

THE HUMAN RIGHTS' OBSERVANCE IN COUNTRIES OF EASTERN PARTNERSHIP: GOOD PRACTICES AND DIFFICULTIES FACED



This publication is developed as part of the “**The Human Rights’ Observance in Countries of Eastern Partnership: Good Practices and Difficulties Faced**” Project, implemented by the Promo-LEX Association with the support of the East East: Partnership Beyond Borders Program (EE:PBBP) of the Soros Foundation-Moldova.

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The Promo-LEX Association is a non-governmental organization focused on promoting democratic values and on implementing internationally recognized standards in the Republic of Moldova, including the Transnistrian region.

Mission – To advance democracy in the Republic of Moldova through promoting and defending Human Rights and strengthening Civil Society.

Vision – The Republic of Moldova adhering to the Rule of Law and supporting the tradition of a strong civil society.

Values

- transparency and accountability
- a high quality of service
- non-discrimination
- political neutrality
- team spirit
- professionalism
- openness to new partnerships and collaboration

Programs

I. Human Rights & Litigation Program

II. Election Monitoring Program

III. Civil Society Program

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INTRODUCTION

Advancing and strengthening democracy remains a long-term objective for the Eastern Partnership countries. Although in recent years some progress has been attained in this respect, the situation concerning human rights and democratic institutions in this region continues to be marked by numerous deficiencies and problems, which are often mentioned, in monitoring reports upon the application of the Neighborhood Policy.

Being countries from the post-Soviet space, the problems related to the observance of human rights and democracy development are basically the same in these states: the existence of 'frozen' conflicts in the region, rampant corruption, impunity, authorities feigning democratic processes, nonfunctional laws and a merely formal checklist approach in dealing with pro-European objectives. In these circumstances, civil society in Eastern Partnership countries has emerged as a promoter of democratic change and, as such, strengthening democracy and promoting respect for human rights and fundamental freedoms have become priorities for the non-governmental organizations in Eastern Partnership countries.

It is in this context that in early 2010 the idea was born to strengthen civil society efforts at Eastern Partnership level in promoting and defending human rights. The idea was supported by a number of organizations from Moldova, Georgia, Armenia and Azerbaijan and materialized in the project "Respect for Human Rights in Eastern Partnership Countries: Best Practices and Challenges". The project was implemented by the PROMOLEX Association (Moldova) in partnership with the Union "Article 42 of the Constitution" (Georgia), the Public Interest Citizen Initiative Union (Azerbaijan) and the Open Society Institute Armenia Foundation. The project was implemented with the support of the East East: Partnership Beyond Borders Program (EE:PBBP) of the Soros Foundation-Moldova, the Open Society Georgia Foundation, the Open Society Armenia Foundation, and the Open Society Azerbaijan Foundation.

The goal of the project was to promote greater respect for, observance and protection of human rights in the countries included into the Eastern Partnership Initiative through an experience exchange and strengthening of the regional cooperation between civil society organizations

from Moldova, Georgia, Armenia and Azerbaijan. The project was carried out from May 2010 to June 2011 and included 4 implementation stages during which 4 study visits were made to Georgia, Armenia, Azerbaijan and Moldova.

The agenda of the study visits focused on the following themes: Strategic litigation - instrument to promote and protect human rights in the countries of the Eastern Partnership, The impact of the European Convention on Human Rights and of other international human rights instruments on laws and legal practices in Eastern Partnership countries, The practice of human rights monitoring in Eastern Partnership Countries and Human Rights Advocacy Initiatives in Eastern Partnership Countries.

The project contributed to raising awareness and improving understanding of human rights in Georgia, Armenia, Azerbaijan and Moldova among participants and the project's target groups.

Further, undertaking the study visits made it possible for NGOs and human rights defenders in Georgia, Armenia, Azerbaijan and Moldova to establish contacts and initiate cooperation relations among one another. The exchange of experience and knowledge helped to consolidate the project participants' capacities in advancing human rights.

At the same time, the project made it possible to evaluate how civil society organizations perform in promoting human rights and democratic norms in these countries. The project also helped to identify deficiencies and ineffective practices used by human rights defenders in their activity. By comparing the situation of human rights and relevant legislation in the participant countries, as well as by engaging in discussions and debates, the project participants learned new strategies and tendencies used in addressing human rights issues in Eastern Partnership countries.

The achievements of initiating new partnerships and of consolidating the efforts of human rights defenders in Eastern Partnership countries in championing and defending human rights represent a long-term result of this project. In this sense, the project participants will be able to formulate new effective strategies to address areas which have been identified as problematic. As a result, this project will have a positive impact on the development of the human rights situation in Eastern Partnership countries.

This publication includes a brief description of the context, goals and activities of the project, as well as a general overview of the human rights situation in Georgia, Armenia, Azerbaijan and Moldova. This Brochure also includes a perspective on the practices of strategic litigation and human rights monitoring, a perspective on human rights advocacy campaigns and an analysis of the impact of the European Convention on Human Rights and of other international human rights instruments on the legislation and legal practices in Moldova.

In addition, the Brochure contains the main conclusions and recommendations formulated by the project participants on how to promote and defend human rights in Georgia, Armenia, Azerbaijan and Moldova.

Chapter I

PROJECT DESCRIPTION

Project context

After the collapse of the Soviet Union in 1991, many post-Soviet countries, in particular those neighboring the European Union, reoriented their policies toward the EU. In a bid to consolidate their democratization and Euro-integration aspirations, these countries undertook obligations to implement political, economic and social reforms that would bring them closer to European standards and values. At the same time, the transition period in these countries has been characterized by social and political instability, emergence of armed conflicts and violent protests (as a result of separatist movements), so-called ‘color revolutions’ and even attempts to overthrow governments.

In this context, the EU launched in 2009, within the framework of its European Neighborhood Policy, the Eastern Partnership (EaP), in order to ensure stability and security at its eastern borders and facilitate democratization in the countries involved. The EU’s Action Plans with the Eastern Partnership countries deal in particular with the strengthening of democracy, and the observance of human rights and fundamental freedoms is regarded as a priority. Regretfully, as shown in the latest monitoring reports on the ENP implementation, all the efforts and reforms in this regard have failed to bring about significant change in the countries neighboring the EU. Problems persist in many post-Soviet countries and they mainly include ‘feigning’ democracy, high levels of corruption and poverty, the endurance of a ‘Soviet mentality’ among many public officials as well as among different groups of society. The ineffective and inadequate implementation of the rule of law principles, the instability and insufficiency of institutions meant to guarantee democracy, the underdeveloped state of civil society are also major challenges faced by these countries.

Civil society in the mentioned countries makes considerable efforts to promote and protect human rights. This mission is much more difficult to carry out in regions struggling with political and social instability, where the human rights situation is very precarious. As a result, while

politicians are mainly focused on addressing political, social and economic aspects of the conflict settlement process, the burden of ensuring respect for human rights largely falls to civil society. Because of the difficult economical situation, extensive corruption and simply because of a lack of will on the part of decision makers, human rights issues are often neglected by the authorities. This leads to situations where human rights are violated deliberately, either due to the authorities' disregard or inaction. In these circumstances, the partner organizations working on this project sought to study the common problems faced by the young democracies on their path toward democratization and, through common effort, to identify proper solutions and learn from one another how to overcome these problems.

Most human rights organizations in Moldova, Georgia, Armenia and Azerbaijan concentrate their activity on strategic litigation, monitoring and advocacy initiatives in the field of human rights. At the same time, there are differences in approaches and in strategies employed to promote and defend human rights.

This project centered on best practices as well as on the challenges faced by civil society organizations in Moldova, Georgia, Armenia and Azerbaijan in promoting and defending human rights, respect for the rule of law and, implicitly, in building a functional democracy. This initiative will facilitate the establishment of a common platform for discussions and cooperation among civil society organizations in the nominated countries, for the purpose of identifying common problems and potential solutions to them, in particular those concerning specific human rights situations in regions where conflicts exist or concerning violations of rights and freedoms. The unified efforts of NGOs from Moldova, Georgia, Armenia and Azerbaijan in addressing human rights issues and in identifying common viable solutions to these problems can encourage democratization processes in these countries and bring them closer to EU aspirations.

The project's goal is to promote human rights in Eastern Partnership countries through experience exchange and through strengthening regional cooperation among civil society organizations in Moldova, Georgia, Armenia and Azerbaijan.

The Project's action plan included 4 study visits focused on experience exchange between human rights defenders and experts from 4 Eastern Partnership countries: Moldova, Georgia, Armenia and Azerbaijan. These countries were selected for the project for several reasons: they are part of the post-Soviet space and are going through a period of transition; there are a number of similarities related to the difficulties of the transition period; serious human rights violations are registered in all these countries; all the countries struggle with frozen or latent conflicts: the Transnistrian conflict in the Republic of Moldova, Abkhazia and South Ossetia in Georgia, and the conflict between Armenia and Azerbaijan over Nagorno-Karabakh.

Project Partners

- **The Promo-LEX Association – Moldova**
www.promolex.md
- **Union Article 42 of the Constitution – Georgia**
www.article42.ge
- **Open Society Institute Armenia Foundation (OSIAF) – Armenia**
www.osi.am
- **The Public Interest Citizen Initiative Union NGO – Azerbaijan**

Project Implementation Stages

Stage 1

Study visit to Georgia (6-10 July 2010)

The visit agenda included: meetings with local NGOs working in the field of human rights; a meeting with Georgia's Ombudsman; a roundtable event themed "Strategic litigation - instrument to promote and protect human rights in the countries of the Eastern Partnership".

The visit had 5 members participating from Moldova, 5 participants from Azerbaijan, 5 from Armenia, as well as human rights defenders, lawyers and civil society members from Georgia (see Appendix 1 – Visit agenda and participant list).

Study visit to Armenia (10-14 July 2010)

The visit agenda included: meetings with local NGOs working in the field of human rights; a meeting with representatives of the European Union Delegation to Armenia; a roundtable event themed "The impact of the European Convention on Human Rights and of other international human rights instruments on laws and legal practices in Eastern Partnership countries".

The visit had 5 members participating from Moldova, 5 participants from Georgia, as well as human rights defenders, lawyers and civil society members from Armenia (see Appendix 2 – Visit agenda and participant list).

Stage 2

Study visit to Azerbaijan (17-21 October 2010)

The visit agenda included: meetings with local NGOs working in the field of human rights; a meeting with Azerbaijan's Ombudsman; a roundtable event themed "The practice of human rights monitoring in Eastern Partnership Countries".

The visit had 5 members participating from Moldova, 5 participants from Georgia, as well as human rights defenders, lawyers and civil society members from Azerbaijan (see Appendix 2 – Visit agenda and participant list).

Stage 3

Study visit to Moldova (6-10 December 2010)

The visit agenda included: meetings with local NGOs working in the field of human rights; meetings with NGOs from the Transnistrian region (visits to the towns of Tiraspol and Bender); a roundtable event themed “Human Rights Advocacy Initiatives in Eastern Partnership Countries”.

The visit had 5 members participating from Georgia, 5 participants from Azerbaijan, 5 from Armenia, as well as human rights defenders, lawyers and civil society members from Moldova (see Appendix 2 – Visit agenda and participant list).

