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Advancing democracy and human rights

Alternative report to the UN Human Rights Committee on Moldova's third Periodic report regarding the implementation of the International Covenant on Economic, Social and Cultural Rights

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Section A: Introduction

1. The present report has been prepared by the Promo-LEX Association in order to provide input to the *UN Human Rights Committee* in advance of its examination of Moldova's account of the human rights situation.
2. The Promo-LEX Association is a civil society organization, founded in 2002, with special consultative status with the UN (ECOSOC) based in Chisinau. The Association's purpose is to advance democracy in the Republic of Moldova by promoting and defending human rights and monitoring democratic processes. The Promo-LEX Association has monitored the human rights situation in Transnistrian region since 2004.
3. The Transnistrian region (also called "MRT"), the self-proclaimed administration of the Transnistrian region, was never recognized by international community as such. The central government does not exercised authority in the region, and the *de facto* authorities govern through parallel administrative structures. The Transnistrian region is recognized as integral part of the Republic of Moldova. Committed to resolving the Transnistrian conflict by exclusively peaceful means, the authorities of the Republic of Moldova have been conducting negotiations with the *de facto* Transnistrian administration in order to achieve a lasting and comprehensive political settlement. Since 2005, formal negotiations on reaching a settlement on the Transnistrian conflict have taken place in a format known as "5+2". Chaired by OSCE, it includes Moldovan *de jure* authorities and the *de facto* Transnistrian administration, Russia and Ukraine as mediators, and the EU and the US as observers.
4. Thus, for the practical development of confidence and security between the two sides of the Nistru River, Government Decision nr.1178 was approved on October 31, 2007, providing for the creation of eight working groups to promote confidence-building measures and security in the context of settling the Transnistrian problem.ⁱ During the period of 2007-2009, 13 working group meetings were held by all groups except the humanitarian aid and education working groups.
5. The work of the UN monitoring mechanisms has both directly and indirectly constituted an important step toward better protecting human rights relating to education. For example, by issuing General Comments or Recommendations, UN Treaty Bodies assist their States parties in respecting, protecting and fulfilling their obligations by clarifying what those obligations entail. These General Comments and Recommendations have highlighted the importance of the protection of education in various ways. Like all human rights obligations, this protection must continue in times of insecurity and armed conflict.ⁱⁱ

6. In this context, according to Articles 16 and 17 of the Convention, Moldova was required to submit a report on the human rights situation in the country, including in the Transnistrian region of Moldova.
7. In accordance with the *Guidelines on Treaty-Specific Documents to be Submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights*,ⁱⁱⁱ the State should indicate the:
 - mechanisms in place to ensure that a State party's obligations under the Covenant are fully taken into account in its actions as a member of international organizations (...), as well as when negotiating and ratifying international agreements, in order to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalized groups, are not undermined;
 - Structural or other significant obstacles arising from factors beyond the State party's control which impede the full realization of the Covenant rights;
 - Statistical data on the enjoyment of each Covenant right, disaggregated by age, gender, ethnic origin, urban/rural population and other relevant status, on an annual comparative basis over the past five years.
8. In its report on 18 October 2016, the Republic of Moldova omitted an explanation of the situation regarding the right to education in the Transnistrian Region. Therefore, the present report covers the following particular concern regarding the Transnistrian region of the Republic of Moldova before the Committee: access to education for all people from the Transnistrian region, based on the principles of equality and non-discrimination.
9. We are grateful for any attention that the *UN Human Rights Committee* may dedicate to these issues raised in this alternative report during the examination of Moldova's 3th periodic report. We appreciate this valuable opportunity to present our views to the Committee.

Section B: The ethnic and linguistic issue in the education rights in the Transnistrian region

10. The "language issue" constitutes one of the most important indicators of the conflict in Transnistria (1992). It was used by the separatist regime, which revoked the decisions declaring Moldovan/Romanian as the sole state language and reintroducing the Latin script inside its territory, as a pretext for demanding and proclaiming secession. Concerning the language issue, the Soviet authorities cited the use of different scripts as a significant difference between the "Moldovan" and Romanian languages. In the Moldovan A.S.S.R. and Moldovan S.S.R. a slightly adapted Cyrillic script ("Moldovan Cyrillic script") was introduced during Soviet rule for

writing in what was then called the “Moldovan language”. Until the mid 1980s, the Soviet Union constantly promoted a Russification policy for both culture and administration in the Moldovan S.S.R..^{iv}

