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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

COMMENTS ON

THE DRAFT CONCEPT

**ON THE STATE NATIONAL POLICY
OF THE REPUBLIC OF MOLDOVA**

by Mr James HAMILTON (Substitute Member, Ireland)

1. The draft Concept of the State national policy of the Republic of Moldova is essentially a political document. It is not intended as a document which in itself will have direct legal consequences. My understanding of it is that it is intended to promote a concept of Moldova as a multi-national, multi-ethnic and multi-linguistic state which would preserve, develop and permit the free expression of the ethnic, linguistic, cultural and religious identities of the Moldovan, Russian, Ukrainian, Gagauz and other nationalities in Moldova.

2. These principles are very clearly expressed in the section of the document entitled "General Provisions". This section of the document envisages that the solution to the language problems of Moldova will be bilingualism with the development of both Moldovan and Russian in all spheres of political, economic, social and cultural life. In addition, Gagauz would be an official language in Gagauzia and Ukrainian in Transdnistria. The aim of these moves is to ensure civic conciliation and overcome the consequences of civil conflict in the late 1980's and early 1990's. The key challenges include, on the one hand, the eradication of past attempts at "demoldovenization" and the removal of the insufficient knowledge of Moldovan language by part of the population, while at the same time refusing to admit the narrowing of the use of Russian. The document therefore adopts the standpoint that if Moldova is to survive as a state with its present boundaries it can only do so on the basis of creating a multi-national identity and fostering mutual respect and recognition of the different national groups of which it is comprised. Otherwise no lasting solution can be found to the problems of Transdnistria and Gagauzia.

3. Section II headed "Principles of the State National Policy" largely repeats and elaborates on this idea. My principal query relates to the reference to the "priority of the state interests and values". If this means the interests of the state as distinct from its component ethno-linguistic parts I see no difficulty, but it could be read as prioritising the rights of the state over the citizen. There is an unfortunate reference to the "ethnic physiology of the Moldavians from Transdnistria" which could well be omitted.

4. Section III on the State National Policy Goals seems unexceptionable. Rather than referring to intensifying ethnic consolidation (which in English could mean keeping different groups apart) I think the third goal would be better expressed as "to create the conditions in which different ethnic groups can live together by enhancing the trust of citizens of different nationalities in their common homeland".

5. Section IV deals with State National Policy Objectives. I have the following detailed comments:

Part I, Political, state and legal area:

Fourth objective: there may be some translation difficulties here. Presumably what is meant is that instigation to national discord, propaganda for ideas of racial superiority, instigating violent acts and interfering with citizens' rights on ethnic or linguistic grounds are to be prohibited.

Fifth objective: what is "state policy in the staff area"? Does this mean positive discrimination?

Sixth objective: the reference to "unifying" public authorities and mass-media is not appropriate and seems to hark back to former times. If the objective was to seek the support

of public authorities and in the mass-media for the policy I would see no difficulty provided that the right of the media to comment on and criticise state policy is respected.

Part 2, Social and economic area.

These objectives seem very imprecise. What is meant by “unifying the whole society”? What is the “unique social and economic space”? Is this part of the document necessary at all?

Part 3, Humanitarian area.

I do not understand the title of this part. Nor do I understand the reference to a “unique system of values”. Otherwise I see no objection to the content of Part 3.

Part 4, In the foreign policy sphere.

These seem worthy objectives. A specific reference to the European Convention on Human Rights would be desirable.

6. Section V deals with State National Policy Security. This section envisages that the Concept will be implemented through a complex programme of measures, to be approved by Parliament, and involving a dialogue with civil society.

7. While the Concept is not itself a legal document, its implementation may have legal consequences. Recognition of Moldova as a multi-national, multi-ethnic, multi-linguistic state may call in question whether its status as a unitary state should continue or whether a federal structure would be more appropriate. The current Article 13, on the National Language and the use of Russian and other (unspecified) languages may also be called into question.

James Hamilton
15 July 2003