

APPEAL

CIVIL SOCIETY ORGANIZATIONS URGE THE AUTHORITIES OF THE REPUBLIC OF MOLDOVA TO HOLD RESPONSIBLE THOSE GUILTY OF *DE FACTO* EXTRADITION OF SEVEN TURKISH CITIZENS AND ENSURE PROTECTION FOR OTHER PERSONS BEING IN SIMILAR SITUATION

17 October 2018

In a [press release](#), in the morning of 6 September 2018, the Security and Intelligence Service (SIS) informed on sustaining of a complex operation on prevention of threat to the national security of the Republic of Moldova. Shortly after, the [information that appeared on a social network](#) revealed that it was about the detention of seven Turkish citizens, teachers and employees of the private lyciums network „Orizont”. Subsequently, in [another press release](#) published on the same day, the SIS informed about the declaration of those persons as „undesirable” and their expulsion from the territory of the Republic of Moldova on the grounds of allegedly existing relations with an Islamist group. Within a few hours, the SIS provided [clarifications](#), stating that the persons in question have been expelled from the country.

Until the end of the day of 6 September 2018 the families of detained persons did not know their whereabouts, whilst in a TV programme broadcasted in the evening of the same day, [the defence counsel of the detained persons stated](#) that he had no access to his clients and even did not know if they were still on the territory of the Republic of Moldova.¹ Only the next day, the relatives of those seven detained persons were announced that the persons were already in prisons in Turkey. According to them, those seven persons were transported to Chisinau International Airport, taken on board of a charter plane and transported to Turkey. They entered the territory of the airport through the cargo terminal and the border police allowed their entry into the airport territory and crossing of the state border despite the fact that they had no identification documents on them.

Those seven Turkish citizens have stayed legally on the territory of the Republic of Moldova for several years, some of them even for over 20 years. They all had residence and work permits in the Republic of Moldova. Some of them had families and children - citizens of the Republic of Moldova. In April 2018, five out of those seven persons have applied for asylum in the Republic of Moldova because of the risk of being persecuted in their country of origin as they had different visions regarding the current political regime in Turkey. According to the Law on Asylum in the Republic of Moldova, these applications shall be examined within 6 months.

Initially, the Director of the Bureau for Migration and Asylum (BMA) of the Republic of Moldova [rejected any involvement of the institution](#) in detaining of those seven Turkish citizens and their removal from the country. However, on 10 September 2018, the BMA sent to the families of those seven persons in the Republic of Moldova two decisions, one on the rejection of the asylum application and one on the declaration of the person as undesirable. According to them, on 4 September 2018, the BMA would have refused applications of Turkish citizens with requests for asylum on the basis of [opinions issued by the SIS](#) two weeks earlier. The SIS statements classified as secret would provide information that the Turkish citizens in question pose a threat to the security of the Republic of Moldova. In the given decisions, based on the latest available country-of-origin information, as well as analysing the well-founded fears, the BMA states the existence of the risk of persecution for Turkish citizens, appreciating their declarations as credible. Moreover, the persons were informed about their right to appeal against this decision to the court within 30 days. They were to leave the Republic of Moldova within 15 days since the moment the decision becomes

¹ The statement by the defence counsel Vitalie NAGACEVSCHI on „Politica Nataliei Morari” (*Politics with Natalia Morari*) broadcast as of 6 September 2018, available at <http://tv8.md/tv8-show/politica-nataliei-morari-06-09-18/> (from minute 10:00).

irrevocable.² According to the BMA, on 5 September 2018, it was decided to declare those seven persons as undesirable for a period of five years. Under the latest decision, the persons have to be removed from the country escorted by the „competent authority for foreigners“, i.e. the BMA.

The situation of forced removal of Turkish citizens has been widely publicized in the national³ and international press.⁴ [Commissioner for European Neighbourhood Policy and Enlargement Negotiations](#) urged the authorities of the Republic of Moldova to respect the rule of law and the right to a fair trial of detained and forcibly removed persons. Similar statements have been made by several non-governmental organizations⁵, a [group of Members of the European Parliament](#), [Amnesty International](#), as well as by the [Ombudsman](#) of the Republic of Moldova. On the other hand, the state representatives [declared](#) that the law enforcement bodies have complied in full with the legal procedures.⁶

A month after these events, the signatory organizations note that the answers of the authorities regarding the legality of the removal of Turkish citizens continue to raise many questions. In the absence of clear arguments confirming that there was really a risk of a threat to the national security, a strong presumption is emerging that the operation sustained by the authorities took place due to political interests, in violation with national laws and international human rights treaties to which the Republic of Moldova is a party. The grounds for such conclusion are the following:

Intelligence information and criminal cases regarding Turkish citizens and the „Orizont“ network.