11. An important element of resistance to the separatist *de facto* authorities and their total control (from September 1990, that of the self-proclaimed state “Pridnestrovian Moldavian Republic” – “MTR”) was represented by a number of schools in areas under the control of the Transnistrian *de facto* authorities that resisted subordination. They rejected the introduction of the Cyrillic script for the Moldovan language and continued to use the Moldovan curriculum, including subjects such as “Romanian Language and Literature” and “The History of the Romanians” introduced in 1990 by the Moldovan Ministry of Education.^v
12. Eight schools in the Transnistrian region of the Republic of Moldova operate under the administration of the Ministry of Education of the Republic of Moldova, using Latin script and Moldovan curricula. These institutions are qualified by the so-called Transnistrian administration as “non-governmental educational institutions.” Over the years, these schools have faced various challenges and continue to operate in an environment of uncertainty, pressure (of various forms), and intimidation.
13. In the summer of 2004, the Transnistrian *de facto* administration decided to close down the Latin-script schools in the cities of Bender, Râbnîța and Tiraspol. Representatives of the so-called “miliția” blocked pupils’ access to the schools, as well as arresting some parents and teachers. In some cases, the parents and children refused to leave the buildings in order to avoid the closure of a school. The international community condemned the actions of the Transnistrian administrative structures.
14. The measures in question were directly and obviously related to these people’s ethnicity and language. The obligation to study in Moldovan using the Cyrillic script, despite the wishes of their parents and the willingness of their teachers to continue teaching them in Moldovan using the Latin script, put them in a substantially inferior position to students who spoke Russian or Ukrainian, who received their education in a language and script consistent with their own upbringing and culture and conducive to practical use in their future endeavors.
15. The OSCE High Commissioner on National Minorities, Rolf Ekeus, characterized the situation of the schools as „*nothing less than linguistic cleansing*”.^{vi}
16. After the change of leadership in the Transnistrian region in December 2011 the pressure on schools was reduced, but only for a while. Although old problems, such as access to adequate buildings, had not been resolved, the schools were operating in acceptable conditions. However, the situation started to gradually deteriorate in the second half of 2013.^{vii}

17. At present, the *de facto* authorities use Romano phobia and other repressive tools to manipulate the population. The Transnistrian region has a multi-ethnic population. However, the Transnistrian authorities have promoted (...) a policy of forced Russification^{viii}, particularly of children, by interfering with the region's educational process and absorbing its educational system.^{ix}
18. The East bank of the Nistru is populated by the same ethnic groups as the rest of Moldova, although the proportions are different: in Tiraspol-controlled territories local Russians and Ukrainians, when taken together, outnumber ethnic Moldovans, if TMR census data is to be believed. The Tiraspol authorities have conducted an aggressive policy of linguistic cleansing (*Linguistic cleansing underway in Transdnistria. OSCE Press release. 15 July 2004*). Sources of information other than those broadcast from Russia and Tiraspol either do not exist, are prohibited, or are jammed. Local civil society groups are oppressed and/or controlled by Tiraspol intelligence services. Thus, Tiraspol runs a Soviet-style authoritarian, anti-reform, repressive regime.^x

Section C: The rights to education without discrimination on any of the prohibited grounds

a) Compliance with ICESCR Article 13 and other international standards

19. The Latin-script schools are administered by the Moldovan authorities. One of the eight schools (Grigoriopol), was previously closed by the Transnistrian authorities and had to move to Moldovan-controlled territory; the others remain in Transnistrian-controlled areas. The European Court on Human Rights deemed the treatment of these schools and the situation of the children therein to be in violation of the European Convention on Human Rights.^{xi}
20. In addition to the right to education, the rights of students, including both children and adult learners, and education staff, must be respected.
21. In October 2004, some of the teachers and pupils from schools that were forcefully closed—parents, students and teachers from schools in Rîbnița, Bender (the Lyceum) and Grigoriopol (Dorotcaia)—filed applications with the ECHR against the Russian Federation and Moldova. These applications, known as *Catan and Others v. Moldova and Russia*, alleged violations of the rights to education, private life and freedom from discrimination in education concerning 170 children or parents of children at Moldovan/Romanian language schools located in the Transnistrian region of the Republic of Moldova (a violation of Article 2 of Protocol No. 1 by the Russian Federation). Pursuant to the “Moldavian Republic of Transdnistria” (the

“MRT”) “law” on languages, they had suffered from the forced closure of these schools between August 2002 and July 2004, as well as from harassment. In the judgment for this case, the Russian Federation was found responsible for not taking any measures to resolve the situation with the schools, although it could have done so because the Transnistrian authorities rely on Russian military, economic and politic support. The European Court of Human Rights stated in this case that, although the constitutional authorities do not exercise full control over the Transnistrian region, Moldova does have the obligation (based on the article 1 of the ECHR), to take all economic and diplomatic measures to ensure the full protection of human rights.

