

# ECRI

European Commission against Racism and Intolerance  
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## **European Commission against Racism and Intolerance**

### SECOND REPORT ON MOLDOVA

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## **Foreword**

*The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.*

*One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.*

*At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Moldova is dated 5 February 1999 (published in November 1999). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.*

*An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.*

*The contact visit to Moldova took place on 15-18 April 2002. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the national authorities of Moldova for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the national liaison officer of Moldova whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.*

*Furthermore, ECRI would like to thank all the representatives of non-governmental and inter-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.*

***The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 28 June 2002 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.***

### ***Executive Summary***

In the last few years, Moldova has taken various measures to combat racism and intolerance, particularly by adopting the Act on the rights of persons belonging to national minorities and on the legal status of their organisations, by ratifying the 1951 Convention on the Status of Refugees and by setting up an action plan under the terms of a Decree on certain support measures for Roma/Gypsies in Moldova.

Nevertheless, problems persist, partly because of the economic and social crisis which has hit Moldova and which has placed the population in general and minority groups in particular in a critical situation and partly because of continuing political and social tension. The Roma/Gypsy community is especially vulnerable to economic difficulties and discrimination. The criminal, civil and administrative provisions connected with the fight against racism and racial discrimination are very difficult to implement. This could lead to a rise of the number of acts of intolerance. Finally, the main difficulty lies in the need to harmonise, in a peaceful manner and in the interest of avoiding future discrimination or interethnic tension, the coexistence of the national language, another language used for interethnic communication and many minority languages, especially in the education sphere.

**In the present report, ECRI recommends that the Moldovan authorities take additional steps to enhance the fight against racism and intolerance in a number of fields. These recommendations cover, *inter alia* : the need to ensure an effective implementation of existing legislative provisions; the strengthening of the Parliamentary Advocates and the Centre for Human Rights; the establishment of a national specialised body to combat racism and intolerance; the effective implementation of the Act on the rights of persons belonging to national minorities and on the legal status of their organisations; concerted action to find a way of solving the problem of illegal immigration; and the peaceful resolution of the language problems currently facing Moldova. ECRI also urges the Moldovan Government to step up its efforts to raise the awareness of officials and the general public of all issues relating to racism and racial discrimination.**

## SECTION I: OVERVIEW OF THE SITUATION

### A. International legal instruments

1. Moldova has signed and ratified many international legal instruments relevant to the fight against racism and intolerance. ECRI welcomes the signature by Moldova of Protocol N° 12 to the European Convention on Human Rights on 4 November 2000 and hopes that ratification will follow as soon as possible. ECRI also welcomes the ratification by Moldova of the 1951 Convention on the Status of Refugees in November 2001<sup>1</sup>.
2. ECRI has been informed that the Moldovan authorities intend to sign and ratify the European Charter for Regional or Minority Languages and strongly encourages them to do so<sup>2</sup>. It also encourages them to sign and ratify the Convention for the Participation of Foreigners in Public Life at Local Level, the European Convention on the Legal Status of Migrant Workers and the ILO Convention concerning Discrimination in Respect of Employment and Occupation.
3. ECRI encourages the Moldovan authorities to make the declaration provided under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, allowing individual communications to be accepted and examined by the Committee on the Elimination of Racial Discrimination.
4. ECRI notes that, under Article 4 para. 1 of the Moldovan Constitution, "constitutional provisions for human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights and with conventions and other treaties ratified by the Republic of Moldova". According to Article 4 para. 2, "wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and its own national laws, priority shall be given to international regulations". ECRI encourages the Moldovan authorities to enforce these provisions whenever necessary in order to safeguard human rights.

### B. Constitutional provisions and other basic provisions

5. Article 16 of the Moldovan Constitution establishes the principle of equality before the law and public authorities, irrespective of race, nationality, ethnic origin, language, religion, sex, opinion, political orientation, personal property or social origin. Article 10 states that national unity 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. Although these provisions only apply to citizens, ECRI points out that, under Article 19 of the Constitution, except in cases where the law has different rulings, aliens and stateless persons shall enjoy the same rights and shall have the same duties as citizens of the Republic of Moldova. Article 32-3 of the Constitution stipulates that the law should prohibit and punish instigation to ethnic, racial or religious hatred and incitement to discrimination. Article 31 protects freedom of

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<sup>1</sup> See the section on refugees, below.

<sup>2</sup> See the section on issues of particular concern, below.

conscience, including freedom of religion, while freedom of opinion and expression are guaranteed by Article 32-1.

6. Articles 54 and 55 of the Constitution deal with the exercise of fundamental rights of the person recognised in the Constitution. Upon its accession to the Council of Europe, Moldova undertook not to apply these Articles in such a way as to restrict fundamental human rights in contradiction with international norms. ECRI hopes that the Moldovan authorities will ensure that this commitment is respected.

