

Follow-up Report
on Human Rights
in the Transnistrian Region

by Thomas Hammarberg
Senior UN Human Rights Expert

EXPLANATORY NOTE ON TERMINOLOGY AND LANGUAGE

This report is focused on human rights issues only. Its terminology and language imply no political position.

The territory of Transnistria is not recognized as an independent state by the international community, the unanimous position of which is that it is part of the Republic of Moldova. The Expert has accordingly related to the decision makers in this territory as *de facto* authorities.

The use in this report of such terms as 'Constitution', 'Law', 'President', 'Minister', and 'Prosecutor' does not indicate any *de jure* recognition of these normative acts, *de facto* authorities or institutions. These terms are used exclusively for the convenience of the reader and to provide the most precise identification possible of specific documents, *de facto* authorities, office-holders and institutions.

The names of places and other typographical terms differ between the languages in the territory. The report uses the terms the Expert understood was most common in the area.

In some instances the Expert has used the terms "left bank" and "right bank" to indicate territory controlled by the *de facto* Transnistrian authorities and the Government of the Republic of Moldova, respectively. In other instances the Expert used the term "Transnistria" to refer to the territory controlled by the *de facto* Transnistrian authorities. This use follows the pattern established by the latest Protocols signed between the Chisinau and Tiraspol authorities, and does not imply recognition of the independence of the territory.

The views expressed in this report are solely those of the author, based on the independent human rights assessment he was engaged to undertake, and do not necessarily reflect the official position(s) of any United Nations department, agency or body.

TABLE OF CONTENTS

Executive summary

Introduction

1. Measures for systematic implementation of human rights

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

2. Justice system

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

3. Penitentiary system

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

4. Women's Rights, Gender Equality and Domestic Violence

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

5. Rights of persons with disabilities

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

6. Health care, HIV and TB

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

7. Roma rights

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

8. Other Ethno-Linguistic Minorities

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

9. Freedom of Religion and Belief, Religious Minorities

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

10. Civil Society Organizations and Human Rights Defenders

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

11. Land issues

2013 findings and recommendations

Updated observations following the 2018 visit

Follow-up Recommendations

12. The role of development partners

Summary of recommendations

Appendix: Statement of 1 June 2018 on the conclusion of the follow-up visit

EXECUTIVE SUMMARY

The Senior UN Human Rights Expert Thomas Hammarberg published a comprehensive report in early 2013 on human rights in the Transnistrian region. In preparation he had paid extensive visits for fact-finding purposes in May, September and November 2012. The 50-page report contained 38 observations on a wide range of rights-related issues and 38 concrete recommendations. It was reported that the relevant authorities had received these recommendations in good faith and taken certain actions for implementing some of them.

The visit by the Expert on 28 May – 1 June 2018 was organised in order to assess progress in the implementation process after five years. This is the follow-up report put together after the visit. For obvious reasons there was no possibility within this timeframe to cover all issues of the previous report at the same length and depth.

Through meetings with high-level officials as well as staff members at institutions and representatives of active civil society groups, the Expert wanted to understand developments on implementation procedures and steps taken to promote a culture of human rights.

The other focus was on some concrete key issues such as gender equality and domestic violence, rights of persons with disabilities, measures against HIV and TB epidemics, respect for Roma rights and rights of other minority groups, as well as the space for non-governmental organisations and human rights defenders. Some updated information was also obtained on the penitentiary system and issues related to land rights.

The Expert did note a growing human rights awareness in the region. In several of the key areas of the present report the situation had generally improved since his previous report. The existence of an active civil society platform was one such positive aspect, along with increased awareness about rights of persons with disabilities, domestic violence, HIV and TB issues.

However, further improvements are required in order to address some of the outstanding challenges and issues, some of which are identified in this follow-up report. More steps are needed to ensure full implementation of human rights standards.

The 2013 report stressed the great importance of systematic measures. Development of a human rights action plan, strengthening human rights institutions and mechanisms, collection of disaggregated data, promotion of human rights education and work with mass media to bolster human rights culture are key pre-requisites for substantial improvement of the human rights situation.

It is crucial that police officers, healthcare workers, teachers and other key professionals are well capacitated to perform their roles and functions and ensure full protection and promotion of human rights. Positive and constructive engagement with civil society is of key importance for achieving these objectives.

Indeed, more and stronger voices of civil society have been heard during my follow-up visit, thus substantially improving the level of information and the quality of public dialogue around the outstanding human rights issues. There was, however, concern among some of the civil society interlocutors about the consequences and future interpretation of the recently adopted legislative amendments concerning NGOs.

Legal protection of justice is certainly essential in this regard. Decisions have been taken in Transnistria that international treaties on human rights should be respected. This requires, among other aspects, that the law making, law enforcement, prosecution, judiciary and penitentiary all function with professional competence and impartial objectivity. It is clear to the Expert that high rates of arrest and imprisonment, as well as conditions in detention, remain an area of concern.

Time restrictions for this mission did not allow for a deeper assessment on developments of the justice system. However, the Expert recommends a comprehensive expert review, with case studies, of crucial aspects of the justice system.

During the follow-up mission the Expert focused on some concrete problem areas which he considered of obvious importance and on which he hoped further positive results could be achieved without much delay. On some of these areas international cooperation might also be possible. These issues were primarily gender equality and domestic violence, rights of persons with disabilities, health care with focus on HIV and TB, Roma rights and rights of other minorities.

Gender equality

Women experience inequalities in social, economic and political life, and domestic violence is still widely spread. However, a broadening acknowledgement of domestic violence as a human rights violation can be observed. Launching of temporary crisis centre and shelter for victims of domestic violence, as well as ongoing construction of a permanent facility give hope for further progress in prevention and combatting of domestic violence.

Rights of persons with disabilities

Changes in perception of disability and in acknowledgment of the rights of persons with disabilities are noticeable. Emergence of a vibrant civil society platform of persons with disabilities, as well as successful initiatives on increasing accessibility of public buildings and spaces, are among the positive developments that are worth commending. However, several more reforms in the area of persons with disabilities are required, including on disability determination mechanism, inclusive education, legal capacity and deinstitutionalization reforms.

Health care, HIV and TB

Conditions for identification and treatment of HIV and tuberculosis in prisons have improved significantly. Plans for consolidation of healthcare facilities within one specialized penitentiary institution present a good opportunity for overall improvement of healthcare service provided to persons in detention.

Roma rights

The situation of Roma people is grave and very worrisome. Many Roma are illiterate, undocumented and poor. Many Roma girls and boys are marginalized in kindergartens and schools and the school dropout rate is very high. Most Roma are unemployed, and many of those who are employed are discriminated at the workplace. Many Roma live in poor houses, without electricity or gas, water and sanitation. Majority of Roma people have no access to quality and affordable healthcare services. Aged Roma, Roma with disabilities and Roma women are among the most affected.

Rights of other minorities

Some minorities and their cultures are in a vulnerable situation and appear to be in need of support and protection. Women are particularly affected in some settings. Law enforcement agents should be informed about international minority rights standards. Obstacles to registration of peaceful religious groups should be removed.

Political context

Finally, it should be noted that political negotiations – bilateral, as well as in the “5+2” format – have advanced and brought resolution to some important human rights matters stemming from the 2013 Report, such as the recognition of diplomas and the functioning of Moldovan Latin-script schools on the left bank.

It is essential to build on the positive momentum and systematize the efforts leading to full protection and promotion of human rights on both banks of Nistru-river. Human rights dimension should be even more prominently embedded into the Transnistrian settlement process.

INTRODUCTION

This report by Senior UN Human Rights Expert Thomas Hammarberg is based on a visit on 28 May – 1 June 2018 to both banks of the Nistru-river in the Republic of Moldova. The focus was on the situation on the left side. The very purpose was to assess developments since his 2013 report in which he provided a number of specific recommendations on different aspects of human rights in the Transnistrian region.

Time limitations did not allow for thorough analysis of all areas covered by the comprehensive 2013 report. It was however possible to seek information on developments regarding some key areas such as gender equality, rights of persons with disabilities, measures against HIV and TB epidemics, respect for Roma rights and rights of other minority groups, as well as the space for non-governmental organisations and human rights defenders. Some updated information was also obtained on the penitentiary system and issues related to land rights.