22. States parties agree that all education, whether public or private, formal or non-formal, shall be directed towards the aims and objectives identified in article 13 (1). The Committee notes that these educational objectives reflect the fundamental purposes and principles of the United Nations as enshrined in Articles 1 and 2 of the Charter. For the most part, they are also found in article 26 (2) of the Universal Declaration of Human Rights, although article 13 (1) adds to the Declaration in three respects: education shall be directed to the human personality's "sense of dignity", it shall "enable all persons to participate effectively in a free society", and it shall promote understanding among all "ethnic" groups, as well as nations and racial and religious groups. Of those educational objectives which are common to article 26 (2) of the Universal Declaration of Human Rights and article 13 (1) of the Covenant, perhaps the most fundamental is that "education shall be directed to the full development of the human personality".
23. In its General Comment the Committee on Economic, Social and Cultural Rights specifies that education must *physically accessible* and *affordable* to all without discrimination and *acceptable*, which means that the form and substance of education including curricula and teaching methods have to be relevant and culturally appropriate, as well as of good quality, to students and their parents.^{xii}
24. The Committee on Economic, Social and Cultural Rights has identified 3 interconnected elements of 'accessibility' in the context of education^{xiii}:
 - Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds;
 - Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a "distance learning" programme);
 - Economic accessibility - education has to be affordable to all.

- Another element of 'accessibility' is what the Committee has termed 'acceptability': 'the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (4))'.
25. Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology.'
 26. Also, the Covenant requires that "the material conditions of teaching staff shall be continuously improved", in practice the general working conditions of teachers are at unacceptably low levels in schools that use the Latin script.
 27. In this context, the Constitutional Court of RM by its judgment nr. 25 on 04.11.2004^{xiv} emphasized that educational activity is not a business, it is a complex process of instruction and development through which every person can reach a high level of physical, intellectual and spiritual development, and is established by the competent authority of the state. Creating optimal conditions for education (*study halls, laboratories, libraries, etc.*), constitutes an integral part of the educational system and without it is impossible to successfully provide education.
 28. Each of the Latin-script schools in the Transnistrian region operates in a distinct environment and faces different kinds of problems, including: 1) lack of access to adequate premises; 2) increases in payments for rent and utilities; 3) obstacles to the transportation of goods and the delivery of supplies; 4) obstacles to freedom of movement/transportation of children.^{xv}
 - Since 2013, Latin-script schools are required to obtain a new kind of stamp stipulating that the schools are "non-governmental educational institutions," the status that the Transnistrian side insists be accepted by the Moldovan Latin-script schools. Without this new kind of stamp, the schools are not allowed to sign rent and utilities contracts.
 - A Statement Regarding the Situation of the Latin-script schools was issued by the EU Delegation at the CM Deputies' meeting on 18-19 March 2014.
 - Additionally, worrying trends relating to Latin-script schools were emphasized to the OSCE participating states during the meetings of the Permanent Council on 12 December 2013, 16 January 2014, 6 February

2014, 6 March 2014, and 10 July 2014. The Moldovan Deputy Prime Minister, Minister for Foreign Affairs and European Integration, Natalia Gherman, referred to the issue of the schools among other worrying problems in her address to OSCE Permanent Council on 8 May 2014.

The recent situation

29. There were no significant positive changes during 2015 in the educational rights situation. The issue of schools that teach in the Romanian language and are subordinated to the constitutional authorities was not addressed.
- arbitrary increases in the fee for water and sewage at educational institutions - at the "Alexandru Cel Bun" High School in the town of Tighina (Bender), the water and sewage cost increased by 270% compared to 2015; at "Mihai Eminescu" High School in the town of Dubasari, the fee increased by 263%; at "Lucian Blaga" High School the water and sewage fees increased by 300% and the fee for natural gas - by 11%; at the school in the village of Corjova, the fee for the water and sewage increased by about 225% and the fees for the natural gas by 16.5% and for power by 36%; at the school in the village of Roghi, Dubasari District, the water and sewage fees increased by about 300%.
 - unjustifiable increases in the rent for the buildings used by the educational institutions - for the school in Cotjova, the rent increased by 13.5% compared to 2015. For the school in the village of Roghi, Dubasari District, the rent increased by about 10%.
 - prohibitions on the transport of goods and foodstuffs to the schools - according to a briefing note from the Headmaster of "Mihai Eminescu" High School in the village of Corjova, Dubasari District, the foodstuffs for children can only be transported into the village with a boat crossing the Nistru River, as on the Chisinau - Dubasari route impediments imposed by the breakaway administration prevent the goods from being transported. "Evricea" High School in the town of Ribnita and "Lucian Blaga" High School in the town of Tiraspol have to cope with the same issues.
 - persecution of employees and former employees - retired teachers from "Alexandra cel Bun" High School in the town of Tighina (Bender) were harassed by the local territorial administration for social assistance under the pretext that they have received their pensions unjustifiably over the last 5-8 years. Former teachers of the "Mihai Eminescu" High School in the town of Dubasari and of the "Evricea" High School in the town of Ribnita have dealt with the same issues. The administrations of these high schools cannot, therefore, focus on the quality of the teaching process and on creating competitive conditions in comparison with

the educational institutions in the region. Therefore, the number of pupils in these institutions is decreasing.

