

Promo - LEX

Promovarea democrației și a drepturilor omului

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Subject: "Civil Society Space Report - Input"

SUBMISSION

ON THE CIVIL SOCIETY SPACE

The High Commissioner for Human Rights is invited to submit a report on the state of civil society space in Moldova.

The report should be submitted to the High Commissioner for Human Rights by 30 June 2015. The report should be submitted in both English and Romanian. The report should be submitted to the High Commissioner for Human Rights by 30 June 2015.

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The "Promo-LEX" Association welcomes the opportunity to provide a contribution in preparing a compilation of practical recommendations for the creation and maintenance of a safe and enabling environment for civil society and salutes this initiative of the United Nation Human Rights Council. The present submission is based on Promo-LEX working experiences and information gathered as a result of its activity.

Civil society organizations play a very important role in the building of democracy, promoting and defending human rights. This role is also very important in the countries in transition to democracy. In the same time we should emphasize that the presence of active civil society, especially human rights organizations is very important in the areas which are under control of de facto administrations, where the international norms and rules are not applicable.

I. General information on the Promo-LEX Association

The "Promo-LEX" Association is a civil society organization with special consultative status with the UN (EGOSOC), whose purpose is to advance democracy in the Republic of Moldova through promoting and defending human rights and monitoring democratic processes. Promo-LEX Association is a national level organization based in Chisinau and works on the entire territory of Moldova, including in the Transnistrian region¹.

Promo-LEX Association is member of the International Federation for Human Rights (FIDH) as well as of other international specialized structures (ENEMO, GNDEM, Civic Solidarity Platform, EPDE, Coalition for Free and Fair Elections, National Platform of EaP Civil Society Forum etc.), and of other civic specialized structures.

II. Information submitted

Before presenting the relevant information, we would like to recall the repeated statements made by UN Secretary-General that "*civil society actors must be able to do their work freely, independently, safe from fear, retaliation or intimidation. This requires collective action to denounce reprisals and defend free voices and protect those targeted*".

NGOs have a special role in promoting democratic values and human rights. In addition to their direct interventions to promote and protect human rights, they also apply methods of promoting human rights such as: assisting authorities in promoting reforms, conducting various training programs, reporting, monitoring and other relevant activities.

So far, Promo-LEX lodged 101 cases to the European Court of Human Rights. Cases allege serious violations of fundamental rights and liberties. On 21 cases, the Court ruled positive judgments, some of which brought essential changes in the area of human rights protection. Promo-LEX started

¹ Starting with 1992, after an armed conflict, Republic of Moldova does not effectively control the territory of the Transnistrian region. Thus, in the Republic of Moldova, there are illegal administrative structures that function in parallel with the constitutional ones and the local population is seriously affected by these circumstances.

its human rights activity in the Transnistrian region in 2004, when several schools from the region were attacked by local administration with the purpose to completely close them².

Based on its human rights monitoring activity, Promo-LEX concluded that:

- There are no effective human rights protection mechanisms available for local population in the Transnistrian region;
- Impunity is a widespread phenomenon in the Transnistrian region that allows gross human rights violations on one hand, and discourages local population to take action in defending their rights, on the other hand;
- Thus, the population from the Transnistrian region, remains, somehow, hostage in this uncertain political situation. The de facto regional administration does not allow any human rights monitoring activities in the region. Moreover, issues related to human rights observance in the region are not on the agenda of the political dialogue in 5 + 2 format between the constitutional Moldovan authorities and the de facto regional administration.

In this regard, Promo-LEX Association conducts strategic litigation activities in order to identify the most serious problems faced by local population. Additionally, Promo-LEX carries out advocacy actions to raise public awareness on these issues and to determine constitutional authorities and relevant stakeholders to accept the initiation of a dialogue to identify and create effective instruments for human rights protection and rehabilitation of victims of abuses committed in the Transnistrian region.

