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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

REPUBLIC OF MOLDOVA

**DRAFT LAW
ON**

**THE RIGHTS OF THE PERSONS BELONGING
TO NATIONAL MINORITIES**

as submitted to the Council of Europe
by the Committee of Human Rights
and National Minorities (CAHMIN)
of the Moldovan Parliament

PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW
on the rights of the persons belonging
to national minorities

Recognizing the truth that all people are created equal and have inalienable rights to life, freedom and well-being;

noting its adherence to the General Declaration on Human Rights and other international legal acts, to which the Republic of Moldova has acceded;

taking into account that multiethnic people of the Republic of Moldova consists of moldovans and people of other ethnic origin;

aiming at the enforcement of stability in the society and mutual understanding among people of different ethnical origins, languages and cultures in the name of progress and flourishing of the society;

noting the necessity to establish a civilized legislative basis for preservation and development of national minorities;

the Parliament adopts the present law.

Chapter 1

GENERAL PROVISIONS

- Art. 1. - by "persons belonging to national minorities" are understood the persons who live on the territory of the Republic of Moldova and do not belong to the ethnicity that makes the majority of the population (moldovans) and consider themselves to be persons of other ethnical origin.
- Art. 2. - (1) Recognition of one's belonging to the national minority is the exclusive and inalienable human right.
- (2) Enjoyment of this right shall not entail any negative consequence.
- (3) No person is obliged to prove the belonging to any national minority.
- Art. 3. - Changing of the administrative-territorial structure of the Republic of Moldova shall not pursue the aim of changing the ethnic-demographical composition of the territory.
- Art. 4. - Relations which result from the fulfilment by persons who live on the territory of the Republic of Moldova of their rights and liberties, connected with their belonging to national minorities, are regulated by the Constitution of the Republic of Moldova, by the present law, as well as by the international treaties and agreements.

Chapter 2

FUNDAMENTAL RIGHTS

- Art. 5. - The State guarantees to all citizens of the Republic of Moldova equality before the law and authorities irrespective of their nationality, ethnical origin, language, faith and supports the development of the national self-consciousness and self-expression.
- Art. 6. (1) Any direct or indirect limitations of human

- rights and liberties based on national criteria are interdicted and punished in conformity with the law.
- (2) State organs strictly suppress attempts of national, ethnical or racial discrimination.
- Art. 7. - (1) The State recognizes and guarantees the right of all citizens to preserve, develop and express their ethnical, cultural, lingual and religious identity.
- (2) Cultural and ethnical diversity of the people of the Republic of Moldova is recognized as its wealth and is protected by the state.
- Art. 8. - (1) The State guarantees the creation of the appropriate conditions in order to enable persons belonging to national minorities to be educated in their mother tongue or to study it as a special subject.
- (2) The State guarantees in accordance with the law the right of persons to choose the language of instruction.
- (3) In order to provide the educational institutions where the languages of instruction are those of national minorities with the programmes, textbooks and educational supplies in these languages and to contribute to the training of specialists designed to work in such institutes, the competent organs of the Republic of Moldova collaborate with their counterparts of the respective countries.
- Art. 9. (1) Persons belonging to national minorities have the right to use freely their mother tongue.
- (2) The State recognizes and defends the right to preserve, develop and use the Russian as well as other languages which are used in the territory of the country.
- Art. 10. - The State guarantees publication of normative acts, official reports and other information of national importance in the State and Russian languages in the localities of compact residence of national minorities, as well as in the language of the respective national minority, if necessary.
- Art. 11. - The names of localities, streets, public organizations, public places are indicated in the State and Russian languages, in the localities of compact residence of national minorities - in the language of the respective national minority, if necessary.
- Art. 12. - Persons belonging to national minorities have the right to address public institution and to receive answer in the State or Russian languages, in the localities of compact residence of national minorities - in the language of the respective national minority, if necessary.
- Art. 13. - Persons belonging to national minorities have the right to establish mass media means and to publish books in their languages as well. The State accords support in organizing broadcasting in the national minorities languages on the State radio and TV.
- Art. 14. - Persons belonging to national minorities have the right in conformity with the law to practise their religion and to perform, individually or collectively, religious rites and observances.
- Art. 15. - (1) The State guarantees the right of persons belonging to national minorities to be educated in their mother tongue or to study it as a special subject.
- (2) The State guarantees in accordance with the law the right of persons to choose the language of instruction.
- (3) In order to provide the educational institutions where the languages of instruction are those of national minorities with the programmes, textbooks and educational supplies in these languages and to contribute to the training of specialists designed to work in such institutes, the competent organs of the Republic of Moldova collaborate with their counterparts of the respective countries.

- or in common, religious rituals, to own cult buildings, to obtain and use the objects necessary for performance of religious rituals as well as to pursue elucidative religious activity in their mother tongue
- Art. 15. - Persons belonging to national minorities have the right to use their national symbols, to celebrate their national holidays and historical dates, to participate in performance of traditional folk rituals.
- Art. 16. - Persons belonging to national minorities have the right to use, including official documents, their names and surnames in the form common in their mother tongue. It is obligatory to take into account their respective will while making official records of births, marriages and deaths.
- Art. 17. - The State facilitates humanitarian contacts of persons belonging to national minorities with their historical motherland.
- Art. 18. - Persons belonging to national minorities have the right to emigrate to their historical motherland both in their private capacity and on the basis of international agreements between the Republic of Moldova and the respective states.
- Art. 19. - Persons belonging to national minorities as well as their family members who left the Republic of Moldova as refugees or who were compelled to emigrate have the right to repatriate freely.
- Art. 20. - Historical and cultural monuments of national minorities, situated in the territory of the Republic of Moldova, are protected by the law.

