

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Moldova.

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Moldova, is dated 28 June 2002, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Moldova to engage in a process of confidential dialogue with ECRI on its draft text on Moldova and a number of his comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the governmental authorities of Moldova expressly requested that the following observations on their part be reproduced as an appendix to ECRI's report.

Observations provided by the Authorities of Moldova concerning ECRI'S report on Moldova

"Section B: "Constitutional provisions and other basic provisions": Act No. 351-XIV of 12 July 2001 modifying and amending the Constitution of the Republic of Moldova has amended numerous articles (arts 24, 25, 30, 54 and 55) of the Constitution, to exclude any possibility of arbitrary interpretation or discrimination.

Section II: "Issues of particular concern": as a party to the OSCE Moldova has brought its human rights legislation into line with international standards. As part of this process, Parliament passed the National Minorities Act, in response to the country's obligation to establish certain minimum legal rights for national minorities.

Moldova is also party to a series of international human rights instruments, the most important being the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, of 29 June 1990, and the Framework Convention for the Protection of National Minorities, opened for signature in Strasbourg on 1 February 1995.

In acceding to these international instruments Moldova has accepted the obligation to abide by their provisions in good faith.

As a participating state that signed the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Moldova undertook to "endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities" (paragraph 34).

Similarly, as a party to the Framework Convention, Moldova has accepted a series of responsibilities towards persons belonging to national minorities.

For example, in accordance with Articles 4.2 and 5.1 of the Convention, parties undertake "to adopt adequate measures in order to promote, in all areas of economic,

social, political and cultural life, equality between persons belonging to a national minority and those belonging to the majority", and "promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage". Similarly, under Article 10.1, parties undertake "to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing".

The constitutional basis for the use of the official language and other, minority, languages in Moldova in accordance with international standards appears in the preamble, articles 1.3, 4, 7, 10.2, 13, 16 and 35.2, and articles II and VII of Title VII (Final and Transitory Provisions), of the Constitution.

On 29 July 1994, members of parliament, acting as plenipotentiary representatives of the people of the Republic of Moldova, adopted the Constitution as the supreme law of society and the state. In its preamble, it recognises the need to satisfy the interests of those of its citizens who, while being of a different ethnic origin, together with the Moldovans form the Moldovan people. It goes on to proclaim that the rule of law, civic peace, democracy, human dignity, human rights and freedoms, the free development of human personality, justice and political pluralism are the supreme and guaranteed political values of the Republic of Moldova.

Pursuant to the joint principles of national unity of the people and the right of all citizens to their identity, embodied in Article 10 of the Constitution, the state recognises and guarantees all its citizens the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity. Article 13 makes Moldovan the national language, with its writing based on the Latin alphabet. The state acknowledges and protects the right to preserve, develop and use the Russian language and other languages spoken within the national territory of the country, the use of these languages to be established by organic law. In Article VII of Title VII of the Constitution, the law of 1st September 1989 regarding the use of languages spoken throughout the territory of the Republic of Moldova stays in force to the extent that it does not conflict with the Constitution. Its special status, compared with other legislation, is confirmed in paragraph 2 of the same article, which stipulates that the above-named law may only be amended over the seven years following the Constitution's entry into force if this has been passed by a two-thirds majority.

These provisions are strengthened by Article VIII of Title VII, which states that the final and transitory provisions are an integral part of the Constitution. Under Article II of Title VII, within one year of the Constitution's entry into force Parliament shall examine the compliance of Moldovan legislation with the Constitution.

The conditions required for Parliament to amend the legislation on the use of languages in Moldova - a two-thirds majority in the seven years following the Constitution's entry into force - differ from those applicable to other legislation, making the former less flexible and giving it a higher status.

The Moldovan Languages Act makes Moldovan the country's official language. The Act sets out to secure state sovereignty and provide the necessary guarantees for its use in political, economic, social and cultural life, and as the language of communication between the various ethnic groups. Alongside Moldovan it also makes Russian a language of communication between the different nations and requires the state to establish the necessary conditions for the use and development within Moldova of the languages - Ukrainian, Russian, Bulgarian, Ivrit, Romany - of the other groups and nationalities living in the Republic, to satisfy their national and cultural needs.

Section 6.1 of the National Minorities Act grants the right to education in a minority language, in accordance with Article 35.2 of the Constitution, under which the state will enforce under the law the right of each person to choose his/her language in which teaching will be carried out. Section 18 of the Moldovan Languages Act, which establishes a right to primary, general and senior secondary and higher education in Moldovan and Russian, also creates the conditions for citizens of other nationalities living in the country to receive education and training in their native languages, such as Gagouzian, Ukrainian and Bulgarian.

The constitutional status of these provisions is confirmed by Article 14.2 of the Framework Convention, which states that "in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language".

The Ministry of Education is responsible for applying national minorities' right to education and training, in accordance with the legislation in force. This involves the establishment of an optimum pre-university education network offering citizens native language education and training, through instruction in and the teaching of those languages and initial and in-service training for those providing this teaching.

The Ministry of Education must establish optimum conditions for studying Gagouzian, Ukrainian and Bulgarian literature in areas where these minorities form a substantial part of the population, in accordance with the fundamental principles of equality and non-discrimination. This is based on the idea that the right of persons belonging to national minorities to maintain their identities can only be fulfilled by acquiring an adequate knowledge of their mother tongue in the education process, which necessitates an appropriately formulated education plan, guaranteed teaching resources and initial and in-service training for staff. The Ministry supports schemes to teach other minority languages in schools on Sundays. Such Sunday schools exist in Moldova for Jews, Armenians, Greeks, Germans and Lithuanians.

Given the country's economic situation, it is difficult to fully satisfy the right to mother tongue education. Limited print runs make books and other material for teaching in minority languages much more expensive than ones in Moldovan or Russian.

Government Decision No. 167 of 27 February 2001 approved a national programme for improving the quality of the teaching of the official language to adults (2001-2005). This provides for practical activities to improve knowledge of the official language and for co-ordinators and other staff to carry out these activities.

Section 31 of the 2001 Budget Act (No. 1392-XIV of 30 November 2000) sets aside 500 000 Lei in the national budget for promoting the official language.

Government Decision No. 857 of 17 August 2001 introduced a regulation governing the use of the national language promotion fund and established a board to administer it.

On 7 December 2001 the Government approved the 2001 activities programme for promoting the official language, financed by the fund.

In compliance with the aforementioned legislation and regulations a national language centre and regional language centres have been established. Regional centres currently operate in the counties of Chisinau, Orhei, Balti, Soroca, Ungheni, Cahul, Lapusna and Taraclia, in Chisinau municipality and in Gagauzia. More than 100 groups have been set up to study the official language."