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European Commission against Racism and Intolerance
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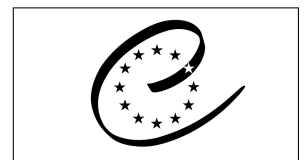
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European Commission against Racism and Intolerance

ECRI's country-by-country approach:

REPORT ON MOLDOVA

Strasbourg, 9 November 1999



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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.

¹ The report prepared by the Swiss Institute (ref: CRI (98) 80), covering relevant legislation in member States of the Council of Europe is available on the web site www.ecri.coe.int and, in hard copy, from ECRI's Secretariat.

- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

To date, six series of ECRI's country-specific reports have been made public, in September 1997, in March 1998, in June 1998, in January 1999, in March 1999 and in May 1999 respectively². A seventh series of country-specific reports was transmitted to the governments of the countries concerned in September 1999, and is thus now being made public³.

The following report contains ECRI's analysis and proposals concerning Moldova.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all member States of the Council of Europe. With this seventh series of reports, for which the procedure was completed by September 1999, ECRI has concluded its reports on all member States of the Council of Europe⁴.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

As from 1999, ECRI has begun a follow-up procedure to its country reports, examining what action governments may have taken on the proposals they contained, updating their contents generally and focusing on specific issues of concern in greater depth. Some 10 countries will be addressed annually in this way, over the period 1999-2002.

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² *The first six series comprise reports on Andorra, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "The Former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom.*

³ *Reports on Albania, Croatia, Cyprus, Moldova and Turkey.*

⁴ *Given that Georgia joined the Council of Europe recently (April 1999), the first report on this country will be produced later.*

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Introduction

The Republic of Moldova declared its independence from the former Soviet Union in 1991. Like several other Central and Eastern European States, Moldova is undergoing a very complicated period of economic and political transition. Demanding in any circumstances, this process is rendered more complex by the difficult economic situation which results in budgetary restrictions, and, more importantly, by the existence of tensions, due to the diverging interests of different ethnic groups present on the territory of Moldova.

In this respect, while the confrontation with the Gagauzi minority in the southern part of the country is apparently being handled in a satisfactory fashion, a durable solution to conflicts and tensions is still awaited in the region on the left bank of the Dniester river⁶, a region in which the Moldovan authorities presently do not hold control. In this region, where ethnic Moldovans constitute a minority among ethnic Russians and Ukrainians, problems of discrimination against Moldovans continue to be a cause for serious concern. Negotiations on the relations between the Moldovan authorities and the self-proclaimed Trans-Dniestrian leadership as well as on the status of the region, appear to progress very slowly. This entails a danger that the problem in the region will become institutionalized, resulting in the prolonged suffering of ordinary people on both sides of the river.

As a new democratic state, Moldova is still in a process of adaptation to internationally recognised human rights standards. This is therefore a good opportunity to take the problems of racism and intolerance into account. Since, as highlighted above, ethnic tensions exist, attention should be paid to prevention and to the development of a specific legislation to combat any problems which may occur.

⁵ **Note:** *Any development subsequent to 5 February 1999 is not covered by the following analysis and is not taken into account in the conclusions and proposals.*

⁶ *This region is frequently referred to as Trans-Dniestria in the documents used by ECRI in the preparation of the report.*

Some of the key areas identified by ECRI as meriting particular attention include:

- the importance of monitoring the implementation of legal and other measures which have only recently been established, including the functioning of the law on the special legal status of the Gagauzia region;
- the development of a comprehensive body of legislation specifically to combat all forms of racism and intolerance;
- the need to ensure training in human rights for the police;
- the need to end the ongoing discrimination towards Moldovans in the region on the left bank of the river by all possible peaceful means, including satisfactory progress in discussions concerning the current dispute in the area.