- **Citizenship legislation**

7. Under the Citizenship Act of 5 June 1991, non-citizens and stateless persons may, under certain conditions, apply for Moldovan citizenship after living in Moldova permanently for ten years or being married for three years to a Moldovan citizen. However, in order to obtain Moldovan citizenship, in most cases a person must renounce his/her previous citizenship, as the Act permits dual citizenship only to persons born in Moldova or married to a Moldovan citizen, or on the basis of international agreements, which have yet to be established. It has been suggested that the obligation to renounce previous citizenship in order to gain Moldovan citizenship could lead to complex situations. ECRI is therefore pleased to note that the Committee for the preparation of proposals on regulations relating to multiple citizenship, appointed in September 2001 by the Moldovan authorities, is currently working on the revision of the Citizenship Act in order to make dual citizenship more widely available. ECRI urges the authorities to adopt the revised Act as soon as possible.
8. ECRI notes that the Citizenship Act has recently been amended as regards the loss of Moldovan citizenship. Previously, the courts were able to rule on withdrawals of citizenship enacted by presidential decree. Now, however, the law no longer makes express provision for such decisions to be appealed before a court. Under these circumstances, ECRI strongly recommends that the Moldovan authorities ensure that citizenship withdrawals are always based on non-arbitrary criteria and are subject to review by the courts.

**C. Criminal law provisions**

9. Under Article 71 of the Criminal Code, deliberate actions taken to limit the rights of citizens or to grant privileges to citizens on the ground of their ethnic or racial identity are punishable by up to three years in prison and a fine of up to fifty times the minimum wage. Under the same provision, identical sanctions apply to deliberate actions to incite to hatred or cause racial or national disintegration. Moreover, the penalty may be increased if these acts involve violence, lies or threats, or if they are perpetrated by a State official. The fact that these acts are committed collectively or lead to the loss of human life or other serious consequences constitutes an aggravating circumstance leading to a prison sentence of up to ten years. Article 38 of the Criminal Code stipulates that grounds of national or racial hostility constitute aggravating circumstances in relation to a crime. According to the Moldovan authorities, very few cases involving racist acts have so far been brought before the courts. However, ECRI is concerned by reports that comments liable to incite to racial hatred have been made or reported by the press. ECRI therefore encourages



the Moldovan authorities to monitor more closely the application of the aforementioned criminal law provisions in order to ensure that such cases are investigated and that, where necessary, those responsible are punished.

10. ECRI has been informed that the Criminal Code and the Code of Criminal Procedure are currently being revised. It hopes that, in so doing, the Moldovan authorities will take into account the elements relating to criminal law and criminal procedure contained in its general policy recommendation N° 1 on combating racism, xenophobia, antisemitism and intolerance<sup>3</sup>.

#### **D. Civil and Administrative Law Provisions**

11. Civil and administrative legislation contains a number of provisions designed to combat racial discrimination. For example, Article 17 of the Labour Code, in relation to access to employment and the rights and duties linked to employment, forbids discrimination against employees based on sex, nationality, race or religion. The Civil Service Act of 2 November 1995 stipulates that every citizen may be employed, irrespective of nationality or religious denomination. ECRI welcomes the adoption on 19 July 2001 of the Act on the rights of persons belonging to national minorities and on the legal status of their organisations which, in Article 4, provides that the State shall guarantee equality before the law and the protection of the law and prohibits discrimination against national minorities.
12. Although racial discrimination is also prohibited by other civil and administrative law provisions, the Moldovan authorities report that no complaint of discrimination has ever been lodged and that these provisions are not applied because they are never relied on in court. However, in ECRI's view, the fact that these civil and administrative law provisions designed to combat discrimination are never enforced does not necessarily reflect the actual situation in Moldova. The general public, for example, may not be aware that these provisions exist, or may not even be sufficiently aware of or interested in the problems of racial discrimination. ECRI recommends that the Moldovan authorities should consider the desirability of adopting a comprehensive body of legislation designed to combat discrimination in all spheres of life, including provision for appropriate compensation and sanctions. ECRI believes that, whatever the immediately current incidence of acts of a discriminatory nature, such provisions are necessary as a preventive and potentially active safeguard against any increase in such behaviour.
13. Article 4 of the Association Law forbids the establishment and the activities of associations which practise racial, religious, social or class inequality or hatred, or whose programmes propagate such ideas, or which practise methods of forcible seizure of power, war, violent propaganda, violation of human rights and freedoms, or other ideas or actions which contradict the constitutional order of Moldova and are incompatible with universally recognised norms of international law. ECRI notes that the scope of this provision is unclear, particularly with regard to sanctions for breaches intervening after the creation of the association. ECRI is aware of the existence of Article 7 of the Law on

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<sup>3</sup> ECRI has been informed that, since the adoption of this report, the new Criminal Code has been adopted and that it will enter into force in 2003.

Organisation of Assembly. This provision prohibits the organisation and holding of a meeting or any other form of demonstration, which consists, among others, in inciting to national, racial or religious hatred. Nevertheless, as the full scope and effect of Article 4 of the Association Law is unclear, ECRI urges the authorities to monitor the future application and effectiveness of Article 4 of the Association Law.

## **E. Administration of Justice**

14. ECRI notes that persons who wish to instigate court proceedings but who lack sufficient funds to do so are entitled to free legal aid. Article 118 of the Constitution, the substance of which is repeated in Article 15 of the 1989 Act on the use of languages in the Republic of Moldova (hereafter: the Act on the use of languages), states that persons who do not speak the national language<sup>4</sup>, which is usually used in court proceedings, may ask for an interpreter at any stage of the proceedings and request a translation of any documents. The Moldovan authorities informed ECRI that these services are provided free of charge. Furthermore, hearings may be held in a language other than Moldovan if the majority of participants agree. ECRI welcomes these provisions and urges the Moldovan authorities to make wider use of them and to inform the population of their existence so that all victims of discrimination are able to instigate legal proceedings.

