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**JOINT SUBMISSION OF PROMO-LEX ASSOCIATION and INTERNATIONAL
FEDERATION FOR HUMAN RIGHTS (FIDH)**

THE SITUATION OF HUMAN RIGHTS IN THE TRANSNISTRIAN REGION OF THE REPUBLIC OF MOLDOVA

This Joint NGO Submission has been prepared by Promo-LEX Association and FIDH.

Promo-LEX Association is a nongovernmental organization that aims to advance democracy in the Republic of Moldova, including in the region of Transnistria, by promoting and defending human rights, monitoring the democratic processes, and strengthening civil society through a strategic mix of legal action, advocacy, research and capacity building. Promo-LEX Association has the NGO consultative status with ECOSOC.

FIDH is an International non-governmental human rights organisation, accredited with the United Nations, UNESCO and the Council of Europe. It is a membership-based organisation, uniting 178 human rights organisations from 120 countries, supporting their activities and providing them with a voice at the international level. FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights.

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I.BACKGROUND

1. In the past quarter-century, very little was known about and done to promote or defend human rights in the frozen conflict zones or in the territories controlled by *de facto* administrations. Most of the times, people living in such territories do not have the possibility to defend their rights and fundamental freedoms. This happens for at least three reasons. First, because nobody monitors the human rights situation in these territories and, secondly, because there are no efficient human rights protection mechanisms in place and thus none of those who violate human rights is held accountable, which is hard to imagine in the 21st century. Third, because of impunity phenomenon, nobody is responsible for human rights abuses. This is true at least for the Transnistria region of the Republic of Moldova.
2. **In Transnistria, the separatist regime got to power back with the support of a locally based Russian army of approximately 1,200 soldiers after violent clashes that broke out in the region in 1991-1992. The 1992 ceasefire agreement between Moldova and Russia established the so-called peacekeeping forces.** The self-proclaimed (1990) entity is not recognized by any state; it has its own bank, currency, customs etc. Until today, the central government does not exercise authority in the region, and the so-called Transnistrian administration governs through parallel administrative structures. There are regular reports of police engaging in torture, arbitrary arrests, unlawful detentions and gross violations of human rights. **All facts and details are set out in the ECHR Decision on the case of Ilascu and Others vs. Moldova and Russia** (no.48787/99, §§ 28-183, ECHR 2004-VII)ⁱ.
3. Since 2005, formal negotiations to reach a settlement on the Transnistrian conflict take place in a format known as the "5+2". Chaired by OSCE, it includes the Moldovan *de jure* authorities and *de facto* Transnistrian administration, Russia and Ukraine as mediators, and the EU and US as observers. The negotiation process was interrupted for almost six years, resuming in 2011. The negotiation process has failed to bring about any significant progress in human rights situation in Transnistrian region or improve access of human rights defenders to the region.
4. The region applies capital punishment and torture is not incriminated.
5. Promo-LEX and FIDH had denounced numerous human rights violationsⁱⁱ, among them the infringement of the right to freedom of movement, the right to citizenship, the right to an adequate standard of living, the right to property, and the right to health and education. Both organisations shed light on numerous cases of arbitrary detention, acts of torture and ill-treatment by the police as well as the critical detention conditions where overcrowding is a norm, and detainees do not have access to health care services. The Tiraspol regime restricts freedom of expression, association, the press and assembly, especially against persons whose opinions differ from the views of the *de facto* authorities.
6. In 2012, UN expert Thomas Hammarberg worked out a series of recommendations following his 3 monitoring visits to Transnistria. These recommendations were subsequently included into the region's administration action plan.ⁱⁱⁱ Despite *de facto* authorities announcements on successes with the implementation of Hammarberg's recommendations, there has been no impartial assessment of progress.
7. International partners (EU, USA and UN) supported the Government of the Republic of Moldova in the negotiations and in the adoption of decisions favourable to the residents of Transnistria.
8. However, efforts were mostly focused on fostering a dialog with the *de facto* administration on political and economic issues rather than on the promotion and

observance of human rights. Within the 5+2 negotiations, the Moldovan Government did occasionally raise issues of human rights violations in the region reported by Promo-LEX, urging to address the problems of property rights, education and freedom of movement.