[In the first press release of the SIS](#) issued on 6 September 2018 it is mentioned that the actions of Turkish citizens have been subject to monitoring for a period and, once the existence of the risk to the national security has been confirmed, it was decided that these persons should immediately leave the territory of the Republic of Moldova.⁷ On 8 September 2018 the President of the Parliament Andrian CANDU declared at a [press briefing](#) that active investigation on certain issues related to the prevention of terrorism acts, including that regarding some persons linked to the lyceum „Orizont“ date back to 1997-1998.⁸

Statements by the authorities can be questioned, or they are being challenged by other persons who held high office positions during the period when the intelligence information was accumulated. Vladimir VORONIN, former President of the Republic of Moldova (2001 to 2009) stated in a TV

² Excerpt from the information letter issued by the Bureau for Migration and Asylum regarding Mr. Mujdat CELEBI, available at: <https://goo.gl/4VUXp3> Information is the same for other asylum seekers as well.

³ See, amongst others: <http://newsmaker.md/rus/novosti/moldavskiy-pashalyk-kak-v-kishineve-otregirovali-na-skandal-s-vyslykoy-turetskih-38982>; <http://tv8.md/2018/09/06/video-exclusiv-directorului-adjunct-al-liceului-ORIZONT-din-durlesti-vine-cu-detaliu-despre-retinerea-directorului-institutiei/>; <https://www.dw.com/ro/expulzarea-dasc%C4%83lilor-turci-chi%C8%99in%C4%83ul-%C3%AE%C8%99i-d%C4%83-cu-st%C3%A2ngul-%C3%AE-n-dreptul-a-45403065>; <https://www.zdg.md/editia-print/politic/foto-doc-o-tara-fara-ORIZONT-intalnirile-politice-dosarul-penal-si-extradarea-a-18-cetateni-turci>.

⁴ See, amongst others: <https://www.nytimes.com/reuters/2018/09/06/world/europe/06reuters-moldova-turkey.html>; <https://www.bbc.com/news/world-europe-45446168>; <https://www.reuters.com/article/us-moldova-turkey/amnesty-criticizes-expulsion-of-turkish-nationals-from-moldova-idUSKCN1LM2PI>; <https://www.euronews.com/2018/09/07/failed-coup-crackdown-moldova-raid-sees-teachers-expelled-to-turkey>.

⁵ Amnesty International Moldova - <http://amnesty.md/ro/media/apel-urgent-amnesty-international-moldova-condamna-rapirile-ilicite-de-oameni-efectuate-astazi-de-catre-serviciile-de-securitate-cu-incalcarea-normelor-de-perchezitie-si-retinere/>; Legal Resources Centre from Moldova and Promo-LEX Association- <https://crim.org/wp-content/uploads/2018/09/2018-09-06-Expulzare-profesori-Orizont.pdf>.

⁶ Statements by the President of the Parliament Andrian CANDU and the Prime Minister Pavel FILIP as of 11 September 2018, available on-line at: <https://www.privesc.eu/Arhiva/83602/Prim-ministrul-Republicii-Moldova--Pavel-Filip--si-Presedintele-Parlamentului--Andrian-Candu--depun-flori-la-Ambasada-SUA-in-memoria-victimelor-atenta> (from minute 07:00).

⁷ SIS notification as of 6 September 2018, available on-line at: <https://sis.md/ro/comunicare/noutati/comunicat-0>.

⁸ The press statement by the President of the Parliament of the Republic of Moldova, Andrian CANDU, after the parliamentary hearings regarding the case of expulsion from the country of 7 foreign citizens, available on-line at: <https://www.privesc.eu/Arhiva/83574/Declaratie-de-presa-sustinuta-de-Presedintele-Parlamentului-Republicii-Moldova--Andrian-Candu--dupa-audierile-parlamentare-in-cazul-expulzarii-din-tar> (from minute 2:30).

broadcast that in the annual reports submitted by the SIS on the national security situation in the country: „*there has never been any indication that persons from the Orizont network or generally persons of Turkish origin would lead destructive work against the Republic of Moldova or deal with things falling under the notion of international terrorism.*”⁹

In such circumstances, it is unclear in what particular period of time the intelligence information regarding the persons related to „Orizont” lyceum was accumulated. Even though this information has been accumulated over different periods of time, it seems at least strange that there were no previous reactions from national authorities to counter the alleged dangers to national security, given that both the Turkish citizens in question and the entire network of „Orizont” lyceums have been present in the Republic of Moldova for more than 20 years. Moreover, their activity has always been highly appreciated, including by the state representatives.¹⁰

At the press briefing as of 8 September 2018, Andrian CANDU, the President of the Parliament, also stated that at least 48 persons were under monitoring, and over the last 4-5 years there have been opened criminal cases that contain „*volumes and hundreds of pages*”.¹¹ Mr. Candu also stated, referring to Turkish citizens, that the legislation on the Regime for Foreigners had been fully complied with and that the entire operation was under the supervision of some prosecutors, as it concerned criminal cases.¹²