The Expert had the benefit of exchanges with the de facto President and de facto Ministers of Foreign Affairs and Interior, as well as with the Ombudsman and a number of active representatives of civil society groups. He met personnel at relevant institutions in Tiraspol, Bender and Ribnita. Furthermore, his work benefitted from exchanges with representatives of the international community, including UN staff, stationed in Chisinau. There the Expert also had a meeting with the Moldovan Deputy Prime Minister in charge of reintegration of Transnistria.

At the end of the visit the Expert issued a public statement listing his preliminary impressions of developments (it is appended at the end of this report).

The Expert was greatly assisted by Veaceslav Balan, OHCHR National Coordinator, and other local UN staff, most notably representatives of OHCHR (Office of the UN High Commissioner for Human Rights).

As the purpose of the mission was to assess progress since the 2013 report, at the beginning of each chapter in this follow-up report there are references to the relevant sections of 2013 initial report, followed by updated observations and recommendations.

The 2018 Follow-Up Report seeks to update and complement the initial 2013 Report, not to replace or downgrade it, and therefore should be seen in conjunction with the initial 2013 Report. As the observations and recommendations below suggest, both Reports – of 2013 and 2018 – could serve as the basis for a comprehensive long-term plan and program of actions towards improvement of human rights in Transnistria.

1. MEASURES FOR SYSTEMATIC IMPLEMENTATION OF HUMAN RIGHTS

2013 Report: Findings and Recommendations

It is necessary to plan reforms for human rights. The 2013 report recommended that steps be taken towards drafting, adopting and enforcing a Plan of Action for the implementation of Human Rights.

The first step would be to initiate a baseline study to identify the key problem areas. Input should be sought from personnel in the key relevant areas, the ombudsman, as well as organisations of civil society and representatives of vulnerable groups. Reviews already made – including the 2013 report and current 2018 follow-up report – would also be relevant in this process.

The process to develop a long-term plan should be, and be seen to be, transparent. When established the plan should be followed through, progress noticed and problems addressed. The Senior Expert recommends that international experience be consulted in this process.

To this end – and for further reform work – it would be essential to have a system of collecting, organising and disseminating relevant and reliable disaggregated data. A full-scale population census, a household budget survey and introduction of systematic gender and age-disaggregated statistics ought to be prepared. The Expert recommends again international cooperation in this important area.

Updated observations following the 2018 visit

All the 2013 recommendations are still relevant though some steps have indeed been taken not least through inter-ministerial cooperation. An internal administrative document to follow-up on the 2013 recommendations, developed by the de facto Transnistrian authorities, is to be noted in this regard. Some of the key areas, however, require further emphasis.

Human Rights Action Plan

Sustainable progress is not possible without a vision and a long-term plan of actions. Substantial improvement of human rights situation in Transnistria requires a comprehensive and well-structured multi-year human rights action plan. The 2013 report, as well as the present 2018 follow-up report, could serve as a starting point. An inclusive baseline study, as well as other relevant sources of information, might serve as the further basis for such a plan. Decision-makers, specialists and experts, as well as civil society organizations and representatives of vulnerable groups should be closely consulted in preparation of the plan.

The very purpose of an action plan for human rights implementation is to coordinate various efforts in such a direction, as well as to attract internal and external partners and funds to support such implementation.

Human rights education and training

Creating a culture of human rights requires that people are aware of their rights and of avenues they could use to complain when feeling that these are denied or violated. Human rights education should be encouraged and promoted in all relevant settings, including at all levels of the education system. Media should be encouraged to contribute to creating awareness in this field.

Personnel in professions in which respect for human rights is particularly important – such as police officers, lawyers, teachers, health personnel, soldiers, social workers and others who have special responsibilities in relation to people – ought to be offered special up-to-date information of requirements stemming from a human rights based approach.

It is important that all education on human rights be concrete and made adjusted to real life situations, at the same time resting on the international human rights standards and best practices.

Complaints procedures

Even when a system of an impartial and independent judiciary is established, there will be a need of other avenues for people to protect their rights and to be able to file complaints and have these taken seriously. In all public institutions should there be possibilities for conveying complaints, also in confidential format. It should be safe to complain, whistle blowing should be protected.

The office of Ombudsman or Public Defender is an important complement to the law enforcement and judiciary system. The expert had a constructive meeting with the current ombudsman and one of his colleagues in Tiraspol. It is important that this office be given possibilities to develop its important role.

Freedom of media and civil society groups

Attempts to build a system of checks and balances would only succeed in an atmosphere of freedom of expression. In reality, free media and active, independent civil society initiatives have turned out to be crucial for the protection of human rights worldwide.

The Expert noted that there was a concern among some non-governmental groups about the future possible interpretation of the recently adopted Transnistrian legislative amendments limiting activities of “politically engaged” and “foreign-funded” NGOs. A clarification on this legislation appears to be needed.

The Expert had meetings with representatives of NGOs and was impressed again by their dedication, knowledge and constructive approaches. Their activities are surely a great asset for Transnistria. The political establishment would do well to listen carefully to these independent voices.

Creation of a culture of human rights is not automatic and self-evolving. It requires deliberate efforts to enable people to know about and understand their rights, and to ensure that possibilities and channels for making complaints do exist and are effective.

Follow-up Recommendations:

- Further steps should be taken to develop a comprehensive plan of action for the implementation of human rights;
- Work on a human rights plan would greatly benefit from a systematic collection of relevant and disaggregated data;
- Human rights education in schools and other relevant settings – most notably for key professional groups – should be further developed;
- The office of the ombudsman should be further strengthened;
- The independence of civil society should be seen as an asset for the society as a whole – intrusive, controlling legislation against such self-organized groups should be avoided.

2. JUSTICE SYSTEM

2013 Report: Findings and Recommendations

Human rights are about justice. Justice for all. A major aspect for the protection of human rights is a justice system which is fair, impartial, non-corrupt and professional. The 2013 report dealt thoroughly with law making; law enforcement structures; criminal investigation procedures and prosecution; the judicial system; and the penitentiary.

Law-making

The 2013 report notices that the constitutional law lists a number of freedoms and other human rights, and makes reference to the universally recognized international human rights standards. High-level decisions had been taken to comply with several key international human rights treaties, such as the European Human Rights Convention and the two UN human rights covenants.

The Report recommended a review of ordinary *legislation* in order to address points in the laws which are not consistent with international human rights law. It also suggested that the moratorium on *death penalty* be followed through with the *de jure* abolition.

Further legal steps should be taken to prevent and act upon any case of *torture and ill-treatment* and the very term “torture” be defined in law.

The report also mentioned the need for a *comprehensive anti-discrimination law*. Such a law would define the unacceptable grounds of discrimination, such as gender, race, ethnicity, language, religion, age, disability, gender identity, sexual orientation and social origin. The law would also need to specify procedures for taking action against acts of discrimination, and thereby give effective protection to individuals in need thereof.

Law enforcement

The police forces tend to be the part of the justice system which is most visible to the majority of people. Its relation to people at large influences the level of trust towards authorities in general. It is particularly important to ensure that there is no element of corruption in that relationship.

Crucial is also that any case of ill-treatment and torture be prevented and when such abuses have taken place there would be a firm and determined redress action.

The 2013 Report recommended that priority be given to establishing a policy of zero-tolerance with regard to violent policing methods. This should be made clear in the code of conduct for police officers and be stressed in police education and training. Recruitment procedures in the law enforcement structures should exclude unsuitable applicants.

When a case of torture or cruel, inhuman or degrading treatment or punishment has been exposed, the culprits must be subject to criminal and disciplinary sanctions. Police officers facing credible allegations of torture should be immediately suspended from active duty, while investigations are pending.

The report also recommended that locations used for interrogation and detention be regularly and effectively monitored through an independent mechanism which is ready and equipped to receive and resolve confidential complaints.

Criminal investigation and prosecution

At the time of the 2013 Report a decision had been taken to reorganize the functions of *criminal investigation and prosecution*. The report recommended further steps to clarify the precise role of the Prosecutor.

