

Persons represented by Promo-LEX contributed to modifying legal mechanism for issuing identity documents to people living on left bank of the Nistru

The process of issuing identity documents to the population when a part of the territory is outside the control of the constitutional authorities is difficult and complex. The documents issued by the Transnistrian administration are not recognized as they come from bodies that do not work on a constitutional basis that reflects a juridical tradition compatible with the European Convention on Human Rights. As a result, most of the inhabitants of the districts from the left side of the Nistru and Bender municipality meet with problems in obtaining identification papers. In a commentary for IPN, the lawyer of Promo-LEX Association Pavel Cazacu said that even so the issuing of identity documents to the inhabitants of the Transnistrian region remains an obligation of the constitutional authorities and is necessary, including in the process of fully integrating these persons into society. Moreover, the issuing of official papers to these persons can help stop human trafficking as the persons without identification papers are vulnerable in this regard.

Identity determined after over two years of walks to doors of Moldovan bureaucracy

Currently, a person born in the districts from the left bank of the Nistru and in Bender municipality can be issued with an identification paper at the request of one of the parents who

have an identity card issued by a recognized authority. There are categories of persons who face major obstacles in the process of obtaining identification papers, for example the orphans and children whose parents do not have ID papers. The cases of two young men from the Transnistrian region who sought legal assistance from the lawyers of Promo-LEX are conclusive in this regard.

Sergey Bondarev from Bender is the first person who was represented by the lawyer of Promo-LEX. At the age of 21, this didn't have a birth certificate. Even if he had documents issued by the Transnistrian administration, the lack of documents issued by the constitutional authorities was an evident limitation of the possibilities related to the observance of his rights and his chances of individual development and to aspects of his private life. After over two years of efforts and walks to the doors of Moldovan bureaucracy and a series of hearings, on December 15, 2015, the Bender Court accepted the application of the Promo-LEX lawyers and established the identity of citizen Bondarev Sergey.

The case of Alexandru Rjavitin is beyond the identification problem. Being drafted into the army by force, this escaped from the paramilitary bodies of the Transnistrian region in August 2015, crossed the Nistru and walked three days up to Chisinau in military uniform and flip-flops. Alexandru "deserted" from the "Transnistrian army" as he could no longer endure the use of violence and ill-treatment to which he was continuously subject. As he didn't have identity documents, he had to work unofficially. On July 11, 2018, after almost three years of the "desertion", the Chisinau Appeals Court accepted the applications to issue an identity document to Alexandru submitted by the lawyers of Promo-LEX.

Legal mechanism for issuing identity documents to persons from Transnistrian region

The cases of these young men are representative for a larger number of people who live in the Transnistrian region, said lawyer Pavel Cazacu. The institution of legal instruments that would facilitate the process of issuing official documents to these categories of people became inevitable meanwhile. As a result of repeated advocacy activities carried out, including by Promo-LEX, the constitutional authorities started to institute a legal mechanism to facilitate the process of issuing identification documents to these persons.

On December 22, 2017, the article on civil status documents concerning the certification of civil status acts registered by the de facto administration of the districts from the left side of the Nistru and Bender municipality was amended and supplemented. The goal was to confirm the civil status acts (birth, adoption, marriage, divorce, death, etc.) that happened and were registered in the localities from the left side of the Nistru and in Bender municipality by civil status documents issued by the competent constitutional authorities of the Republic of Moldova, if their registration was made in conditions similar to those regulated by the legislation of the Republic of Moldova. The implementation of this mechanism continues. On July 13, 2018, it was placed for consultation on the website of the Ministry of Justice, together with the informative note.

The necessity of this mechanism is indubitable, especially because according to the European Court of Human Rights and the International Court of Justice, the principle of nullity of the acts of the unconstitutional bodies does not refer to such matters as the registration of births, deaths and marriages whose effects, if they are ignored, will be to the detriment of the inhabitants of this territory. Despite the importance of this mechanism for facilitating the process of issuing identity papers, the constitutional authorities are to be very prudent and to lay down very clear and rigorous rules for this procedure.

Measures that should be taken to prevent persons with dubious interests from obtaining Moldovan nationality

Under the new changes, the persons older than 18 born on Moldova's territory, who are not registered by the competent authorities as citizens of the Republic of Moldova and who cannot prove that they have the nationality of the Republic of Moldova are recognized as Moldovan citizens (...)"'. Thus, according to lawyer Pavel Cazacu, if there are defects or gaps in the procedure for confirming the civil status acts, there is a real risk that particular persons with dubious interests can obtain the nationality of the Republic of Moldova. It is thus fundamental for the constitutional authorities to have the capacity to check if a birth certificate from the left side of the Nistru is not issued fraudulently because the risk of committing frauds and acts of corruption on an uncontrolled territory is bigger. In the absence of strict control of these procedures, situations will be witnessed when, through a mechanism that has noble goals, some of the persons will obtain a birth certificate from the constitutional authorities. Later, the same persons could obtain Moldovan nationality by the simplified recognition procedure.

The civil status certificate and the identity document are the most important documents by which a person can prove their identity in the relations between citizens and with any other private individuals and legal entities. As a result of the advocacy activities performed, including by Promo-LEX Association, the Government of the Republic of Moldova started the procedure for constituting the mechanism for issuing identification papers to the population from the left side of the Nistru and Bender municipality as the infringement of this right can seriously violate the private life. At the same time, the constitutional authorities should do their best to define this mechanism in detail as the defective regulation can have serious consequences for security.

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