## **F. Specialised bodies and other institutions**

### **- *The Parliamentary Advocates Act of 17 October 1997***

15. The Parliamentary Advocates, established by the Act of 17 October 1997, are responsible for guaranteeing respect of constitutional human rights and freedoms by local and national administrative bodies, institutions, organisations and public enterprises, as well as public associations and officials at all levels. All three Parliamentary Advocates are elected for five years by the Parliament and have the same rights and responsibilities. Under Article 11-1 of the Act, the Parliamentary Advocates are independent of the Parliament, the President of the Republic and other public authorities. ECRI welcomes the existence of this institution and recommends that the Moldovan authorities establish the status of Parliamentary Advocates in the Constitution in order to reinforce their authority and independence.
16. The Parliamentary Advocates consider complaints lodged by citizens, non-citizens in possession of a permanent or temporary residence permit and stateless persons, whose rights and legal interests have been infringed in Moldova. Members of Parliament may submit complaints to the Parliamentary Advocates. The Parliamentary Advocates can also act on their own initiative if they become aware of human rights violations. When the Parliamentary Advocates begin proceedings, they conduct an enquiry, for the purposes of which they have investigative powers. They may initially act as mediators in order to seek a friendly settlement between the complainant and the administrative authority. If this fails, they send a report to the authority

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<sup>4</sup> *Moldovan is the national language. With regard to the national language, see the section on problems related to languages in Moldova.*

concerned, indicating how they believe the human rights of the complainant have been breached and recommending steps that should be taken to stop or compensate for the infringement. The authority concerned has one month in which to inform the Parliamentary Advocates of the action it has taken.

17. The Parliamentary Advocates may also request a court order to force the authority to act. They are entitled to ask the Constitutional Court to rule on the constitutionality of laws, parliamentary decisions, presidential decrees and government orders, and on whether they conform with the generally accepted principles of human rights and with international law. The Parliamentary Advocates also suggest ways of improving legislation in the human rights field and make general recommendations to the public authorities. In order to help them fulfil their duties, a "Centre for Human Rights" has been established as an independent institution, managed by one of the Parliamentary Advocates. The Center helps raise public awareness of human rights<sup>5</sup>.
18. According to the Director of the Centre for Human Rights, no complaint has yet been lodged with the Parliamentary Advocates alleging racial discrimination or racist or intolerant behaviour by the public authorities. Nevertheless, he emphasised the Parliamentary Advocates' determination to do their utmost to prevent or remedy this type of behaviour occurring if they should ever become aware of it taking place. ECRI encourages such resolve and suggests that they focus particularly in their work on investigating reasons why no complaints have been received in this area to verify whether and how the population and the public authorities should be made more aware of these issues. Since the Parliamentary Advocates are currently the only ombudsman-like institution in Moldova, ECRI strongly urges them to concentrate their efforts on following up complaints they receive in order that they reach a successful conclusion. In particular, the Parliamentary Advocates should act as mediators and make recommendations to the public authorities so that court proceedings, which can be lengthy, are avoided wherever possible.
19. ECRI notes a number of criticisms from civil society concerning the impact of the Parliamentary Advocates' work. It is especially concerned to hear that some of their efforts have been unsuccessful and that certain decisions have gone unheeded. ECRI calls on the Moldovan authorities to ensure that the Parliamentary Advocates' decisions are implemented, and invites the Moldovan government to give the Parliamentary Advocates all the means and resources they need to carry out their various tasks. It hopes that, as a result, civil society, which needs to co-operate closely with the Parliamentary Advocates to protect human rights, will have full confidence in their work. ECRI also recommends that an independent specialised body be established in Moldova to combat racism and racial discrimination at national level. In this regard, it encourages the authorities to draw inspiration from its general policy recommendation N° 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

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<sup>5</sup> See also para. 24

- **Department for Interethnic Relations**

20. The Department for Interethnic Relations reports directly to the government and is responsible for implementing government policy on interethnic relations and co-operating with civil society in this area. The Department works closely with sixty-five socio-cultural organisations representing different ethnic groups, particularly within the context of a Co-ordination Council, which comprises representatives of these bodies and enjoys consultative status. The Department is divided into four directorates, dealing with national minorities and interethnic issues, languages and interethnic communication, international relations and Moldovans living abroad, and information. The Department has representatives in the various local authorities, which act as a contact point between the Department and minority groups and implement government policy in this field at local level. ECRI welcomes the existence of the Department for Interethnic Relations and hopes that the government will continue to strengthen its efforts in this field, particularly by providing the Department with the necessary status and with the resources it needs to perform its various tasks.