It stressed the importance of the principle of “equality of arms”. The Prosecutor in the trial procedures should only be able to act as one party. Broader functions for the Prosecutor – other than those of criminal prosecution and defending public interest in the criminal-justice system – should only be granted if certain criteria are observed, among them the principles of separation of powers, impartiality, subsidiarity and exceptionality.

Judiciary

The 2013 Report recommended measures to ensure the *integrity, independence and impartiality of the judiciary*. Procedures for the recruitment of judges should reward professional skills and high moral standards. Corrupt behaviour and other breaches of trust by a judge should be investigated and punished through a credible and competent disciplinary mechanism.

The Report proposed that serving judges be offered *special training to update knowledge*, in particular as to the application of human rights standards. OHCHR training materials might be a useful basis for such training. Steps should be taken to introduce more consistently modern information techniques in the courts. Special training is needed for those judges who are involved in *juvenile justice* matters.

Updated observations following the 2018 visit

The competent, impartial and non-corrupt functioning of the system of justice is crucial for human rights situation and important for building trust in society. Even if some progress has been made in these areas, the recommendations of the 2013 Report are still fully relevant.

De facto authorities in Transnistria have decided to respect international standards on human rights. The Office of the UN High Commissioner for Human Rights, as well as the Council of Europe, are prime expert bodies on measures required to ensure that the justice system functions in line with international norms.

Follow-up Recommendation:

A comprehensive, impartial review of the concrete functioning of the justice system should be initiated with focus on aspects defined in the 2013 Report. Consideration might be given to the possibility of inviting an international expert in this area to provide advice on the methodology of such a review.

3. PENITENTIARY SYSTEM

2013 Report: Findings and Recommendations

The penitentiary system should be thoroughly reformed. Guidance is available from OHCHR on international legal standards for the protection of persons deprived of their liberty, as well as basic principles governing detention and imprisonment. This guidance might form the basis for future training activities in this area.

A first step is to ensure that the number of prisoners be reduced.

Detention on remand should only be decided as a last resort when necessary in order to ensure proper investigations or to prevent the suspect from absconding if there is a concrete and obvious risk for this. Even in such cases there is a need to secure humane conditions, including the possibility for the detainee to maintain family contacts.

The law allows for release on bail and this has been tried in a few cases – this approach ought to be further developed.

The changes to the Criminal Code will likely result in further releases. However, there ought to be further steps taken to ensure that the punishments are reasonable in relation to the seriousness of the crime. For instance, the Expert considers that the sentences are much too severe in cases of possession and consumption of light narcotic substances, in particular cannabis. It is the trade and sale of the dangerous types which constitute a danger for society. The punishment for other crimes is also evidently very disproportionate, as noted concerning the sentence handed down in the fortune-telling case summarized above.

The pledge to develop non-custodial punishments would, if implemented, be another positive step, as would other measures to ameliorate the highly punitive nature of the current system which has resulted in a high rate of recidivism.

Transnistria lacks a juvenile justice system. Incarceration should be seen as the very last resort and social rehabilitation the priority for all persons below the age of 18. There are a number of international standards, including the UN Convention on the Rights of the Child and the juvenile justice-specific UN minimum rules, standards and guidelines which could be of help when establishing a proper system. Continued cooperation with UNICEF in this area would be most helpful.

The decrease of the number of prisoners would give more room for improvement of the conditions in the penitentiary institutions. Health care must be improved and the competence of the Transnistrian Ministry of Health be better utilized in such efforts.

A more systematic approach should be developed to prepare inmates for a life in society after release. This, in turn, speaks for another approach to the right of the prisoners to keep in regular contact with family members while in custody.

Inhuman disciplinary measures should be abolished and staff be recruited and trained to cope with the daily problems with dignity and fairness. One prosecutor has been assigned to monitor the situation in prisons and remand facilities each of which must be visited at least once in every ten days. He would collect oral or written complaints from inmates. The Ombudsman is

conducting a similar programme. The Expert has the impression that this function has to be strengthened and the recommendations of these monitors be taken very seriously.

Updated observations following the 2018 visit

During the 2018 follow-up mission the Senior Expert visited a pre-trial arrest facility and a penitentiary institution, where the convicted persons serve their sentences both located in Tiraspol. These visits, as well as the discussions with the de facto Minister of Interior, other top police and penitentiary officials, reconfirmed the full validity, continued relevance and applicability of recommendations issued in 2013.

In particular, the Expert would like once again to draw the attention to the issue of pre-trial arrest. While arrest – as a pre-trial preventive measure – is seen by the international human rights standards as an exceptional measure, it seems that in Transnistria it is applied much more broadly.

During the visit the Expert had an opportunity to see and talk to a young woman, manager of a business entity and mother of a child, who was detained in pre-trial arrest on an economic crime charge. Based on interactions with custody officials and inmates – such as this woman – the Expert was not convinced that the preventive measure applied to them was in line with the international standards.

These standards prescribe that deprivation of liberty before trial should be avoided unless a crime suspect is clearly in a position to interfere in prosecutorial investigation, unduly influence witnesses, damage crime evidence or abscond from the trial.

Neither shall the preventive arrest be applied as an intimidation measure with regard to political opponents or members of their families, unless the strict conditions are cumulated as per the above restatement of international human rights standards.

Due to the limited time and scope of the mission other aspects of criminal justice system and conditions of detention could not be observed during the visits, therefore a more comprehensive additional expert review of this field is most recommendable in this regard.

Due to time limitations the Expert had no possibility during his 2018 visit to explore the extent of progress on his earlier recommendations regarding the penitentiary system as a whole. Through his meetings with high-level officials as well as with representatives of civil society he got a general impression that some of the issues raised earlier had in fact been addressed though others had not or not in sufficient depth.

The continued high rates of arrest and imprisonment, as well as conditions in facilities for both convicted and pre-trial detainees do remain a serious concern for the Expert.

The 2013 Report recommended as a first step that the number of prisoners be reduced; the positive trend at that should be continued. Detention on remand should only be decided as a last resort when necessary in order to ensure proper investigations or to prevent the suspect from absconding, if there is an obvious risk for this. Release on bail should be practiced more frequently. In the juvenile justice system incarceration should be regarded as the very last – in fact exceptional – resort and an emphasis instead should be put on social rehabilitation.

The 2013 Report stressed that the *conditions in the penitentiary institutions* needed an overhaul. Strong measures were recommended to combat the spread of infections, in particular TB and HIV (see update further down in the current report).

A more systematic approach was recommended to *prepare inmates for a life in society* after release. This, in turn, speaks for another approach to the right of all persons in detention to keep in regular contact with family members while in custody.

Inhuman disciplinary measures in prisons should be abolished, while staff should be recruited and trained to be able to cope with the daily problems with dignity and fairness. The 2013 Report also stated that the high recidivism rate at the time was a sign that the practices then did not work well.

During the visit to the pre-trial arrest facility and the penitentiary institution in Tiraspol, the Expert noted significantly improved material conditions in the medical section of the penitentiary, including separate compartments for treatment of inmates with infectious (most notably TB) and non-infectious diseases, many new pieces of medical equipment provided by the UN programs and other development partners. The healthcare staff of the penitentiary showed visible openness to new ways of healthcare work in prisons.

At the same time the conditions in the Tiraspol pre-trial arrest facility were poor – small cells at the basement floor practically without access to the daylight, several of the cells without proper beds, appalling sanitary compartments, heavy air, completely inadequate space for outdoor walks – are just several observed elements in striking non-compliance with the international human rights standards.

Follow-up Recommendations:

- The Expert strongly urges to fully and comprehensively implement all of the 2013 recommendations concerning imprisonment and situation in prisons;
- The Expert calls to urgently prioritize review and reforms in the areas of pre-trial arrest, prison sentences and conditions of detention to significantly reduce the number of persons in detention, and to bring the conditions in pre-trial arrest facilities and in penitentiary institutions in compliance with the minimum standards of human dignity;
- As the functioning of the justice system is crucially important for the protection of human rights, he therefore recommends that the Office of the UN High Commissioner for Human Rights be welcomed to review implementation of the 2013 recommendations on these areas and give advice on further steps. One way of doing this would be to organise a visit of a Special Rapporteur on some of the aspects. The Senior Expert noted the positive response on this approach by the high officials he met during his visit.

