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Meeting: 1451st meeting (December 2022) (DH)

Communication from the Moldovan authorities (07/11/2022) concerning the case of CATAN AND OTHERS v. Russian Federation (Application No. 43370/04).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1451^e réunion (décembre 2022) (DH)

Communication des autorités moldaves (07/11/2022) relative à l'affaire CATAN ET AUTRES c. Fédération de Russie (requête n° 43370/04) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

Non-Paper
on the situation of the Latin- script schools from the Transnistrian region administered by the Government of the Republic of Moldova and the developments in the execution of the ECHR judgment in the case *Catan & Others v. the Russian Federation*

Historical background

Given the historical and political circumstances, eight schools in the Transnistrian region of the Republic of Moldova operate under the administration of the Ministry of Education and Research of the Republic of Moldova, on the basis of Latin script¹ and Moldovan curricula. These institutions are qualified by the *so-called Transnistrian administration*² as "*non-governmental educational institutions.*"

The schools have always faced serious challenges, being forced to operate in an environment of uncertainty, harassment and intimidation because of a language policy adopted in 1992 and 1994 by the unconstitutional regime from Tiraspol forbidding the use of the Latin alphabet in schools in the region.

In the summer of 2002, the *so-called militia from the Transnistrian region* forcibly evicted the pupils and teachers from the secondary school in Grigoriopol; the school had to be transferred to premises 20 km away, across the administrative line. In 2004 three more Latin-script schools were closed down in the cities of **Bender, Râbnîța and Tiraspol**. This was done with the use of security structures, several parents and teachers being illegally detained. The OSCE High Commissioner on National Minorities, Rolf Ekeus, characterized the situation around the schools as „*nothing less than linguistic cleansing*”. In 2004, the EU has added a number of persons from the left bank of the Nistru river involved in provoking the “school crisis” on its visa-ban list of *Transnistrian representatives responsible for the deadlock in the conflict settlement process*.

The abusive closure of schools became the object of three initial complaints lodged before the European Court of Human Rights (ECHR), on behalf of 170 applicants under the title *Catan and others* and later, in 2018, the fourth complaint – *Bobeico and others*, on behalf of another 11 applicants that were classified by CM DH as a group *Catan and Others vs. the Russian Federation*.

The ECHR judgment in the *Catan* case

In October 2012, the Grand Chamber of the ECHR delivered its final judgment, which held that there had been a violation of Article 2 of Protocol No. 1 of the Convention and that the Russian Federation was responsible for the violation of the applicants’ right to education, based on the effective control exercised by Russia over the transnistrian region which could not survive without Russia’s continued military, economic and political support.

Russia was to pay each applicant, within three months, EUR 6,000 in respect of non-pecuniary damage and EUR 50,000 for costs and expenses to all the applicants, jointly, as well as, to prove its commitment to erase all the consequences of the Convention breach found by the Court. **To this**

¹ The issue of the Latin script has to do with the fact that all the other Moldovan schools in the region use a form of the language written with Cyrillic alphabet. In 1994 the *de facto* administration of the Transnistrian region forbade the use of the Latin script and then began taking steps to close down all schools using Latin script.

² The self-proclaimed administration of the Transnistrian region is not recognized by the international community and is considered an integral part of the Republic of Moldova. Being committed to solve the Transnistrian conflict exclusively by peaceful means, the authorities of the Republic of Moldova are conducting negotiations with the *de-facto* Transnistrian administration with the aim to achieve a lasting and comprehensive political settlement.

date, no action was undertaken by the Russian authorities to give effect to the judgment of the Court.

With respect to the Republic of Moldova, the Court found that the **Moldovan Government had taken appropriate and sufficient measures to ensure the applicants' right to education**, by paying the rent and refurbishment of new premises as well as for all equipment, staff salaries and transport costs.