Stage 4

Development of an Online Brochure of the Project (December 2010 – June 2011)

Chapter II

HUMAN RIGHTS OBSERVANCE IN EASTERN PARTNERSHIP COUNTRIES (GENERAL OVERVIEW)

Georgia

The escalation of the conflict in Georgia in 2008 demonstrated once again that human rights violations persist in these regions and there are still no viable mechanisms to protect people, regardless of their allegiance. Numerous cases of human rights violations were reported both before and after the military confrontations in August 2008. The information obtained by local and international human rights organizations following fact-finding missions indicates that all the parties involved in the conflict committed serious violations of the international humanitarian and human rights law, both during the conflict and in its aftermath, which resulted in loss of lives and serious injuries among the civilian population and caused damage to property and assets owned by Georgian ethnics living in the conflict area and in its vicinity. As a result of the 2008 armed conflict, there were registered numerous cases of violations of the right to life, the right to liberty and security of person, the right to property and the right to freedom of movement.

Limited access to the conflict regions in Georgia makes human rights monitoring virtually impossible. So the actual situation in those regions is largely unknown. Access is blocked for all, including international humanitarian organizations. In this context, it is also important to mention the problems faced by internally displaced persons (IDP), in particular their living conditions.

The main human rights violations reported in recent years in Georgia generally include: undue use of force during arrest; application of torture and inhuman treatment on arrested and detained persons (in penitentiaries, police stations and remand facilities); intimidation of suspects; and impunity of police officers and government officials. Despite the fact that local NGOs have reported cases of torture, very few police officers were prosecuted and sentenced.

Judges are often biased, being influenced by the Prosecution Service and the Government, in particular when administrative and criminal cases are involved. Also, there were registered cases of politically motivated detentions. Thus, the right to a fair trial is also a frequently violated right in Georgia.

Domestic violence, sexual violence and violence against women also represent a serious problem for Georgia. Multiple cases of rape are not reported due to the 'social stigma' faced by the victim and due to the fact that the police often fail to investigate such cases. Particular mention should be given to the cases of rape which occurred in 2008 in the conflict zone, whose actual number is difficult to ascertain due to either the fact that they often went unreported or because of the impossibility to investigate them in the conflict zone where access is denied.

In Georgia, marital rape is not expressly recognized as a criminal offense.

The number of domestic violence cases in Georgia is continuously rising. This problem is aggravated by the absence of an adequate legal framework that would provide an effective protection mechanism for the victims of domestic violence, and also by stereotypes and 'cultural traditions'. Domestic violence is not recognized as a criminal offense and constitutes a mere administrative contravention. Thus, the violation of a protection order is only punishable by an administrative fine. Local NGOs have also reported that law enforcement officers often fail to react accordingly to complaints of domestic violence, which is partly due to inadequate professional training.

Further, Georgian organizations have reported cases of restrictions of the freedom of expression, freedom of assembly and association, free access to information and freedom of the press. Such cases generally involve attacks and repressions against opposition members and pressures upon independent media.

Armenia

The human rights situation in Armenia remains unstable because of the political crisis that followed the 2008 elections. Serious human violations were registered in the post-election period: 10 people were killed

and more than 100 were arrested following protests on 1 March 2008. There were reported cases of undue use of force during arrests and of ill-treatment of protesters in police custody.

Voting rights represent a very serious issue and Armenia already has a 'history' of violent elections. During polls in the last two years, cases were registered where observers, party members and opposition media organizations were intimidated by unidentified persons. The government however failed to start criminal investigations into those cases. And while the ODIHR Mission labeled the Armenian elections as meeting international standards, opposition party activists, journalists, observers and local NGOs reported numerous cases of electoral fraud in the recent rounds of elections. It also has to be mentioned that there are no national electoral observation missions in Armenia.

Serious cases of application of torture and ill-treatment by the law enforcement bodies, including several which resulted in deaths (in police custody), are frequently reported by local NGOs. In recent years, torture victims have primarily been opposition members and supporters. The government doesn't ensure the adequate investigation of such cases.

Property rights are also often disregarded in Armenia. Numerous cases of forcible expropriation were reported as a result of demolitions carried out in the old district of the capital Yerevan. Many families were practically forced to sell their homes at a loss; some were left homeless despite being promised fair compensation. The victims of these actions teamed up to form an NGO and now they fight together to defend their rights, including by lodging complaints with the European Court of Human Rights (ECtHR).

The situation of local NGOs and media is also very difficult. In recent years, there were reported over 60 cases of attacks on local NGO representatives. So far none of these cases has been solved.

The print media is underdeveloped, with the most established newspapers having circulations of no more than 8,000 copies. In the last two decades Armenia hasn't had a single weekly. The opposition does not own any media outlets. Despite an ECtHR decision, which found the authorities' refusal to issue a broadcasting license to the independent television channel A1+ to be a serious violation of the freedom of ex-

pression and access to information, the situation in this area remains unchanged.

The freedom of assembly is abusively limited by the authorities, who frequently cite technical reasons for this. Also, the authorities fail to ensure the security of protesters and create numerous impediments in this respect.

Domestic violence is very widespread in Armenia and represents a taboo subject. Like in other Eastern Partnership countries, domestic violence is determined by cultural traditions and stereotypes. The Armenian authorities fail to address this issue seriously and don't treat it as a social problem. Because of discriminatory attitudes displayed by law enforcement officers, authorities and society in general and partly out of fear of facing re-victimization, most victims of domestic violence avoid to report cases of abuse. And when cases are reported (involving severe bodily injuries), aggressors are punished far too mildly. Until present, Armenia still lacks laws that would define and explicitly outlaw gender discrimination.

Azerbaijan

The human rights situation in Azerbaijan is marked by serious abuses. According to specialized reports by local NGOs, the Azerbaijani authorities continue to persecute the independent press. Local NGOs also report numerous cases of intimidation, physical aggression and arrests of journalists. Many journalists face libel charges and criminal punishment. In this regard, there are NGOs in Azerbaijan which are lobbying for modifications to the defamation legislation, including by initiating strategic litigation cases at the ECtHR.

Many local NGOs also report problems concerning the right to freedom of assembly. Human rights NGOs encounter multiple obstacles in the process of registering their organizations. In this connection, 7 applications were lodged with the ECtHR. According to Azerbaijan's Law on Non-Governmental Organizations, an organization which receives more than 3 warnings over the course of a year may be liquidated by court. For these reasons, very few human rights organizations in Azerbaijan can be described as truly independent.

Further to this, the government drastically limits the exercise of the right of assembly and association. The government commonly rejects requests for protests planned by the opposition, NGOs and other groups. Often protesters are arbitrarily arrested.

Electoral rights are also violated. The government limits the registration of candidates fielded by the opposition and intervenes in the campaign events organized by them.

Property rights violations primarily involve expropriation. The renovation and construction of new roads and buildings in the capital Baku have led to many inhabitants being forced to renounce their homes in exchange for below market value compensation payouts. Expropriations took place in the absence of any court decisions to this effect. Numerous such cases have been submitted to the ECtHR. The judgment of the Court in the case of *Safarova v. Azerbaijan* confirmed the violation of the right to the protection of property and to a fair trial and ruled that the applicant be paid 86,000 euros in respect of pecuniary damages.

Application of torture and ill-treatment in the custody of law enforcement bodies, penitentiaries and military units is common in Azerbaijan, with human rights organizations reporting many such cases.

The practice of preventive detention was reported as a serious violation. Local NGOs and Azerbaijani lawyers submitted 10 related cases to the ECtHR. This resulted in sanctions for a number of judges and this is why today they avoid issuing warrants for preliminary arrest when requested by prosecutors.

Torture cases are difficult to prove, partly because independent forensic medical examinations are banned in Azerbaijan.

The situation in Nagorno-Karabakh remains tense. Access to the region is strictly limited for the human rights defenders from Azerbaijan, making it practically impossible to monitor the human rights situation there. 10 cases involving the violation of rights of internally displaced persons (IDP) in Nagorno-Karabakh were submitted to the ECtHR. All the cases are against both Armenia and Azerbaijan.

Despite Laws on Domestic Violence, on Human Trafficking and on Gender Equality existing in Azerbaijan, the enforcement of protection orders which aim to protect victims of domestic violence remains to be prob-

lematic. As a result, women continue to be subjected to discriminatory treatments and practically don't enjoy any protection from the state.

The problem of human trafficking is also very pressing for Azerbaijan, as it is considered to be a source, transit and destination country in this respect. Despite stated efforts to combat the scourge of human trafficking as such, cases where official persons are involved go uninvestigated. Moreover, the victims of trafficking don't receive any support from the state.

In this connection, there are only a few local NGOs which offer counseling, social and legal assistance for the victims of human trafficking, for drug users and people living with HIV/AIDS (in particular women), and for homosexuals, as well as shelter to some beneficiaries. These NGOs encounter resistance from both authorities and civil society.

Moldova

If we make a comparative analysis with other Eastern Partnership countries, including based on assessment reports, we can conclude that the human rights situation in Moldova has perhaps seen the most significant progress. However some major unresolved issues remain.

For example, if we take the freedom of expression and the freedom of assembly, the situation is relatively better compared with previous years. At the same time, we should mention the local authorities' discriminatory practice of forbidding sexual minorities from organizing meetings. Two complaints have been lodged with the ECtHR in this connection.

The adoption of a Nondiscrimination Law in Moldova has been delayed. The Law was sought as a solution to the numerous cases of discrimination against persons with disabilities, against sexual minorities, women, persons living with HIV/AIDS, etc. The delay is largely due to the reluctant attitudes of religious groups, who strongly oppose the introduction of 'sexual orientation' as a protected ground in the bill.

Even if the situation is not as alarming as it was until 2009 (a year in which the authorities registered as many as 6,027 complaints alleging torture and ill-treatment), application of ill-treatment remains a serious problem in Moldova. Most frequently cases occur in police custody,

especially during preventive detention. Moreover, none of the police officers involved in the cases of torture and ill-treatment that occurred in April 2009 has been punished. There are major deficiencies concerning the investigation of torture cases and related forensic medical examinations. In most cases, examinations are carried out with delays and their quality is often doubted by the victims (forensic examiners tend to register only the visible injuries, omitting psychological traumas).

Detention conditions in prisons and remand facilities remain well below international standards.

Although the legislation on prevention and combating of domestic violence is quite good, its putting into practice leaves much to be desired. The most serious problems are related to: the non-observance of protection orders by the aggressors and the authorities' failure to enforce them; delays in initiating criminal proceedings in cases of domestic violence; delayed issuance of or even the refusal to issue protection orders. Considering that nine in ten victims of domestic violence are women, this phenomenon is strongly gendered and constitutes gender discrimination.

Moldova is a source country for human trafficking. Specialized reports indicated that the authorities fail to fully observe minimal standards for its elimination. The Government does not make sufficient efforts to prosecute, sentence or penalize government officials involved, which represents a significant impediment to combating this scourge.

Pressures exerted by officials on judges and prosecutors, as well as the high level of corruption, remain serious problems for Moldova. Local NGOs continue to report cases where judges asked for bribes to reduce charges or sentences. In many cases, they are influenced politically.

Corruption in the police, the healthcare system and in education are other serious problems highlighted by local organizations as affecting negatively Moldovan society.