4. WOMEN'S RIGHTS, GENDER EQUALITY AND DOMESTIC VIOLENCE

2018 Report: Findings and Recommendations

Domestic violence tends to be a hidden, but very serious problem in most societies. To combat effectively such violations there is a need to develop a comprehensive programme which would include a strict legislation.

Readily accessible physical shelter is also needed for those who need to flee an abusive family member.

Part of the programme should be to address all physical abuse in families as well as in various institutions, including schools. There should be a zero-tolerance approach to all forms of inter-personal violence.

In order to detect at an early stage signs of such violence there should be a clear policy that social workers, health personnel, teachers and other professionals in official position would be required to report suspicions of physical abuse and also psychological or emotional harassment.

Police officers have primary responsibility to stop violence and should be trained in responding to reports about cases of domestic violence. There are reports that the police have refused to receive complaints arguing that such testimonies are usually withdrawn later on. Effective social work is also needed to assist victims to recover and start new lives if they so wish.

The Expert was informed that women tend not to go to the police also because the only punishment decided had been a fine to be paid by the family budget.

The system of phone helplines is useful and needs to be further developed as well as the availability of shelters for victims of domestic violence (with capacity to receive a victim on short notice, alone or with children).

A policy should be established during which it will be the perpetrator rather than the victim who has to leave the common habitat when necessary in order to protect against further violence.

Updated observations following the 2018 visit

During the week-long follow-up mission on 28 May – 1 June 2018 the Senior Expert has visited the temporary shelter for victims of domestic violence in Bender, and the future permanent shelter (currently under construction/renovation) in central Tiraspol. The Expert also had an opportunity to interact with the representatives of the NGOs active the field, as well as with the UNDP team working on issues of domestic violence on the left bank.

Broadening acknowledgement of domestic violence as a human rights violation of public concern has been observed during the follow-up visit. Yet, the need for policy and legislative action in this regard has been equally boldly reported. Prejudices and stereotypes about the role

of women in the society and about domestic violence seem to remain deeply rooted and to persist among the general public and law enforcers.

Launching of temporary crisis centre and shelter for victims of domestic violence, as well as ongoing construction of a permanent facility give hope for further progress in prevention and combatting of domestic violence. At the same time the number of beneficiaries in the shelter remains limited compared to the overall estimated number of domestic violence survivors on the left bank.

There seems to be virtually no reference system for actual survivors and potential victims of domestic violence established on the left bank, with only limited number of women having a good knowledge of the shelter and its services. Many survivors of domestic violence are reported to lack social and community support in speaking and acting on it.

The Senior Expert was informed about the negative role played by the Orthodox Church on issues of domestic violence on the left bank. Of particular concern are the patriarchal views and stereotypes, allegedly promoted by the Church, about the women as primary housekeepers and child-bearers obedient to their husbands.

Follow-up Recommendations:

- In addition to his 2013 recommendations the Expert calls on addressing the root causes and key manifestations of gender inequalities and domestic violence through policy and legislative action, including through specific targeted programs and through adequate gender mainstreaming of general public policies and programs;
- Policy-makers, law enforcers and general public are in serious need of awareness-raising and education on standards and matters of gender equality and domestic violence;
- A good reference system for actual survivors and potential victims of domestic violence needs to be established, with involvement of local public authorities, police, social assistance and healthcare workers, school teachers and specialized NGOs;
- A dialogue with representatives of the Orthodox Church is recommended in order to promote greater gender equality and prevent domestic violence.

5. RIGHTS OF PERSONS WITH DISABILITIES

2013 Report: Findings and Recommendations

There is a need for a review of the approach towards persons with disabilities. The benchmark framework should be the Convention on the Rights of Persons with Disabilities with its important principles and norms. A plan for the closing of the old-style institutions should be developed. The plan should encourage community living, either with families or in small group housing with some assistance from, preferably, local authorities and civil society groups.

No one should be denied their decision making right. Instead of the deprivation of legal capacity, an approach should be developed in which caring, impartial assistance is provided in line with the UN Convention.

It is essential to make the public aware of the need to respect the rights of persons with disabilities. New houses, and especially official buildings should be constructed so that wheelchairs can have access. Persons with sight and hearing difficulties should have access to necessary equipment to overcome such handicap. Other steps as well should be taken to make it possible for everyone to communicate and benefit from media, education and leisure activities.

These measures would require some resources, even if some initial steps in fact would not be too expensive.

Also, one has to consider that when persons with disabilities to a larger extent would be able to take jobs and through other means contribute, this is a gain for all. More importantly, efforts are more than justified when building a more humane society – with respect for everyone.

For persons with disabilities there seems to be a need for some kind of general advocate or special ombudsman with resources to do outreach work in order to listen to complaints which otherwise would not be heard or even formulated.

Updated observations following the 2018 visit

During the week-long follow-up mission on 28 May – 1 June 2018 the Senior Expert had several opportunities to meet persons with disabilities and visit institutions servicing persons with disabilities. Overall changes in perception of disability and in acknowledgment of the rights of persons with disabilities are noticeable. Proclamation of 2018 as the Year of Equal Opportunities and adherence to the UN Convention on the Rights of Persons with Disabilities are among the most visible progresses in this respect and are commendable.

Emergence of new organized groups and of a vibrant civil society platform of persons with disabilities signify a good start for more comprehensive and deep reforms in compliance with the key principle of “Nothing for us, without us!”.

Increased attention to and shift towards rights-based angle among mass media in covering persons with disabilities played a major role in changing positively public perceptions.

Successful initiatives on increasing accessibility of public buildings and spaces – such as accessibility appraisal of construction projects in Bender – are among the most promising positive development not only locally, but also in the wider region of Eastern Europe.

It is equally important to mention first pilot projects on developing and implementing community-based support services for persons with disabilities in Ribnita, Dubossari, Grigoriopol and Slobozia.

At the same time many more areas remain yet unaddressed, requiring further reforms.

The concept of disability in public policies and normative acts remains largely medical, in dissonance with the UN Convention on the Rights of Persons with Disabilities and WHO International Classification of Functioning, Disability and Health (ICF). Under such an approach the public machinery only aims to “cure” and medically “rehabilitate” persons with disabilities. While this component is undeniably important in addressing disabilities, social accommodation and inclusion are an equally important (and often actually much more important) dimension in addressing disabilities.

During the visit to the psychoneurological institution in Tiraspol the Expert noticed efforts of the staff to do its best within the limits of the existing paradigm and available resources. At the same time material conditions in the institution remain constrained, beneficiaries of the institution have an isolated life, most of the time just hanging around without engagement into life fulfilling or productive activities. Leaving institution is not voluntary and depends on the medical assessment and willingness of relatives and sometimes local public authorities “to accept” back the beneficiary in question. A number of beneficiaries appear to have no medical or any other reason to be interned into this institution.

As the result of still prevailing medical approach many adults and children with disabilities continue to live a secluded life, in segregation, and outside the mainstream society and public space. Many persons with intellectual and psychosocial disabilities get deprived of their legal capacity and thus basic human dignity, and many of them have to live much of their life – often their entire life – in big state institutions, sometimes against their will.

Follow-up Recommendations:

- Policies and regulations need to be reviewed to fully comply with the UN Convention on the Rights of Persons with Disabilities (UN CRPD);
- Disability determination system needs to be reformed to embrace the bio-socio-medical and rights-based approach to disabilities, as per the UN CRPD and WHO standards;
- Organizations and platforms of persons with disabilities need to be further strengthened and included in public decision-making;
- Mass media need to be further worked with to promote a rights and dignity-based approach to and perception of persons with disabilities;
- Trainings for policy-makers, healthcare and social workers, local public authorities and administrators, educators and lawyers, other relevant professionals need to be provided on a continuous basis;
- It is important to transform the positive accessibility initiatives in a more structured and long-term programs and actions;

- Community-based services supporting independent living and social inclusion of persons with disabilities need to be further deployed and developed locally;
- Persons with disabilities have to be released from large residential institutions and assisted to live independently in the communities of their choice within the big society;
- Children with disabilities should be included into the mainstream education, while at the same time accommodating their needs and interests;
- It is important to deploy programs and policies of assisted employment for persons with disabilities (for instance, mobility, sensorial or psychosocial);
- Legal capacity of all persons with disabilities has to be restored, and community-based decision-supporting services have to be developed instead of legal capacity substitution.