I. LEGAL ASPECTS⁷

A. International instruments

1. Moldova has ratified some important international legal instruments relevant in the field of combating racism and intolerance. The European Convention on Human Rights was ratified in October 1997, and it is noted that the Parliament declared that Moldova is unable to ensure the implementation of this Convention in the area presently under the control of the self-proclaimed Trans-Dniestrian leadership. ECRI is aware that the authorities are currently studying the possibility of ratifying the Charter for Regional or Minority Languages and the European Social Charter and hopes that a positive conclusion will be reached as soon as possible. Consideration should also be given to the question of acceding to the 1951 Geneva Convention on the Status of Refugees and its 1967 Protocol. Furthermore, Moldova has ratified the Convention against the Elimination of All Forms of Racial Discrimination; however, it has not accepted Article 14 of this Convention, which would allow for individual complaints to be examined by the Committee for the Elimination of Racial Discrimination: ECRI feels that Moldova might accept this article.

B. Constitutional Provisions

2. In July 1994 the Parliament of the Republic of Moldova adopted a new Constitution, which came into force in August 1994. According to Article 4, constitutional guarantees of human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights and with other conventions and treaties endorsed by the Republic of Moldova.

3. Article 10 states that the national unity of the Republic of Moldova constitutes the foundation of the State, and guarantees to all citizens the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity. Article 13 protects the right to preserve, develop and use the Russian language and other languages spoken within the national territory. The rights and duties of citizens are extended to non-citizens and stateless persons, unless otherwise provided for by the law (Article 19).

4. Article 16 establishes the principle of equality before the law, irrespective of race, nationality, ethnic origin, language, religion, sex, political orientation, personal property or social origin. Freedom of conscience, including freedom of religion (Article 31), and freedom of opinion and expression (Article 32) are also protected. Instigation to ethnic, racial or religious hatred and incitement to discrimination are forbidden.

⁷ *A full overview of the legislation existing in Moldova in the field of combating racism and intolerance is provided in the publication CRI (98) 80 prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)*

5. A restriction of the rights and freedoms of citizens in the interest of preserving national security is provided for by Article 54 of the Constitution. Although Moldova has officially undertaken not to apply Article 54 of the Constitution in such a way as to restrict fundamental human rights in contradiction with international standards, it is felt that, for reasons of certainty and clarity, a revision of this article by the Moldovan Parliament could be considered.

- ***Citizenship law***

6. A law on citizenship was promulgated in 1991. It offered an opportunity to gain Moldovan citizenship to all persons permanently living in Moldova with legitimate means of subsistence at the time of independence. The law permits dual citizenship on the basis of bilateral agreements, but no such agreements are in effect.

C. Criminal law provisions

7. Moldova continues to use the criminal code of the former Moldavian Soviet Republic with amendments. Article 71 of the Criminal Code forbids limitations of the rights of citizens or concessions of privileges to citizens on the ground of their ethnic or racial identity, as well as deliberate actions which might cause ethnic or racial discord or riots.

8. Article 8 of the Code of Criminal Procedure contains the principle of equality before the law and the judicial authorities regardless of sex, race, nationality, language, origin, social status, religion, moral convictions or opinions.

9. Since there appears to be no substantial body of jurisprudence on racism and intolerance nor much experience in dealing with such questions among the judiciary and law enforcement officials, ECRI feels that close attention should be paid to the initial and on-going training of all officials working within the law enforcement system.

D. Civil and administrative law

10. The principle of non-discrimination is spelled out in several pieces of legislation, including laws dealing with local, general and presidential elections and the rights of foreigners and stateless people. In this framework, Article 17 of the Labour Code forbids discrimination in recruitment based on, *inter alia*, sex, nationality, race or religion. The authorities are encouraged to closely monitor the actual implementation of this provision.

11. ECRI furthermore feels that consideration could be given to the possibility of enacting a comprehensive anti-discrimination law including those fields (such as provision of goods and services, housing, etc.) which are not covered at present.

12. The Association Code forbids in its Article 4 "the establishment and the activities of associations whose programmatic documents propagate or which practice racial, religious, social or class inequality or hatred, methods of forcible (violent) seizure of power, war, violent propaganda, violation of human rights and freedoms, or other ideas or actions which contradict the constitutional order of the Republic of Moldova and are incompatible with universally recognised norms of international law". ECRI has no clear information on how this provision is being applied, and considers therefore that it would be desirable that implementation of this provision be duly monitored.

- ***Freedom of religion***

13. A law on religious freedom was adopted in 1992. Some of the provisions contained in this law, such as the prohibition of proselytizing or the establishment of specific requirements for registration, could inhibit the activities of certain religious groups. The authorities are therefore encouraged to monitor the application of this law, in order to ensure that it does not result in discriminatory practices.