**G. Reception and status of non-citizens**

- **Refugees and asylum seekers**

21. There are very few asylum seekers in Moldova. In the past three years, 900 asylum applications have been received, of which half were accepted and 250 are currently being processed. Most asylum seekers are Russian citizens from Chechnya, or Afghan or Iraqi citizens. Since no relevant legislation or other measures are in place, it is the United Nations High Commissioner for Refugees who has dealt since 1997 with issues arising from asylum applications in Moldova. The Ministry of Justice recently established a Refugees Department, which works closely with the High Commissioner for Refugees. ECRI is pleased to note that Moldova has ratified the 1951 United Nations Convention on the Status of Refugees, entering into force in Moldova in May 2002. It welcomes the fact that the parliament is in the process of adopting a Refugees Act, which is designed to implement the Convention, and hopes that this Act will enter into force very soon.
22. At present, asylum seekers and refugees receive no social assistance from the State, although children of school age are entitled to free education. The main difficulties faced by refugees are of an economic nature or linked to the fact that their status is not officially registered. ECRI hopes that the establishment of statutory instruments such as the Refugees Act will help to resolve these problems. It also believes that, alongside these positive legal measures, awareness-raising measures should be initiated among the general public and the main public authorities which deal with refugees in order to prevent prejudice and negative stereotypes concerning refugees.

- **Illegal immigration**

23. Moldova is a major through-route for illegal immigrants heading from Asia to Western Europe. According to the Migration Department, which was recently set up by the Moldovan government, this group includes economic migrants and women recruited for prostitution. The Moldovan government is trying to respond by tightening border controls, particularly along the border with Ukraine, but is

being hampered by a lack of resources and problems of exercising effective controls in the East of the country. For example, persons found to be staying illegally in Moldova are taken to court and usually fined, but are reportedly not detained or deported. ECRI is concerned about the fate of these illegal immigrants in Moldova, some of whom are victims of trafficking in human beings. It notes that the Moldovan authorities are aware of the problem and are seeking solutions, particularly by requesting international aid. ECRI urges the authorities to do everything possible to solve the problem of illegal immigration and especially to ensure that all officials who deal with illegal immigrants receive special training, particularly in the area of human rights and tolerance.

## H. Education and awareness-raising

24. In addition to training on human rights organised by the Ministry of Internal Affairs for its officials, the Centre for Human Rights<sup>6</sup> regularly organises human rights training seminars, particularly for members of the police, prison service, public prosecutor's office and judiciary. ECRI invites the government to increase the number of such initiatives and to provide professionals with improved training in human rights and tolerance.
25. Secondary school pupils attend civics lessons, while a course entitled "The law and us" is taught in high schools. Both include training in human rights. ECRI urges the Moldovan authorities to improve education and training in the human rights field, particularly with regard to the problems of racism and intolerance, for children at all levels of education. ECRI notes that an intergovernmental committee made up of scientists, teachers and members of the public has been created to discuss the reform of school history books. ECRI hopes that this reform will provide an opportunity to counter all negative stereotypes concerning minority groups. In this connection, it draws the government's attention to its general policy recommendation N° 1, which calls on governments to ensure that school curricula, for example in the field of history teaching, are set up in such a way as to enhance the appreciation of cultural diversity.

## I. Access to public services

26. As indicated above, Moldovan law includes various provisions designed to combat all forms of discrimination. However, the Moldovan authorities claim never to have had to deal with any case of discrimination relating to access to public services. ECRI notes that some independent sources corroborate this, while others mention cases of discrimination against Roma/Gypsies<sup>7</sup>. Therefore, it encourages the Moldovan authorities to monitor closely the implementation of the principle of non-discrimination in access to public services.
27. ECRI notes that the system for registering residency (*propiska*), which applied under the Soviet regime, was declared unconstitutional in 1997 by the Moldovan Constitutional Court. Under this system, identity papers would state the holder's permanent place of residence, which meant that the holders had to

<sup>6</sup> See para. 17

<sup>7</sup> See Roma/Gypsies, below

register with the municipality in which they lived. Registered persons enjoyed certain rights, such as the right to vote and the right to social benefits. In principle, the new identity papers no longer contain information on the holder's place of residence and such registration is no longer compulsory. However, ECRI is concerned by reports that some public bodies are continuing to demand a residence permit before granting benefits, and by cases of police harassment, particularly of foreigners unable to present documents proving that they have been registered. ECRI fears that this situation might lead to discrimination, especially against certain minority groups such as the Roma/Gypsies or immigrants. ECRI strongly urges the Moldovan authorities to ensure that all public authorities duly implement the Constitutional Court's decision that the old system is unconstitutional and calls on the Moldovan government to monitor the situation very closely.

- **Access to education**

28. This issue is dealt with below in the section on "Problems related to language in Moldova".

**J. Vulnerable groups**

***This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.***

- **Roma/Gypsies**

29. According to the official figures, Moldova's population includes approximately 11,600 Roma/Gypsies. However, representatives of the Roma/Gypsy community and certain non-governmental organisations estimate that the real number is much higher, quoting figures ranging from 50,000 to 200,000.
30. In some areas, the Roma/Gypsy population finds itself in a particularly difficult economic situation. Living conditions are precarious, especially in rural areas, since the Roma/Gypsy community generally lives in habitations away from the rest of the population. These habitations do not even have basic amenities such as running water, heating and sanitation, to the extent that tuberculosis and other diseases are rife. There is a lack of teachers for the Roma/Gypsies living on these sites and working conditions in schools are very poor, causing children to fall behind in their education and resulting in a high academic failure rate. ECRI is concerned by reports that Roma/Gypsies suffer discrimination in fields such as employment, housing, education and social services. It particularly draws attention to the problems caused by the distribution of land following the collapse of the Soviet regime, when the Roma/Gypsy community was treated differently to the rest of the population. ECRI urges the Moldovan authorities to resolve this problem. It is reported that members of the Roma/Gypsy community face ill-treatment on a regular basis perpetrated by some members of the police force. ECRI urges the Moldovan authorities to carry out an independent enquiry into these allegations and, if necessary, to punish those responsible. The Roma/Gypsies are also victims of prejudice and stereotyping, particularly in the media. In accordance with its general policy recommendation N° 3 on