6. HEALTH CARE, HIV AND TB

2013 Report: Findings and Recommendations

The challenges in the health field are huge in Transnistria. Basic health education is one area on which more needs to be achieved, in direct relation to patients but also among public at large in order to promote more healthy life styles (diet, non-smoking, limited drinking, etc.). Prevention of diseases should be given more priority also within the health care system itself. Education of health personnel at all levels is crucial and would require considerable investments as will the necessary upgrading of equipment and information technology in the system. This will also be valuable for the development of the assembling of relevant data. Further exchanges with experiences and systems abroad would be helpful in such efforts.

The norms on human rights should be an essential element in the education of health personnel. A system-wide understanding should be developed about the principles of free and informed consent of the person concerned in any medical intervention, and of the practical application of this principle. This would require training for medical professionals, as well as a review and revision of procedures and protocols for various types of health interventions.

Broadening contraceptive choice, improving reproductive health services and ensuring reproductive rights are central and related concerns in the delivery of family planning services in Transnistria. They are also fundamental elements of the vision of reproductive health outlined at the 1994 International Conference on Population and Development.

The health of children must be a priority. Further efforts to reduce infant mortality rate is crucial as improved data collection on mother and child health. Plans to improve perinatal care and to ensure full access to immunization should be pursued.

The HIV pandemic requires prevention programmes focused on behaviour change; access by key populations at risk to harm reduction measures to prevent further infections; adequate medication to those who are HIV positive; access to anonymous and voluntary blood testing; as well as awareness campaigns for tolerant attitudes.

The capacity to rapidly diagnose TB infection is crucial in the fight against the epidemic. Efforts are needed to avoid any case of treatment interruption. Those with multi-drug-resistant forms of TB must have access to the necessary, though expensive, medicine.

The fact that the health authorities have established positive cooperation with colleagues on the right bank and with international agencies, including WHO, UNDP, UNICEF, UNAIDS, UNFPA, OHCHR and UNODC, is in itself a resource.

Updated observations following the 2018 visit

During his follow-up mission the Senior Expert visited a penitentiary institution and the public Anti-AIDS Centre, and had interactions with a number of key actors in the field. Overall HIV and TB situation in Transnistria is one of the most difficult in the entire macro-region, but the specialized authorities seem to be on the right track in keeping it under some sort of control. Availability and sustainability of ARV medication stocks in Transnistria are of a major concern. Some inter-bank political hurdles in securing these stocks were reported to the Expert.

Conditions for identification and treatment of HIV and tuberculosis in prisons have improved significantly. Testing and treatment for HIV and tuberculosis are generally available in prisons. As of 2015 MDR-TB treatment is also available and this is a very positive development. Adherence of beneficiaries to those treatments remains problematic, and the prevalence of HIV and tuberculosis in prison populations is higher than in the general population.

Harm reduction program for drug-users in prisons is run at a modest scale and its legal status remains uncertain.

The level of securing prisons with good medical equipment has increased and inmates seem to have access to most of basic examination procedures, as well as to dental care. Development partners, including the UN, made an important contribution to this end.

Plans for consolidation of healthcare facilities within one specialized penitentiary institution present a good opportunity for overall improvement of healthcare services provided to persons in detention.

The Expert welcomes the 2017 independent UN-sponsored assessment of services for HIV prevention, treatment and care in prisons, as well as the increasing openness of prison administration to monitoring and addressing the HIV and TB situation in prisons.

During his mission Senior Expert heard complaints of unavailability and unaffordability of hepatitis treatment for vulnerable groups of population – inmates, ex-inmates, Roma men. There seems to be no state-run program for providing free-of-charge hepatitis treatment (as in case of HIV and TB) for most vulnerable segments of population, and this is a problem.

Follow-up Recommendations:

- Authorities need to ensure full budget for ARV and TB treatments for all requiring individuals;
- Authorities from both banks have to agree on procurement schemes of ARV and TB treatments for beneficiaries in Transnistria on the basis of non-politicized human rights based approach;
- Harm reduction programs for drug users in prisons have to be scaled up and secured with enabling and non-punitive environment;
- A public program for vulnerable men and women with hepatitis needs to be put in place.

7. ROMA RIGHTS

2013 Report: Findings and Recommendations

There are 5,500-6,000 Roma in Transnistria, according to estimates by some of their spokespersons. The number was much less (507) in the 2004 census as many Roma identified themselves as belonging to one of the major population groups.

[Back in 2012] the Expert visited a number of families in Bender and Varnița (Security Zone) and found their situation to be generally precarious. They have few possibilities to earn their living and several of the elderly had health problems which they could not afford to address. Those who were able to do so, had gone abroad to seek temporary employment.

Those who spoke with the Expert stated that people in the neighbourhood were friendly and bore no prejudices against Roma. However, they were deeply concerned about a woman who had been imprisoned for having tried to earn money through fortune-telling (a case which the Expert raised with the authorities).

They also raised a number of cases of physical abuse of Roma detained by the police. The Expert also received information that there have been cases in the recent past in which Roma have been expelled in groups from the territory.

Updated observations following the 2018 visit

During the 2018 follow-up mission the Expert paid special attention to the situation of Roma people in Transnistria to complement the 2013 findings and recommendations. Of particular importance was on-site visit to the Nakhlovka neighbourhood of Tiraspol, densely populated by Roma families.

Many Roma children, adolescents and adults turned hardly to be able to read and write. A good number of Roma families complained about material constraints in preparing children for the school (basic school items, autumn/winter clothes and shoes). Roma living in Tiraspol – women and men, youth and aged – said they had never heard of any information/awareness raising campaigns to improve children's school enrolment.

Only few Roma children attend pre-school child care institutions, due to unaffordable fees. Having missed the preschool cycle, Roma children come unprepared for school. This in turn generates a chain of negative consequences for their further development and life.

Young Roma say the school program is very difficult for them. Most Roma school students are not able to do homework on their own and ask their parents for help. While some parents are illiterate themselves they cannot therefore help their children assimilate the school program. Those who wish to stay at school after classes to do their homework have to pay for it, which for many Roma families is an unaffordable option.

There are still cases, parents say, when Roma children are forced to sit in the back of the class or together with another Roma children, thus maintaining in-class segregation.

The school program does not contain any information about Roma people, Roma history, culture and traditions, Roma oppression and Holocaust, so this contributes to misperceptions about Roma people in the school and wider society, and impedes prevention of discrimination.

Roma children are often not involved in extracurricular activities at school, so the opportunities for their social inclusion get more limited.

Many Roma migrate abroad looking for jobs, leaving their children at home in the care of relatives.

At the same time Roma parents do realize the important role of education in life and most of them would like their children to obtain a university degree.

In Nakhlovka many Roma families live in extremely poor material conditions, in broken houses, with no running water and in-house sanitation, with no heating and with barely any furniture inside the house. In several cases such houses were inhabited by members of several families, often with many children.

These families did not have any sizeable or at least stable income, often did not have food for more than one day in the house. One such household was composed of several very young women with many children, one of these girls – mother of several of the children. In another instance, the household was made of a very aged woman, in bad health condition and with no children and relatives to care for her.

In general, the situation of Roma women and girls, Roma aged persons or with disabilities is even worse than that of other sub-groups of Roma, many living in extreme poverty.

A good number of Roma persons reported problems with documents – lacking IDs and/or house registration documents.

There are multiple and pervasive health issues among Roma population in Transnistria. Many suffer from chronic hepatitis, diabetes, asthma, arthritis for which they cannot access or receive affordable treatment.

In general Roma people address healthcare institutions rarely, often only when they are severely ill. One of the reasons behind this pattern is informal payments, requested by physicians. Roma people reported that doctors treated them well only when they were paid in cash.