The developments regarding the situation of the Latin-script schools from the Transnistrian region after de ruling of the ECHR

The Moldovan authorities continue to apply the pro-active approach to this day, driven by a strong commitment to solve the issues related to functioning of the schools through dialogue. The Government has used all instruments at its disposal to fend off every act of harassment, pressure, and intimidation from the part of the transnistrian regime towards the eight schools teaching in Romanian with Latin script, including the schools involved in the *Catan case*.

The Moldovan authorities raised the issue of the functioning of the schools in the meetings of relevant formats of the Council of Europe, including PACE, the OSCE, and the European Parliament. The issue of the Latin-script schools represents one of the Republic of Moldova's priorities on the agenda of 5+2 and 1+1 negotiations format. Since the beginning of 2012, this topic has been discussed systematically during the meetings of chief-negotiators from Chisinau and Tiraspol. It also dominates the agenda of the Working Group on Education. Chisinau has constantly called on Tiraspol to refrain from any unilateral actions causing the deterioration of conditions in which the schools are operating.

The Moldovan authorities had to engage over the years in long and complicated negotiations over the smallest of details, because of the harassment tactics used by Tiraspol: renting contracts and their validity, prices of utilities, organization, and participation in school competitions `Olympics`, reporting on financial activities, avoidance of double taxation, property rights.

Due to the Moldovan Government's determination to ensure first and foremost the children's rights to education, leaving aside all political considerations, a number of solutions were identified, on a case-by-case basis, in order to ensure the functioning of the schools, although in conditions far from ideal. In 2017, with the aim of providing more comprehensive and lasting solutions, Chisinau and Tiraspol signed the *Protocol decision on insuring the functioning of Moldovan Latin script schools*.

In October 2019, in Bratislava, the Slovak Presidency of the OSCE hosted a new round of negotiations for the settlement of the Transnistrian conflict in the "5 + 2" format. The agenda included the examination of the "*Berlin plus*" package implementation, including the topic of Latin script schools. The Moldovan delegation insisted on the imperative need to provide adequate premises and conditions for the schools and on the necessity of restoring the buildings seized by Tiraspol *de facto* administration in 2004.

The OSCE Mission in Moldova prepared and proposed for adoption a draft Protocol, which was impossible to negotiate and accept due to exaggerated requests and the firm refusal to assume the fulfillment of any commitments by the political representative of Tiraspol. In his intervention, the representative of the Russian Federation did not touch upon the issue of Latin script schools. The problem of signing the Bratislava Protocol remains outstanding to this date.

Despite all these efforts, to date, the transnistrian regime - fully dependent and under Moscow influence - has implemented only some commitments: *it has decreased the monthly rent of the buildings that host the schools* (approximately from 500 EUR to 50 EUR) with the agreement to sign rent contracts for a period of 10 years, instead of 1 year, *tariffs for communal services have been reduced* and *free movement was partially simplified*

Since November 2018, movement through the Transnistrian illegal checkpoints is ensured based on the presentation of student cards and teacher IDs with some suspensions of this commitment in the period March-September 2020 when, under pandemic pretexts, circulation was allowed based on the lists approved in advance by the force structures from Tiraspol. Previously (until November 2018), the regime of prior notifications and approval of the lists of students and teachers by Tiraspol was applied.