However, this information is countered by [official interpellations addressed by the defence counsels of Turkish citizens from the „Orizont” lyceums network](#) to the Prosecutor's Office for Combating Organized Crime and Special Cases (POCOCCS), the National Anti-Corruption Centre (NAC) and the Anti-corruption Prosecutor's Office (ACP). These institutions have previously confirmed, at least with respect to five out of seven forcibly removed citizens, that there were no criminal cases against them or that they had not been given procedural status by 31 July 2018. This indirectly establishes that the „period of monitoring” of Turkish citizens declared by the SIS or other procedural actions carried out within the framework of a criminal case could take place only between 1 and 24 August 2018, the date on which the SIS opinion addressed to the BMA regarding the asylum seekers applications was issued.

Right to defence and (im)possibility of challenging the BMA refusal decisions

The BMA decisions on refusal to grant asylum date back to 4 September 2018, that is to say, the day before the decision to declare those seven persons undesirable, and two days before the operation on their removal from the country. According to the [information provided](#) by the relatives of the persons forcibly sent to Turkey, as well as on the basis of the confirmations [of the on-line mail tracking programme](#) of Posta Moldovei, the decisions on refusal to grant asylum were sent by post at least three days after the Turkish citizens were already in Turkey.¹³ As a result, decisions could not be brought to the attention of asylum seekers before their detention and forcible deportation to Turkey. Even if these decisions would have been brought to their attention at the moment when the persons were detained, they should have the right to challenge them. The defence counsels of those seven persons did not know the whereabouts of their clients even in the evening of 6 September 2018. In

⁹ „Puterea a Patra” (*the Fourth Estate*) broadcast as of 20 September 2018, available on-line at: <https://www.youtube.com/watch?v=JEWVfeRowc> (from minute 37:50).

¹⁰ See, for example, the statements by the Minister of Education Monica Babuc as of 6 September 2018, available on-line at: <https://www.ziarunational.md/reactia-ministrei-babuc-la-retinerile-de-astazi-de-la-orizont-eu-apreciez-activitatea-acestei-institutii-ministerul-va-lua-toate-masurile-ca-procesul-de-studii-sa-nu-fie-perturbat/>.

¹¹ Statements by the President of the Parliament Andrian CANDU on 8 September 2018, available on-line at: <https://www.privesc.eu/arihiva/83574/Declaratie-de-presa-sustinuta-de-Presedintele-Parlamentului-Republicii-Moldova--Andrian-Candu--dupa-audierile-parlamentare-in-cazul-expulzarii-din-tar> (from minute 03:00).

¹² Ibidem (from minute 06:30).

¹³ Extract from decision no. 67/18/DAI as of 4 September 2018 issued by the Bureau for Migration and Asylum regarding Mr. Dogan RIZA, available at: <https://goo.gl/kDGnAc>.

such circumstances, they could not effectively challenge the decisions of the BMA. On the other hand, the immediate removal of persons from the country is illogical since, according to the BMA decisions on refusal to grant asylum, Turkish citizens were to leave the territory of the Republic of Moldova within 15 days. The signatory organizations are firmly convinced that the authorities of the Republic of Moldova removed those seven persons from the country immediately in order to deprive them of any possibility to challenge the actions of the authorities, being aware of their illegality.

Security and physical integrity of forcibly removed Turkish citizens

Forced removal of persons to Turkey (without any court decision in this regard), where they are deprived of liberty, risk inhuman and degrading treatment, in the absence of judicial control and the impossibility of challenging the lawfulness of decisions in the Republic of Moldova, as well as their removal from families violate their fundamental rights and freedoms guaranteed by the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Geneva Convention on the Status of Refugees and the Protocol on the Status of Refugees, the Council of Europe Convention on Extradition, the Association Agreement between Moldova and the European Union, the Constitution of the Republic of Moldova, the Law on Asylum in the Republic Moldova as well as the Law on the Regime for Foreigners in the Republic of Moldova.

The decision on the forced removal of persons namely to Turkey is inexplicable, as the BMA itself has qualified in its decisions [the arguments of asylum seekers as grounded and credible](#), as regards the real possibility of being persecuted in Turkey.¹⁴ In this situation, the national authorities have subjected to the real risk those persons detained and forcibly removed to Turkey, where as it was known beforehand their lives could be endangered, they may be deprived of liberty (as subsequently was found) and tortured, although they could be forcibly removed to any other country. Given that the authorities of the Republic of Moldova found in their decision on refusal to grant asylum as of 4 September 2018 that those seven persons could be persecuted in Turkey, the removal of persons namely to Turkey is illogical.

