

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

REFERENCE: AL
MDA 5/2015:

7 December 2015

Excellency,

We have the pleasure to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged stigmatization and criminal proceedings against the human rights association Promo-LEX and its members.**

Mr. **Ion Manole** is Director of **Promo-LEX**, which is a civil society association that promotes and defends human rights and monitors democratic processes in the Republic of Moldova and in particular in the region of Transnistria.

According to the information received:

On 17 April 2015, an article was posted on the website of the Committee of State Security (KGB) of the Transnistrian region of the Republic of Moldova, by which the association Promo-LEX and its members were directly threatened. The article alleged that the human rights activities of Promo-LEX were being carried out in order to destabilize the Transnistrian region and to undermine its security. The article further stated that Promo-LEX had received funding from western donors in order to achieve these aims. It was further alleged that 'special investigation measures' were being applied to Promo-LEX in preparation for criminal proceedings against the organization and its members.

On 7 May 2015, a second statement was published on the website, on behalf of an individual claiming to be the head of the KGB, in which the Director of Promo-LEX, Mr. Ion Manole, was personally targeted and stigmatized. The statement

claimed the human rights activities of Mr. Manole were destructive and hostile to the region of Transnistria, and motivated by third parties.

On 14 May 2015, in response to a request made by Promo-LEX for information as to the nature of the criminal proceedings initiated against it and its members, the organization received confirmation from the Security Committee of the KGB that the proceedings against them were ongoing without further explanation.

On 18 June 2015, Promo-LEX submitted a request to the Committee of Inquiry of the Transnistrian region, in which they asked for their lawyer to be permitted access to the criminal proceedings against the association and its members. On 3 July 2015, the request was rejected with the clarification that access could only be given to a lawyer licensed by the authorities of the Transnistrian region of the Republic of Moldova. Subsequent attempts by Promo-LEX to contract a lawyer licensed by the Transnistrian authorities have been ignored.

On 30 September 2015, Promo-LEX was informed by the Security Intelligence Service of Moldova that virtually all members of the organization who travel to the Transnistrian region risk arrest and detention by the KGB of the Transnistrian region of the Republic of Moldova.

Concern is expressed at the criminal proceedings against Promo-LEX by the security services of the Transnistrian region, as well as the stigmatization and delegitimization of the association and its members, in direct response to their legitimate and peaceful human rights work in the Transnistrian region. Further concern is expressed that the criminal proceedings against Promo-LEX and its members may greatly hinder the exercise of their right to freedom of expression and their work monitoring human rights violations in the region. We also express concern about the ‘special investigation measures’ against Promo-LEX and its members, which may result in violations of the right to privacy of members of the association in the course of these investigations.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide information concerning the legal grounds for the criminal proceedings, as well as ‘the special investigation measures’, initiated against Promo-LEX and its members, and how these measures are compatible with international norms and standards, mentioned in the Annex.

3. Please provide clarification on the allegations that the Committee of State Security (KGB) of the Transnistrian region of the Republic of Moldova made statements on the Internet to target Promo-LEX, its Director and its members in attempt to delegitimize them, and how those actions are compatible with the international norms and standards, mentioned in the Annex.

4. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work on human rights in the region of Transnistria in a safe and enabling environment, and without fear of threats or acts of intimidation, harassment or persecution of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency’s Government’s response will be made available in a report to be presented to the Human Rights Council for its consideration.

Kindly note that a letter with the same information has been transmitted to the de-facto authorities in the Transnistrian region of the Republic of Moldova through the United Nations Resident Coordinator in the Republic of Moldova. Please also note that this letter does not in any way imply the expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would also like to call your attention to articles 19 and 20 of the Universal Declaration of Human Rights (UDHR), as well as articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the rights to freedom of expression and of association, respectively.

We also wish to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration; and
- article 13, point b) and c), which provides for the right to solicit, receive, and utilize resources for the purpose of peacefully promoting and protecting human rights and fundamental freedom.

We would also like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We would also like to refer to Human Rights Council resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

Finally, we would like to refer to Human Rights Council resolution 24/5, and in particular its operative paragraph 2, in which the Council “reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.