Many Roma women once becoming pregnant come to see doctor for the first time much later than the standard third month of pregnancy. Some do not see the doctor until the delivery. Many Roma parents do not vaccinate their children due to misperceptions and mistrust in healthcare system.

An absolute majority of Roma people are unemployed, due to very limited professional skills and discrimination. Many earn their living through occasional jobs in precarious conditions.

Employment agencies and services are reported to propose unemployed Roma people mainly unskilled jobs (such as yard keepers and janitors), low-paid jobs or jobs that do not correspond to the candidate's professional profile (in case of Roma with technical skills). Roma people are not offered professional guidance or training services by employment services and usually are not informed about employment opportunities; training courses are reported to be offered to them at extra charge.

Legal illiteracy among unskilled Roma workers causes them to accept jobs without passing the full official employment procedure. Many Roma told that they had never signed an employment

agreement and that labour relationships were formalized through verbal agreements, thus limiting Roma's access to social benefits and/or age retirement benefits.

Many Roma people complained about discriminatory behaviour towards them or their Roma workmates at the workplace.

Retired Roma reported that they receive very low retirement pensions (as low as 308 TN roubles = 16 Euro/per month), in some cases because they worked most of their life without formalization of labour relations through a labour contract or otherwise. Often the retirement pension constitutes the only income source for the family and by far does not cover the subsistence expenses. Roma people say that many of their aged relatives live near or over the poverty line.

A sizeable number of Roma couples are reported to live together without official marriage registration for various reasons: lack of identity documents, status of a solitary mother to qualify for state allowance, giving no importance to civil status acts, etc.

There are no public authorities or at least a focal point in charge of Roma issues within any level of public administration.

Also, there are no programs focused on promotion of Roma culture and language.

Absolute majority of Roma people reported that they had very few – if at all – knowledge about their human rights.

Follow-up Recommendations:

- An action plan should be developed for the long-term support to social inclusion of Roma people;
- The Expert further recommends the establishment of Roma community mediators in communities with sizeable Roma population;
- Ways of encouraging activities of community-based groups of Roma people - including for Roma women, Roma youth, Roma elderly and Roma persons with disabilities – should be developed;
- Recommended is also the organization of summer schools for Roma children who have not attended kindergarten in order to help them prepare for the school;
- Likewise the organization of subsidized after-school classes for Roma children to help them prepare their homework would serve an important role;
- Awareness-raising among school administration, teachers and non-Roma parents about Roma traditions and culture to alleviate anti-Roma stereotypes would be important;
- It is essential that meetings are organised between teachers, Roma parents and community leaders to discuss the importance of education, including the negative effects of early marriages;
- Segregation of Roma children in educational institutions should be avoided;
- The history of the Roma people, including the Holocaust and other atrocities, ought to be included in school curricula;
- Evening schools for Roma children and parents who have dropped out or have not attended regular school would serve an important purpose;
- Employment of Roma persons, including women, would be enhanced by improving technical and vocational education and employment services;

- Awareness-raising among physicians and medical staff about the Roma culture is recommended in order to reduce stereotypes and cases of discrimination against Roma;
- Information about the benefits of vaccination, prevention of smoking, alcohol and drug consumption should be made available also in the Romani language;
- A program of facilitating civil registration of Roma children should be fully implemented as would be the issuance of civil status acts for persons of Roma origin.

8. OTHER ETHNO-LINGUISTIC MINORITIES

2013 Report: Findings and Recommendations

Ensuring equal rights for everyone in society regardless of their ethnic, language or cultural characteristics is a basic human rights challenge. A positive settlement in the political negotiations would probably be helpful in this regard.

The focus on the balance between the three major population groups may overshadow the need to protect the minorities and their interests. The establishment of a commission with members from the minorities themselves might be considered in order to give them an effective channel to key decision makers and in the public discussion.

Updated observations following the 2018 visit

During the mission the Expert had opportunity to meet and interact with a broad range of representatives of ethno-linguistic minorities, including Armenians, Azeri, Belarussians, Gagauz, Georgians, Germans, Jews, Bulgarians, Tatars, people of African descent. In addition he received from some of them and from civil society groups written inputs with further details on the situation.

Overall the various ethnic groups seem to cohabitate peacefully in Transnistria. The Expert did not hear reports of hate-based violent incidents towards these groups. A good number of the ethno-linguistic groups joined together and now take part in the Transnistrian Association of National Diasporas. Many interlocutors reported that the authorities occasionally invite them to some consultation meetings. Some groups from time to time hold small-scale ethno-cultural events, mostly confined to the members of the group.

At the same time the Expert's impression is that ethno-linguistic minorities in Transnistria remain a largely overlooked segment. While the status of the three major ethnic groups – Moldovans, Ukrainians and Russians – is to some degree regulated by the normative acts, the less numerous ethnic groups (minorities) are not dealt with by specific policies or institutions.

Most of ethno-linguistic groups reported that the general public has positive perceptions and attitudes about their respective groups, and that there are no tensions in the society along ethnic lines. Yet, some visible minority groups (ethno-linguistic minorities generally associated with some visible particular traits, for instance, darker skin, or speaking accent) – such as Caucasians, Africans and Asians – reported several cases of reserved or even negative attitude to them on the streets or in public. The same groups sometimes become the specific target of heightened attention by law enforcement agents, taking the form of targeted documents checks on the streets.

Ethno-linguistic minorities reported that there are little opportunities for studying of their minority languages. Apart from Moldovan, Russian and Ukrainian languages, which have an official status in Transnistria, other languages do not enjoy support of the authorities. Some groups – like Bulgarians, Germans and Jews – self-organized to study their respective languages.

Women from certain minority groups – most notably Azeri, Georgian, Tatar, Bulgarian women – face heightened marginalization because in addition to being members of their respective minority groups, they face marginalization from the men of their own minority groups. Some women from the mentioned groups seem to have significantly less freedom in taking decisions about their time and life than women from other Transnistrian ethnic groups.

Follow-up Recommendations:

- The Expert recommends development of policies addressing the more vulnerable situation of certain minority groups, and allocation of public budgetary support to programs on development of minority cultures and languages;
- He further recommends provision of training programs for law enforcement agents on international minority rights standards to prevent racial or ethnic profiling and targeting;
- Special attention ought to be given to the situation of minority women to prevent and combat their multiple marginalization within their own minority communities and within the broader society.

9. FREEDOM OF RELIGION AND BELIEF, RELIGIOUS MINORITIES

2013 Report: Findings and Recommendations

The Constitution states that Transnistria is a secular state and that everybody has the right to profess any religion – or not profess any. It seems that the spirit of this principle has been lost and that some groups other than the Orthodox church are seen as “sects”.

The procedures for registration of religious organizations need to be reviewed. Registration – if at all deemed as necessary – should be swift, not unduly bureaucratic, and not discriminatory. The required probation period should be abolished and there should be no distinction between those registered and those not as concerns their possibility to exercise their basic human rights.

The law on military conscription should be amended to allow for a civil alternative for those whose conscience prevents them from taking part in military activities.

Updated observations following the 2018 visit

One of the most notable positive developments during the past five years is the adoption of the Law on alternative civil military service, allowing the conscientious objectors to serve alternative military service.

At the same time in other respects the situation deteriorated, for instance, with entrance into force of legislative amendments, which allow preaching activities only inside the religious buildings of the relevant religious groups.

During the visit to Tiraspol on 29-30 May 2018 the Expert had opportunity to interact with representatives of a number of religious groups. Most of them conveyed that they do not encounter grave problems in practicing their beliefs. At the same time Jehovah Witnesses reported serious problems in re-registration of their community in Ribnita.

Several religious groups conveyed that they from time to time face negative attitudes and remarks on the streets, in public discourses and in mass media. Depiction of some groups as “suspicious sects” is not uncommon in such discourses and in perceptions of officials.

Seventh Day Adventists reported that in a number of cases their members face problems in employment and education, because the employers and the educational institutions refuse to accommodate their program to the Adventist need of having Saturday as a free holy day.

Some religious minority groups reported a close attention to their activity by security agents even in comparison with other groups and organizations in the focus of security attention.