The efforts and proposals of the Promo-LEX Association have been criticized, blocked and sabotaged by the representatives of the de facto administration from the Transnistrian region. Later, under the pretext of the political dialogue and geopolitical circumstances, some representatives of Moldovan constitutional authorities and international organizations started to have a similar approach.

Thus, as the de facto administration continuously insisted, topics about the protection of human rights in the Transnistrian region remained ignored. The political dialogue on the settlement of the Transnistrian conflict continued, while aspects regarding severe phenomena on human rights violations were not included on the agenda.

In this context, civil society has become extremely important for people subjected to human rights violations, mostly these are vulnerable, marginalized or disadvantaged groups from the region. Thus, non-governmental organizations, including Promo-LEX have an important task to monitor and promote the observance of their rights. On the other hand, internationally recognized states involved in the settlement of the Transnistrian conflict, had the task to create an enabling

² see details here <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-114082>

environment for NGOs' development and value their contributions. Unfortunately, international legal commitments assumed by these states are merely declarative when it comes to "unstable" regions.

Because human rights and other democratic values cannot be promoted and defended without an active, viable and competent civil society, during 2006-2012, Promo-LEX Association undertook several activities to strengthen and develop civil society in the Transnistrian region, such as Forums, conferences, training programs, internships, mini-grants, need-based support and assistance was provided to local organizations from the Transnistrian region. These activities helped strengthen local organizations, brought them to the attention of Moldovan civil society and facilitated the dialogue and cooperation between them and International Community (Donor and International Organizations)

However, because of their work in promoting and protecting the rights of others, human rights organizations and defenders are often themselves targets of threats, attacks and harassment. This is what happened to Promo-LEX Association. In the light of its activities related to human rights promotion in the Transnistrian region of the Republic of Moldova, we have recently found that the pressure of the Tiraspol separatist administration on the human rights defenders of the Promo-LEX Association has increased. The harassments against human rights defenders in the Transnistrian region have recently intensified and have the mark of the intelligence services of the region - the so-called KGB of the "Moldavian Republic of Transnistria" (hereinafter "MRT"), that serves the ambitions of certain interest groups in the Transnistrian region and works to the detriment of human rights and fundamental freedoms.

Starting with 2005, Promo-LEX Association has contributed to the development of civil society in the Transnistrian region, by organizing numerous educational and instructive activities, forums, conferences, seminars, round tables, workshops, training activities and activities on sharing best practices by organizations in this space.³

Taking into consideration the fact that the Transnistrian region is ruled by an unrecognized regime, which has no international obligations and is not monitored by any monitoring mission/body, practically, at this time, there is no civil society and independent media in the region. The very few active local organizations are constantly monitored and harassed by the secret services of the regional administration.

Thus, the development of civil society in the region was tolerated only in areas such as social and humanitarian. Organizations or activists who sought or held any human rights activities were immediately persecuted or threatened: for example -

2005 - <https://www.frontlinedefenders.org/node/355>,

2012 - <https://www.frontlinedefenders.org/node/19774>,

³ http://www.promolex.md/upload/publications/ro/doc_1233069906.pdf

2013 - <https://www.frontlinedefenders.org/node/21958>, etc.).

Thus, local human rights organizations are weak and Promo-LEX took over the task of human rights monitoring and promotion in the Transnistrian region. For that, Promo-LEX became the target of the local Transnistrian administration and regional secret services have initiated the persecution of Promo-LEX Association (all its members). Promo-LEX is accused of undermining the “statehood of MRT”.

On 17 April 2015, a calumnious statement was posted on the site <http://www.kgb-pmr.com/news/370>, by which Promo-LEX Association and its members are threatened directly by KGB of the “MRT”, invoking that its activity of promotion and protection of human rights in the Transnistrian region aims at undermining the security in the region and at destabilizing the situation. Moreover, the so-called KGB of “MRT” claims that criminal prosecutions were initiated against the organization and its members, mentioning at the same time that Romania is funding Promo-LEX Association in order to destabilize the situation in the Transnistrian region. What is even worse is that according to that statement, special investigation measures were ordered as being applied in order to launch the criminal prosecution