The practical application of the Laws on Access to Information and on Transparency in Decision-Making remains inadequate. According to surveys in the field, only one in three public institutions in Moldova respect the provisions of the above-mentioned laws and provide information accordingly.

Unlike other conflict zones in Eastern Partnership countries, human rights NGOs in Moldova have some access to the Transnistrian region. The information on the human rights situation in the region is not complete, but enough to provide a general picture. So it can be concluded that serious violations of the most fundamental rights occur in the region.

Torture and ill-treatment in the custody of the local 'law enforcement bodies' (militia, security service), in penitentiaries and in military units represent an alarming phenomenon. Access to such facilities is strictly limited, and this is why the number of persons subjected to such treatments is difficult to ascertain. Detention conditions are also well below admissible standards. Over the recent years, cases were registered when detainees resorted to hunger strikes or self-harm to draw attention to the ill-treatment they suffered. Also, there were registered cases of very suspicious deaths among prisoners. Such information is usually provided by the prisoners' family or by former prisoners.

The region's administration abusively limits the freedom of expression and the freedom of assembly. Local journalists and NGOs are under constant pressure and strict control from the region's 'law enforcement bodies' (militia, security service). Local activists report numerous cases of intimidation, pressure and censorship. The most telling case in this respect is perhaps that of Ernest Vardanyan, a journalist accused of spying for Moldova and sentenced to 15 years in prison. Later, after spending more than a year behind bars, the journalist was pardoned and released.

Electoral rights are also blatantly violated in the region. The participation of the region's inhabitants in the elections organized by Moldova's legitimate authorities is blocked and discouraged, including through intimidation and illegal arrests (in the case of candidates).

The separatist regime in Tiraspol continues to defy international and national norms that entitle parents to choose the language of their children's education, by creating impediments to the normal functioning of Romanian-language schools that use the Latin script: either by exerting pressure on the local administration, or by conducting strict inspections and penalizing the schools' administration, or by forbidding the passage of foods and other goods destined for schools through illegally installed

customs checkpoints. In this connection, 4 complaints were lodged with the ECtHR back in 2005.

As the separatist regime does not recognize any of Moldova's laws, the Law on Domestic Violence Protection is not applied in the region, and there are no mechanisms for its implementation either. Thus, the victims of domestic violence can't enjoy protection from the Moldovan state. According to information provided by local NGOs, one in four women in the region suffers from domestic violence, including physical, mental or economic. There is also no agency to provide protection and care to victims of domestic violence. Being out of Moldova's range of authority, the Transnistrian region also remains a source for human trafficking.

The freedom of movement is abusively restricted by the Tiraspol regime through the installation of 'customs checkpoints' and levying of illegal 'stay taxes'.

Chapter III

STRATEGIC LITIGATION - INSTRUMENT TO PROMOTE AND PROTECT HUMAN RIGHTS IN THE COUNTRIES OF THE EASTERN PARTNERSHIP

The notion of *strategic litigation* is not yet very well-known in Moldova, even among professionals – judges, lawyers, prosecutors, jurists. Lawyers represent the professional category that should be involved the most in strategic litigation. However, as a rule, lawyers are trained to best defend the interests of their clients in a particular case or in a particular procedural stage of that case. In this sense, strategic litigation represents a relatively new trend which originates in common law.

In strategic litigation, lawyers engage in lawsuits that seek not only to solve a particular case but rather to influence, through decisions made in courts, the modification of laws, secondary legislation, internal practices and public policies which may be responsible for the violation of citizens' rights. Strategic litigation is also about creating precedents in national, regional and international case law.

Thus, strategic litigation is a process that involves thoroughly preparing and presenting an individual case or a set of similar cases before a court of law or before administrative bodies, addressing certain problems that affect public interest in a bid to produce systemic changes.

Despite this notion being little-known yet in Moldova, its forms part of the arsenal of methods used by some NGOs, human rights defenders and lawyers in promoting respect for human rights values enshrined in domestic laws and international documents to which Moldova is a signatory. Strategic litigation is also used as an advocacy technique to promote, through judicial action, measures needed to change the legislation or the way it is applied, or new legislative measures where legal gaps exist.

Legal experts maintain that strategic litigation today can't bring about significant change nationally, because Moldova lacks consistent judicial practices. So, the effect of decisions adopted in domestic courts on cer-

tain strategic lawsuits is minimal at this stage. At the same time, there are already some human rights organizations which, in order to effect change, rely increasingly on litigation in domestic courts, one reason for this being the long processing times at the European Court of Human Rights. In this connection, we can mention some strategic lawsuits with a national impact.

Example:

Case of Ionel Bâgea

Applicant Ionel Bâgea is a Romanian national domiciled in Bârlad. As a priest of the Metropolitan Church of Bessarabia, he was assigned to a parish in the Moldovan village of Vadul lui Isac, where he has been serving for the last 16 years.

In 2007, then Moldova's President Vladimir Voronin declared he didn't recognize the Church of Bessarabia. Subsequently, the Moldovan authorities made several unsuccessful attempts to expel the applicant from Moldovan soil, creating numerous obstacles to his clerical activity. Following a judicial procedure in 2008, the applicant obtained a stay permit and a work permit in Moldova valid until August 2009.

On 9 April 2009, the Moldovan government introduced a visa regime for Romania. <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=331250>

On 11 April 2009, the applicant attempted to cross the Moldovan-Romanian border producing his stay permit, but was denied entry into Moldova because he didn't have a visa as well.

On 16 April 2009, the applicant, with the help of his attorney (lawyer Alexandru Postica of the Promo-LEX Association), took action in court against the April 11 refusal, seeking to compel the Moldovan Border Guards Service to allow his entrance into Moldova without a visa.

On 24 April 2009, the Chisinau Court of Appeals, namely Judge V. Pruteanu, pronounced a judgment recognizing the unlawfulness of the Border Guards Service's actions and ordering it to let the applicant enter Moldova without a visa. The judgment was irreversible and immediately enforceable upon presentation. On the same date, an application for en-

forcement was registered with the Border Guards Service.

After several attempts to cross the border, the applicant was eventually allowed to do that without a visa. Subsequently, several similar complaints were submitted by other Romanian citizens as well. This prompted the Moldovan authorities to acknowledge that the measure was illegal and contravened the Constitution. On 28 September 2009, the government annulled its earlier decision. <http://lex.justice.md/md/332338/>

On 14 October 2009, the Supreme Court of Justice upheld the earlier judgment which had been challenged by the Border Guards Service <http://csj.md/admin/public/uploads/Dosarul%20nr.%203r-1199-09%20Bigea%20vs%20Serviciul%20de%20Grăniceri.pdf>

Strategic litigation at the ECtHR

When it comes to strategic litigation, most lawyers NGOs and human rights defenders generally turn their eyes to international courts, whose decisions may weigh heavier and have a more long-lasting impact.

The European Convention on Human Rights took effect for Moldova on 12 September 1997. Under the Convention, persons may initiate action against Moldova in the European Court of Human Rights (ECtHR). In this regard, Moldova is among the top 7 European countries with the most complaints lodged with the ECtHR. According to the Court's report, as of 1 January 2011, there were 3,850 pending cases (2.8%) against Moldova (<http://www.lhr.md/2/92.html>).

Most applications allege violation of Art.3 (prohibition of torture); Art.5 (right to liberty and security); Art.6 (right to a fair trial); Art.9 (freedom of thought, conscience and religion); Art.10 (freedom of expression); Art.11 (freedom of assembly and association) and Art.1 of the Additional Protocol (protection of property).

The first ruling against Moldova was pronounced by the ECtHR on 13 December 2001 in the case of **the Metropolitan Church of Bessarabia and Others vs. Moldova**.

Initially the Moldovan authorities refused to recognize the Metropolitan Church of Bessarabia, subjecting its clerics and followers to systematic persecution. On 26 January 1999, the Church of Bessarabia lodged

an application with the European Court of Human Rights, complaining of violation by the Moldovan authorities of the right to religious freedom. The Court found that there had been violations of Articles 9 and 12 of the European Convention on Human Rights, ordering that the Moldovan government pay the applicant 20,000 euros in respect of pecuniary damages. This judgment led to the formal recognition of the Church of Bessarabia by the Moldovan authorities. As a result, this piece of strategic litigation helped to ensure the freedom of denominations in Moldova (for further details, see <http://cmiskp.echr.coe.int/tkp197/view.asp?item=5&portal=hbkm&action=html&highlight=MOLDOVA&sessionid=72355259&skin=hudoc-en>).

Among the most relevant cases of strategic litigation in Moldova we should mention the following:

Case of Ilaşcu and Others vs. Moldova and Russia

The case of “The Ilaşcu Group” was solved by the ECtHR. After being freed from detention and becoming a Romanian senator, Ilie Ilaşcu lodged an application with the ECtHR seeking the release of the remaining political detainees imprisoned in Tiraspol and the establishment of responsibilities for the detention of the entire group.

Ilie Ilaşcu, Alexandru Lesco, Tudor Petrov-Popa, Andrei Ivanţoc, Petru Godiac and Valeriu Garbuz were detained on 2 June 1992, being accused by the Transnistrian authorities of war crimes and terrorism acts. The ECtHR decided that the remaining two Ilaşcu Group detainees, Andrei Ivanţoc and Tudor Petrov-Popa, be freed immediately.

The ECtHR found that there had been violations of a number of articles of the Convention: Article 3 – forbidding application of torture and ill-treatment; Article 5 – right to liberty; Article 8 – right to correspondence and private life. The states responsible for violating these rights are, according to the ECtHR’s judgment, Russia and Moldova.

From the perspective of strategic litigation, the case is particularly notable due to the fact that, all things considered, the European judges found that Russia had been violating the Convention for 7 years, starting from 1997, the year when both countries involved in the case of Ilaşcu signed the European Convention on Human Rights (ECHR), while Moldova’s re-

sponsibility was found to start from 2001. The importance of this judgment is that the ECtHR found Russia to be responsible for the control exerted on the territory of another state, in this case Moldova.

The case of **Tănase and Chirtoacă vs. Moldova**

In this case, the Court pronounced for the first time on the impact of dual citizenship on the right to stand as a candidate in free elections, in the context of a ban on persons holding dual or multiple nationality which made them ineligible for becoming members of Parliament. The Court noted that Moldova was the only state in Europe which, while allowing its citizens to hold dual or multiple nationality, banned them from standing for parliamentary elections. The Court stressed that, in a democracy, loyalty to the State does not necessarily mean loyalty to the Government. The Court also noted that Moldova was a signatory to the Council of Europe's Convention on Nationality, which provides that "Nationals of a State Party in possession of another nationality shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party". Further, the CoE's Commission against Racism and (ECRI) and the Venice Commission noted the inconsistency between certain new provisions of the electoral legislation and the commitments assumed by Moldova under the Convention on Nationality. The Court concluded that the means employed by the Moldovan Government were disproportional and found that there had been a violation of Art.3 of Protocol 1 to the ECHR.

From the perspective of strategic litigation, the case is notable for the fact that it recognizes the right of people with dual nationality to stand as candidates for public offices in elections. Moreover, as a result of the judgment pronounced by the Court, the domestic legislation on dual citizenship was amended.