9. During 2012-2015, the EU and UN supported confidence-building programs that involved civil society from both banks of the Nistru River, local public authorities and businesses.

II. FOLLOW UP TO THE PREVIOUS REVIEW

10. By acceding to international treaties, the Moldovan authorities undertook commitments to protect human rights on its territory, including the Transnistrian region and to actively support organisations advocating for human rights in Transnistria.
11. During the first Universal Periodic Review (UPR) in 2011, Moldova supported 122, including three that referred to Transnistria. Importantly, the following recommendations were made by Romania and Congo: *The continuation of human rights promotion in Transnistria, an integral part of the territory of the Republic of Moldova. This commitment was made upon the accession to the Human Rights Council (Romania) and The fostering of further dialog with the secessionists to end the situation endangering all citizens' fundamental rights and freedoms recognized by the Constitution of July 29, 1994 (Democratic Republic of the Congo).*
12. In order to include Transnistria into the national mechanisms of human rights protection, the Moldovan government included into the National Human Rights Action Plan (NHRAP) for 2013-2014^{iv} a separate section dedicated to the region. The main objectives of the section targeting Transnistria include the establishment of a national mechanism for monitoring human rights observance in the region, the development of a study and recommendations, the implementation of outreach campaigns, the provision of access to justice for the residents of Transnistria, including the establishment of a joint mechanism (with international organizations) for regular monitoring of the conditions in the detention facilities from Transnistria and the introduction of a rehabilitation mechanism for arbitrarily imprisoned citizens, the establishment of information centres, awareness raising of international organizations, the observance of social rights of the residents of Transnistria, and the establishment of the HRC's (Ombudsman's Office) territorial offices. With the exception of the establishment of a territorial office of the HRC in Varnita (security area), no other essential measures were taken to ensure the observance of human rights in the region. The intention of the Moldovan Government to include the UPR 2016 recommendations into the new NHRAP should be highlighted and taken duly into account by recommending states.
13. All Moldovan governments since 2011 had adopted work programs that included the country reunion and the settlement of conflicts.^v However, there is no strategy to achieve these objectives and assess progress in this regard. The status of the dialog with the *de facto* administration and the impact of the agreed decisions are not clear either.
14. Without viable and efficient protection mechanisms for the victims of human rights violations in the region, the declarations about human rights and freedom of movement are ambiguous. This ambiguity is accompanied by the fact that the constitutional and law enforcement authorities confine themselves to presenting political arguments and ignoring their positive obligations toward the victims of abuses committed by the *de facto* administration of Transnistria. Authorities did not pass any regulation specific to the situation in the region to effectively protect the victims of human rights violations. Due to pressure emanating from negotiations with the *de facto* administration, criminal prosecution of perpetrators is difficult.

15. Because of the resistance from Tiraspol, it is impossible to implement humanitarian, social and infrastructural projects proposed by Chisinau for the region it does not control.

III. SYSTEMIC HUMAN RIGHTS ISSUES IN TRANSNISTRIA

Torture not outlawed

16. Article 21 of the de facto Transnistrian constitution establishes that no one shall be "subjected to torture, to cruel, inhuman or degrading treatment or to medical experiments". However, the de facto Criminal Code of Transnistria does not criminalize acts of torture. Thus, there is no mechanism to investigate the acts of torture.
17. People arbitrarily arrested or detained by de facto police (Militia) or the local security forces (MGB) are subjected to various forms of torture in detention institutions and investigation offices. As Promo-LEX report demonstrates^{vi}, the most frequent form of torture involves sitting the person in an iron chair, binding the body to the chair with a rope, and pulling the victim's hands gradually with another rope to cause pain and incurable finger injuries. People in police custody are often mistreated, kicked with blunt, hard objects all over the body, beaten with rubber batons and kicked in kidneys, subjected to denailing by placing needles under the nails, threatened with firearms or shooting, etc. Victims are isolated over various period of time in a "narrow cell," without water, food, with only limited access to toilets for long period of time so they plead guilty.