On 22 April 2015, the Human Rights Observer (*a joint program of the International Federation for Human Rights (FIDH) and of the World Organization Against Torture (OMCT)*), published an open letter by means of which they urged all international stakeholders, and particularly all the parties that participate in the regulation of the Transnistrian conflict in “5+2” negotiation format, to focus, as far as their relationship with the de fact “MRR” authorities are concerned, on human rights protection in the Transnistrian region, in particular on finding solutions against persecution and harassment of NGOs. FIDH and OMCT qualified the commencement of the criminal prosecution against Promo-LEX as a new attempt of the separatist administration of Tiraspol to stop any independent human rights organization from denouncing any illegalities in the region⁴.

On 27 April 2015, more than 30 civil society organizations from the Republic of Moldova condemned the initiation of the so-called “criminal prosecution” by the self-proclaimed Security Committee (KGB) of the Transnistrian region against Promo-LEX Association and its human rights defenders⁵.

Additionally, Members of the Civic Solidarity Platform also showed support and condemned the actions of Transnistrian administration. The member-organizations of the Civic Solidarity Platform urged the Government bodies of the Republic of Moldova among others to actively invest diplomatic efforts in order to ensure the observance of human rights in the Transnistrian region of the Republic of Moldova, by ensuring effective protection of the civil society, as increased pressure on NGOs operating in areas of frozen conflict such as Transnistria undermines efforts to monitor the human dimension and security situation and prevent human rights abuses⁶.

⁴ <http://www.promolex.md/index.php?module=press&cat=0&&item=1745&Lang=en>

⁵ <http://www.promolex.md/index.php?module=press&cat=0&&item=1748>

⁶ <http://www.promolex.md/index.php?module=press&cat=0&&item=1749>

The threats, however, as well as the calumnious information about Promo-LEX Association did not stop, and thus, on 7 May 2015, a new statement containing calumnious information was posted on <http://kgb-pmr.com/news/373> on behalf of an individual, Mihai Lapitchii, who proclaimed himself as the head of the so-called "KGB". In this second statement, the calumnious information focuses directly on the Director of the Association - Mr. Ion Manole

On 13 May 2015, Steering Committee of the Eastern Partnership Civil Society Forum and on 14 May 2015, Front Line Defenders took its stand regarding this situation.⁷

Promo-LEX Association made a formal request and asked for explanations about the so-called "criminal prosecution" initiated by the self-proclaimed Security Committee (KGB) against Promo-LEX. The response of the Security Committee (KGB) was ambiguous but it confirmed the criminal prosecution against Promo-LEX members and KGB refused to provide any explanations on that matter.

In May 2015, Promo-LEX informed Moldovan authorities about this situation: Moldovan Prosecutor General's Office, Information and Security Service of Moldova, the Moldovan Deputy Prime Minister and Head of the Office for Reintegration of RM. Promo-LEX asked Moldovan authorities to honor their international obligations to protect human rights in the Transnistrian region and to support human rights organizations active in the region, as well as to take firm steps to ensure the personal security and inviolability of all Promo-LEX staff members.

On 27 May 2015, Promo-LEX Association send a request for urgent action to the Special Rapporteur on the situation of Human Rights Defenders, Mr. Michel Forst *requesting the Special Rapporteur to urge the government of the Republic of Moldova to take prompt measures in order to ensure personal security and inviolability of the Promo-LEX Association members and employees and to honor the commitments made at international level regarding the promotion of human rights in the Transnistrian region and to actively support the non-governmental organizations that carry out human rights promotion activities in the region.* Promo-LEX also asked the OSCE Mission in the Republic of Moldova to discuss the issue with Transnistrian administration and to request guarantees for Promo-LEX Association members, who only carry out legitimate work in the defense of human rights in that region.

Promo-LEX also lodged several appeals on this matter to the Embassy of the United States in Moldova, Embassy and Minister of Foreign Affairs of Romania, Head of EU Delegation in Moldova H.E. Mr.Pirkka Tapiola and to Royal Norwegian Embassy for Romania and Moldova in Bucharest.