Among other strategically notable ECtHR judgments we should mention the case of **Iordachi and Others** (in which the Court examined the quality of the legislation regulating wiretapping); the case of **Manole and Others** (in which the Court stated for the first time the obligation imposed on the States by Art. 10 of the ECHR to guarantee the editorial independence of public broadcasters); the case of **Ciubotaru** (in which the Court found that the refusal of domestic authorities to register the

applicant's ethnicity in the identity documents constituted a violation of the right to private life).

Further details on the analysis of ECtHR judgments pronounced on Moldovan cases are available on the website of the Lawyers for Human Rights Association at <http://www.lhr.md/2/92.html>

Additionally, in September 2010, the Penal Reform Institute published a Study containing a thorough analysis of legislative and institutional cases in which Moldova was penalized by the ECtHR. The study is available at http://irp.md/item.php?text_id=1007

Challenges

It is regrettable that judges in Moldova continue to ignore the ECtHR judgments and systematically pronounce decisions similar to those for which Moldova got already penalized in Strasbourg. Judges often repeat the same incompatible practices that served as a reason for the sentencing in the first place, the same inadmissible mistakes. So when speaking about the quality of justice, we should not miss the fact that both the provisions of the European Convention on Human Rights and of the European Court's judicial practice are ignored. We should also note here that, while the rule states that the European Convention shall take precedence over domestic laws when inconsistencies occur, regrettably enough, judges often fail to apply this rule, which inevitably leads to complaints being lodged with the ECtHR.

In this context, the Moldovan Parliament in 2010 adopted a law providing disciplinary sanctions for the judges whose decisions are responsible for Moldova being penalized by the European Court. The law aimed to reduce the number of ECtHR complaints and subsequent penalties, as well as to increase the responsibility of judges and determine them to act in strict conformity with the law, without external influence.

However in June 2011, the law was found by the Constitutional Court to be unconstitutional. The Court noted that the law was imperfect and needed more concrete provisions, recommending that it should be subjected to a thorough review.

Also, as earlier mentioned, the absence of a coherent judicial practice at

the level of the Moldovan judicial system is a major impediment to the multiplication of the effects of the successful strategic litigation cases. Secondly, strategic litigation in Moldova is still in its infancy, so its impact on legislation is understandably reduced at this stage.

The greatest challenges in realizing strategic litigation occur in Moldova's Transnistrian region. They are related to the following problems:

- a tense political situation, intimidation and repression exerted on the region's NGOs and human rights defenders;
- inadequate capacities of NGOs and lawyers in the field of strategic litigation;
- limited or even blocked access for NGOs and lawyers to beneficiaries whose rights were violated by the Tiraspol administration; inadequate communication with them; impediments in collecting evidence;
- omissions in the Moldovan legislation concerning the rights of the persons living in the Transnistrian region;
- the reluctance of the Moldovan authorities to address cases of human rights violations occurring in the Transnistrian region; and
- the lack of a coherent judicial practice in the Transnistrian region.

Litigation peculiarities in the Transnistrian region:

- there are no effective domestic remedies;
- beneficiaries cannot be represented in court directly by NGOs and lawyers from the western side of the Nistru; and
- a jurisdiction problem: who answers for the committed violations?

In this connection, we should mention the cases of the **Romanian-teaching schools in the Transnistrian region** (Application nos. 18454/06/, 8252/05/ and 43370/04). The applicants in these three cases are 170 Moldovan citizens living in the so-called 'Transdnestr Moldavian Republic' (TMR). Each application concerns a separate school that provides education in the Romanian language using the Latin script. The applica-

tions were submitted by groups of parents, students and teachers. The applicants complained to the European Court that they continued to be intimidated by the TMR authorities for their decision to use Latin-script Romanian in schools and follow a curriculum approved by the Ministry of Education of Moldova (for further details, see

<http://www.promolex.md/index.php?module=news&item=282&Lang=ro>)

From the perspective of strategic litigation, the cases are notable for the fact that on 15 June 2010 the Court decided unanimously on the admissibility of the violation of the discrimination interdiction, respect for private life and the right to education in Romanian language (Arts. 8 and 14 of the ECHR and Art.2 of the Additional Protocol to the Convention). Further, the Fourth Section of the ECtHR, which worked on the cases, on 20 September 2010 decided to relinquish jurisdiction to the Court's Grand Chamber. The Grand Chamber's decision could serve as a weighty precedent for other claims from people living in the Transnistrian region.

Strategic litigation at national and international level is today practiced by a number of NGOs in Moldova, including:

The Lawyers for Human Rights. Represents beneficiaries before the ECtHR on all articles of the Convention. Most cases represented at the ECtHR concern violations of the right to a fair trial, the right to property, the right to protection from torture, the right to freedom of expression and to assembly (<http://www.lhr.md/2/1.html>);

The Promo-LEX Association. Assists beneficiaries with litigation in domestic courts and at the ECtHR. Priority areas include: torture, inhuman and degrading treatment, liberty and security of person, access to justice and effective remedies for people living in the Transnistrian region, violence against women, protection from discrimination (<http://www.promolex.md/>);

The Human Rights Institute of Moldova (IDOM). Its litigation program centers on redressing serious human rights violations and discrimination against persons living with HIV (<http://www.idom.md/>);

The civil association "Refugiul Casa Mărioarei" ("Mary's Shelter"). Its litigation program focuses on cases of domestic violence (<http://casamarioarei.blogspot.com/>);

The Independent Journalism Center (IJC). By representing beneficiaries in Moldovan courts, the IJC seeks to ultimately modify national practices in the field of freedom of expression and the right of access to information (http://www.ijc.md/index.php?option=com_frontpage&Itemid=1).

Strategic litigation is also occasionally practiced by a number of Moldovan law firms like the Public Lawyers Office, specializing in state-guaranteed legal assistance, the law firm “Veaceslav Turcan & Co.” and others.

Chapter IV

THE IMPACT OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND OF OTHER INTERNATIONAL HUMAN RIGHTS INSTRUMENTS ON DOMESTIC LAWS AND LEGAL PRACTICES IN EASTERN PARTNERSHIP COUNTRIES

On 13 July 1995, Moldova became a fully-fledged member of the Council of Europe, and on 24 July 1997 the Moldovan Parliament ratified the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). ECHR took effect for Moldova on 12 September 1997.

By acceding to the ECHR, Moldova committed itself to protecting the rights and liberties proclaimed by the ECHR and all the persons under its jurisdiction. From the provisions of the Moldovan Constitution, specifically Art.4 par.2

(<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311496>), as well as from the Constitutional Court's Decision no.55 of 14 October 1999 "On the interpretation of new provisions of Art.4 of the Constitution of Moldova", it results that the ECHR represents an integral part of the domestic legal system and is to be applied directly as any other law of Moldova, with the distinction that the ECHR takes precedence over other domestic laws which go against it.

It should be noted that the primary duty of enforcing the Convention falls to the domestic courts and not to the ECtHR. So, in examining cases, national courts shall verify whether the law or the document that is to be applied and which governs rights and liberties guaranteed by the ECHR is consistent with its provisions, and in case of disagreements, courts shall apply directly the provisions of the Convention, mentioning this fact in their judgments.

In this connection, we should mention several ECtHR decisions that had a direct impact on the national legislation:

Case of Ciubotaru vs. Moldova (Application no. 27138/04)

In 2002, applicant Mihai Ciubotaru requested the Moldovan authorities that his ethnicity entry in his birth certificate be changed from Moldovan to Romanian. His request was rejected. In 2004 the applicant complained to the ECtHR. Mihai Ciubotaru alleged a violation of Art.8 of the Convention (right to respect for private and family life) as a result of the authorities' refusal to register his ethnicity as declared by him, and a violation of Art.6 of the Convention (right to a fair trial).

In its judgment pronounced on 27 July 2010, the ECtHR found that there had been a violation of Art.8 of the ECHR in this case, holding that the Moldovan authorities had breached the applicant's right to private life when they had refused to record him as a Romanian in his identity documents. The Court further held that ethnic identity was a detail pertaining to the individual's identity falling within the ambit of Art.8.

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=MOLDOVA%20|%20Mihai%20|%20Ciubotaru%20|%20v&sessionid=72698255&skin=hudoc-en>

The ECtHR recommended that Moldova should amend article 68 of the Law on Documents pertaining to Civil Status, which made it impossible to rectify the ethnic identity of one's parents in their children's birth certificates, and suggested that the law should be modified so as to allow changing one's ethnicity on the basis of their grandparent's civil status documents.

Following the judgment on the case of Ciubotaru vs. Moldova, the Moldovan Government on 23 March 2011 approved an amendment to the Law on Documents pertaining to Civil Status, which proposes to remove ethnicity entries from all civil status documents, except for the birth certificate, in which the ethnicity entry is to be left to the choice of the holder or his/her parents <http://www.google.md/url?sa=t&source=web&cd=5&ved=0CCcQFjAE&url=http%3A%2F%2Fwww.justice.gov.md%2Ffile%2FProiecte%2520de%2520acte%2520normative%2520remise%2520spre%2520coordonare%2FPARLAMENTUL.doc&rct=j&q=Modificarea%20Legea%20privind%20actele%20de%20stare%20civil%20C4%83%20Moldova%20&ei=NxUHTt-xA8mOswbx1NTBDA&usq=AFQjCNFz3hnhJgdmP8GfHqg7-7ogNEh6wCA&cad=rja>.

The measure seeks to further adjust the Moldovan legal framework to international standards. The amendment is yet to be adopted by Parliament to take effect.

Law on State Reparation for Damages Caused by Unreasonably Long Trials and Court Decision Enforcements

On 21 April 2011, the Moldovan Parliament adopted the “Law on the reparation by the state of the damages caused by the violation of the right to trials within a reasonable time or of the right to the enforcement of court decisions within a reasonable time”. The Law took effect on 01 July 2011. It sets out the conditions in which a person may demand reparation from the state for damages caused by unreasonably long court trials or for the failure to enforce court decisions within a reasonable time, as well as the time limits, the procedures of initiating, examining and adducing evidence in such cases.

The Law aims to offer domestic redress in case of breaches of the right to a fair trial (Art.6 of the ECHR). It is also intended to induce courts to avoid long delays in delivering their decisions.

The Law was developed as a result of recent ECtHR judgments pronounced on the cases of Mazepa, Cravenco, Deservire SRL etc., where the Court found violations of Art.6 of the Convention in that trials had been unjustifiably protracted. Further, in a preventive vein, the ECtHR advised the Moldovan government to adopt and implement laws (general measures) aimed at avoiding similar sentences in the future (<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=339023>).

Moldova also ratified a number of other major human rights instruments, international and regional. Moldova is a signatory to eight out of nine core UN human rights treaties: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment; the Convention on the Rights of the Child; the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

and the Convention on the Rights of Persons with Disabilities. The only exception is the International Convention for the Protection of All Persons from Enforced Disappearance, which is to be eventually ratified by Moldova as well.

Another important document in this respect is the 2005 Moldova-European Union Action Plan, which establishes strengthening of democracy and respect for human rights and fundamental freedoms, among other issues, as priorities for Moldova (http://ec.europa.eu/world/enp/pdf/action_plans/moldova_enp_ap_final_en.pdf).