30. The pressure is not overt, but according to teachers who work in the 8 schools concerned, the eradication of these institutions is the goal of the discriminative, considerable and unreasonable increases in rent, bills and maintenance fees, as the costs became excessively high considering the decreasing number of pupils.^{xvi}

- In June 2015, the head of foreign affairs in Tiraspol, N. Stanski, sent an warning to the constitutional authorities and international organizations threatening to close these schools unless the economic pressure that (as she believed) the region was subject to did not stop. This message reveals that Tiraspol uses the issue of the schools as leverage to achieve its interests. The teachers and parents qualify such actions as blackmail, which the administration of the region resorts to every time in order to get something in exchange from the constitutional authorities—an unfathomable attitude given that citizens’ rights are declared and believed inalienable.
- On May 29, 2015 at 9:15 p.m., the TV channel “Pervai Pridnestrovskii” (Первый Приднестровский – the First Transnistrian Channel) with regional coverage broadcast a video about 60 minutes long disseminating hatred against those in the region who continue to learn in schools using the Latin script.^{xvii} The school principals of Latin-script schools say that the footage concerned was broadcast during prime time as part of an on-going denigration and intimidation campaign.
- Another method of intimidating and harassing parents and pupils who attend Latin-script schools is by asking for power of attorney proxies from both parents whenever these children go through control posts. This is an impediment to the freedom of movement and an obstacle for pupils who want to participate in different extra-curricular activities. There were several cases during the monitoring period when pupils were prohibited from passing through control posts. More than 1000 pupils study in those eight schools. Pupils from the lyceum “Ștefan cel Mare” (Grigoriopol) cross Transnistrian checkpoints on the administrative line on a daily basis in order to attend the school in the village of Doroțcaia.
- The schools constantly report harassment from the local *de-facto* administration, including the “miliția,” because of the use of the Official Moldovan State Symbols and because of official school ceremonies where the national flag is displayed and the national anthem is played.

31. The Republic of Moldova repeatedly indicated that there had been a deterioration in the situation of the Latin-script schools in the Transnistrian region (communication on 8 June 2015, DH-DD(2015)599).^{xviii}

- Most of the schools do not have their own buildings and are obliged to rent buildings from the local administration or private companies operating in the region. Negotiations on the amount of rent are conducted with the local *de facto* administration based on an individual approach towards each school.
 - However, the cost of rent is increasing on a discriminatory basis, especially considering the financial resources that the Moldovan Government invested in restoring and maintaining the buildings. In addition, three lyceums: “Evrika” in Râbnița, “Ștefan cel Mare” in Grigoriopol and “Mihai Eminescu” in Dubăsari have been deprived of the ability to use their premises.
 - After a decision taken in May 2013 by the *de facto* Transnistrian administration the prices for utilities for all institutions under the jurisdiction of the Moldovan Government situated in the Transnistrian region have increased to the level applied by the Republic of Moldova.
 - Recently, Latin-script schools have been requested to acquire a new type of stamp stipulating that the schools are “non-governmental educational institutions” – the status that the Transnistrian side insists be accepted by the Moldovan Latin-script schools. Without this new type of stamp, the schools are not allowed to sign rental and utilities contracts. The administration in Tiraspol continues to insist upon including the fiscal code in the rent contracts, an element that represents a procedural impediment to paying for the rented space.
32. On 6 February 2014, the European Parliament expressed its concern in a Resolution regarding the situation of the Latin-script schools, noting that any political interference with the educational process is unacceptable: whereas the parties involved in the settlement of the Transnistrian issue should ensure free and non-discriminatory access to education in the region and the regular functioning of educational institutions and should accord the highest priority to the security of children and staff.^{xix}
33. The OSCE High Commissioner on National Minorities, Astrid Thors, expressed on a visit to the Republic of Moldova in July 2014 her concern about the situation of the Latin-script schools - *“Closure of one or more of the schools could further deteriorate relations between Chisinau and Tiraspol and could aggravate tensions in the region.”*^{xx}
34. The secessionist administration continued to harass pupils and teachers through different administrative actions.^{xxi} Moreover, the Promo-LEX Association was also subject to intimidation. In early April 2015, the region's prosecutors launched a criminal case against members of the Promo-LEX Association and against the applicants' representatives to the ECHR in the Catan case. At present, members of the Association are not allowed to travel to the left bank of the Nistru river, hindering free access to the applicants and making it impossible to closely monitor the situation.^{xxii} The allegations against the representatives of the “Promo LEX”