Follow-up Recommendations:

- Implementation of all of the 2013 recommendations concerning freedom of religion and belief requires action;

- Obstacles to (re-)registration of peaceful religious groups should be removed;
- Religious groups should not be singled out for heightened scrutiny by security agents;
- Prejudices against various religious groups should be countered through information and awareness-raising activities, including for and through mass media.

10. CIVIL SOCIETY ORGANISATIONS AND HUMAN RIGHTS DEFENDERS

2013 Report: Findings and Recommendations

[Back in 2012] the Expert met representatives of a number of non-governmental organizations. Some are directly involved in charity work in favour of, for instance, children or persons with disabilities; others are representing and defending the interests of a minority; and others again have taken on a more classical human rights task such as to monitor the procedures in the justice system or promote more effective human rights laws and policies. These groups disseminate information about human rights and should be seen as an asset for the population in Transnistria. However, some of them felt that their activities were looked upon with suspicion by the authorities and that they had met bureaucratic barriers. This point was made in particular by groups which had cooperation with NGOs on the right bank. Civil society groups have of course a totally different role than the official authorities and disagreements are therefore quite normal. However, the experience of the Expert is that a dialogue and open channels between NGOs and authorities is the proper approach to cope with such differences.

Updated observations following the 2018 visit

During the follow-up mission the Expert had excellent opportunities to meet and interact with many civil society organizations from the left bank. Some of the NGOs were very outspoken about the human rights issues in Transnistria, which is noteworthy. The Expert has been informed about many successful development projects implemented by these NGOs during the past five years. In some areas authorities have shown a substantial degree of openness towards collaboration with civil society organizations. These are exactly the areas where the human rights improvements are most visible – prevention of HIV, services for survivors of domestic violence, accessibility for persons with disabilities.

Despite the above-mentioned positive aspects, there are several points of Expert's serious concern.

First, the recent adoption of legislative amendments limiting activities of “politically engaged” and “foreign-funded” NGOs already brought anxiety within the Transnistrian civil society. Many reported concerns over the fact that there is no clear definition of the term “political activity” under these amendments, and that law enforcers may apply the legislation too broadly or arbitrarily, by including into it, for example, human rights activities or public advocacy activities.

Second, some of the civil society activists complained that they are from time to time invited for discussions to the Transnistrian security office, and although these discussions have a peaceful character some of the civil society participants to these discussions feel themselves intimidated.

Third, some NGO workers reported difficulties in operationalizing support funds (grants) provided to them by the international development partners, due to existence of a clearance

procedure at the Transnistrian grants coordination council, as well as due to some regulatory limitations.

Follow-up Recommendations:

- Ambiguous legislative provisions regarding political activities of NGOs need to be reviewed to not intimidate the broad range of civil society and human rights activism;
- Security services need to stop the practice of routine “discussions” with active NGOs;
- Administrative arrangements regarding support funding for CSOs need to be improved to allow easier operationalizing of support funds (grants) provided by international development partners.

11. LAND ISSUES

2013 Report: Findings and Recommendations

The transition from planned state economy to the new market approach with privatization and land distribution has caused certain obvious problems which have hurt the interests not least of some older people.

Some of the changes were not accompanied by legal developments which protected in practice the rights and interests of the more vulnerable in society. Some corrupt practices caused deeper problems in this context.

People feeling mishandled during these developments have not always managed to protect their rights through the judicial system – the laws have not been sufficiently clear and the procedures too slow. The more important it is that there is capacity in the executive and legislative powers to act in defence of those disadvantaged.

Updated observations following the 2018 visit

During his follow-up mission the Expert received multiple complaints from Transnistrian farmers regarding illegal seizure of their land plots by the central authorities of the left bank. Citing previous allegedly illegal administrative orders and on-going administrative no-action to redress the past illegalities, farmers – including from vulnerable groups – claim that the lands were taken away from them without compensation through abuse of power and no remedy is available to them to redress the situation. This appears to be a new and worrisome development since the previous mission by the Expert.

Follow-up Recommendation:

- Farmers and rural communities must feel protected and treated fairly by the authorities. Mistakes of the past need to be repaired and justice needs to be made in the cases of abusive seizure of land plots.

12. THE ROLE OF DEVELOPMENT PARTNERS

Since publication of the 2013 Report, many development partners made good efforts to support implementation of some of Expert's recommendations. European Union, Government of Sweden, United Nations family, and other partners directed impressive funds to support confidence-building and human rights across the Nistru-river. The shift is very visible and highly commendable.

Yet, despite the "human rights label" on almost all of the programs and projects on Transnistria, not all of them incorporate the required human rights elements.

First, human rights start with human dignity, which demands that all actions affecting a person have to be taken with his or her involvement and consent. The "Nothing for us, without us" principle very well describes this fundamental idea. Earlier in this Report the Expert commended establishment of the broad platform of persons with disabilities and promotion of further actions through this platform. A similar course of action is necessary in all areas of intervention.

Second, programs have to target most vulnerable of the vulnerable, and have to do that with full respect to dignity of persons. Persons with intellectual and psychosocial disabilities, as well as Roma people, seem to enjoy the least attention up to date from the development partners working on the left bank. In few cases when there was an attention to these groups, this happened from a charity, rather than human rights based perspective. Some persons with disabilities are continuously seen as just "beneficiaries" and not "agents", while Roma are not even "on the radar" for many.

There could be no sustainable development and successful confidence-building without these elements.

The Expert strongly advises all development partners to stem their work in the region from a genuine human rights based approach. The Office of the UN High Commissioner for Human Rights, which is fortunately well present in Moldova, can serve the best in providing a robust advice in this regard.

SUMMARY OF RECOMMENDATIONS

1. Measures for systematic implementation of human rights

- Further steps should be taken to develop a comprehensive plan of action for the implementation of human rights;
- Work on a human rights plan would greatly benefit from a systematic collection of relevant and disaggregated data;
- Human rights education in schools and other relevant settings – most notably for key professional groups – should be further developed;
- The office of the ombudsman should be further strengthened;
- The independence of civil society should be seen as an asset for the society as a whole – intrusive, controlling legislation against such self-organized groups should be avoided.

2. Justice system

- A comprehensive, impartial review of the concrete functioning of the justice system should be initiated with focus on aspects defined in the 2013 Report. Consideration might be given to the possibility of inviting an international expert in this area to provide advice on the methodology of such a review.

3. Penitentiary system

- The Expert strongly recommends a full and comprehensive implementation of all of the 2013 recommendations concerning imprisonment and situation in prisons;
- The Expert calls for an urgent priority review and reforms in the areas of pre-trial arrest, prison sentences and conditions of detention to significantly reduce the number of persons in detention, and to bring the conditions in pre-trial arrest facilities and in penitentiary institutions in compliance with the minimum standards of human dignity;
- As the functioning of the justice system is crucially important for the protection of human rights, he recommends that the Office of the UN High Commissioner for Human Rights be welcomed to review implementation of the 2013 recommendations on these areas and give advice on further steps. One way of doing this would be to organise a visit of a Special Rapporteur on some of the aspects. The Senior Expert noted the positive response on this suggested approach by the high officials he met during his visit.

4. Women's Rights, Gender Equality and Domestic Violence

- In addition to his 2013 recommendations the Expert calls on addressing the root causes and key manifestations of gender inequalities and domestic violence through policy and legislative action, including through specific targeted programs and through adequate gender mainstreaming of general public policies and programs;
- Policy-makers, law enforcers and general public are in of awareness-raising and education on standards and matters of gender equality and domestic violence;
- A good reference system for actual survivors and potential victims of domestic violence needs to be established, with involvement of local public authorities, police, social assistance and healthcare workers, school teachers and specialized NGOs;

- A dialogue with representatives of the Orthodox Church is recommended in order to promote greater gender equality and prevent domestic violence.