The ratification of these conventions and of other human rights treaties, as well as the country's membership in various international organizations, have obliged Moldova to adjust its legal framework to internationally established human rights standards and norms. Below are some relevant examples:

Law no.17-XVI of 15 February 2007 on Personal Data Protection

With a view to adopting a piece of the community acquis represented by Directive 95/46/EC, which establishes the general legal framework for the protection of personal data in the EU, the Moldovan authorities developed a draft Law on Personal Data Protection (new version), a measure stipulated by section 50 of the National Legislation Harmonization Plan for 2010, adopted by Government Decision no. 842 of 18 December 2009; and section 39 of the National Program on the Implementation of the Moldova-EU Action Plan on Visa Liberalization, adopted by Government Decision no.122 of 4 March 2011.

Legislation on domestic violence and gender equality

The most important international commitments assumed by Moldova under treaties on discriminatory ill-treatment against women are found in the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Moldova also took upon itself important commitments concerning discriminatory ill-treatment under the European Convention on Human Rights (ECHR).

Following these commitments, the Moldovan Parliament on 9 February 2006 adopted Law no.5-XVI on Ensuring Equal Opportunities for Women and Men (Law no.5-XVI). The purpose of this law is to ensure the enjoyment of equal rights by women and men and to prevent and eliminate all forms of discrimination on the ground of sex. Law no.5-XVI has thus become a legal platform for the development of a national mechanism for integrating gender aspects at all levels, as well as for implementing the 2006-2009 National Action Plan on Gender Equality Promotion which was adopted in 2006. Recently, the government of Moldova decided to adjust the legislation to better promote principles of gender equality and to forbid any form of discrimination on the ground of sex. In 2010, a ministerial task force was created with the participation of national experts. Currently, it works on a legislative proposal that seeks to amend the legislation in this area; however, the date when it will be submitted for adoption remains uncertain.

Further to this, on 3 September 2010, a new Law (no.167) entered into effect, serving as an amendment to a number of legislative acts (including the Criminal Code, the Criminal Procedure Code and Law no.45-XVI).

As a result, domestic violence and sexual harassment were recognized as criminal offenses; the institution of the protection order was introduced to ensure protection to the victims of domestic violence. Law no.167 also introduced a modification to Art.171 of the Criminal Code recognizing marital rape.

The Election Code of Moldova

In 2010, a number of significant amendments were made to the Election Code of Moldova. They came to correct a series of deficiencies identified earlier by the Venice Commission and the OSCE/ODIHR.

The bill introducing the amendments to the Election Code was developed by a special Commission; on 18 June 2010 the bill was adopted upon a final reading (and thus became Law no.119), and on 29 July 2010 it entered into effect. According to established law-making practices, it is necessary to continue working with the bill in order to amend related legislation (including the Criminal Code, the Code of Administrative Offenses, the Law on Political Parties, the Law on Local Authorities, the Law on the State Automated Information System 'Elections', the Broadcasting Code, the Law on Personal Data Protection, etc.).

http://www.undp.md/employment/2010/50-100/122/ToR_SPC_consultants_Aug_Oct.pdf

Based on the examples presented above, we can conclude that, in the context of its Euro-integration aspirations and in consideration of its commitments assumed by ratifying international human rights treaties, Moldova undertakes concrete measures to harmonize its human rights legislation.

However, the 2010 Country Report on the Implementation of the European Neighborhood Policy in Moldova indicated that much remained to be done in the field of human rights. For example, limited progress was achieved in the eradication of ill-treatment and torture. The obligations laid down by the UN Committee against Torture to improve the functioning of the National Preventive Mechanism against Torture were only partially addressed. Limited progress was also achieved on the protection of persons from domestic violence and sexual harassment in the workplace. Moreover, no significant progress was made with regard to minority rights and the fight against discrimination. The failure to adopt the Anti-discrimination Bill was also highlighted as a problem.

Further, while the enforcement of ECtHR judgments has improved in recent years, not all measures have yet been taken to address the systemic problems pinpointed in the Court's decisions. For additional details, see http://ec.europa.eu/world/enp/pdf/progress2011/sec_11_643_en.pdf.

Chapter V

THE PRACTICE OF HUMAN RIGHTS MONITORING IN EASTERN PARTNERSHIP COUNTRIES

The state has the duty to prevent human rights violations and the best way to evaluate how the state is coping with this duty is to continuously monitor the human rights situation.

There are a number of organizations in Moldova which monitor different areas of the human rights sphere. The monitoring methodologies employed by the Moldovan NGOs generally include: data collection and subsequent qualitative and quantitative analysis (statistics); legislation analysis and expert assessment of legislative acts; analysis of victims' complaints; interviews with victims and third parties; on-site visits; and observations.

Studies and reports are usually published in the end of the monitoring process. Some organizations also conduct opinion polls which mirror certain tendencies and concerns in the scrutinized areas.

Some reports are limited to findings, statistical data and a general presentation of the current state of affairs in a certain area, but there are also reports that include concrete recommendations that aim to foster improvements concerning observance of international human rights standards. Such reports often serve as an instrument for human rights advocacy, with their findings being used to argue the necessity of modifying some legislative acts or public policies.

Monitored areas:

Human rights (general aspects)

The institution of Ombudspersons (also known in Moldova as Parliamentary Advocates) – the Center for Human Rights of Moldova (CHRM) – is a public institution similar to European and international ombudsman institutions, which incorporated in April 1998 to act as a high-level

non-judicial mechanism for the protection of human rights in Moldova.

Annually, the CHRM presents reports on the observance of human rights in the Republic of Moldova. The reports offer an analysis of the situation concerning the observance of human rights in the country and pinpoint the vulnerable areas which see the most serious or most frequent violations of human rights or constitutional liberties, including from the perspective of international treaties Moldova is a signatory to and of the European Court of Human Right's case law. The reports also document the progress made. The analysis is based on complaints received and interviews with beneficiaries by the ombudspersons; on reports and information provided by public institutions and authorities; on reports; studies and surveys published by national and international organizations; on information published by the media and on other sources. The reports are available on the CHRM's website at <http://www.ombudsman.md/md/anuale/>

Starting from 2005, the Promo-LEX Association has been developing general reports on the observance of human rights in Moldova. The reports present an assessment of the state of affairs in what concerns the observance of the right to life, protection from torture, liberty and security of person, detainee and prisoner rights, right to education, right to property, electoral rights, right of access to information and transparency in decision-making, freedom of expression and religious beliefs, protection from discrimination and minority rights, children's rights, etc. The reports are available on the Association's website at <http://www.promolex.md/index.php?module=publications>

Access to information

The non-governmental organization the Freedom of Expression and Access to Information Promotion Center "Acces-info" is involved in monitoring the implementation of laws concerning free access to information. In this respect, "Acces-info" published numerous studies and reports on the practical application of the legislation on access to information and transparency in decision-making in Moldova. The reports are available on the organization's website at – <http://www.acces-info.org.md/index.php?cid=165>

Freedom of assembly

The monitoring of peaceful assemblies in Moldova is practiced in particular by the NGO Human Rights Resource Center (CReDO). Over the last few years (2007-2011), CReDO has monitored about 1,000 meetings by deploying around 60 observers.

The monitoring reports can be found using the following links:

http://credo.md/arhiva/documente/RaportAssemblyMonit2010_v11ro.pdf

<http://credo.md/arhiva/documente/Raport%20Mon%20ian-dec%202009%20v6.pdf>

<http://credo.md/arhiva/documente/MoldovaAssemblyMonitoring2008%20v4%20ro.pdf>

<http://credo.md/arhiva/documente/Moldova%20Assembly%20Monitoring%20Report%20final%20170109-clean.pdf>

It is noteworthy that CReDO monitored and documented the post-election protests that erupted in April 2009, which helped to piece together the events that occurred in that period. A detailed report on that is available here:

http://credo.md/arhiva/documente/ManifestatiiAprilie2009_v22_final.pdf

A comprehensive study on the observance of human rights in Moldova was developed by the Promo-LEX Association in cooperation with CReDO and “Acces-info”. The study is available at http://www.promolex.md/upload/publications/ro/doc_1233220227.pdf

Electoral processes

Starting from 2009, the Promo-LEX Association has been involved in monitoring electoral processes in Moldova. Its nationwide monitoring efforts include both long-term observation and monitoring activity on the actual Election Day. The monitoring reports are available on the Association’s website at <http://www.promolex.md/index.php?module=publications>

Children's rights

The most active organizations in this field include:

The Child's Rights Information and Documentation Center (CIDDC), which specializes in monitoring how the Convention on the Rights of the Child is respected in Moldova. Its monitoring activity is special in that CIDDC engages children to act as monitors as well. An information Bulletin published by the Workgroup for Monitoring Children's Rights is available on the CIDDC's website at: http://www.childrights.md/index.php?option=com_content&view=article&id=22&Itemid=38&lang=en

The International Center "La Strada" monitors cases of trafficking and sex abuse against children in Moldova. The monitoring done by the "La Strada" Center aims to register tendencies in this area (http://www.lastrada.md/actiuni_curente/index.html#15032011).

Another organization that monitors this area is the National Center for Child Abuse Prevention (CNPAC), a nongovernmental organization specializing in preventing abuses against children. Its monitoring activity is primarily focused on cases of child abuse and child labor. Reports are available on the CNPAC's website at:

http://www.cnpac.org.md/index.php?option=com_content&view=article&id=30&Itemid=117&lang=ro

Women's rights

The International Center "La Strada" runs a Helpline for women. Based on the calls received, the "La Strada" Center publishes reports that contain information on domestic violence. The latest report is available at

http://www.lastrada.md/publicatii/ebook/Raport_linia_fierbinte_2010_final_2.pdf

The National Women's Center for Research and Information "Partnership for Development" (CPD) monitors several aspects related to women's rights: sexual harassment, enjoyment of equal opportunities by women and men, the image of women in the media, women's participation in political life, etc. CPD's reports and researches are available at <http://www.progen.md/?pag=n&tip=publicatii&l=>

The NGO “Women’s Political Club – 50/50” monitors and analyzes elections as well as public policies from a gender perspective. In this connection, the 50/50 Club develops studies and research, which are available on its website at <http://club50.md/node/4>

Minority rights

The National Roma Center (NRC) monitors the observance of the rights of the Roma, as well as their involvement in decision-making processes in Moldova. The reports developed by the NRC are based on the results of human rights monitoring efforts and on investigation of cases of human rights violations committed by the law enforcement bodies, public officials and local authorities, as well as cases of ethnic hatred in the media. Reports are available on the organization’s website at http://roma.md/index.php?option=com_content&view=article&id=21&Itemid=17&lang=ro

Mental health rights

The Human Rights Institute of Moldova (IDOM) monitors policies pertaining to mental health and the observance of the rights of persons admitted to mental institutions. For more information, see: http://www.idom.md/index.php?option=com_k2&view=item&id=25:politica-de-sanatate-mintala-si-drepturile-omului-in-institutiile-psihiatrice&Itemid=396&lang=ro

Trafficking in persons

Among the most representative organizations working in this area we should mention:

The International Center “La Strada”, which is part of the international network against trafficking in human beings “La Strada”. It monitors the situation in the field of trafficking in persons in Moldova. La Strada reports are available on the organization’s website <http://www.lastrada.md/date/rapoarte/>

The International Organization for Migration's Moldovan Office monitors the situation of human trafficking, identifies new tendencies in the area, assesses Moldova's efforts in preventing and combating trafficking in persons, and publishes reports on trafficking and its victims, including by category (children, women) etc. IOM Moldova's reports are available on its website at <http://www.iom.md/index.php/en/publications/studies-a-reports>

Torture

Consistent with the Optional Protocol to the Convention Against Torture (OPCAT), Moldova set up a National Preventive Mechanism against Torture and Inhuman and Degrading Treatment.