Conditions of detention

18. In 2013, the UN Senior Expert on Human Rights Thomas Hammarberg made several documentation visits to places of detention in Transnistria, and concluded that the conditions of detention were unsatisfactory and did not meet international requirements^{vii}.
19. The application of the National Mechanism for the Prevention of Torture of Moldova does not extend to detention facilities in Transnistria, which is outside all external control mechanisms, including those of international bodies. The Moldovan central government continued to decline responsibility. However, the arguments of the de jure authorities that they do not have control over the eastern region of the country are not admissible under their positive obligations to protect human rights in Transnistria.
20. Detention of people with disabilities is one of the major problem. They are held under the same conditions as other detainees, and they do not receive any special conditions or adjustments provided by human rights standards. Similarly, health care is poor and in some cases, it is absent at all.
21. Detainees with locomotors disabilities have difficulties in moving, meeting human basic needs, access to bathroom, etc., lacking special accommodations. These conditions clearly cause enormous physical and mental suffering.
22. Several victims have complained before national authorities, and also before ECtHR about the poor quality of healthcare in prisons, their prolonged treatments, the use of expired drugs, and lack of necessary medical equipment. In present, it is impossible to take blood samples for tests in medical wards in prisons, and advanced tuberculosis and HIV/AIDS are not treated.
23. The treatment of inmates suffering from tuberculosis is the most serious problem. One specialized physician is assigned to treat tuberculosis in all of the detention facilities in the region. Aside the overloaded schedule, he lacks special medical equipment Various programs of prevention and deterrence of TB were launched in the region, but these measures seem insufficient, and the number of people suffering from acute tuberculosis is growing.
24. Water is unsanitary and contributes to disease and poor dental health among prisoners. There is no access to qualified medical care. As a result, prisoners are often forced to turn

to their families for assistance, who, in turn, seek help from private doctors, placing the burden of costs on relatives^{viii}.

Transfer of prisoners

25. Inmates are transferred in a metal wagon (also known as "the iron cup"), which has one small window, and is usually crowded. During summer, the heat inside the wagon is unbearable, yet the inmates have to wait inside for hours. Different categories of detainees are mixed during these transports (adults, ill people, including TB patients), which bears a risk of contamination. Sometimes the transport unit fails, and the detainees are forced to wait locked in metal wagon for hours, often suffocating inside. International standards prohibit the transportation of detainees in vehicles with inadequate ventilation or light, or other conditions that can cause physical hardship. Despite this, the practice of transferring detainees in such circumstances continues. We believe that the current method of transferring inmates can be considered a form of torture or inhuman treatment, especially for the sick or those with special needs.

The large number of persons deprived of liberty in the region

26. There are three penitentiaries in the region: one prison with severe regime, one penal colony for juveniles and one prison for women, which had 2,000 detainees on average during the period of 2011 through 2015.
27. The number of prisoners is growing. In 2010, there were 1984 prisoners, in 2011 there were 2071, in 2012 – 2164, in 2013 – 2137, and in 2014 – 2252.^{ix}
28. The analysis of statistical data shows that the region has a 563 people per 100,000 of population detention ratio. For comparison, in the rest of the country, controlled by the Moldovan constitutional authorities, this ratio is 180 persons per 100,000 of population, and the EU median is 129 persons, as of 2012.
29. Overcrowding is a “normal” phenomenon for the prisons in the region, and the roughness of detention facilities permits qualifications as acts of torture and/or ill treatment.