5. Rights of persons with disabilities

- Policies and regulations need to be reviewed to fully comply with the UN Convention on the Rights of Persons with Disabilities (UN CRPD);
- Disability determination system needs to be reformed to embrace the bio-socio-medical and rights-based approach to disabilities, as per the UN CRPD and WHO standards;
- Organizations and platforms of persons with disabilities need to be further strengthened and included in public decision-making;
- Mass media need to be encouraged to promote a rights and dignity-based approach to and perception of persons with disabilities;
- Trainings for policy-makers, healthcare and social workers, local public authorities and administrators, educators and lawyers, other relevant professionals need to be provided on a continuous basis;
- It is important to transform the positive accessibility initiatives into more structured and long-term programs and actions;
- Community-based services supporting independent living and social inclusion of persons with disabilities need to be further deployed and developed locally;
- Persons with disabilities should be released from large residential institutions and assisted to live independently in the communities of their choice within the broader society;
- Efforts are needed to include children with disabilities to be included into the mainstream education, while at the same time accommodating their needs and interests;
- It is important to develop programs and policies of assisted employment for persons with all kinds of disabilities (mobility, sensorial, psychosocial, etc.);
- Legal capacity of all persons with disabilities has to be restored, and community-based decision-supporting services have to be developed instead of legal capacity substitution.

6. Health care, HIV and TB

- Authorities need to ensure full budget for ARV and TB treatments for all requiring individuals;
- Authorities from both banks have to agree on procurement schemes of ARV and TB treatments for beneficiaries in Transnistria on the basis of non-politicized human rights based approach;
- Harm reduction programs for drug users in prisons have to be scaled up and secured with enabling and non-punitive environment;
- A public program for vulnerable men and women with hepatitis needs to be put in place.

7. Roma rights

- An action plan should be developed for the long-term support to social inclusion of Roma people;
- The Expert further recommends the establishment of Roma community mediators in communities with sizeable Roma population;
- Ways of encouraging activities of community-based groups of Roma people - including for Roma women, Roma youth, Roma elderly and Roma persons with disabilities – should be developed;
- Recommended is also the organization of summer schools for Roma children who have not attended kindergarten in order to help them prepare for the school;
- Likewise the organization of subsidized after-school classes for Roma children to help them prepare their homework would serve an important role;
- Awareness-raising among school administration, teachers and non-Roma parents about Roma traditions and culture to alleviate anti-Roma stereotypes would be important;
- It is essential that meetings are organised between teachers, Roma parents and community leaders to discuss the importance of education, including the negative effects of early marriages;
- Segregation of Roma children in educational institutions should be avoided;
- The history of the Roma people, including the Holocaust and other atrocities, ought to be included in school curricula;
- Evening schools for Roma children and parents who have dropped out or have not attended regular school would serve an important purpose;
- Employment of Roma persons, including women, would be enhanced by improving technical and vocational education and employment services;
- Awareness-raising among physicians and medical staff about the Roma culture is recommended in order to reduce stereotypes and cases of discrimination against Roma;
- Information about the benefits of vaccination, prevention of smoking, alcohol and drug consumption should be made available also in the Romani language;
- A program of facilitating civil registration of Roma children should be fully implemented as would be the issuance of civil status acts for persons of Roma origin.

8. Other Ethno-Linguistic Minorities

- The Expert recommends development of policies addressing the more vulnerable situation of certain minority groups, and allocation of public budgetary support to programs on development of minority cultures and languages;
- He further recommends provision of training programs for law enforcement agents on international minority rights standards to prevent racial or ethnic profiling and targeting;
- Special attention ought to be given to the situation of minority women to prevent and combat their multiple marginalization within their own minority communities and within the broader society.

9. Freedom of Religion and Belief, Religious Minorities

- Implementation of all of the 2013 recommendations concerning freedom of religion and belief requires action;

- Obstacles to (re-)registration of peaceful religious groups should be removed;
- Religious groups should not be singled out for heightened scrutiny by security agents;
- Prejudices against various religious groups should be countered through information and awareness-raising activities, including for and through mass media.

10. Civil Society Organizations and Human Rights Defenders

- Ambiguous legislative provisions regarding political activities of NGOs need to be reviewed not to intimidate the broad range of civil society and human rights activism;
- Security services need to stop the practice of routine “discussions” with active NGOs;
- Administrative arrangements regarding support funding for CSOs need to be improved to allow easier operationalizing of support funds (grants) provided by international development partners.

11. Land issues

- Farmers and rural communities must feel protected and treated fairly by the authorities. Mistakes of the past need to be repaired and justice needs to be made in the cases of abusive seizure of land plots.

STATEMENT

**by Senior UN Human Rights Expert Thomas Hammarberg
on the conclusion of his visit on 28 May – 1 June 2018**

Chisinau, 1 June 2018

On 28 May – 1 June 2018 I have visited the Republic of Moldova, where I had meetings with decision-makers, civil society, development partners and other actors on both banks of Nistru-river. This visit comes as a follow-up to my [2013 Report](#), which provided 38 specific recommendations in 13 different areas covering a broad range of human rights issues in the Transnistrian region. I have visited institutions and facilities in Tiraspol, Bender and Ribnita.

I am pleased to note a growing human rights awareness in the Transnistrian region. In several key areas such as: rights of persons with disabilities and prevention and treatment of HIV and tuberculosis, the situation has generally improved. Changes in perception of disability and in acknowledgment of the rights of persons with disabilities are noticeable. Emergence of a vibrant civil society platform of persons with disabilities, as well as successful initiatives on increasing accessibility of public buildings and spaces, are among the positive developments that are worth commending.

Conditions for identification and treatment of HIV and tuberculosis in prisons have improved significantly. Plans for consolidation of healthcare facilities within one specialized penitentiary institution present a good opportunity for overall improvement of healthcare service provided to persons in detention.

Broadening acknowledgement of domestic violence as a human rights violation can be observed. Launching of temporary crisis centre and shelter for victims of domestic violence, as well as ongoing construction of a permanent facility give hope for further progress in prevention and combatting of domestic violence.

More and stronger voices of civil society have been heard during my follow-up visit, thus substantially improving the level of information and the quality of public dialogue around the outstanding human rights issues.

Political negotiations – bilateral, as well as in the “5+2” format – have advanced and brought resolution to some important human rights matters stemming from my 2013 Report, such as the apostilization of diplomas and the functioning of Moldovan Latin-script schools on the left bank.

It is essential to build on the positive momentum and systematize the efforts leading to full protection and promotion of human rights on both banks of Nistru-river. Human rights dimension should be even more prominently embedded into the Transnistrian settlement process.

All these aspects of progress are welcome. However, further improvements are required in order to address some of the outstanding challenges and issues, on which I will elaborate in my forthcoming follow-up report.

Development of a Transnistrian human rights action plan, strengthening human rights institutions and mechanisms, collection of disaggregated data, promotion of human rights education and work with mass media to bolster human rights culture are key pre-requisites for substantial improvement of the human rights situation. It is crucial that police officers, healthcare workers, teachers and other key professionals are well capacitated to perform their roles and functions and ensure full protection and promotion of human rights. Positive and constructive engagement with civil society is of key importance for achieving these objectives.

High rates of arrest and imprisonment, as well as conditions in detention, remain an important area of concern.

Women experience inequalities in social, economic and political life, and domestic violence is still widely spread.

Several more reforms in the area of persons with disabilities are required, including on disability determination mechanism, inclusive education, legal capacity, deinstitutionalization reforms, etc.

The situation of Roma people is grave and very worrisome. Many Roma are illiterate, undocumented and poor. Many Roma girls and boys are marginalized in kindergartens and schools and the school dropout rate is very high. Most Roma are unemployed, and many of those who are employed are discriminated at the workplace. Many Roma live in poor houses, without electricity or gas, water and sanitation. Majority of Roma people have no access to quality and affordable healthcare services. Aged Roma with disabilities and Roma women are among the most affected.

Space for NGOs should be widened and strengthened. There is a concern among some of our interlocutors from civil society about the consequences and future interpretation of the latest regulatory provisions concerning NGOs.

I will bring my findings to the attention of the UN High Commissioner for Human Rights and to the broader United Nations system and will encourage their active engagement in the implementation of the recommended actions.

The Statement can be downloaded from:

<http://md.one.un.org/content/unct/moldova/en/home/presscenter/press-releases/statement-by-senior-un-human-rights-expert-thomas-hammarberg-on-.html>