The Mechanism is a body involving civil society members that was created to consult and assist the Human Rights Center of Moldova, also having a separate direct duty to monitor the phenomenon of torture and other cruel, inhuman or degrading treatment and punishment.

The National Preventive Mechanism's reports are available at:

<http://www.ombudsman.md/md/rapoarte%20mnpt/>

Amnesty International Moldova also monitors the situation concerning the application of torture in Moldova. Among its latest activity in this respect, Amnesty International Moldova published a report on the application of torture during the post-election events in April 2009. The report is available at <http://www.amnesty.md/en/reports-on-moldova>

Criminal justice

The Penal Reform Institute (IRP) monitors the observance of the rights of the persons in Moldova's criminal justice system. IRP additionally monitors the implementation of the institutions of probation and community penalties; implementation of the institution of mediation; observance of the rights of persons in police custody; application of penalties for administrative offenses by the police. The IRP's publications are available at <http://irp.md/biblioteca.php>

The Transnistrian region

Starting from 2004, the Promo-LEX Association has been monitoring how human rights are respected in the Transnistrian region. The monitoring activity mainly centers on the following areas: protection from torture, liberty and security of person, the rights of military recruits, the right to property and the freedom of movement, and electoral rights. Promo-LEX published many thematic studies, which are available on the Association's website at <http://www.promolex.md/index.php?module=publications>

Chapter VI

HUMAN RIGHTS ADVOCACY INITIATIVES IN EASTERN PARTNERSHIP COUNTRIES

A number of nongovernmental organizations in Moldova run advocacy programs. This is a natural evolution for an organization, which in the course of its activity identifies systemic problems that are responsible for human rights violations, the answer is to try to solve them through advocacy initiatives.

The advocacy campaigns conducted in Moldova include virtually all the basic techniques used in this area: strategic litigation, monitoring, surveys and reports, awareness-raising and information campaigns, trainings, and lobby.

Advocacy initiatives in Moldova are mainly directed at modifying laws, secondary legislation, public policies and internal guidelines used in state institutions, as well as at encouraging ratification of human rights treaties and international conventions.

In Moldova, nongovernmental organizations do not have the right to put forth legislative proposals, so when an organization wishes to propose a bill or an amendment to an existing piece of legislation it has to partner up with one or more state authorities entitled to legislative initiative. These are the Members of the Moldovan Parliament, the President, the Cabinet and the People's Assembly, the legislative body of the Gagauz autonomy.

Moldovan NGOs usually conduct advocacy campaigns in partnerships or in coalitions specially created for this purpose. However there are advocacy campaigns carried out by solitary organizations, and successfully too.

Below we present several examples of advocacy campaigns conducted in Moldova:

The National Coalition for the International Criminal Court

On 9 September 2010, the Moldovan Parliament adopted the Law on the Ratification of the Rome Statute of the International Criminal Court (ICC).

<http://www.zdg.md/stiri/in-doar-10-ani-moldova-a-ratificat-statutul-de-la-roma>

As many as ten years of active national and international advocacy efforts were needed to convince the Moldovan authorities to deliver on their promise and ratify the Statute. The long-awaited ratification bill had been conceived by the Ministry of Justice back in 2006, and it took the Government two more years before it approved the document and submitted it to the legislature, only for it to be shelved for two further years.

Recently, Moldova and several other nations have been included in the list of ‘focus countries’ of the Council for the International Criminal Court.

In March 2010, Amnesty International, CREDO, CRVT “Memoria” and the Promo-LEX Association joined their efforts within a National Coalition for the ICC <http://www.europalibera.org/content/article/1985489.html>

The National Coalition launched a message calling for the urgent ratification of the Statute. Subsequently it organized a roundtable with the participation of parliamentarians and other officials. A number of other actions followed, consolidating the Coalition’s message (the latest took place in Bălți, Comrat and Chişinău in July 2010). <http://www.europalibera.org/content/article/2215812.html?ref=nf>

Those actions prompted public debates, which accelerated the ratification process. Moreover, the Rome Statute will apply to the Transnistrian region as well. While initially the bill contained a reservation similar to those included in other international treaties signed by Moldova earlier, which excluded Transnistria from the scope of the Statute and, consequently, from the jurisdiction of the International Criminal Court, because of a lack of effective control over the region, civil society lobbied for the removal of the reservation, arguing that it could debase the idea of international justice in Moldova. The Rome Statute ratified without

any geographical reservation could become one of the first international treaties to protect human rights in the Transnistrian region.

The National Coalition for the ICC saluted this step; however, it warned the Moldovan authorities that passing the bill alone was not enough. The entire ratification procedure should be respected, and no actions undermining the Court's jurisdiction should be taken (for example, signing immunity agreements with other countries)

<http://amnesty.md/files/documents/bulletins/Bulletin%2007-09.10%20RO.pdf>

The presented example showed an advocacy campaign focused on the ratification of an international human rights instrument, which was conducted by several nongovernmental organizations joined in a coalition.

Improving methodologies and tactics of interviewing child-victims and child-witnesses of sexual exploitation

In 2008-2009, the International Center “La Strada” conducted an assessment of current national practices used in hearing testimonies from child-victims and child-witnesses of human trafficking or of sexual exploitation for commercial purposes.

The study was prompted by Moldova's failure to follow a number of existing international recommendations and principles on hearing children. Another reason for conducting the study was the need to change the way hearings were organized and held so that it ensured the best interest of the child and improved the quality of the testimony gathered by investigators.

La Strada's experience accumulated while cooperating with law enforcement agencies indicates that the mediation of the contact between the police and the child-victim shortens the prosecution process and makes it less hurtful for the child. The main recommendations of the study include raising awareness among professional groups working with children, especially law enforcement officers; holding hearings in specially arranged child-friendly rooms, and thus ensuring the quality of the testimony delivered by the child-victims/witnesses. Such rooms could be used to make audio and video recordings to be subsequently used as evidence in court, which would spare the child-victims/witnesses of the distressing experience of appearing before a jury and audience in a

courtroom. Obviously, such rooms would require specially trained staff and institutional collaboration.

The main conclusions and recommendations of the study were presented to the Coordinating Group on Domestic Violence Prevention of the Ministry of Labor, Social Protection and Family. Subsequently, in 2010 La Strada held a first round of seminars where about 150 police inspectors working with juveniles, investigators and prosecutors were trained to the principles, methodologies and techniques of interviewing children who witnessed or became victims of sexual exploitation for commercial purposes. In 2011, La Strada provided similar training to about 60 social assistants.

Follow-up workshops will be held in the near future where police inspectors working with juveniles, investigators, prosecutors and social assistants will engage in teamwork and will simulate hearings of children. The participants will be provided with methodological support in the form of a guidebook. Further, La Strada plans to arrange several hearing rooms for children in Moldova's districts. Concomitantly, efforts are being made to amend the Code of Criminal Procedure with a view to introducing several provisions on the hearing of child-victims and child-witnesses of sexual exploitation. La Strada collaborates on this with the Ministry of Justice and the National Center for Children's Rights Protection.

This is an example of an advocacy campaign directed at changing an internal practice which is conducted by a single nongovernmental organization that holds expertise in the field.

Law on Assemblies

Until 2008, organizing and holding assemblies in Moldova was governed by Law no.560-XIII of 21 July 1995. In many respects, that law was inconsistent with the Constitution of Moldova and the European Convention on Human Rights. Thus, there was a need to develop a bill that would regulate the process of organizing and holding assemblies in accordance with international standards.

In 2007, following a request of the Ministry of Justice, the organizations Promo-LEX, CReDO and Amnesty International Moldova created a task force to contribute to the development of a bill on assemblies. The re-

quest came after the above-mentioned organizations held public discussions addressing the frequent violations of the right to assembly and the deficiencies of the legislation in the field.

As a result of joint efforts, on 22 February 2008, the Moldovan Parliament adopted the Law on Assemblies. The new law was published in the Official Gazette on 22 April 2008 and entered into effect on the same date. Being developed in line with the Legislative Agenda for the years 2005-2009 and with the EU-Moldova Action Plan, the Law is greatly superior to its predecessor and meets European standards.

After its entry into force, a necessity appeared to inform those concerned about the Law's new provisions. For this purpose, the organizations Promo-LEX, CReDO, Acces-Info and CHRM, in cooperation with the National Justice Institute, the Supreme Court of Justice, the Superior Council of Magistracy and the Prosecutor General's Office, organized a series of roundtable meetings for about 90 judges and prosecutors. Additionally, seminars were organized for about 120 law enforcement (police) officers, local authority officials and civil society members.

Also as part of this advocacy campaign, a comparative study was published on the observance of the right to the freedom of assembly in Moldova during 2007-2008, in addition to a Guidebook on the organization and conducting of assemblies. Both publications are available on Promo-LEX's website at <http://www.promolex.md/index.php?module=publications>

This is an example of an advocacy campaign that involved a partnership between a number of nongovernmental organizations, as well as cooperation with the Ministry of Justice, for the purpose of developing and promoting a bill.

Chapter VII

CONCLUSIONS

The human rights situation in Eastern Partnership countries¹ remains rather difficult. Most reports developed by national and international experts highlight serious violations concerning torture, detention conditions, the right to liberty and security of person, the right to property, the right to freedom of assembly, association and expression, electoral rights, the right to a fair trial, and so on.

Impunity, high levels of corruption, a lack of political will, feigned democratic processes and a tense political situation in these countries make it almost impossible to bring those responsible for human rights violations to justice. For this reason, the right to a fair trial is frequently breached in Eastern Partnership countries.

Due to the tense political situation, civil society in Armenia and Azerbaijan direct their attention mainly to voting rights, the right to freedom of assembly, association and expression, and property rights. This is understandable, considering that prisoners of conscience continue to exist in both countries. The fairness of elections is invariably contested by opposition parties and civil society. In this context, civil and social rights remain without due attention from local nongovernmental organizations.

Violence against women is a taboo subject in Eastern European countries. In this respect, Moldova achieved some progress and the State has already recognized that, for example, domestic violence is a social scourge and not a private issue. However, the practical application of laws continues to be very inadequate. In all Eastern Partnership countries this problem is ascribed to centuries-long traditions and stereotypes and, despite recommendations made by the EU in this respect, authorities tend to unjustifiably draw out the implementation of measures to combat this phenomenon.

¹ In this Brochure, when we refer to Eastern Partnership countries, we exclusively mean the countries involved in the Project, and namely Georgia, Armenia, Azerbaijan and Moldova.

The frozen conflicts existing in these countries complicate the human rights situation even more. In this sense, human rights NGOs either have very limited access or no access at all to those regions, which makes monitoring and defending human rights there extremely difficult, if not impossible. The cases reported in those regions are very serious and are mainly related to issues like detention conditions, torture, violation of the right to life, liberty and security, of the right to property and freedom of movement. Political rights are often disrespected by the illegal administrations of those regions. The lack of an effective remedy also represents a major problem for the inhabitants of conflict zones in Eastern Partnership countries.