- ***Legislation relating to minority groups***

14. A law "on the rights of the persons belonging to national minorities" - dealing, *inter alia*, with the rights of minorities to use their language in different fields, to practice their religion and to establish associations and media - for which the Council of Europe has provided expertise, is currently being examined by the Parliament. ECRI hopes that a successful conclusion will be reached soon. The entry into force of the Framework Convention for the Protection of National Minorities, which Moldova has ratified, should help to further strengthen the legal framework for the protection of the rights of people belonging to national minorities.

15. Some of the most serious problems encountered in this area are related to language rights. For historical reasons, while almost all ethnic Moldovans speak both Moldovan and Russian, 97% of persons belonging to national minorities (who make up over one third of the total population and are predominantly Russian-speaking) do not speak Moldovan, the official language of the state. According to the Language Law of 1989, a citizen should be able to choose which language to use in dealing with a government official or a commercial entity. However, there have been complaints from representatives of national minorities that their right to use the language of their choice is not always respected by the authorities. The Law also requires officials of the State administration, of enterprises and organizations who by virtue of their duties come into contact with citizens, to have sufficient command of both Moldovan and Russian (and - in areas inhabited by Gagauzes - of the Gagauz language) to fulfill their professional obligations. However, in consideration of the poor knowledge of Moldovan by non-ethnic Moldovans, the implementation of this provision has been postponed indefinitely. ECRI notes with interest that, from 1989 to 1994, numerous courses for study of the official language were organised in businesses, organisations and institutions. However, ECRI feels that, with a view to avoiding as far as possible feelings of resentment among minority communities, further efforts could be made, especially during this period of

transition, to minimise the legal consequences of inadequate knowledge of Moldovan by officials. In addition, measures to improve the participation of minority groups in Moldovan society (for example, language teaching) could be further developed and strengthened.

E. Specialised bodies

16. In October 1997, legislation was adopted establishing the Parliamentary Advocates. These promote rehabilitation of infringed rights and work to improve Moldova's legislation in human rights protection. The Advocates further consider complaints about acts or lack of acts by local and central administration bodies, institutions, and enterprises regardless of ownership, as well as public organizations and officials at all levels which have infringed the complainant's constitutional rights and freedoms. ECRI draws the attention of the authorities to its General Recommendation N°2 on specialized bodies to combat racism and intolerance at national level, and hopes that the institution of the Parliamentary Advocates will develop along the lines set down in this recommendation, paying particular attention to the problems of intolerance and discrimination.

II. POLICY ASPECTS

F. Reception and status of non-citizens

- Immigration and asylum seekers

17. Many Moldovans who were residing in the Republics of the former Soviet Union returned to Moldova after independence. Other groups of immigrants include mainly Ukrainians and Russians. However, there do not seem to be major problems of xenophobia towards these immigrants.

18. Moldova is not a party to the 1951 Geneva Convention on the Status of Refugees and its 1967 Protocol nor has it a system in place for the examination of asylum requests. Although the issue of providing first asylum has never arisen formally, ECRI esteems that it is important that Moldova ratify the Convention and its Protocol and establish refugee determination procedures which exclude the possibility of discrimination, should the need arise.

19. Many Moldovans have left the region on the left bank of the Dniestr river - where they face discrimination by the self-proclaimed Trans-Dniestrian leadership presently controlling the region - and have moved to different parts of Moldova, particularly in Chisinau.

G. Education and training

- *Police training and education*

20. Since knowledge of human rights and the implications of the rule of law are reported to be limited, ECRI considers that it is important that law enforcement officials receive appropriate training in human rights law and the treatment of ethnic minorities and non-citizens. Special attention is drawn to the Council of Europe guidelines on "Police training concerning migrants and ethnic relations".

- *School education*

21. As highlighted above, knowledge of the official language among persons belonging to national minorities is minimal and it is spreading only slightly for want of funds, textbooks and teachers. ECRI feels that it is paramount that the authorities make all possible efforts to remedy this situation.