Ill treatment in military units

30. Application of ill treatment in the military units from the region is a widespread phenomenon. According to the reports of the local Ombudsman, the number of criminal cases initiated for ill-treatment in military units gives reasons for concern about the extent to which the rights of persons in the paramilitary structures are observed. On average, about 10% of criminal cases were initiated for using violence against the newly enlisted young men. Moreover, the local Ombudsman did not mention the empowered institutions to take any action to respond to the ill-treatment in military units^x.
31. Once enrolled, the youth obtain the status of local “military” and in 1-2 weeks take the military oath, being forced to adjust to the barracks rules. The atmosphere is tense, with numerous abuse cases and problems in these structures. Many young have complained about harassment (dedovshchina), torture and other forms of punishment and cruel, inhuman and degrading treatment in the paramilitary structures in the region (burning on body of items, kicks on the head, push-ups at night in the courtyard of the barracks, sinking the head in the toilet, kicks on various parts of the body, forced harmful work, turns for more than 3 days without interruption, strangulation, etc.). For breach of military discipline, soldiers are isolated in cells within paramilitary units. According a local ombudsman’s report, no room conforms to even basic international standards of detention facilities. Soldiers can be subjected to disciplinary detention for 3 to 10 days.^{xi}

Illegal detentions and convictions in the region

32. De facto administration representatives, particularly the local police, continue to practice illegal detentions and abductions. Arrests do not meet international standards, in particular those established by Article 5 of the ECHR.
33. According to the recent Judgement in case of Mozer (Case no. 11138/10), delivered by Grand Chamber of the ECtHR on 23.02.2016 in Transnistria is also no basis for assuming that there is a system reflecting a judicial tradition compatible with the Convention in the region, similar to the one in the remainder of the Republic of Moldova (compare and contrast with the situation in Northern Cyprus, referred to in *Cyprus v. Turkey*, cited above, §§ 231 and 237). The division of the Moldovan and “MRT” judicial systems took place in 1990, well before Moldova joined the Council of Europe in 1995. Moreover, Moldovan law was subjected to a thorough analysis when it requested membership of the Council of Europe (see Opinion No. 188 (1995) of the Council of Europe Parliamentary Assembly on the application by Moldova for membership of the Council of Europe), with amendments proposed to ensure compatibility with the Convention, which Moldova finally ratified in 1997. No such analysis was made of the “MRT legal system”, which was thus never part of a system reflecting a judicial tradition considered compatible with Convention principles before the split into separate judicial systems occurred in 1990. The Court found that finds that the “MRT courts” and, by implication, any other “MRT authority”, could not order the applicant’s “lawful arrest or detention” within the meaning of Article 5 § 1 (c) of the Convention.
34. During 2011-2015, the ECtHR communicated to the Government more than 32 cases of alleged violations of Article 5 of the ECHR, of which 12 referred to the violation of individual freedom in Transnistria and are directed against both Moldovan and Russian Governments.

Kidnappings

35. Promo-LEX Association drew public attention on the fact that there are persons being kidnapped by representatives of the local law enforcement bodies from outside the region. According to researches, victims are taken into custody outside on the streets or in their home. They are later taken by force into the territory controlled by the administration of the region, charged with criminal offences, convicted and the imprisoned^{xiii}.
36. Representatives of police intensely patrol the neighbouring localities; effortlessly detain persons, conduct searches and other illegal actions. They also, as citizens of RM, Ukraine or Russia, freely travel and working closely with the employees of constitutional authorities and obtain any type of information, to kidnap and transport people, etc.
37. There are many cases where young men, being “hunted” for enrolment in the alleged army in the region, avoid returning to their families, or refuse to see the families in the region in order to prevent being caught and taken by force in paramilitary structures (mainly students who study out of the region). Only Promo LEX registered in 2014 – 2015, five victims.
38. A very important aspect to mention, however ignored in the last about 20 years by constitutional authorities is that: although structures in this region are illegal and their actions violate fundamental rights and freedoms of the population, contrary to its obligations, Moldova has not and does not insist on a national protection and rehabilitation mechanism of the victims of the illegal regime. Even relatives of victims who denounce actions of these illegal structures to constitutional or international bodies are often intimidated, threatened, persecuted, punished and chased by the de facto Transnistrian authorities.
39. Constitutional authorities disclaim any responsibility and continue ignoring the situation, refuse to enforce the norms of national and international law to sanction those who have

taken duties of investigator, prosecutor or judge, violating fundamental human rights and freedoms in this area, even if victims are not inhabitants of the Transnistrian region.