NGOs working in the field of human rights encounter numerous difficulties in their activity. The most complicated situation in this respect is experienced by Armenia and Azerbaijan. This is due to the political circumstances in these countries, to the multiple restrictions and obviously exaggerated control on the part of the state. In Azerbaijan, for example, human rights NGOs encounter problems when registering their organizations with state authorities. There are many ECtHR decisions on such cases. In Armenia, multiple cases were reported of attacks on NGO members. This irremediably leads to stagnation in the development of human rights NGOs in these countries.

The media in Eastern Partnership countries has an increasing tendency to participate in monitoring and advancing human rights. And like human rights activists, journalists are exposed to attacks and face intimidation in their attempts to promote certain democratic values and principles.

In general, promoting change in human rights legislation and public policy is only possible when there is political will which, in turn, can be conditioned by recommendations from international organizations, like the EU, the UN Committees, the ECtHR, etc. In this context, strategic litigation is an advocacy instrument frequently used by human rights defenders in the Eastern Partnership region. At the same time, only a limited number of cases submitted to the ECtHR are successful enough to have a beneficial impact on the human rights situation in Eastern Partnership countries.

Recommendations

Consolidation of monitoring capacities of NGOs and human rights defenders. The deficit of comprehensive and credible reports from local experts leaves many human rights issues neglected. Moreover, the absence of specialized reports on all problematic issues also leads to an absence of action aimed to redress the state of affairs. Such reports could serve as alternative sources for the international organizations that evaluate the authorities' progress in delivering on international commitments and in adopting international standards in the field of human rights.

Establish contacts and initiate cooperation with NGOs from conflict zones in Eastern Partnership countries. Such a practice already exists in Moldova, allowing human rights NGOs to have access to information and participate in promoting and defending rights in the region.

When engaging in litigation, NGOs and human rights defenders should focus not only on solving one particular case, but on the quality of the legislation or public policies which create systemic problems resulting in human rights violations. This recommendation is particularly relevant when undertaking litigation before the ECtHR. Also, human rights NGOs should be involved in monitoring the full implementation of ECtHR decisions.

Create and develop national election monitoring missions in every Eastern Partnership country. The absence or insufficiency of national monitoring missions diminishes the credibility of election outcomes and increases the likelihood of electoral fraud. In this sense, the contribution of international observation missions should be corroborated by statements of national missions, which are arguably more apt to correctly assess electoral processes in their own countries.

Intensify cooperation among human rights defenders in Eastern Partnership countries. This recommendation particularly refers to exchange of relevant information and experience on litigation, monitoring and advocacy. This could include exchange of opinions when arguing a strategic case of common interest before the ECtHR. Or, for example, in the process of developing or amending a piece of legislation, the experience of other Eastern Partnership countries could be very useful.

Create and establish networks and platforms for cooperation among NGOs and human rights defenders allowing them to exchange information and provide a general picture of the human rights situation in Eastern Partnership countries. A relevant example is the South Caucasus Network of Human Rights Defenders.

<http://www.caucasusnetwork.org/index.hp?a=main&pid=7&lang=eng>

APPENDIX 1

Study visit to Georgia (6-10 July 2010)**Day I / 6 July 2010 – Arrival****Day II / 7 July 2010*****Visit to the partner organization in Georgia – “Union Article 42 of the Constitution”***

During the meeting, the participants presented to each other their organizations and what they do in the field of human rights. They discussed about the most notable and strategically important cases they submitted to the ECtHR, about the strategies used in addressing the problems they face in their activity, about the problems existing in Eastern Partnership countries and the way they affect democracy development. Another subject of discussion was the plan of activities under the Project.



(Visiting the organization “Union Article 42 of Constitution”, Tbilisi, Georgia)

More details about the organization and its activity are available on its website at <http://www.article42.ge/index.php?lang=eng>



(Visiting the Ombudsman Institution of Georgia, Tbilisi)

Visit to the Georgian Ombudsman’s Office

A meeting at the Ombudsman’s Office of Georgia. The participants had the opportunity to discuss with representatives of the Ombudsman Office about the human rights situation in Georgia and about the cooperation between the Ombudsman and Georgian civil society.

Day III / 8 July 2010

Study visits to Georgian human rights organizations:

Visit to the Georgian Young Lawyers' Association (GYLA)

The participants visited the organization GYLA. The organization presented its activities, strategic objectives and work methods. The participants discussed about GYLA's free legal assistance program, GYLA litigation strategies and their impact, as well as about the cases represented before ECtHR and the difficulties faced by the organization.

For more details on GYLA and its activity, see <http://gyla.ge/index.php?lang=en>



(Visiting the Georgian Young Lawyers' Association, Tbilisi, Georgia)

Visit to the Human Rights Center

The organization's members presented the objectives and activities of the Center. Discussions focused on monitoring activities, litigation and reporting of human rights violations, particularly those related to the 2008 events. The participants also discussed about cooperation between human rights organizations

from Georgia, Armenia and Azerbaijan within the framework of the South Caucasus Network of Human Rights Defenders. The Network has around 30 member organizations from Armenia, Georgia and Azerbaijan and aims to contribute to the consolidation of their message internationally.



(Visiting the Human Rights Center, Tbilisi, Georgia)

For details on the Human Rights Center, see <http://www.humanrights.ge/>

For more details on the Network, see <http://www.caucasusnetwork.org/index.php?a=main&pid=1&lang=eng>

Visit to the organization Penal Reform International



(Visiting the organization Penal Reform International, Tbilisi, Georgia)

The organization's primary activities are related to the criminal justice reforms in Georgia, Armenia and Azerbaijan. During the meeting, the organization's members informed the guests about the collaboration with civil society in this area and about the progress achieved and difficulties encountered.

For further details on the organization's activity, see its website <http://www.pri.ge/>

Visit to the Georgian Center for Psychological and Medical Rehabilitation of Torture Victims

During the visit, the participants and members of the host organization discussed about torture cases and litigation of such cases in domestic and international courts.

For further details on the organization's activity, see <http://humanrightshouse.org/>



(Visiting the Georgian Center for Psychological and Medical Rehabilitation of Torture Victims, Tbilisi, Georgia)

Day IV / 9 July 2010

Roundtable meeting “Strategic litigation - instrument to promote and protect human rights in the countries of the Eastern Partnership”

The roundtable was the concluding event of the study visit to Georgia. Discussions during the event focused on the theme of litigation in domestic courts at the ECtHR as a means of promoting human rights. The participants described the litigation strategies used in different cases, including in cases from conflict zones.

The participants also discussed about ways of tackling the most difficult cases and mentioned ECtHR judgments and pending cases that have or could have an impact on the situation of human rights in Eastern Partnership countries. The event was attended by representatives from the Ministry of Justice and the Ombudsman’s Office of Georgia, the Council of Europe, NORLAG and OSFG, as well as members of the project team, Georgian human rights defenders, media representatives.



Day V / 10 July 2010 – Departure

PARTICIPANTS:

Georgia

Mari Chokheli – Union Article 42 of the Constitution
Nazi Janezashvili – Union Article 42 of the Constitution
Dmitri Khachidze – Union Article 42 of the Constitution
Nino Elbakidze – Union Article 42 of the Constitution
Tamta Tefnadze – Union Article 42 of the Constitution

Armenia

Artur Sakunts – Helsinki Citizens’ Assembly-Vanadzor
Haykak Arshamyan – Yerevan Press Club
Mikayel Hovhannisyan – Eurasia Foundation Armenia
Artak Zeynalyan – Lawyer
Tatevik Gharibyan – Civil Society Institute

Moldova

Ion Manole – the Promo-LEX Association
Alexandru Postica – the Promo-LEX Association; Deputy Chairman of the „Former
Deportees and Political Detainees Association”
Olga Manole – the Promo-LEX Association
Alexandru Zubco – Resource Center for the Transnistrian Region, the Promo-LEX
Association
Doina Ioana Străisteanu – Human rights expert

Azerbaijan

Eldar Zeynalov – Human rights defender, Baku
Anar Qasimov – Public Interest Citizen Initiative Union NGO
Elmar Suleymanov – Legal Education Society
Malahat Nasibova – Democracy and NGOs’ Development Resource Center / Nakhchivan

APPENDIX 2

Study visit to Armenia (10-14 July 2010)

It should be noted that because of the tense political situation between Armenia and Azerbaijan, the Azerbaijani members on the project team were not able to participate in the visit to Armenia.

Day I / 10 July 2010 – Arrival

Day II / 11 July 2010

Meeting with human rights organizations in Gyumri, Armenia

Members of a number of organizations participated in the meeting: HRD Armenian Center’s Gyumri Branch; “KhoranArd” Intellectual Center and Social Educational Center in Armenian Apostolic Church Shirak Wing; Gyumri ORHUS Center; “Biosophia” NGO; “Shirak Center” of Political Culture and Agreements; “Menq Plus” NGO.



(the office of the HRD Armenian Center’s Gyumri Branch)

The participants discussed about the human rights situation in Armenia. The participants from the host-country described the problems faced by the local organizations, specifically the limitations by the state of the right to freedom of expression, association and assembly, as well as the numerous attacks on NGO members.



(the office of the HRD Armenian Center’s Gyumri Branch)

The interlocutors also discussed about the case of journalist Ernest Vardanyan (who is an ethnic Armenian) and the possibility of cooperation among Moldovan and Armenian NGOs on this case.

Day III / 12 July 2010

Meetings with NGOs based in Yerevan, Armenia

The participants in the visit met with members of the following organizations: Victims of State Needs; Internews; and the Sakharov Human Rights Center. During the meetings, discussions centered on the situation of the Armenian media, with reference to relevant cases submitted to the ECtHR and to the impact of those cases. Another issue was the severe violations of the right to property reported in Armenia.

The same day, the participants had a meeting with representatives of the EU Delegation to Armenia. The main issues discussed included the EU's programs and objectives in the field of human rights in Armenia, the efforts, achievements and strategies of local organizations in defending human rights and the way the EU supports these efforts.

Day IV / 13 July 2010

Roundtable meeting “The impact of the European Convention on Human Rights and of other international human rights instruments on laws and legal practices in Eastern Partnership countries”

Discussions at the roundtable focused on the litigation cases brought before the ECtHR and the impact of subsequent decisions on domestic laws. In this respect, the participants of the host-country noted that, as a rule, in Armenian cases the accent was placed on solving individual issues rather than a problem in general. At the same time, they remarked that lawyers and human rights NGOs were increasingly asking the Court to evaluate the quality of the legislation as well. The participants from Moldova and Georgia spoke about the weightiest cases



(Roundtable)

examined by the ECtHR and the way they contributed to the modification of laws in these countries, and about the general effects on the human rights situation. The participants also discussed about the relevant UN treaties and their impact on the human rights situation in Eastern Partnership countries.

The event brought together participants from Moldova, Georgia and NGO representatives from Armenia.