- *The difficulties on transportation of educational materials/goods* are encountered periodically. The left bank of the Nistru River insists on the preventive coordination procedure of the list of materials, means of transport, envoys, and searching transporting items.
- Periodically, the schools are visited by the *representatives of the force structures of the regime from Tiraspol (militia)*. Traditionally, pupils aged 16-18 receive **notices of enrollment in the so-called paramilitary structures** from the transnistrian region, which in some cases prevent the children to pass the final exam. Additionally, a request is sent to the school principals to present the nominal list of the students eligible for the military service, invoking legal liability in case of non-compliance. Chisinau has repeatedly requested the stop the practice of unauthorized processing of personal data and of inviting pupils to the so-called regional military commissariats, because they have confirmations issued by the competent authorities of the Republic of Moldova.
- The unconstitutional regime from Tiraspol continues sometimes to undertake unilateral sanitary-epidemiological inspections to the schools (August and December 2021), deviating from the procedures established on conducting common inspections. In order to return to the previously applied mechanism, in August 2022, joint inspections were carried out at the rented premises in the region, with the participation of experts from Chisinau.
- ***Ensuring the schools with proper premises by returning them in the native settlements of the teachers and pupils*** (out of 8 schools, 4 are displaced in other settlements than their native ones). With the exception of gymnasium for orphan children in Bender, all schools are forced to rent buildings offered by the so-called administration from the transnistrian region or to rent buildings offered by the Chisinau. Chisinau continuously reiterates the existence of funds necessary to purchase proper premises for the educational process with their transmission to the Ministry of Education, Culture and Research, but Tiraspol constantly avoids tackling this subject;
- ***Transmission in long-term use of the lands associated to the school premises*** (at least for 99 years), respecting the proper formalities for the documentation and existence of sufficient areas for the organization of open-air events and sports activities. Tiraspol constantly avoids tackling this subject;
- ***Balancing the payments for house services in line with the fairs applied to other education institution from the region*** is partially adjusted, but periodically schools face some difficulties in payment mechanism taking into account unrecognized status of regional banking accounts
- ***Constant politicization by Tiraspol representatives of the issue related to Latin script schools, treating them as sources of threat to the regional security***, refusing to organize common events with other schools from the region (trainings, contests, holiday school camps). Continuous monitoring of all activities by the so-called militia and security services, periodical prohibition of the national anthem and hoisting the flag of the Republic of Moldova at the ceremony of the first and last bell, restrictions on delivering of text books/literature in Romanian language until 2019, etc.

The so-called *transnistrian structures* continue to discriminate the LSS, **to neglect their basic needs and to exert partial pressures** (the presence of *militia* at the opening and closing of the school year, double registration and taxation), **while violating the right of children to receive education in their mother tongue, in proper conditions for the schooling process.**

The impact of Covid-19 on the human rights situation in the region, including the functioning of the Latin script schools during 2020

The human rights situation in the Transnistrian region of the Republic of Moldova remains difficult, being particularly exacerbated by the state of emergency declared in the region (16 March - 15 June 2020, with the quarantine regime prolonged until 30 September).

The unconstitutional regime from Tiraspol illegally installed 37 new check points (mobile, cars, wagons, cones and reinforced concrete blocks, etc.) in addition to those existing until 16 March 2020. The main access roads to the villages under the jurisdiction of the Republic of Moldova (Corjova, Cocieri, Varnița, Copanca, etc.) were blocked and the movement of military observers on the spot to document the incidents was intentionally blocked by Tiraspol, thus making it impossible to objectively reflect them in the reports of the Joint Military Command on the situation in the Security Zone.

Severe restrictions on the freedom of movement have been imposed, including for the staff of the 8 Latin script schools. The entrance in the region is allowed only for persons residing in the region, diplomatic corps, on the basis of decisions issued on individual cases and of the lists received in advance, thus determining a significant regression on dossiers from the so-called *Berlin+ package* (including ensuring the freedom of movement for teachers and students from the 8 Latin script schools on the basis of student cards/service cards). Exiting the region is as well heavily restricted, which poses serious difficulties for the staff of the schools that need to cross the administrative line in order to withdraw from the ATMs, located on right bank of the river, their salaries paid by the constitutional authorities of the Republic of Moldova. The virtual complete lockdown of the region limits the access of the population as well to medical care.

From March to August 2020, access to the right bank was restricted for teachers and administrative staff from the educational institutions, except for a few days when, based on notifications, they could raise their salaries. Starting from September 1, 2020, although the movement was resumed based on student and teacher cards, **the conditionalities for the prior coordination of the movement of goods intended for the schools were maintained.**

Under the cover of measures to prevent and counteract the COVID-19 pandemic a series of fundamental human rights have been limited and violated: right to property, freedom of movement, freedom of expression, right to health, right to work, health protection, security of the person, etc.

