept during arrest and invoked the violation of art. 3, art. 5 par. 3 and 4, art. 8 of the Convention. Through its judgement from 4.10.2005 the Court recognised the violation of art. 3, art. 5 par. 3 and 4 and ruled for the payment of 4000 euro moral damages and 3000 euro costs and expenses.

Case „Savitchii”, judgement from 11.10.2005. Ms. Savitchi is a journalist and wrote an article about the activity of the road police officer, especially about his behaviour towards a person involved in a road accident. The police officer went on law asking for the defence of his honour and professional dignity as well as moral prejudices from behalf of the journalist and the magazine she was working for. On 14 March 2000 the Centre court admitted the petition and obliged the magazine to publish a denial concerning the given article and obliged the journalist to pay 180 lei and the magazine to pay 1800 lei. The Chisinau Tribunal maintained on 30 May 2000 the court decision. The Court of Appeal cancelled the two former decisions but again found the journalist guilty for spreading denigratory information about the police officer. The petitioner invoked the violation of art. 10 of the Convention. Through its judgement, the Court found the violation of art. 10 of the Convention by the Republic of Moldova and ruled for the payment of 3000 euro moral damages and 1500 euro costs and expenses.

Case „Daniliuc”, judgement from 18.10.2005. According to the decisions of the Ialoveni court from 06.10.1995 and 16.12.1996 Ms. Daniliuc was to be paid a sum of money from the budget of the local administration. During 5 years the decision remained unexecuted. Further, on 17 May 2000 and 11 March 2003, based on a recourse made by the Prosecutor General the given decisions have been cancelled. The petitioner complained the violation of art. 6 par. 1 of the Convention and art. 1 of the Additional Protocol. Through its judgement from 18.10.2005 the Court recognised the violation of art. 6 par. 1 of the Convention and art 1 of the Additional protocol and ruled the payment of 1000 euro material damages and 100 euro moral damages.

Case „ASITO”, judgement from 08.11.2005. The case relates to the conflict between two legal entities concerning the reimbursement of a sum of money. On 23 September 1997 and 24 December 1997, based on a recourse made by the Prosecutor General the Economic Court of Appeal and the Supreme Court of Justice cancelled two irrevocable decisions on the reimbursement of a sum of money in the favour of the petitioner. The petitioner claimed the violation of the right to property and right to fair trial as a result of the Prosecutor General interference in the case. Though its judgement, the Court recognised the violation of art. 1 of the Additional Protocol and art. 6 par. 1 of the European Convention and ruled for the payment of 237 euro costs and expenses and did not decided yet on material damages.

Case „Baibarac”, judgement from 15 November 2005. based on the irrevocable decision of Edinet court, Mr. Baibarac was to receive a compensation for his property confiscated during the soviet time. For a very long period the decision was not executed because of lack of resources. The petitioner complained the violation of art. 6 par. 1 of the Convention and art. 1 of the Additional Protocol. On 20 December 2004 the decision was executed after the Government was informed about the case. Through its judgement from 15.11.2005 the Court recognised the violation of art. 6 par. 1 of the Convention and art 1 of the Additional protocol and ruled the payment of 1000 euro moral damages.

Case „Popov II”, 6 December 2005. The parents of the petitioner have been deported in 1941 to Russia and Uzbekistan, and the house was confiscated. On 5 November 1997 the court ruled the retrocedation of the house to the petitioner. During the period 1997-2004 the court decision remained unexecuted. After the petition was before the Court, the Court of Appeal admitted the petition on revision of the decision from 05.11.1997. the petitioner claimed the violation of the right to property, to fair trial and effective remedy. Through its judgement from 6 December 2005, the Court recognised the violation of art.6 par. 1 of the European Convention and art. 1 of the Additional Protocol and ruled the payment 3365 euro material damages, 3000 euro moral damages and 715 costs and expenses.

Besides the fact that the Republic of Moldova was condemned for 13 times by the European Court, the Moldovan Government was obliged to pay compensations and payments amounted at 54,707 euro.

CONCLUSIONS

The elaboration of such a bulky report makes us aware of the fact that the human rights situation in the Republic of Moldova is not perfect and light so far. At the same time, the volume of the report does not necessarily mean that all the human rights issues have been mentioned or approached by the authors. We are aware of the fact that there are still many aspects and cases not touched in the report which have a direct negative impact of the human rights situation. All these still remain in the attention of the civil society and national and international public opinion and will be surely covered in the future reports unless they are solved until then.