Association are exclusively related to their activity of representation before the European Court of Human Rights, which the breakaway administration qualifies as an action against the sovereignty of the region. Please consider that fact that, at this moment in time, no national or international institution has free and unrestricted access to collect full information with regard to this situation.

b) Compliance with Article 2: non-Discrimination in access to education, social and cultural rights in the Transnistrian region

35. Ensuring equal rights for everyone in society regardless of their ethnic, linguistic or cultural characteristics is a basic human rights challenge.
36. All people have the rights to receive education in their native language, without discrimination. Preventing pupils from studying in the script of their own language, an essential aspect of their linguistic and cultural identity, is a direct interference with their rights. The interference is particularly serious where the imposition of an alien script was deliberately aimed at eliminating the linguistic heritage of the Moldovan population within the MRT territory and forcing them to adopt a new Russophile identity.
37. European Court jurisprudence has made clear that discrimination exists when authorities treat differently persons whose situations are significantly different. By failing to treat the applicants on the basis of their individual needs and circumstances, the separatist authorities discriminated against them on the basis of their nationality and language. The Court also considered the failure to provide safeguards ensuring that the State took into account their special needs as members of a disadvantaged class meant that the children were “isolated from pupils in the wider population”, preventing them from joining regular classes and limiting their opportunities later in life: “As a result, they received an education which compounded their difficulties and compromised their subsequent personal development, instead of helping them to integrate into the ordinary schools and develop the skills that would facilitate life among the majority population.”^{xxiii}
38. The MRT authorities treated people with widely differing educational needs in exactly the same way. The fact that all children in the Transnistrian region are educated with the Cyrillic script does not take into account the different educational needs of some groups of children in contrast to other groups of children. The failure to take into account the effects on the applicants, in their private and family life, socially and psychologically, and the harm done to their future prospects by providing education in this way amounts to a failure to treat differently situated children differently as required by art 14 of the Convention.

39. A further aspect of the discrimination the schoolchildren suffered was that they were taught according to an inferior and inadequate curriculum. As set out above, the children received an education that, as well as being inadequate, was inappropriate, and not equivalent to that of children of Russian or Ukrainian ethnicity. The inferior curriculum they were exposed to was not based on any proper assessment of their needs, on an individual or collective basis, but was imposed solely because of their ethnicity. The applicants were taught using materials dating back to the Soviet era. This is in stark contrast to the position of students speaking Russian and Ukrainian, who received up to date, modern materials used in other countries such as Russia and Ukraine.
40. The applicants were placed at a severe disadvantage in comparison to their Russian and Ukrainian-speaking peers who had access to a superior education.
41. In this respect, in finding a discriminatory violation of the right to education in the case *D.H. v. Czech Republic*, one of the factors the Court took into consideration was that the children were placed in schools where “a more basic curriculum was followed than in ordinary schools” such that they received an education that made their situation worse.
42. In addition, the premises were inadequate and lacked basic facilities, in contrast to the normal educational facilities for pupils of other ethnic identities in the region.
43. We can see the differences in the treatment of the Moldovan ethnic group and others by making some comparisons: on September 1 2015, 517,200 Russian textbooks were sent to pupils at the 117 schools teaching in Russian through the Embassy of the Russian Federation in Moldova. This action implemented a project meant to align the educational system from the region with the educational standards of the Russian Federation. It is worth mentioning that, according to local reports, more than 40 000 pupils study in the Russian language, 4500 in the “Moldovan” language with the Cyrillic script and more than 670 in the Ukrainian language. There are 117 educational institutions teaching in Russian, 28 Moldovan schools using the Cyrillic script, 15 mixed schools teaching in Russian and Moldovan using the Cyrillic script, 3 schools teaching in Ukrainian and 2 additional mixed schools teaching in Russian and in Ukrainian.^{xxiv}
44. It is obvious that people who want to be educated in Romanian or who want to use the Latin script in the Transnistrian region are discriminated against. Language is clearly an essential means for social interaction and the development of personal identity. This is particularly important where, as in the present case, language is the defining distinguishing characteristic of a particular ethnic or cultural group.
45. This *fundamental* link between language and identity has also been recognised by the UN Office of the High Commissioner in its guidance on implementation of minority rights whilst emphasising the need for positive action to respect linguistic