There are discrepancies between the statistics of events registered by the Moldovan authorities and those registered by the OSCE Mission in Moldova. The Tiraspol leader states that the additional checkpoints, installed during the state of emergency, will not be removed until the end of the pandemic. But there is no clear perspective on removing the restrictions.

There are concerns that the mobile checkpoints, installed during the pandemic, will turn into stationary checkpoints. Chisinau insisted on urgent withdrawal of all the illegal checkpoints mentioned above and on restoration of free movement, to avoid escalation of the situation in the region and the mass discontent of the locals. The villages from Dubasari district, including Corjova and Varnita from Anenii Noi, are isolated and face abusive challenges from *de facto Transnistrian structures*. We would like to remind that access to the region is allowed only for residents of the region and for diplomatic corps.

Despite the fact that the LSS have started the school year on 1 September 2020 with no major incidents (taking also into account that due to COVID-19 pandemic, no traditional “first bell” ceremonies were held), the abovementioned conduct of the secessionist structures from March until this date raise particular concern on **the lack of predictability and sustainable implementation of previously agreed actions.** It is, once again, reconfirmed that Tiraspol politicizes the issue of the

schools, treating them as institutions inconvenient to the so-called authorities. The separatist regime still creates artificial barriers in order to re-negotiate previous issues related to LSS in exchange for its interests.

The execution of the ECHR decision in the *Catan* case and why it is important

Ten years have passed since the final ruling of the ECHR. In 2013, the Committee of Ministers for Human Rights (CM DH) of the CoE started the supervision of the execution of the Court judgment by the Russian Federation.

Up to this date, the CM DH adopted 4 interim resolutions and 13 decisions in which it urged repeatedly the respondent state to pay just satisfaction to the 170+11 applicants and present an action plan for the implementation of the final judgment of the Court. So far, the respondent state has not taken any measure to give effect to the judgment of the Court or the calls of the CM DH to do so.

Despite all the efforts of the Moldovan authorities presented above, the failure to execute the ECHR decision in the *Catan case* perpetuates the infringement of the applicants' rights, including their right to just satisfaction for the harm incurred and has profound damaging effects on the situation of all the Latin script schools by creating an enabling environment for the continuation of the violations.

The non-execution of the Court ruling enables an array of systematic violation that have led to the steep decline in the number of pupils attending these schools, from 5619 in the 1998/1999 school year to 1677 in 2022/2023.

A positive trend of a slight increase of the pupils' number in the 8 educational institutions can be seen thanks to the constant efforts made by the authorities of the Republic of Moldova and the administration of educational institutions to improve the working conditions of teachers and pupils. In the 2022, 1677 pupils study compared to 1650 (2021), 1573 (2020) and 1547 (2019).

For the school year 2022-2023, as it was the case in 2020-2022, the Gymnasiu-internat, from Tighina/Bender had 0 pupils enlisted. The building of the Gymnasiu is partially used for over 20 years by the Theoretical Lyceum Alexandru cel Bun, which does not have its own premises.

The youngest applicants were six years old when the schools were closed in 2004 and 14 when the judgment was pronounced by the ECHR in 2012. Now these persons are 23 and the oldest pupils are about 35 years old.

On 17 April 2020, the applicants' legal representatives – the NGO Promo-Lex, who, over the years, have been themselves victims of persecution and harassment by the transnistrian so-called authorities have submitted a communication in which they underlined that no progress had been achieved in determining the Russian Federation to abide by the ECHR's judgment, despite its obligation to do so deriving from Article 46 § 1 of the Convention and repeated calls of the CM DH to do so. Therefore, the lawyers ask the CM DH to "consider referring to the Court, in accordance with Article 46 § 4 of the Convention, the question of whether the Russian Federation has failed to fulfill its obligation under Article 46 § 1 to execute the judgment on the *Catan and Others case*."