Thus, one of the main issue of concern is the problem of corruption. We did not touch the corruption phenomenon, although it contributes essentially to the quality of human rights protection in the country. The Promo-Lex association is permanently informed about cases of corruption and, in particular high corruption. Characteristic to the fact is that most of the population do nothing in order to stop and combat it, because they are still afraid of persecution and do not trust the efficiency and competences of the authorities in combating corruption.⁴⁴⁰ The cases corruption are more discussed about and not fought against. No one who faced cases of corruption wanted to use the legal procedure of finding the justice. According to the studies the customs, the police, road police and medical institutions are the most corrupt in Moldova.⁴⁴¹

It seems that corruption reached the highest levels in Moldovan institutions and structures. We reached this conclusion after the discussions held with the citizens and from the general society and public authorities towards corruption related to in the press. The mere fact that there was not a single important case of corruption investigated by the law enforcement agencies is nothing else than a clear indicator of these affirmations.⁴⁴² Neither the law enforcement agencies nor the authorities investigated the case or took attitude towards these declarations.

With the risk of repeating ourselves, we can't help mentioning that one of the main reason of the current human rights situation is the legal illiteracy of the population. From our own experience we can state with certitude that the Moldovan people do not know their basic rights and the way of protecting them. Thus, a vicious circle happen to be: excessive corruption in state institutions favour the violation of human rights and the legal illiteracy⁴⁴³ and the lack of information and skills for defending their rights make the fight against human rights violation useless. We consider that this state of things stops the socio-economic development of the country and keeps Moldova on the last positions in Europe as regards both development, human rights protection and degree of democracy.

Because of our will to describe not only cases of human rights violation, but also the reasons and consequences of these violation, we insisted more on some issues or mentioned them in various chapter of the report.

We ascertained a deficit of information as regards national minorities and, in particular, as regards the human rights situation in the Gagauz region. We could even speak of an informational and communication "gap" between Gagauzia and the rest of Republic of Moldova.

The situation is identical as regards the Bulgarian minority. Another major problem for the Republic of Moldova is that concerning the situation of the electronic media. Although monitored and even criticised by the Moldovan and international public opinion, it still remains to a great extent politically influenced. The gravest situation is attested in the television. Although there are some positive changes registered, the TV programmes lack dialogue and debates on issues of public interest and there are few informative programmes or civic education of the population.

Access to justice partially and occasionally reflected in the report is another important problem for the democratic development of the Republic of Moldova. The corruption denounced in 2005 even by the former judges transformed in a national phenomenon. Most of people know about this and, more or less, accept its consequences. This situation creates perfect premises for human rights violations, including the access to justice.

440 According to the Sociologic Study „Human Right Ensuring in the Republic of Moldova”, the greatest part of Moldova population appreciate negatively the activity of the following institutions: police, security bodies, prosecution office and courts.

441 Sociologic Study „Human Right Ensuring in the Republic of Moldova”, CIVIS, Chisinau, 2004

442 For example the statements of the dismissed judges in 2002, published in Timpul newspaper, no.192 from 18.02.2005 „The communist servants take from judges thousands of dollars”, During a round table, a group of judges dismissed by the communists accused the governing party of interfering in the justice system. Ex-judges recognised that high officials gave them oral indications to adopt only decisions favourable to the governance and asked thousands of dollars for letting them into their positions...”. www.timpul.md or http://www.transparency.md/Docs/2005/articles/03_Taxe_judecatori.pdf

443 62% of the respondents of the Sociological Study mentioned that they agree with the statement „There is lack of information and knowledge in the human rights domain”. Sociologic Study „Human Right Ensuring in the Republic of Moldova”, CIVIS, Chisinau, 2004

Nevertheless it is obvious that the human rights situation is much more serious in the Transnistrian region. The situation from Transnistria is much more monitored, at the population disappointment and despair. The population is revolted that their desperate situation described with hope to experts and journalists serves simply as sensational material. To a great extent, after making their jobs, the experts leave the country and people remain helpless and with the same problems. We consider that the internal and international political forces ignore the rights of people living the region in the favour of some group interests or geopolitical interests of some states. In the same context, we express our regret that the civil society and the opposition from the Russian Federation avoids getting involved and taking attitude towards flagrant violations the Russian Federation in the Transnistrian region.