- diversity. Further support for the need for states to promote linguistic diversity is found in Article 7 of the Universal Declaration of Linguistic Rights 1990.
46. The Oslo Recommendations regarding the Linguistic Rights of National Minorities & Explanatory Note (1998) recognises that “... *language is a personal matter closely connected with identity. On the other hand, language is an essential tool of social organisation which in many situations becomes a matter of public interest*” whilst emphasising that the use of language contributes to the “*the essential social dimension of the human experience*”.^{xxv}
 47. Therefore, that parents and teachers live under the threat of harassment, or of potential prosecution by the MRT administration, impinges upon their ability to live a peaceful private and family life consistent with their linguistic and cultural identity without arbitrary interference by the „MRT” administration (see also *Dudgeon v. the United Kingdom, ECHR case*). Harassment, threats and even detention were endured by parents for trying to ensure that their children were educated according to their cultural and linguistic traditions. This has also seriously interfered with their private and family life on many levels and constitutes a blatant attack on their cultural and linguistic identity and that of their children. The arbitrary closure of Moldovan schools by the “MRT” administration and continued harassment for teaching the Moldovan language using the Latin script has interfered with the private and family life of the applicants-teachers. It has had a detrimental impact on their ability to freely pursue their profession without arbitrary interference and on their own cultural and linguistic identity.
 48. The laws enacted by the “MRT” authorities regulating the provision of education are part of a more general policy of entrenching the separation of Transnistria from the rest of Moldova. The adoption of the “MRT Law on languages” in September 1992 not only required that “Moldavian or Romanian” be written with the Cyrillic alphabet but also that any use of the Latin alphabet amount to a criminal offence. Not only were the school-going applicants denied the right to be educated in their own language, the MRT authorities also imposed serious obstacles in order to prevent them from exercising that right. The history of unrelenting aggression towards the applicants is directly relevant in considering the legitimacy of the aim of the MRT authorities to impose this form of education on the applicants.
 49. In its General Comment, the Committee on Economic, Social and Cultural Rights clarified that education should be available, implying that there should be functional educational institutions and programmes. Also, educational institutions and programmes have to be accessible to everyone without discrimination and located within safe physical reach.^{xxvi} The Committee concludes that the State is responsible for respecting the right to education, implying that *under no circumstances* shall the

State take measures or implement policies that hinder or prevent the enjoyment of the right to education.

50. The prohibition against discrimination enshrined in article 2 (2) of the Covenant applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination. The Committee interprets articles 2 (2) and 3 in the light of the UNESCO Convention against Discrimination in Education. The Committee takes note of article 2 of the Convention on the Rights of the Child and article 3 (e) of the UNESCO Convention against Discrimination in Education and confirms that the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status.
51. Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the Covenant.
52. In this context, we claim that the differing treatment and aggressive attitude of the Transnistrian administration towards teachers, pupils, and parents who teach and learn Romanian have considerably reduced the number of pupils in these schools. While the Transnistrian *de facto* authorities state that this decline is due to the lack of interest in these schools by parents or their low quality of education, this does not reflect the real situation. Among the many reasons are: forced closures and constant intimidation, which persuaded parents to educate their children elsewhere; the compromised premises and conditions under which the schools currently operate; the fact that diplomas from the schools are not recognized by higher educational institutions and employers in Transnistria (*see the comparative statistical data concerning the decrease of pupils in Latin-script schools in the Transnistrian region of the Republic of Moldova*^{xxvii}).
53. The total number of students has declined from 5619 in the 1998/1999 school year to 1800 in the 2012/2013 school year, with some schools reporting a drop of 60 per cent or more in their students in the period since 2004-2005. The school directors all consider this an existential issue and the biggest threat the schools face today. In 2016, the situation was even more serious; only 800 students are listed in records today.
54. In terms of statistics, the Promo-LEX Association sent a report ([DH-DD\(2014\)683-rev](#)) to the COE Committee of Ministers^{xxviii} including a list of applicants who continue to study at Moldovan Latin-script schools in the Transnistrian region and who are victims of continuous violation of the right to education and non-discrimination.
55. These circumstances also violate the right of parents to the free choice of education enshrined in Paragraphs 3 and 4 of the International Covenant on Economic, Social

and Cultural Rights, which states that ‘the state parties to the Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools to ensure religious and moral education of their children in conformity with their own convictions’^{xxix}

