

*MOLDOVAN HELSINKI COMMITTEE
FOR HUMAN RIGHTS*

October, 2001

MAJOR URGENT CONCERNS WITH REGARD TO RESPECT OF RIGHTS
OF NATIONAL MINORITIES IN THE REPUBLIC OF MOLDOVA
(INCLUDING TRANSDINISTRIA REGION)

Minority Rights Concerns pertinent to Autumn 2001

53 "B" Banulescu-Bodoni str., Chisinau, MD2012,
the Republic of Moldova
tel/fax: (373 2) 22 26 18, 22 7396

chdom@moldnet.md, <http://chdom.ngo.moldnet.md>

FOREWORD

Moldovan Helsinki Committee is a human rights advocacy non-governmental organization that seeks to monitor, promote and implement international human rights standards in the Republic of Moldova. Moldovan Helsinki Committee is an independent public interest non-governmental organization guided by understanding of universal superior values of individual freedoms, social justice, equity and nondiscrimination.

More information is available for review on-line <http://chdom.ngo.moldnet.md> – the web-page of the Moldovan Helsinki Committee for Human Rights.

The report is based on the activities and knowledge of the Moldovan Helsinki Committee. The Report relies on the information provided by the Moldovan Helsinki Committee comprehensive reports, researched, investigated, monitored and advocated cases and situations with only few exceptions provided with respective references. Information contained in this report reflects solely the position of the Moldovan Helsinki Committee for Human Rights. Serghei Ostaf is the editor of present report.

Major reports referred to herein:

- The Real Human Rights Minority Value of Moldovan Law on Protection of National Minorities. (draft); by Moldovan Helsinki Committee;
- Schinoasa Roma between Miserable Existence and Negligence for Existence, August, 2001 (Ro) by Moldovan Helsinki Committee;
- Report on Ursari Roma community. (draft) (Ro) by Moldovan Helsinki Committee;
- Shadow Report On Compliance Of The Republic Of Moldova With The Obligations Under European Framework Convention On National Minorities, July 2000, (En) by Moldovan Helsinki Committee;
- Draft Shadow Report on Implementation of Convention on Elimination of all Forms of Racial Discrimination, 2001 (En), by Moldovan Helsinki Committee;
- Report On The Respect Of Patients Rights In Alcohol Addicts Institutions Of The Ministry Of Justice Of The Republic Of Moldova, July 2000, (Ro, En) by Moldovan Helsinki Committee;

Content:

General Legal and Institutional Problems:	3
Legal	3
Institutional:	4
Specific problems and situations:	5

General Legal and Institutional Problems:

Legal

1. Simplistic understanding in legal system and in practice of the concept and the content of national minority and human rights of national minorities:
 - 1.1 *Definition of national minority* and applicability to certain situations, regions, groups de facto belonging to national minorities¹:
 - 1.1.1 Roma minority in Moldova;
 - 1.1.2 Moldovan relative minority in Transdnister region;
 - 1.1.3 Bulgarian minority in Gagauz Autonomous Entity, etc;
 - 1.2 Understanding of the concept and meaning of the value of respect, protection and promotion of rights of national minorities and most notable the positive measures needed²;
 - 1.3 Awareness of need to approach public and private sphere situations pertinent to national minorities;
 - 1.4 Egalitarian approach with regard to various minority groups having the direct negative impact on some “weak” or “less represented” minority groups, most notable Roma minority but also Gagauz and Bulgarians against Russians³.
 - 1.5 Inexistence of concept and certainly realization of minority participation, at different levels (local, regional, central-political-public, other perspectives) in decision-making process.
2. Inexistence in legal system and practice the concept of *discrimination* with regard to rights of persons and groups belonging to national minorities:
 - 2.1 Definition and understanding of *discrimination* based on ethnic, racial, language and other reason⁴;
 - 2.2 Understanding of the concept and meaning of the value of non-discrimination on various bases and most notable the positive measures needed;⁵

¹ See most explicitly the approach in State report on implementation of the Council of Europe Framework Convention on National Minorities in the Republic of Moldova.

² See the approach stating that “the protection of persons belonging to national minorities does not differ from the protection of human rights of persons” in both UN Race Convention and CoE Framework Convention State Reports.