22. ECRI notes the establishment of a legal framework entitling all citizens to teaching and education in their mother tongue. However, it encourages the authorities to closely monitor the practical application of the relevant provisions. ECRI also stresses the importance that all schools in Moldova, regardless of the main language of education, ensure extensive provision of classes in the other languages spoken in the country.

23. In the region on the left bank of the Dniester river, continued tension between Moldovan schools using the Latin script and the self-proclaimed Trans-Dniestrian leadership is a cause for serious concern. In recent years, the use of the Cyrillic script for Moldovan was reintroduced and the study of Moldovan in the Latin script forbidden. ECRI stresses that the Latin script, as the official script of Moldovan, should also be used in the region of the left bank of the Dniester river.

H. Statistics

24. Since it is difficult to develop and effectively implement policies in the areas of interest to ECRI without comprehensive and reliable data, the authorities are encouraged to collect, in accordance with European laws, regulations and recommendations on data-protection and protection of privacy, data which will assist in assessing and evaluating the situation and experiences of groups which are particularly vulnerable to racism and intolerance.

25. Statistics concerning the social and economic situation of the various minority groups would in particular enable targeted policies to be developed to uncover possible discrimination and assist groups facing disadvantage.

I. Media

26. Although Moldova still faces problems related to freedom of the media, these do not seem to affect minority groups in a particular way. In 1989 there were approximately 200 daily newspapers and some 65 magazines. The share of publications in Moldovan has increased ever since. Most programmes on State television (Teleradio Moldova) are broadcast in Moldovan, but programmes in Russian also exist. There are also some independent radio stations. Foreign publications are freely available and foreign radio and TV programmes, in particular from Russia and Romania, can be received without interference.

27. In the region on the left bank of the river, where the Moldovan authorities have presently no control, the situation is markedly more restrictive: programmes are broadcast solely in Russian, although it is possible to receive Teleradio Moldova. Print media from the right bank are not available, whereas Russian newspapers are. ECRI views this situation with deep concern.

J. Other areas

- *The Gagauzia region*

28. The "Law of the Republic of Moldova on the Special Legal Status of Gagauz Yeri-Gagauzia" of 1994, drawn up with the collaboration of experts of the Council of Europe, allowed for a relaxation of tension in this southern region of Moldova, predominantly inhabited by members of the Gagauz minority. Following cooperation with the Council of Europe, the Moldovan and Gagauz authorities adopted a statute concerning the autonomy of the region within the Republic of Moldova, in June 1998. ECRI underlines the potential positive bearing that a successful solution of problems in this area may have for the situation in the region on the left bank of the Dniester river.

- *Civil society*

29. There does not seem to be an active presence of non-governmental bodies operating in the fields of racism and intolerance in Moldova. In general, human rights advocacy and information groups are small and have limited resources and impact. ECRI feels that ways should be found to support and encourage the setting up of initiatives, especially at local level, on the part of associations, non-governmental organizations, community groups etc. as well as to strengthen and develop the relationships between such groups and the government.

- *Jewish community*

30. In the part of Moldova controlled by the Moldovan authorities, anti-Semitic sentiment does not appear to be widespread. However, in the region on the left bank, manifestations of anti-Semitism are frequently reported, including harassment, anti-Semitic statements made during official celebrations and circulation of anti-Semitic publications. ECRI expresses its concern at these reports and hopes that the relaxation of tension in the area will contribute to effectively countering such disturbing manifestations. ECRI furthermore feels that measures should be taken to raise awareness among the media, especially those received on the left bank of the Dniester river, of the need to combat and refute all manifestations of anti-Semitism.

- *Roma/Gypsy community*

31. Moldovan Roma/Gypsies are in general very dispersed and can broadly be said to share the same living conditions as the rest of the population. However, their vulnerability seems to increase when they live in compact groups and there have been reports of abuses by public officials as well as persisting stereotypes and prejudice. The authorities are encouraged to monitor the situation through, *inter alia*, collection of data, and to develop concrete programmes for the improvement of the social and cultural situation of the Roma population.

* * *

General data as supplied by national authorities:

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Moldovan authorities on 22 July 1996. The Moldovan authorities did not reply to ECRI's questionnaire.

* *Population: 4 320 000 (beginning 1997). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography).*

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