We have frequently noticed that the Russian electronic media reflects in a biased and non-objective way the situation from the region. We should also remind the opinion of the civil society from Transnistria which consider that the role of the European Union and United States shall increase in the conflict settlement and in democratisation of the Transnistrian society. At the same time, we must mention that the guild for the EU and USA less involvement in the process lies on the Moldovan authorities which are not able to promote and defend their legal interests.

In the end, we express our commitment to further contribute to the promotion and protection of human rights in the Republic of Moldova and our hope that most of problems outlined in the report will be positively solved by Moldovan authorities in the near future. We express our conviction that the realisation of the objectives set out in the Human Rights National Action Plan is a real chance for the improvement of the human rights general situation and of the image Moldova has before the international community. In this respect, we hope our next reports will be less critical and contain fewer cases of human rights violation.

PROMO-LEX ASSOCIATION



Promo-Lex Association is a non-governmental, not-for-profit and politically independent organization, working for the public benefit and performing its activity in accordance with the Republic of Moldova current legislation.

Promo-Lex Association was founded in 2002 and registered by the RM Minister of Justice.

PROMO-LEX MISSION

is to contribute to development of democracy in Republic of Moldova through facilitating the access to the Human Rights protection for the citizens and civil society strengthening in Republic of Moldova.

PROMO-LEX GOALS

- To monitor, promote and protect by virtue all legal means human rights in RM;
- To contribute to development and strengthening of the civil society in RM;
- To contribute to enhancing the civic education level among the RM population.

ORGANIZATIONAL VALUES

- Political neutrality.
- Responsibility.
- Quality services, accuracy.
- Professionalism.
- Team work.
- Openness for the cooperation and partnership.

MAIN AREAS OF ACTIVITY

Rule of Law

- Elaborating, publishing and distributing reports regarding respecting and violating human rights in RM;
- Informing national and international public opinion regarding respecting and violating human rights in RM;
- Informing and educating citizens about their rights and access to justice.
- Informing the competent state institutions and organizations in regards with the legal errors and gaps that we have became aware of during our activity;
- Offering legal assistance to the underprivileged persons (consultations, direct representing in the Court of Law at the national and international level ECHR);

Civil Society

- Performing activities in order to develop and strengthen the NGOs network at the local level (seminars, trainings, workshops, informational support)
- Performing activities which facilitate the partnership and collaboration between NGOs and LPAs at the local level (educational programs, informational assistance);

Civic Education

- Civic education among RM population (informational-educational programs, dissemination of the thematic information, distributing specific thematic leaflets, brochures).
- Youth civic education programs.

Target Groups

- Vulnerable categories of people.
- Transnistrian region inhabitants.
- Civil society.
- Youth.
- LPAs, civil servants.

Promo-Lex Accomplishments.

- One of the PL accomplishment is the fact that its lawyers managed to defend in the Court of Law the rights of some category of peoples, with the positive result (the wife's and the widows of the participants at the Second World War were discriminated comparing to the other similar categories during 2002 when the payment on nominative compensations were stopped). Because of our notification and as a result of the law sentence (these persons were represented in court by PL lawyers) in November 2004 the national legislation was changed and adapted.
- Promo-Lex lawyers are representing in the ECHR the interests of the students, parents and teachers from Rîbnița, Grigoriopol and Tighina Latin script schools (Transnistrian region of Moldova).
- PL lawyers are representing at ECHR interests of the nearly 2000 land owners from district Dubasari (the Transnistrian authorities prohibited the access of the Dubasari district farmers to their land parcels which spread over still Moldavian territory across the Rîbnița-Tiraspol road).
- In order to raise public awareness in regards with the created situation in district Dubăsari PL organized a drawing contest for the children of the district Dubasari entitled "A harvest awaited from a land torn away from the soul". The exposition of the best 100 drawings was organized in the Chisinau National Museum of History on September the 30th- October the 2nd.
- In December 2005, Promo-Lex Association, in a framework of the UNDP Moldova contest for the most active NGO in Human Rights area, was awarder with the special prize for promoting Human Rights in Transnistrian region of Moldova.

PROMO-LEX ASSOCIATION

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