On the 1 September 2021, the gymnasium from Roghi village and the gymnasium from Corjova village were supervised by local *militia* forces in order to prohibit the playing of the national anthem and hoisting the flag of the Republic of Moldova.

Additionally, the unconstitutional regime from Tiraspol had an attempt to oblige the administration of the Lucian Blaga Lyceum to undergo through the additional re-registration procedure, threatening to close the school.

Starting April 26th 2022, the Tiraspol regime, under the pretext of the alleged recent incidents, has instituted a *so-called red terrorist alert code*, strengthening the infrastructure of the *illegal checkpoints*, imposing filters and nominal lists, inspecting in detail all vehicles, documents and goods at checkpoints. Once again, these actions raise concern over the safety of children, teachers, as well as the educational process.

Between August 29-30, 2022, joint inspections were carried out in 5 out of the 8 educational institutions teaching in Romanian that have concluded rental contracts for buildings in the Transnistrian region, with the participation of experts from the Ministry of Education and Research, the Agency for Technical Supervision, the National Agency for Public Health and the representatives of the Bureau of reintegration policies. The experts evaluated the compliance with the sanitary-epidemiological requirements in force and the fire protection rules, noting that the given gymnasiums and high schools are prepared for the resumption of the educational process in the 2022-2023 academic year. It is to be mentioned that in order to remedy the problems noted in previous years, for the year 2022, 3 projects of equipping with autonomous signaling and fire warning systems were financed through the program of activities for the reintegration of the country, in the amount of 445 thousand lei: at the "Lucian Blaga" Theoretical Lyceum in the city of Tiraspol (90 thousand lei), at the "Evrica" Theoretical Lyceum in the city of Rîbnița (155 thousand lei) and at the Roghi Lyceum in the Dubasari district (200 thousand lei).

On September 1, 2022, the festive opening ceremony of the new school year took place without incidents, the visual display of state symbols was allowed, but the entire process was monitored by the representatives of the force structures from Tiraspol.

According to official information, confirmed also by reports of the applicants' legal representatives - Promo-Lex, on the 1 September 2022, the school year began with the same shortcomings of the 8 LSS: the schools are still operating in improper premises, pupils still receive notices of enrollment in the so-called paramilitary structures of the transnistrian region and challenges persist to the free movement of people (if pupils and teachers don't have documents confirming that they work or study in the respective school) and goods (the condition of preventive coordination of the list of transported goods, the impossibility of physical transportation of salaries that are perceived as foreign currency import). Different types of harassment also take place. In June-August 2021, the Tiraspol administration notified the "Evrika" and "Lucian Blaga" schools about the necessity to undergo certain "*procedures*" in order to make sure the schools will be operational from 1 September 2021. The situations were clarified with the involvement of the Deputy prime minister for reintegration. The most current issue remains the provision of educational institutions with their own premises for the educational process, especially for the "Evrica" Theoretical Lyceum from Ribnița where all pupils temporarily study in the premises of a rented kindergarten, the "Mihai Eminescu" Theoretical Lyceum from Dubasari, temporarily located in the village of Corjova, the "Ștefan cel Mare si Sfânt" Theoretical Lyceum from Grigoriopol, temporarily located in the village of Doroțcaia, "Lucian Blaga" Theoretical Lyceum from Tiraspol that does not have a gym, canteen, or other basic amenities.

In the same way, educational institutions continue to face the problem of subpoenas from the so-called military commissariats in the region, sent to school children, even though the young people are taken into military custody on the right bank. Chisinau notified the competent national bodies to take the necessary measures and reiterated to Tiraspol the need to abandon this provocative approach in order to avoid the occurrence of appropriate forms of liability.

At the meeting of political representatives from October 28, 2022 Chisinau also tackled the difficulties currently encountered by the "Evrca" Theoretical Lyceum from Ribnita, which during the last two months has been unable to pay utility bills (water, sewerage, consumption of energy resources, etc.), Tiraspol assured that the necessary clarifications will be carried out and the problem will be overcome.