CHAPTER III

ORGANIZATIONS OF PERSONS BELONGING TO NATIONAL MINORITIES

- Art. 21. - Persons belonging to national minorities have the right, according to the law, to unite to form associations in order to exercise their right to identity.
- Art. 22. - All the associations of persons belonging to national minorities have equal rights. None of them may claim to be the only representative of respective minority.
- Art. 23. - The associations of persons belonging to national minorities enjoy the support of the State in carrying out their programmes in the fields of culture, science, education, enlightenment, historical research, charity, if their activity does not contravene the law. They have the right to use the donations obtained from legal and natural persons as well.
- Art. 24. - The associations of persons belonging to national minorities have the right to maintain contacts with specialized organizations and departments from abroad.
- Art. 25. - The Government, ministries and departments, local authorities consult the associations of persons belonging to national minorities while

elaborating and pursuing their policies on culture and education.

- Art. 26. - The organ, responsible for the cooperation between the Government and the associations of persons belonging to national minorities, is the Nationalities Affairs Department, operating on the basis of the Provision set up by the Government. Director General of this Department is appointed by the Government by agreement with the Parliamentary Committee on Human Rights and National Minorities.

CHAPTER IV THE RIGHT TO BE REPRESENTED AND TO PARTICIPATE IN THE GOVERNANCE

- Art. 27. - Persons belonging to national minorities have the right to participate in decision-making and decision-implementing process in the spheres directly related to preservation, development and expression of their identity.
- Art. 28. - Representation of persons belonging to national minorities in the Parliament and local councils is achieved by free elections.
- Art. 29. - In decision-making concerning interests of persons belonging to national minorities in educational and cultural fields, consultations with their representatives are obligatory. To this end, deputies groups in the Parliament and councillors groups in the local councils comprising persons belonging to national minorities are created.
- Art. 30. - Persons belonging to national minorities have the right to approximately proportional representation in the structures of executive and judicial authorities at all levels as well as in the army and organs of social order maintenance. The Statistics Department publishes ~~relative data~~ *relevant* twice a year. The chiefs of the ministries, departments and organs of the local administration are responsible for the realization of this principle.

CHAPTER V

FINAL PROVISIONS

- Art. 31. - Nothing in this law can be elucidated as containing the menace to the independence, sovereignty and territorial integrity of the Republic of Moldova.
- Art. 32. - The exercise of the rights and liberties of the persons belonging to national minorities may not restrict legal rights and interests of other persons.
- Art. 33. - If by the international legal acts on human rights, to which the Republic of Moldova has acceded, or the international treaties of the Republic of Moldova, other provisions are set up which are at variance to the legislation of the Republic of Moldova on human rights and rights of persons belonging to national minorities, then the provisions of the international legal norms and treaties are binding.

Background Information on the Draft Law "On the Rights of Persons Belonging to National Minorities"

Moldova is a country of 4,3 mln. people with 64,3% of them being Moldovans, 13,8% Ukrainians, 13,0% Russians, 3,3% gagauzi (small turkish people who traditionally practise orthodox Christianity so their main religion), 2,0% Bulgarians, 0,3% Byelorussians, and 0,3% Romany (or Gypsies). While great majority of Moldovans speak Moldovan language as their mother tongue, knowing and widely using Russian as their second language, the rest of the population have as their first language of communication that of Russian. Knowledge of the Moldovan language among this part of the population is still very limited.

Perestroika and democratisation in the former Soviet Union led to the upsurge of national feelings amongst the Moldovans whose attention was focused on the idea of making the Moldovan language official ("state") one. In 1989 a special law was adopted by the Supreme Soviet proclaiming the Moldovan language the only "state" language.

These events, in turn, led to a considerable deterioration of inter-ethnic relations in the Republic and contributed, among other factors, to the secession in 1990 of two territories: Transdnistria (territory on the left bank of the Dniester where Ukrainians and Russians taken together constitute about 60% of the population) and Gagauzi region in the South of Moldova. Break-down of the former Soviet Union left Moldova an independent country with difficult-to-be-solved territorial disputes.

Parliamentary elections of February 1994, which led to nationalistic and pro-unificationist (with the neighbouring Romania) Popular Front being ousted from power and centrist and pro-independence Agrarian Democratic Party forming a Government, allowed to gain improvements in the sphere of inter-ethnic relations. Language legislation was liberalised, though problems remain (spreading of knowledge of the Moldovan language being possible only during a considerable period of time and with the serious changes in the country's educational system).

It should be noted that Moldovan Citizenship Law of 1991 provides for "zero option", that is it allowed all non-Moldovans to gain Moldovan Citizenship notwithstanding whether they were born on the territory of the State or settled there before 1990.

Legislation concerning minorities is urgently needed, includingly as a means of placating fears and suspicions and building confidence in society. The Parliament of 1990-1994 (first democratically elected) proved to be unable to adopt a necessary legislation because of the intense disagreements among its members on the matters concerned.

Present document was prepared by two members of newly elected Parliament who come from 'Socialist Unity' group which draws its electoral support mostly from among Russian-speakers, Vladimir Solonari, Chairman of the Parliamentary Committee on Human Rights and National Minorities, MP, Ph.D., and Mikhail Sidorov, MP, member of the said Committee. They shifted emphasis from the collective rights of national minorities as such, which was characteristic of the debates in the previous Parliament, to the individual rights of persons belonging to national minorities, considering it to be more in line with the predominant attitude in the specialised international organisations, such as UNO, Council of Europe, CSCE. They decided that some important provisions concerning such spheres as, e.g., education, will be regulated in other specific laws.

Transdnistria and Gagauzi problems will demand specific legislative and other measures, which are not touched upon in this draft.

The given document was already published in Moldova drawing both positive and critical comments from various parts of society. It is to be discussed in the Parliament during its autumn session.