We wish to stress that the harassment of the civil society and human rights defenders in the Transnistrian region began long before the events described above. Therefore, the pressure cast by the administration from Tiraspol on human rights defenders from the Transnistrian region

⁷ <https://www.frontlinedefenders.org/node/28708>

intensified during 2013–2014.⁸ Numerous representatives of the local civil society are intimidated and subjected to libel on a daily basis for their human rights work. Journalists and human rights defenders **Mr. Nicolae Buceatchi** and **Mrs. Luiza Dorosenco** were accused of “subversive activities in Transnistria and inciting hatred towards the current authorities.” These accusations were formulated in several videos published on YouTube in May 2014. Their complaints to the local investigatory bodies were ignored and were not followed through with.⁹

On 18 June 2014 the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and association, and the Special Rapporteur on the situation of human rights defenders, addressed to Moldovan Government and to the *de facto* authorities in the Transnistrian region through the United Nations Resident Coordinator in the Republic of Moldova a Joint Letter concerning **Mr. Andrey Rezanov**, a human rights activist who is illegally detained in the region. The above-mentioned bodies have asked to indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in a safe and enabling environment, and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

It is important to mention that **Mr. Rezanov** was recently appointed the Chair of “Fair Justice” NGO that is aimed to defend the rights of detainees and prisoners in the Transnistrian region. He reports on prison conditions and engages in advocacy towards the international community¹⁰. In 2012, Promo-LEX Association lodged an application to the ECtHR on this case. In February 2013, the case was communicated to the responding Governments of Moldova and Russia. Written observations on this case were also lodged by Promo-LEX.

On 5 December 2014, a Promo-LEX lawyer - **Mr. Alexandru Zubco**, was forbidden to enter the Transnistrian region of the Republic of Moldova, under the threat of being arrested, because of his human rights activity in the region. At the lawyer’s request, the Intelligence and Security Service of the Republic of Moldova answered that “KGB” targets him because of his activity at Promo-LEX Association. Alexandru Zubco has been working at Promo-LEX since 2007 and is actively promoting human rights in the Transnistrian region.¹¹ In this context, Promo-LEX Association, FIDH, OMCT and others issued a joint open letter concerning on the situation of human rights defenders from the Transnistrian region.

The work of human rights defenders in the Transnistrian region is perceived as subversive and as an attempt to undermine the security of the local regime and *de facto* administration. This is why human rights activism is not “popular” at the local level and there are no efficient mechanisms or

⁸ <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/moldova/16642-transnistria-concern-on-the-situation-of-human-rights-defenders>

⁹ <http://www.civilrightsdefenders.org/news/civil-rights-defenders-urges-the-government-of-transnistria-to-protect-human-rights-in-an-open-letter/>

¹⁰ <http://www.moldova.org/sos-human-rights-activist-in-transnistria-risks-being-sent-to-jail/>

¹¹ <http://www.zdg.md/editia-print/politic/un-avocat-de-la-promo-lex-in-justitia-transnistreana>

institutions to monitor human rights situation in the region. Nevertheless, during the past year, the local regional administration took action to exercise control over human rights defenders and nongovernmental organizations from the region.¹²

We also want to stress an important fact that due to enabling a hostile environment on civil society in the Transnistrian region, a great number of people from the region are limited in accessing legal aid and assistance and lack protection against human rights abuses inflicted by the regional administration.

Considering the fact that Promo-LEX Association represents before the ECtHR the interests of a large number of people from the Transnistrian region (in 62 cases), the inaction of the Moldovan authorities in the case of Promo-LEX Association can be qualified as an obstacle for human rights monitoring and promotion in the Transnistrian region. This also hampers efficient representation of the applicants, whose cases are pending before the European Court of Human Rights (*case of Mozer v. Moldova and Russia, case of Sandu and others v. Moldova and Russia etc.*).