combating racism and intolerance against Roma/Gypsies, ECRI calls on the Moldovan authorities to raise media professionals' awareness of their specific responsibility to avoid making prejudicial comments as they go about their work, and particularly to avoid reporting events involving individual members of the Roma/Gypsy community in such a way as to tarnish the reputation of the Roma/Gypsy community as a whole<sup>8</sup>. More generally, it invites the Moldovan authorities to identify and eliminate all discrimination against Roma/Gypsies, in particular by enforcing the legal provisions mentioned above<sup>9</sup>.

31. ECRI notes the adoption of a recent initiative concerning the Roma/Gypsy community. In February 2001, the Government adopted Decree N° 131 on certain support measures for Roma/Gypsies in Moldova. The Decree aims to "create the conditions necessary for the socio-cultural development of Roma/Gypsies" and involves various ministries, the Department for National Minorities, the Academy of Science and local authorities. The projects to be carried out as a result of the Decree include research on the living conditions of Roma/Gypsies and on their culture and language, efforts to improve primary and secondary education for Roma/Gypsy children, and the provision of material aid to members of the Roma/Gypsy community. ECRI welcomes this initiative, which is a first step towards improving the situation of the Roma/Gypsies. It urges the Moldovan authorities to ensure that the Decree is properly implemented. It encourages the government to introduce more initiatives such as this, in accordance with ECRI's general policy recommendation N° 3 on combating racism and intolerance against Roma/Gypsies, which suggests that governments take a series of political and legislative measures in this field. ECRI strongly urges the Moldovan authorities to disseminate and promote this recommendation, as well as the action plan set up by the Decree, among all local authorities in regions where Roma/Gypsies live. ECRI also wishes to underline the importance of involving Roma/Gypsies especially when various measures concerning them are designed and implemented.

- **Gagauz**

32. The Gagauz represent 3.5% of Moldova's population, living mainly in the Gagauz-Yeri region in the south of the country. In December 1994, responding to demands from the Gagauz community, the Moldovan parliament eased some of the tension in the region by granting it autonomy. However, ECRI notes a new rise in political tension between representatives of the region and the central Moldovan authorities, particularly concerning the degree of autonomy that should be granted to the region. ECRI hopes that these tensions, as well as any practical demonstrations of intolerance, will quickly be dealt with so that they do not degenerate into interethnic conflict between the members of the Gagauz community and the rest of the population. ECRI therefore urges the Moldovan authorities to monitor the situation in the Gagauz-Yeri region very closely. ECRI deals with the language problems of the Gagauz community below in the section on Issues of particular concern.

<sup>8</sup> See also the section on the media, below.

<sup>9</sup> See *Constitutional provisions and other provisions, Criminal law provisions and Civil and administrative law provisions, above.*

- **Other minority groups**

33. Ukrainians make up 13.5% of the population, Russians 13% and Bulgarians 2%. ECRI notes that relations between most of the population and these minority groups, as well as those between the different minority groups, are generally good and characterised by mutual tolerance. ECRI hopes that this situation will continue and encourages the Moldovan authorities to do all they can to ensure that this is the case. However, ECRI notes that the main difficulties facing minority groups are language-related. ECRI deals with these below<sup>10</sup>.

- **Religious groups**

34. As mentioned above, freedom of religion is protected by Article 31 of the Constitution<sup>11</sup>. Most (93%) of Moldova's population is of Orthodox obedience. Religions officially recognised in Moldova include the Moldovan Orthodox Church (or Traditional Orthodox Church), the Orthodox Eparchy of the Ancient Christian Rite of Chisinau, the Seventh Day Adventist Church and Seventh Day Adventist Church (Reformation Movement), the Pentecostal Church and the Federation of Jewish Congregations. The National Department for Questions of Religious Practice represents the State in its relations with the various religious associations. It also monitors the implementation of legislation on religious matters and has a Consultative Council comprising representatives of the different religions, lawyers and religious experts.
35. The Metropolitan Church of Bessarabia is an autonomous orthodox church created on 14 September 1992. According to its statute, it replaced the Metropolitan Church of Bessarabia that had been in existence until 1944. Almost one million Moldovan citizens are affiliated to this Church. Since 1992, this Church has been seeking official recognition from the Moldovan authorities. However, the government continues to refuse to recognise it, claiming that such a move would lead to religious and socio-political conflicts between the members of the Metropolitan Church of Bessarabia, which is attached to the Bucharest patriarchate, and those of the Moldovan Orthodox Church, which is affiliated to the Moscow patriarchate. However, on 13 December 2001, the European Court of Human Rights issued a judgment on the case of "Metropolitan Church of Bessarabia and others versus Moldova". In its judgment, the Court ruled that the government's refusal to recognise the Metropolitan Church of Bessarabia impinged upon the religious freedom of the applicants to such a degree that it could not be considered as proportionate to the legitimate aim pursued nor, therefore, as necessary in a democratic society; Article 9 of the European Convention on Human Rights had therefore been breached<sup>12</sup>. ECRI has been informed by the Moldovan authorities that the Metropolitan Church of Bessarabia has been registered by the National Department for Questions of Religious Practice through Ordinance n° 1650 of 30 July 2002. ECRI takes note that, as a result, the Metropolitan Church of Bessarabia has been granted legal personality and, consequently, should henceforth be entitled to claim enjoyment of property rights.

