



Strasbourg, 18 July 2003

Restricted
CDL (2003) 51
Engl. only

Opinion no. 254 / 2003

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 Christoph GRABENWARTER
(Substitute Member, Austria)**

First of all it has to be mentioned that the paper in question is primarily a political one. However, legal consequences are also intended (see V. of the document). The following comments have the purpose to avoid possible misunderstandings in a legal context.

1. To “strengthen the statality” may be misunderstood. If it is meant to limit the sphere of freedom of individual it is from the European perspective only admissible within the limits of human rights.
2. In the question of languages there seems to be a Babylonian confusion of language: What is the “status of interethnic communication” besides the status of official language? Is it of legal relevance, and, if so, is there any difference between Russian and Moldovan. It is strange that the status of Moldovan and Russian as official languages is repeated for Gagauzia and Transdnistria, given the fact that those territories form an integral part of Moldova.
3. The fight against “demoldovanization” must be subject to freedoms under the Convention on Human Rights. It is hard to see how a legal provision can influence the factual use of Russian language.
4. ad II: The “priority of state interests and values” must not interfere with individual rights in an excessive manner. The constitution must leave enough room for individual interests and values which are not fully in line with the State’s interests and values or even contrary to them. (see also IV.3: unique system of values)
5. On the other hand the term of “non-admittance of any assimilation and denationalisation activities” seems very unclear and potentially in conflict with international obligations.
6. ad IV1: to unify public authorities of all levels, social and political org., mass media “for civic conciliation and establishment of civic society”. The idea behind this aim does not seem in line with the concept of a “democratic society” within the meaning of the ECHR. This concept is based on pluralism, a critical press, whose function is the “public watchdog”. Also ideas which shock, disturb or hurt must be allowed in certain limits. This view is based on along standing case law of the European Court of Human Rights. The same applies to organisations (freedom of association), furthermore to aims such as “to unify the whole society” or to cultivate patriotism.
7. The term “humanitarian” in IV.3. is misleading.