Day V / 14 July 2010 – Departure

PARTICIPANTS:

Georgia

Nino Elbaqidze – Union Article 42 of the Constitution
Tamta Tefnadze – Union Article 42 of the Constitution
David Managadze – Union Article 42 of the Constitution
Lasha Tchincharauli – Union Article 42 of the Constitution
Tamar Bazadze – Georgian Young Lawyers' Association

Moldova

Ion Manole – the Promo-LEX Association
Alexandru Postica – the Promo-LEX Association; Deputy Chairman of the „Former Deportees and Political Detainees Association”
Olga Manole – the Promo-LEX Association
Alexandru Zubco – Resource Center for the Transnistrian Region, the Promo-LEX Association
Doina Ioana Străisteanu – Human rights expert

APPENDIX 3

Study visit to Azerbaijan (17-21 October 2010)

It should be noted that because of the tense political situation between Armenia and Azerbaijan, the Armenian members on the project team were not able to participate in the visit to Azerbaijan.

Day I / 17 October 2010 – Arrival

Day II / 18 October 2010

Study visits to Azerbaijani human rights organizations

Visit to the Azerbaijani partner-organization – the Public Interests Citizen Initiative Union

During the visit, the host-organization presented its mission and objectives as well as its main activities.

Visit to the NGO „Legal Education Society”

During the meeting, the participants were exposed to the activity of the organization and discussed diverse aspects of its human rights monitoring program, the monitored areas and the type of reports developed by the organization, as well as about the general human rights situation in Azerbaijan. Particularly, discussions focused on the experience of the organization in monitoring court trials. The organizations members talked about strategic cases brought before the ECtHR against Azerbaijan and the enforcement of the Court’s decision by the Azerbaijani authorities. Several cases were mentioned in this respect, which the authorities failed to enforce within a reasonable time.

For more details on the organization and its activity, check its website at <http://www.monitoring.az/>

Visit to the NGO „Media Rights Institute”

During the visit, the participants discussed about the role of the media in democratization processes and in promoting human rights, including the press' contribution to monitoring human rights.

For additional details on the organization, see its website at <http://www.mediarights.az/>



(Office of the NGO „Media Rights Institute”, Baku, Azerbaijan)

Visit to the NGO „Clean World” Aid to Women Social Union

This organization specializes in offering legal assistance and counseling to victims of domestic violence, victims of human trafficking, drug users and sexual minorities. The organization also offers temporary accommodation to its beneficiaries. Moreover, beneficiaries are offered the opportunity to learn a craft here. During the visit, the participants were acquainted with the organization's activity and the difficulties encountered. The organization's members are often facing society and stigma suffered by its groups of beneficiaries, they have to face reluctant attitudes from both authorities and civil society.



(Office of the NGO „Clean World” Aid to Women Social Union, Baku, Azerbaijan)

Day III / 19 October 2010

Visit to the Ombudsman's Office of Azerbaijan

During the meeting, the Ombudsman briefed the participants on the activity of the Office. The ombudsman also talked about how the Office cooperated with Azerbaijani non-governmental organizations and about the results achieved thanks to this cooperation.



(visiting the Azerbaijani Ombudsman's Office, Baku)

Visit to the Council of State Support to NGOs

During the visit, the members of the organization spoke about their activity and the ways the Council supported local NGOs. The organization works under the patronage of the President of Azerbaijan.



(visiting the NGO Support Council, Baku, Azerbaijan)

Visit to the NGO „Potential” the Union of Sumgait’s Specialists

Discussions during the meeting centered on the organization’s experience in protecting human rights by offering legal assistance and legal literacy services. Also, the organization aims to contribute to the advancement of Azerbaijani civil society by promoting democratic principles. To this end, the organization works with specialists from various areas, whom it the



(office of the NGO “Potential” the Union of Sumgait’s Specialists, Sumgait, Azerbaijan)

For more details, see the organization’s website at <http://www.potensial.org/>

Visit to the NGO „Rule of Law Sumgait Regional Legal Resource Center”

In order to facilitate access to justice in rural areas, the OSCE Office in Azerbaijan created regional centers that offer free legal assistance to people on cases concerning human rights violations. During the visit, the participants had a meeting with members of the regional center in Sumgait, who talked about the Center’s activity, the problems encountered by its beneficiaries, as well as about the barriers created by the authorities for the Azerbaijani human rights defenders. Also, the centers offer assistance to legal experts in the form of trainings and support materials.



(office of the Rule of Law Sumgait Regional Legal Resource Center, Sumgait, Azerbaijan)

Day IV /20 October 2010

Roundtable meeting “The practice of human rights monitoring in Eastern Partnership Countries”

During the event, the participants presented the practices used in monitoring human rights, the monitored areas, methodologies and challenges. The participants also discussed how human rights are monitored in conflict zones and about the challenges of collecting information from those zones. Additionally, it was discussed how NGOs in those region can cooperate to promote human rights.



(Roundtable)

The participants also discussed ways of lobbying the recommendations contained in monitoring reports and thematic studies. The members of the partner-organizations shared their work experience and successful practices.



(Roundtable)

Day V / 20 October 2010 – Departure

PARTICIPANTS:

Azerbaijan:

Anar Gasimov – Public Interest Citizen Initiative social union

Malahat Nasibova – Democracy and NGO’s Development Resource Center / Nakhchivan

Elmar Suleymanov – Legal Education Society

Ruslan Valiyev – Clean World Aid to Women Social Union

Arzu Gafarov – “Potential” the Union of Sumgait’s Specialists

Moldova:

Ion Manole – the Promo-LEX Association

Pavel Postica – the Promo-LEX Association

Alexandru Zubco – Resource Center for the Transnistrian Region, the Promo-LEX Association

Olga Manole – the Promo-LEX Association

Vadim Vieru – the Promo-LEX Association

Georgia:

Nino Elbaqidze – Union Article 42 of the Constitution

Marina Chokheli – Union Article 42 of the Constitution

Elena Fileeva – Union Article 42 of the Constitution

Nino Andriashvili – Human Rights Center

Nino Jimarjidge – Georgian Young Lawyers’ Association

APPENDIX IV

Study visit to Moldova (6-10 December 2010)

Day I / 6 December 2010 – Arrival

Day II / 7 December 2010

Study visits to Moldovan human rights organizations

Visit to the Promo-LEX Association

During the visit, the participants discussed about advocacy initiatives in the field of human rights in Moldova. Promo-LEX members presented the organization's relevant activities and its advocacy strategies for the following years.



(office of the Promo-LEX Association, Chişinău, Moldova)

Visit to the International Center „La Strada”

During the visit, the Institute's members described their activity in the field of criminal justice reform and the practice of mediation in Moldova and presented their achievements. The hosts also talked about their cooperation with the state authorities and other organizations working in the same field in achieving their advocacy goals. The participants showed particular interest in the practice of mediation, asking many questions in this respect. For more details on the Institute's work, see www.irp.md



(office of the International Center „La Strada”, Chişinău, Moldova)

Visit to the Penal Reform Institute

During the visit, the Institute's members described their activity in the field of criminal justice reform and the practice of mediation in Moldova and presented their achievements. The hosts also talked about their cooperation with the state authorities and other organizations working in the same field in achieving their advocacy goals. The participants showed particular interest in the practice of mediation, asking many questions in this respect.

For more details on the Institute's work, see www.irp.md.



(office of the Penal Reform Institute, Chişinău, Moldova)

Visit to the Human Rights Resource Center (CReDO)

During the meeting at CReDO, the participants discussed about the right to freedom of assembly and CReDO's campaign to promote this right in Moldova, as well as about the advocacy strategies to this end. The participants were also acquainted with CReDO's advocacy initiatives on monitoring public policies.

For additional details on CReDO's work, see www.credo.md



(CReDO office)

Visit to the Torture Victims' Rehabilitation Center "Memoria"

The participants visited the Center Memoria, where they familiarized themselves with the organization's work, particularly with the assistance services for the victims of torture and the Center's advocacy initiatives in the field. The Center's members presented a number of cases judged at the ECtHR in which Moldova was found responsible of the application of torture. The participants also learned details about the torture cases that occurred in the post-election period in April 2009.

For additional details on the organization's work, see www.memoria.md



(office of the Rehabilitation Center "Memoria")

Day III / 8 December 2010

Study visits to NGOs in the Transnistrian region:



Meeting with members of NGOs based in the Transnistrian region

During the meeting, the participants discussed with teachers and students at the Tiraspol-based Lyceum "Lucian Blaga" about the situation of schools that teach in Latin-script Romanian in the Transnistrian region. The lyceum's principal talked about the struggles of keeping these schools running and of defending the students' right to education in their maternal language.



(Lucian Blaga Lyceum in Tiraspol)

The meeting was also attended by members of NGOs based in the towns

of Dubăsari and Tiraspol, who spoke about their work and the challenges they faced.

Visit to the NGO “Novaia Gazeta”

The participants visited the offices of the NGO “Novaia Gazeta” were acquainted with its activities and with the newspaper it publishes, which is dedicated to human rights issues in the region. The organization’s members talked about their work on the paper and on the video recordings posted on the news portal www.dniestr.tv. Also, the participants were acquainted with the general human rights situation in the region and asked questions on the topic.



(the office of the NGO “Novaia Gazeta”).

Day IV / 9 December 2010

Roundtable “Human Rights Advocacy Initiatives in Eastern Partnership Countries”

The event brought together the Project’s participants as well as members of Moldovan human rights NGOs. The presentations made at the roundtable focused on the advocacy initiatives and campaigns conducted in Moldova, Armenia, Georgia and Azerbaijan. The participants discussed the advocacy strategies and methods used in this field. The Moldovan participants also talked about human rights advocacy efforts undertaken in the Transnistrian region and gave examples of advocacy campaigns in various areas: elections, non-discrimination, disability rights, the rights of the persons living in the Transnistrian region etc.



(Roundtable)

Project Debriefing / Project Concluding Roundtable

The visit culminated with a project debriefing held at Soros Moldova Foundation, during which the participants evaluated the results of the Project, discussed new ideas of cooperation and future partnerships with a view to further promoting and defending human rights in Eastern Partnership countries.



(Project Concluding Roundtable, Soros-Moldova Foundation, Chişinău)

PARTICIPANTS:

Georgia

Tamta Mikeladze – Georgian Young Lawyers Association
Manana Kobakhidze – Union Article 42 of the Constitution
Nazi Janezashvili – Union Article 42 of the Constitution
Dimitri Khachidze – Union Article 42 of the Constitution
Nino Elbakidze – Union Article 42 of the Constitution.

Azerbaijan

Anar Gasimov – Public Interest Citizen Initiative Social Union
Malahat Nasibova – Democracy and NGO’s Development Resource Center / Nakhchivan
Elmar Suleymanov – Legal Education Society
Ruslan Valiyev – Clean World Aid to Women Social Union
Arzu Gafarov – “Potential” the Union of Sumgait’s Specialists

Armenia

Gor Margaryan – Lawyer
Meri Khachatryan – Sakharov Human Rights Center;
Moushegh Shoushanyan – Lawyer
Vahe Grigoryan – Lawyer
Haykanush Avalyan – Gyumri Sakharov Human Rights Center

Moldova

Ion Manole – the Promo-LEX Association
Alexandru Postica – the Promo-LEX Association; Deputy Chairman of the „Former Deportees and Political Detainees Association”
Alexandru Zubco – Resource Center for the Transnistrian Region, the Promo-LEX Association
Pavel Postica – the Promo-LEX Association
Veaceslav Ursu – Asociația Promo-LEX