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<sup>10</sup> See the section on Issues of particular concern

<sup>11</sup> See Constitutional provisions and other basic provisions

<sup>12</sup> Judgment of the European Court of Human Rights, 13 December 2001, "Metropolitan Church of Bessarabia and others versus Moldova", para. 130



**K. Antisemitism**

36. Antisemitism appears to be quite rare in Moldovan society in general and in the country's main media. However, ECRI notes that antisemitic acts have been committed, such as the desecration of tombs in a Jewish cemetery and that the press has published articles inciting to hatred of Jews. ECRI strongly urges the authorities to bring to justice those responsible for such incidents and to monitor closely the rising number of antisemitic acts. In this connection, ECRI also reiterates the recommendations made above in relation to the effective, appropriate implementation of legislation against incitement to racial and religious hatred and degrading remarks<sup>13</sup>.

**L. Monitoring of the situation**

37. ECRI notes a lack of reliable data concerning the situation of various minority groups in a number of fields of economic and social life and concerning the effects of discrimination. In particular, it notes that the last census carried out in Moldova was conducted in 1989, before Moldova was granted independence. However, it is difficult to assess the extent of discriminatory practices and racial violence in Moldova without detailed statistical data on the subject. Consequently, ECRI believes that a data collection and monitoring system should be established so that all these problems, including those linked to discrimination, may be detected and resolved. Such a system should pay due respect to the principles of confidentiality and the voluntary self-determination of persons belonging to a particular group.

**M. Media**

38. The public company "Teleradio Moldova" broadcasts different programmes in minority languages. ECRI considers that the government should encourage the development of media in the languages of minority groups. The law requires that at least 65% of the total duration of programmes broadcast by public and private audiovisual media should be in the national language, except in areas "densely populated with ethnic minorities". ECRI is aware of the need to protect the national language in this way<sup>14</sup>, but hopes nevertheless that the Moldovan authorities will ensure that the application of such legislation, particularly in relation to the granting or withdrawal of media licences, does not harm the development of the minority languages spoken in Moldova.
39. ECRI is concerned by the gulf that exists in Moldova between the Moldovan- and Russian-language media. The Moldovan and Russian press either cover different events altogether or, when they do carry the same story, present it in remarkably different ways. ECRI believes that this situation runs counter to the efforts made to promote social cohesion among the ethnic groups that make up Moldovan society.

<sup>13</sup> See *Criminal law provisions, above*

<sup>14</sup> See also the section on problems related to languages in Moldova

40. ECRI notes that certain prejudices and negative stereotypes of members of minority groups such as the Roma/Gypsies<sup>15</sup> and Jews<sup>16</sup> have been reported in the media. It considers that media professionals should be warned of the danger of such reporting. It also strongly supports the adoption and implementation by media professionals of codes of conduct which would favour a more responsible type of reporting.

#### **N. Conduct of law enforcement officials**

41. According to the information provided by the Moldovan authorities, no formal complaints have been made about discriminatory or racist behaviour by law enforcement officials<sup>17</sup>. Complaints against the police are investigated by the public prosecutor. ECRI notes that complaints about illegal behaviour by the police, including discriminatory acts, may be lodged with the Parliamentary Advocates<sup>18</sup>. In accordance with its general policy recommendation N° 1, ECRI nevertheless suggests that the Moldovan authorities keep in mind the need for a body, independent of the police authorities, to be given the responsibility of investigating any future incidents and areas of conflict between police and minority groups.

#### **O. Extremist groups**

42. ECRI notes that very few extremist groups have been identified in Moldova. However, it is concerned by reports suggesting that some small neo-Nazi groups are operating in the country, spreading racist and antisemitic propaganda, particularly in the media. ECRI calls on the Moldovan authorities to ensure that such activities are banned and punished as quickly as possible in order to prevent the negative stereotypes promoted by these extremist groups from reaching the general public.

#### **P. Situation of Transnistria**

43. With regard to the eastern (Transnistrian) region of Moldova (known as "Transnistria"), following the declaration of Moldovan independence of 23 June 1990, the "self-proclaimed Republic of Transnistria" was founded on 2 September 1990 by people fearing the reunification of Moldova with Romania. The "self-proclaimed Republic" gradually formed its own government and institutions without the consent of the central Moldovan authorities. Armed conflicts broke out, leading to a civil war in 1992, in which several hundred people died and around 100,000 refugees fled, 51,000 of whom were displaced within Moldova. In July 1992, Moldova signed an agreement with Russia for the peaceful settlement of the conflict. The Transnistrian question remains a thorny issue which continues to create tensions in Moldova, particularly because Russian troops are still based there. ECRI notes that, at international level, the OSCE is seeking a political agreement between the parties involved.

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<sup>15</sup> See *Roma/Gypsies*, above

<sup>16</sup> See *Antisemitism*, above

<sup>17</sup> See § 30 under the section on *Vulnerable Group - Roma/Gypsies*

<sup>18</sup> See the *Parliamentary Advocates Act* in the section on *specialised bodies and other institutions*, above

44. ECRI encourages the Moldovan authorities to seek constructive dialogue with all the national and international players involved with the aim of maintaining mutual trust between the various communities and of identifying a peaceful solution in relation to the status of Transnistria and preventing the situation degenerating into interethnic conflict.