Despite these circumstances, Promo-LEX will continue its human rights promotion activity in the Transnistrian region¹³, especially through strategic litigation using international protection mechanisms, through dissemination of information and advocacy campaigns.

Regarding the commitments of the Republic of Moldova, we assess that some of these are not fully respected. We emphasize the commitments made by Moldova in the first cycle of Universal Periodic Review (UPR) under the auspices of the UN Human Rights Council, where Moldova has accepted a set of recommendations from other Member States on the active support of NGOs that carry out activities to promote human rights in the Transnistrian region and continue the work of defending and promoting human rights in the Transnistrian region in general, assumed by the country when joining the Human Rights Council (see recommendations from Romania and Canada). As a result of the accepted recommendations, Moldova will report in 2016 on progress in achieving its commitments aimed at enabling an adequate environment for civil society.

Moreover, on 22 March 2014, the UN Human Rights Council adopted a crucial resolution on the protection of human rights defenders. The resolution calls on States to protect human rights defenders from attacks and reprisals and ensure that national laws and policies support and enable their work. The resolution also renews the mandate of an independent international expert tasked with supporting and protecting human rights defenders. The resolution enjoyed strong support from all regions of the world, being also signed by the Republic of Moldova.

In addition, one of the important moments that deserves attention is the fact that enabling a safe environment for civil society is the only possibility to guarantee the objectives of post-2015 development agenda. On 18 May 2015, as the launch of the post-2015 development agenda

¹² <http://mediacenter.md/aktualno/444-v-pridnestrovo-mogut-povavitsya-inostranne-agenty.html>

¹³ <https://ghiliascu.wordpress.com/2008/10/26/promo-lex-organizeaza-in-premiera-forumul-ong-urilor-din-regiunea-transnistreana/>

approaches, a group of United Nations human rights experts (the UN human rights experts as the Special Procedures of the Human Rights Council) call on UN member States to ensure that the new global goals are firmly grounded in international human rights norms and standards, including the principle of participation, and that they acknowledge **the importance of a free and vibrant civil society for effective implementation.**¹⁴

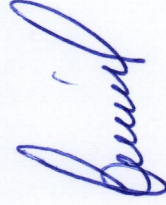
In conclusion, we believe that threats and denigration campaigns against civil society from the Transnistrian region create an unhealthy environment for promoting and protecting human rights. It is obvious that the importance of civil society is a notorious one. Civil society helps solving many problems and plays a crucial role in shaping democratic society. When civil society is unprotected, it is only to the detriment of the broader society, namely because it significantly contributes to the promotion of human rights by highlighting the violations and by supporting the victims of these violations; by disseminating information about the guarantees each person must benefit in a state of law. The importance of civil society is also that it largely represents a bridge between the human rights international protection system and people whose rights are violated in a particular State.

Considering the international principles on defenders' rights in particular, and civil society in general, States should take proactive steps to counter smear campaigns against and the stigmatization of human rights defenders, including by third parties. While states have a duty to protect human rights defenders from abuses by non-state actors, the latter can play an important role towards the realization of the rights of human rights defenders. **Non-state actors should respect and recognize the rights of human rights defenders and be guided by international human rights norms in carrying out their activities. Furthermore, the state may be responsible for wrongful acts under international law against human rights defenders committed by individuals or groups that have no formal status as state official or organ, if these individuals or groups act as de facto state organs.**¹⁵

Unfortunately, the collaboration between NGOs which promote and defend human rights in the Transnistrian region and Moldovan authorities is poor. We consider that civil society should be allowed to operate freely to promote and protect human rights, including in the conflict regions such as the Transnistrian region of Moldova. In this context, on 27 January 2014 - Promo-LEX Association, together with other civil society organizations, signed a petition on improving communication between the Parliament of the Republic of Moldova and the NGO sector.

Thus, we hope that this Guide will contain practical recommendations to the States in order to create and maintain a safe and enabling environment for civil society.

Executive Director
Promo-LEX Association
Ion MANOLE



¹⁴ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15970&LangID=E>

¹⁵ <http://www.osce.org/odihr/119633?download=true>