56. The fact that other ethnic groups in the Transnistrian region can exercise their right to receive education in their native language, but that the Moldovan ethnic group has does not have this privilege, can be assessed as discrimination based on ethnicity.
57. In its decisions the European Court of Human Rights provides detailed explanations of the right to education under occupation and separatist regimes. The court ruled that parents are primarily responsible for the education and teaching of their children and they may require the States to respect their religious and philosophical convictions. The aim of the Convention is to safeguard the possibility of pluralism in education, which is essential for the preservation of democratic society. The State must ensure that the information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. Under no circumstances shall the State indoctrinate against the religious or philosophical convictions of the parents of the child.^{xxx}
58. Also, in the case of *Cyprus v. Turkey* (2001), the Court ruled that Turkey violated the right to education, as Cypriot Greeks residing in northern Cyprus were restricted in their right to pursue education in a secondary school in their native language. The secondary educational facilities formerly available to children of Greek Cypriots had been abolished by the Turkish-Cypriot authorities. Accordingly, ‘the legitimate wish of Greek Cypriots living in northern Cyprus to have their children educated in accordance with their cultural and ethnic tradition and in particular through the medium of the Greek language, could not be met’. Even though Cypriot Greeks were able to receive education in Greek in southern Cyprus, the Court ruled that their right to education had been violated. In addition, the Court deemed it unrealistic for students with primary Greek education to pursue education in either Turkish or English schools. Respectively, in spite of the fact that students formally had the access to education, the Court concluded that the practice of Cypriot-Turkish authorities amounted to the denial of the substance of the right to education.^{xxxi}
59. In conclusion, the Committee on the Rights of the Child notes that ‘it is important in the context of education systems affected by conflict (...) that educational programmes be conducted in ways that promote mutual understanding, peace and tolerance, and that help to prevent violence and conflict’.^{xxxii}

Section D: RECOMMENDATIONS FOR ACTION TO BE TAKEN BY THE REPUBLIC OF MOLDOVA:

- Make all political, legal and diplomatic efforts to protect the right to education in the Transnistrian region without any linguistic and ethnic discrimination. Efforts should include bringing this issue to the attention of the international community as well as using international human rights protection mechanisms.
- Give more support to Latin-script schools and their staff.
- Develop more exchange and informal educational programs for school children living in the Transnistrian region to address the gaps in their general education.
- Stimulate public interest in Transnistrian issues through media and informational campaigns.
- Use political weight and authority to persuade the Transnistrian *de facto* administration to end discriminatory and assimilative policies when addressing such sensitive issues as language/education.
- Make efforts to persuade the Transnistrian *de facto* administration to engage independent experts and other civil society experts in the activities of the Working Joint Expert Group on education and the monitoring of its results/impact.
- Make efforts to restore the ability of international organizations to monitor human rights in the Transnistrian region.