Interdiction of access to Transnistria

40. In 2011-2015, *de facto* administration continued to limit the access of different categories of people into the region. There is a growing number of interdictions, imposed abusively, inexplicably and arbitrarily on police officers from the security area, civil servants and public officials.. This repressive measure is applied without notices or explanations. Importantly, there were cases of human rights defenders, representatives of NGOs, as well as journalists put on the “blacklist” to enter the Transnistrian territory. They risk their physical integrity, if they do enter the region.
41. Access to the region is prohibited based on Item 2.10 of the “Decree” No 22 of January 30 2015, signed by E. Shevchuk^{xiii}. Besides being abusive, , the provisions of the Decree do not specify the institution in charge of issuing interdictions, and providing legal guarantees to the persons concerned. Furthermore, the decree does not provide for the notification process or the right of appeal
42. The foreigners can have their legal residence in the region for 1 year only, having also the possibility to extend this period, but for no longer than three years. All these provisions disregard the situation of foreigners that already had their legal residence in the region before this Decree was issued. Therefore, hundreds of persons rushed to the local passport and migration sections to get any statute of residence in the region. The situation of the residents from several Transnistrian localities that are under the constitutional control, like Cocieri, Molovata Noua, Corjova, Vasilievca (Dubasari district) is dramatic as, according to the decree above, they are regarded as foreigners. Moreover, the application of the “migration rules” severely impacts the rights of the residents of the security area, who are working in the Transnistrian region.

Right to property

43. The Transnistrian administration banned access to 6,337 ha of farmlands owned by approximately 5,561 persons, inhabitants of the Dorotcaia, Pirita, Cosnita, Cocieri, Molovata Noua, Corjova (Dubasari district). According an act from 2004 delivered by the separatist administration from Dubasari city, these lands was declared national property of Transnistria, even though according the Ceasefire agreement between Moldova and Russia from 1992, all these lands was recognized by inseparable part of the villages remaining under constitutional control and jurisdiction, and from 1994 the plot of land were distributed between the village inhabitants. The plots are located beyond the Ribnita-Tiraspol highway, which separates the built-up areas of some localities in Dubasari from the territories located outside such areas. Thousands remained with only ownership documents and the uncertainty about the future of their property.

Right to education

44. On October 19, 2012, the Grand Chamber of the ECtHR recognized the violation of the right to education in the case of Catan and others v. Moldova and Russia.^{xiv} The Court found that the Transnistrian administration had illegally applied the interdiction to carry out classes in the plaintiffs’ mother tongue and to follow the official school curriculum of the Republic of Moldova and that the requirements on the registration at the local administration and the coordination of the curriculum were abusive.
45. 3 years after that decision, the problem is still unsolved. In all educational institutions that fall under the jurisdiction of the constitutional authorities, students and teachers are subjected to harassment and the administrations of high schools are precluded from carrying out the educational process, by the separatist local administration. The administration of the region has changed its pressure methods by applying discriminatory

unreasonably high charges for rental, services and maintenance to drive those institutions to closure.

46. The russification of the Transnistrian population, including with the financial assistance from the Russian Federation, carries on. On September 1, 2015, the Russian Embassy in Moldova donated 517,200 Russian textbooks to students from all 117 Russian schools in Transnistria. This action was part of a project to align the Transnistrian educational system to Russia's education standards. 80% of the funds Russia invested in Transnistria went to the educational system. On the other hand, the *de facto* administration blocks any attempt to supplement libraries with textbooks in the mother tongues of other ethnic groups from the region. Such books are also absent in local bookshops.
47. According to local statistics, over 40 thousand students study in Russian, 4,500 in "Moldovan" in Cyrillic characters, and over 670 in Ukrainian. Of all educational institutions, 117 are Russian, 28 are Moldovan, 15 are mixed Russian-Moldovan, 3 are Ukrainian, and 2 mixed Russian-Ukrainian. According to the 2004 census, the Transnistrian population was 32% Moldovans, 30% Russians and 29% Ukrainians.^{xv}