- ***Area currently not under the effective control of the Moldovan authorities***

45. Since the region of Transnistria is not under the effective control of the Moldovan authorities, to whom this report is addressed, the current situation prevents ECRI from covering the position of populations living in that region. However, in the framework of its mandate, ECRI would like to express deep concern over reports of serious human rights violations in Transnistria, particularly discrimination relating to education and freedom of religion<sup>19</sup>.

## **SECTION II: ISSUES OF PARTICULAR CONCERN**

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which, in its opinion, merit particular and urgent attention in the country in question. In the case of Moldova, ECRI would like to draw attention to problems related to language.

### **Q. Problems related to language in Moldova**

46. Depending on one's point of view, there are numerous reasons, many of them interlinked, for examining closely the language situation in Moldova. In view of ECRI's mandate, this issue is particularly worrying because numerous representatives of non-governmental organisations and certain international organisations have stated that it is likely to lead to language-based discrimination and interethnic tensions which might result in social and political conflict at national level. The language issue is currently part of the problems in Moldova, whereas ECRI thinks it should become part of the solution, as a factor of cohesion rather than of division, a factor for building bridges between the Moldovan people rather than of deepening gaps.

47. Although the complex language situation cannot be fully understood merely on the basis of statistical data relating to current legal instruments, it is useful to consider certain information that might help to clarify the situation. With regard to the legal provisions, Article 13 of the Constitution stipulates, on the one hand, that the national language is Moldovan, based on the Latin alphabet, and, on the other, that the State recognises and protects the right to preserve, develop and use Russian and the other languages spoken on Moldovan territory. Article 35 of the Constitution stipulates that the State must guarantee by law the right of every person to choose the language of their education, but also that the Moldovan language must be taught in every educational establishment. Under the 1989 Act on the use of languages, Russian must be used equally with Moldovan. Under the Act on the rights of persons belonging to national

<sup>19</sup> See the report by Mr Alvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe, on his visit to Moldova from 16 to 20 October 2000, CommDH(2000)4, para. 3

minorities and on the legal status of their organisations, adopted on 19 July 2001, national minorities may freely use their mother tongue in both written and oral communication. In their relations with local and national public authorities, members of national minorities may use either Moldovan or Russian and may request that documents be communicated to them in either language. In autonomous regions such as Gagauz-Yeri and in regions where a national minority makes up a considerable part of the population, the language of the minority concerned may be used in the same way as the national language and Russian<sup>20</sup>. Finally, Article 134 of the Criminal Code prohibits any violation of the equality of languages and failure to respect the provisions of the 1989 Act on the use of languages.

48. According to the 1989 census, the population of Moldova is composed of people of Moldovan origin (64.5%), Ukrainians (13.8%), Russians (13%), Gagauz (3.5%), Bulgarians (2%) and other minority groups (particularly Belorussians, Jews and Roma/Gypsies). Most of the population speaks Moldovan - the State language - and a large percentage of this population also speaks Russian. Members of minority groups, beside their mother tongue (Ukrainian, Gagauz, Bulgarian, Yiddish, etc), mainly speak Russian (35% of the total population). Russian is often described as a *lingua franca* or language for interethnic communication insofar as it enables all members of the population to communicate with each other, whatever their mother tongue. This is particularly due to the geographical situation of Moldova and to its recent and ancient history. Over the past two centuries, Moldova has repeatedly been the battle field for political supremacy in the region. Each time, the victor has imposed the use of its language on Moldovan territory as a means of communication and of exerting political influence. Given Moldova's recent history, particularly its integration into the USSR over a period of more than fifty years, it is not surprising that the languages are seen as a symbol of competing political influences, nor that the extent to which they are used for communication is in no way proportionate to the number of people who speak those languages as their mother tongue.
49. The language issue is highly sensitive and a major cause of political division. It has been and is still used as a substitute for democratic debate over political and economic matters. It is linked to the issue of Moldova's national identity and its geopolitical position, particularly in relation to Russia and the rest of Europe. The language question therefore extends far beyond the fields of culture and education.
50. ECRI nevertheless wishes to tackle the language question in the framework of its mandate as an issue of particular concern, since it considers that some aspects linked to the use of languages in Moldova are liable to lead to interethnic tensions, intolerant attitudes and language-based discrimination. ECRI notes that some reports claim there is a risk of interethnic tension linked to the fact that Russian enjoys privileged status compared to other minority languages, even though the Russian community constitutes only 13% of the population. ECRI nonetheless notes that the other minority groups communicate with each other in Russian. It recommends that the Moldovan authorities ensure that the actual position granted to the Russian language does not become a source of tension and encourages them to monitor closely the

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<sup>20</sup> See also Article 9 of the 1989 Act on the use of languages.

application of legislation in order to take into account all points of view and promote social and interethnic dialogue. In this regard, ECRI stresses the positive role that the Department for Interethnic Relations<sup>21</sup> could continue to play in enhancing the positive, multicultural and inclusive aspects and advantages of the language situation in Moldova and encourages the government to ratify the European Charter for Regional or Minority Languages<sup>22</sup>.