On behalf of Promo LEX Association
Executive Director
Ion MANOLE



List of footnotes

- ⁱ The list of coordinators working from Chisinau: <http://gov.md/ro/content/lista-coordonatorilor-grupurilor-de-lucru-din-partea-chisinaului>
- ⁱⁱ Protecting Education in Insecurity and Armed Conflict/An International Law Handbook/British Institute of International and Comparative Law p.23 http://www.biicl.org/documents/36_protecting_education_summary.pdf?showdocument=1
- ⁱⁱⁱ Adopted by the Committee on Economic, Social and Cultural Rights at its 49th meeting (forty-first session) on 18 November 2008, taking into consideration the guidelines on a common core document and treaty-specific documents, as contained in the harmonized guidelines ((HRI/GEN/2/Rev.5).
- ^{iv} <http://www.proceedings.univ-danubius.ro/index.php/eirp/article/view/1660/1643#sdfootnote4sym>
EIRP Proceedings, Vol 10 (2015) *War of Alphabets* in Transnistria. European Court of Human Rights and the “Catan Case”, Ruxandra Alexianu.
- ^v The Moldovan-Administered Latin-Script Schools in Transdnistria: Background, Current Situation, Analysis and Recommendations, OSCE November 2012 <http://www.osce.org/node/99063>
- ^{vi} Visit of Ambassador Rolf Ekeus, OSCE High Commissioner on National Minorities (HCNM), to Moldova <http://www.osce.org/moldova/58104>
- ^{vii} More detailed information to see in *Communication from the Republic of Moldova (02/12/2014): Non Paper on the situation of the Latin script schools from the Transnistrian region administered by the Government of the Republic of Moldova (DH-DD(2014)1466E* Date: 02/12/2014). <https://wcd.coe.int/ViewDoc.jsp?p=&id=2142921&Site=&direct=true>
- ^{viii} Managing Intractable Conflicts: Lessons from Moldova and Cyprus page. P.23. *Columbia International Affairs Online Editiia 191 din Istanbul Kültür Üniversitesi yayını*, ISBN 6054763059, 9786054763054, Editor GPoT, 2013
- ^{ix} <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804a2de0>
Communication from the applicants’ representatives (14/09/2015) in the case of Catan and others against Russian Federation (Application No. 43370/04)
- ^x <http://www.viitorul.org/download.php?file> Conflict in Moldova’s Eastern Region of Transnistria: what is the way out?
- ^{xi} Report on Human Rights in the Transnistrian Region of the Republic of Moldova http://md.one.un.org/content/dam/unct/moldova/docs/pub/Senior_Expert_Hammarberg_Report_TN_Human_Rights.pdf
- ^{xii} General Comment 13 from 1999, Paragraph 6 of the Committee on Economic, Social and Cultural Rights.
- ^{xiii} General Comment 13 from 1999, Paragraph 6 of the Committee on Economic, Social and Cultural Rights
- ^{xiv} Constitutional Court of RM by its judgment nr. 25 on 04.11.2004 <http://www.constcourt.md/ccdocview.php?tip=hotariri&docid=135&l=ro>
- ^{xv} More detailed information to see in *Communication from the Republic of Moldova (02/12/2014): Non Paper on the situation of the Latin script schools from the Transnistrian region administered by the Government of the Republic of Moldova (DH-DD(2014)1466E* Date: 02/12/2014). <https://wcd.coe.int/ViewDoc.jsp?p=&id=2142921&Site=&direct=true>
- ^{xvi} Promo-LEX Associatio Report “Observance of Human Rights in the Transnistrian Region of the Republic of Moldova 2015 Retrospect” https://promolex.md/wp-content/uploads/2016/04/doc_1456905480.pdf
- ^{xvii} Video material “Education – two worlds, two approaches” / Tiraspol, 2015 / Available on: <https://tv.pgtrk.ru/show/1772/32034> viewed on 27 January 2016
- ^{xviii} Communications of Moldova sent to the Council of Europe Committee of Ministers ((lastly on 8 June 2015, DH-DD(2015)599); Communication from NGOs (Promox-LEX and Interights) (04/03/13) in the case of Catan and others against Russian Federation (Application No. 43370/04) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063d9b6>
- ^{xix} P7_TA-PROV(2014)0108 Right to education in the Transnistrian region European Parliament resolution of 6 February 2014 on Transnistria (2014/2552(RSP)) [http://www.europarl.europa.eu/meetdocs/2014_2019/documents/ta/06/02/2014%20-%200108/p7_ta_prov\(2014\)0108_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/ta/06/02/2014%20-%200108/p7_ta_prov(2014)0108_en.pdf)
- ^{xx} High Commissioner on National Minorities expresses concern over future of Latin-script schools in Transdnistria <http://www.osce.org/hcnm/121019>
- ^{xxi} Communication from the applicants’ representatives (14/09/2015) in the case of Catan and others against Russian Federation (Application No. 43370/04) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804a2de0>
- ^{xxii} Joint allegation letter of UN special rapporteurs in connection with the criminal proceedings initiated against the human rights association, Promo-LEX <http://freeassembly.net/reports/moldova-communications/>
- ^{xxiii} D.H. and Others v. the Czech Republic (No. 57325/00) was a case decided by the European Court of Human Rights concerning discrimination of Romani children in the education system of the Czech Republic.
- ^{xxiv} Promo-LEX Association Report “Observance of Human Rights in the Transnistrian Region of the Republic of Moldova 2015 Retrospect” p.17 https://promolex.md/wp-content/uploads/2016/04/doc_1456905480.pdf

^{xxv} The Oslo Recommendations regarding the Linguistic Rights of National Minorities & Explanatory Note February 1998
<http://www.osce.org/hcnm/67531?download=true>

^{xxvi} General Comment No. 13, Paragraph 6 of the Committee on Economic, Social and Cultural Rights

^{xxvii} More detailed information to see in *Communication from the Republic of Moldova (02/12/2014): Non Paper on the situation of the Latin script schools from the Transnistrian region administered by the Government of the Republic of Moldova* (DH-DD(2014)1466E Date: 02/12/2014). <https://wcd.coe.int/ViewDoc.jsp?p=&id=2142921&Site=&direct=true>

^{xxviii} Communication from the applicants' representatives (20/05/2014) in the case of Catan and others against Russian Federation (Application No. 43370/04)

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063c886>

^{xxix} General Comment No. 13 of the Committee on Economic, Social and Cultural Rights, Paragraph 28.

^{xxx} Case of Catan and Others vs. Moldova and Russia, application nos 43770/04, 8252/05, 18454/06, 19 October 2012, para 138.

^{xxxi} Case of Cyprus vs. Turkey, application no 25781/94, 10 May 2001, para 275.

^{xxxii} General Comment No.1 (2001), Article 29(1), Paragraph 16 of the Committee on the Rights of the Child.