³ Failure to understand the need for different treatment of different situations and minorities to respect equality. Mentioned minority groups are forced assimilation and alienation with the interests of minority dominant minority position in Moldova.

⁴ See most explicitly the approach and statements in State report on the Implementation of UN Convention on Elimination of All Forms of Racial Discrimination in the Republic of Moldova.

⁵ See the approach stating that “the protection of persons belonging to national minorities does not differ from the protection of human rights of persons” in both UN Race Convention and CoE Framework Convention State Reports.

3. General, declarative and non-instrumental legal framework pertinent to minority rights failing to deal with different, various, distinct and complex de facto situations⁶ and failure to legally endorse the European practices and experience to protect the rights of national minorities.
4. Insufficient capacity of relevant public authorities, public servants to deal and approach the variety of the mentioned problems and concerns

Institutional:

1. Department of Protection of National Minorities has just a consultative status to the Government of Moldova it lacks the power of regulation, interpretation and in practice framing the Governmental policy on national minorities. The representation of national minority groups at the Department of National Minorities in a so-called Consultative Council, composed of representatives of different minority groups in Moldova, de facto is dominated by Russian minority.
2. In the existing Moldovan institutional setting none of the law enforcement or other human rights pertinent institution deals with the minority human rights situations nor has the sufficient priority or capacity to enforce and promote the minority human rights policies.

2.1 At present day the Governmental Human Rights Center (Parliamentary Advocates)-Moldovan homology of Ombudsman authority- the most relevant authority after the department on Protection of National Minorities has shown little if any interest in the issue. The relevant minority rights and human rights approach capacity of this authority is questioned by Moldovan human rights advocacy groups.

2.2 Moldovan courts have had little if any precedents.

2.3 Lack of genuine minority rights advocacy groups having the capacity at representing professionally the interests (lobbying for policies, taking public interest cases, etc) of discriminatory situations and cases. Moldovan Helsinki Committee remains by far one of few advocacy groups. Roma rights groups are weak and address only educational and cultural issues. Russian and Ukrainian associations are present but linked heavily with political strata and deal with cultural and educational aspects.

⁶ The most eloquent example is the recently adopted Law on Protection of Persons belonging to National Minorities and their Associations, September 2001 failing to give clear appreciation of various national minority groups, various situations throughout the country, approach participation of minorities in decision-making process, private and public domains, etc. For details see upcoming Report of the Moldovan Helsinki Committee "The Real Human Rights Minority Value of Moldovan Law on Protection of National Minorities."

Specific problems and situations:

- Situation of a good number of *Roma communities* in rural areas throughout the Republic of Moldova most urgently with regard to⁷:
 - a. discriminatory practice and non-representation in the in local public administration decision-making process affecting the communities;
 - b. non-discriminatory access to public benefits;
 - c. access to assets and their generation;
 - d. access to educational system and right to education in Roma language;
 - e.

- Situation of *Moldovans in Transdnister region* of the Republic of Moldova most urgently with regard to⁸:
 - a. Non-representation of interests of Moldovan relative minority (against Russians and Ukrainians) with regard to the political process of decision-making affecting the Transdniestrian region as a whole;
 - b. right to education (public and private pre-school, primary and high education) in mother tongue and compulsory education in Cyrillic of Moldovan children;
 - c. communication with public authorities in the language of relative minority, attempts of “ethnic cleansing”;
 - d. freedom of expression in public and in private, including through media;

- Non-representation of interests of *Gagauz minority (Gagauz Autonomous Entity)* in the *Parliament of Moldova* with regard to the political process of decision-making affecting the Republic of Moldova as a whole⁹.

- Non-representation of interests of *Bulgarian minority (Taraclia county)* with regard to the political process of decision-making affecting the South region of Moldova.

- Various forms of discrimination based on ethnicity, language in private sphere, most notable with regard to engagement in private sphere. Especially this goes true for the persons belonging to Roma but also ethnic Moldovans.

⁷ For information see reports of the Moldovan Helsinki Committee for Human Rights:

⁸ For information see Shadow Report on the Implementation by the Republic of Moldova of Framework Convention on National Minorities, prepared by Moldovan Helsinki Committee and Resource Center of Moldovan Human Rights NGOs

⁹ Not to mention the ban to set up Political parties based on ethnic belongings.