51. School education is mainly conducted in Moldovan (1,558 schools with 470,520 pupils in total) and Russian (275 schools with 116,783 pupils). There are 118 schools where lessons are taught in both languages. Virtually all children of Moldovan origin are taught in the national language. Most Ukrainian, Russian, Gagauz and Bulgarian children are taught in Russian. Only 1% of Ukrainian children actually learn in Ukrainian and a similar figure applies to Bulgarian children. There are no schools where Gagauz is the main language. As far as learning their mother tongue as a separate school subject is concerned, 16% of Ukrainian children, 59% of Bulgarian children and 90% of Gagauz children receive such tuition. Children from the other minority groups learn their language at Sunday school. Russian is a compulsory course in the secondary school. The Moldovan Government considered at a certain point the possibility of making the teaching of Russian compulsory in schools from the second year of primary school upwards, but ECRI is informed that the government has given up this idea, at least temporarily.
52. Numerous cases have been reported to ECRI of language difficulties encountered by pupils whose mother tongue is not Moldovan. First of all, these children have little opportunity of being taught in their mother tongue owing to a lack of qualified teachers and suitable resources. Furthermore, the fact that most children from minority groups cannot be educated in their mother tongue throughout their school career, having instead to be taught first in one language and then in another, hinders their learning and can cause them to fall behind in their education. Also, since lessons are taught either in Moldovan or in Russian, it can be difficult for children and young people to move from one establishment to another, especially at high school and university levels. ECRI understands that the Moldovan authorities are aware of this problem and intend in particular to ensure that more children are taught their mother tongue at the various stages of education.
53. Since Moldovan is the national language, it is natural for the Moldovan authorities to want to improve children's knowledge and command of that language. However, ECRI notes that the situation is particularly worrying in this respect. In schools in which Russian or another language is the main language used, the quality of teaching of Moldovan as a specific subject is poor because of a lack of qualified teachers, who are put off by the very low salaries, and because of a shortage of suitable teaching materials, particularly textbooks. Only one-third of those who teach Moldovan as a foreign language can be considered specialists. The others have, at most, been trained to teach Moldovan as a mother tongue or are not qualified teachers at all. This means that children attending Russian-language schools have a totally inadequate command of the national language when they leave school. Consequently,

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<sup>21</sup> See *Department for interethnic relations, above*.

<sup>22</sup> See *International legal instruments, above*.

various sources claim that they find it difficult to gain entry to higher education or employment at middle or top level.

54. The Moldovan authorities have indicated that they are aware of this situation and are in the process of training teachers of Moldovan as a specific subject in order to remedy the deficiencies of the current system, particularly using international aid. ECRI urges the Moldovan authorities to do their utmost to ensure that teaching of the national language is substantially improved in order that children whose mother tongue is not Moldovan enjoy equal opportunities to learn the Moldovan language. ECRI wishes to underline that, whereas maintaining and learning one's mother tongue is very important, learning the official language of the State is a key to the society, including its labour market, and crucial in combating exclusion and marginalisation of various groups and in promoting social cohesion in society. Such a policy would prevent discrimination resulting from unfamiliarity with the language, particularly in terms of access to higher education and public or private sector employment. ECRI invites the authorities to continue developing this area by increasing the number of teachers of Moldovan as a specific subject and equipping them with a sufficient number of suitable textbooks.
55. ECRI welcomes the fact that the Moldovan authorities are currently setting up an education programme that adopts a global approach to language issues in the education sphere. It urges the authorities to take into account the views and interests of all the communities concerned in order to find a solution that reconciles the desire to promote teaching of the national language with the need to protect minority languages.
56. The national language should also be taught within the adult education system, since knowledge of Moldovan is generally insufficient among minority groups. This situation means it is impossible to ensure equal opportunities in access to public sector employment and to skilled jobs that require knowledge of the Moldovan language. Programmes set up by the authorities for adult learning of the national language, which provided free lessons in the workplace, for example, were abolished in 1995. Since then, owing to a lack of financial and human resources, the State has been unable to provide free or low-cost lessons for adults. Representatives of the largest minority groups concerned have complained about this situation, even though members of the Russian-speaking population tend to lack motivation to learn the national language. ECRI is concerned by the current situation, which is bound to lead to discrimination and a feeling of frustration among those who do not speak Moldovan. ECRI's attention has been drawn to a new initiative on the part of the authorities aimed at setting up a new national programme to improve adult learning of the State language. It strongly urges the State authorities to develop and implement such kind of programmes to teach Moldovan to adults, possibly using international aid, so that people who wish to learn the language can do so at minimum cost.
57. ECRI wishes to draw the attention of the Moldovan authorities to another language-related problem in Moldova, which concerns the difficulties sometimes encountered by members of the Moldovan majority in their relations with public services. It has been reported, particularly in rural areas where most of the population only speaks Moldovan, that individuals have been prevented from communicating in Moldovan with officials who have demanded that they speak Russian, contrary to the legal provision that either Russian or Moldovan may be used in relations with the public authorities. This situation, which has arisen

because some Russian-speaking members of the public administration have only a poor command of Moldovan, is likely to result in language-based discrimination regarding access to public services. ECRI strongly urges the national authorities to safeguard the general public's right to use either Moldovan or Russian in all relations with central and local authorities. ECRI therefore encourages the Moldovan authorities to provide lessons for any officials who have difficulties with either language.

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