The lack of a protection mechanism for internally displaced persons

48. The Republic of Moldova does not have a special law to protect internally displaced persons. Such a law is necessary to determine the legal status of forcibly displaced persons persecuted in Transnistria. Although during the period of 2012 through 2015, there were more than 6 cases, because of the lack of a clear regulatory framework on the award, termination and cancellation of the status of internally displaced, the victims could not benefit of legal, economic and social guarantees.
49. Without such a mechanism, the Moldovan Government cannot honour its positive obligations regarding the protection of the victims of human rights violations in Transnistria.

III. RECOMMENDATIONS

1. Perform an objective assessment of the implementation level of the NHRAP's human rights promotion and protection activities planned for Transnistria and present this information to the public.
2. Develop and coordinate public policies on the intervention of the state institutions to protect human rights and freedoms in Transnistria.
3. Develop and adopt a regulatory act ensuring protection for internally displaced persons, which will include the rehabilitation of the victims of human rights violations in Transnistria.
4. Call upon international actors and the participants of the 5+2 talks for the settlement of the Transnistrian conflict to put more emphasis on human rights monitoring, promotion and protection.
5. Invite the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment as soon as possible to visit Moldova for an independent and impartial assessment of the situation of arbitrary detention, torture and cruel, inhuman or degrading treatments in Transnistria.

END NOTES

ⁱECtHR's Case of Ilașcu and others v. Moldova and Russia

[http://hudoc.echr.coe.int/eng#{"appno":\["48787/99"\],"itemid":\["001-61886"\]}](http://hudoc.echr.coe.int/eng#{)

ⁱⁱSee the report "[Assessing human rights protection in Eastern European disputed and conflict entities](#)", September 2014.

ⁱⁱⁱDecree No. 523 of November 13, 2013, on the approval of the Action plan for the implementation of the recommendations of UN Expert Th. Hammarberg/
<http://president.gospmr.ru/ru/news/ukaz-prezidenta-pmr-no-523-ob-utverzhenii-plana-meropriyatiy-po-realizacii-rekomendaciy/>

^{iv}<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=339395>

^vRepublic of Moldova Government's Work Program, 2016 /

<http://parlament.md/Actualitate/Noutati/tabid/89/NewsId/1432/language/en-US/Default.aspx>

^{vi} https://promolex.md/upload/publications/en/doc_1456905480.pdf

^{vii} Senior Expert Hammarberg Report TN Human Rights / www.un.md/publicdocget/41

^{viii} Human Rights in Moldova, Civil Rights Defenders /

<https://www.civilrightsdefenders.org/country-reports/human-rights-in-moldova/>

^{ix} <http://ovrpress.narod.ru/fajl/news1.html>

^x Human Rights Report of the local Ombudsperson /

http://www.ombudsmanpmr.org/doclady_upolnomochennogo.htm

^{xi} https://promolex.md/upload/publications/en/doc_1340372019.pdf

^{xii} https://promolex.md/upload/publications/en/doc_1340372019.pdf /

https://promolex.md/upload/publications/en/doc_1456905480.pdf

^{xiii}Shevchuk Decree on migration /

<http://pravopmr.ru/View.aspx?id=eCMjrM08TQ4b2nF7Y7qeuA%3d%3d&q>

^{xiv}[http://hudoc.echr.coe.int/eng#{"fulltext":\["Catan"\],"documentcollectionid2":\["GRANDCHAMBER"\],"chamber":\["CHAMBER"\],"itemid":\["001-114082"\]}](http://hudoc.echr.coe.int/eng#{)

^{xv} <http://www.olvia.idknet.com/ol37-09-05.htm>