The signatory organizations believe that the national authorities acted illegally, and in fact it was illegal seizure of Turkish citizens. The illegal seizure has been thoroughly planned and has been a particularly expensive one. Several groups of the SIS employees acted simultaneously to retain those seven persons. They were assisted by the police crews. Shortly after detention, all seven persons were taken to Chisinau International Airport, where a charter plane was waiting for them. In less than three hours from detention, the charter plane with those seven persons on board has already taken off from Chisinau airport. It is not clear why a charter flight was used, which is very expensive, if at least two planes fly to Istanbul every day. The air corridor for international charter flights can only be opened with a few hours' notice. The plane landed successfully in Turkey, where, as it seems, those seven persons were already waited for by the Turkish authorities. They were taken directly to the penitentiary. The SIS mentioned in a press release that the detention of those seven persons took place in collaboration with the secret services of other states.

All these elements together fully confirm that in the case of those seven persons a camouflaged extradition at the request of the Turkish authorities took place. For the extradition of a person, a compelling request is required from the country requesting the extradition of a person, the request that has to be decided upon by a court. This procedure has not been followed. It seems that the extradition was done in order to satisfy political interests, especially given the visit of the Turkish President to the Republic of Moldova, announced for October 2018, and the earlier requests by the Turkish Government to suspend the activity of „Orizont” lyceums network. In November 2016, the

¹⁴ Extract from decision no. 65/18/DAI as of 4 September 2018 issued by the Bureau for Migration and Asylum regarding Mr. Yasin OZDIL, available at: <https://goo.gl/wfqvEw>. Similar claims have been made with regard to other asylum seekers.

Ambassador of Turkey to Moldova, Hulusi Kilic, expressed the wish of the Turkish Government to shut down or nationalize the network of lyceums to Turkish or Moldovan state authorities.¹⁵ Similar statements were also made a year later by the Turkish Prime Minister Binali Yildirim during the official visit to Moldova on 5 May 2017.¹⁶ At the press conference as of 8 September 2018, Andrian CANDU, the President of the Parliament, acknowledged that similar requests were also addressed to him.¹⁷ The political nature of this measure is also implicitly supported by the [refusal of the Parliament of the Republic of Moldova to discuss in a public session the extradition](#) of those seven Turkish citizens, despite the obvious deviations from the legislation by the SIS and the BMA.

The situation of illegal restraint of those seven Turkish citizens is similar [to the events in March 2018 in Kosovo](#), based on a similar scenario. Six Turkish citizens were arrested and extradited to Turkey on the grounds of their relations with schools funded by the Fethullah Gulen movement. In this context, Kosovo authorities declared they faced enormous pressure from the Turkish authorities to take action against Gülen schools and their staff. [The report of the European Commission](#) on the situation in Turkey in 2018 signals with concern on the detention of more than 150,000 persons within the last two years, including teachers and members of Gülen movement, serious violations of human rights by the security services, including cases of torture, ill-treatment, arbitrary arrests and violations of the right to a fair trial being reported.

Signatories request:

1. The authorities of the Republic of Moldova to request the President of Turkey to return to the Republic of Moldova all Turkish citizens illegally removed from our country and to prevent such situations in the future;
2. The Prosecutor General to initiate criminal prosecution to hold criminally liable all those persons who committed crimes in connection with the „removal“ of those seven Turkish citizens;
3. The Parliament of the Republic of Moldova, to organize public hearings and publish all relevant information on this operation;
4. The authorities of the Republic of Moldova, to grant asylum and other protection measures necessary for members of the families of „removed“ persons and other foreign nationals being in similar situation, especially in the context of the visit of the President of Turkey Recep Tayyip ERDOGAN, which takes place between 17-18 October 2018.

Signatory organizations:

1. Legal Resources Centre from Moldova (LRCM)
2. Amnesty International Moldova
3. Centre for Investigative Journalism (CIJ)
4. Association for Efficient and Responsible Governance (AGER)
5. IDIS „Viitorul“

¹⁵ Press conference held by the Ambassador of Turkey to Moldova on 17 November 2016, available on-line at: <http://www.privesc.eu/Arhiva/71207/Conferinta-de-presa-sustinuta-de-noul-Ambasador-al-Republicii-Turcia--E-S-hulusi-Kilic> (from minute 11:10).

¹⁶ Press conference held by the Prime Minister Pavel FILIP and Turkish Prime Minister Binali YILDIRIM on 5 May 2017, available on-line at: <https://www.privesc.eu/arhiva/75895/Conferinta-de-presa-sustinuta-de-Prim-ministrul-Republicii-Moldova--Pavel-Filip--si-Prim-ministrul-Republicii-Turciei--Binali-Yildirim> (from minute 36:20).

¹⁷ Statements by Andrian CANDU, the President of the Parliament, available on-line at: <https://www.privesc.eu/arhiva/83574/Declaratie-de-presa-sustinuta-de-Presedintele-Parlamentului-Republicii-Moldova--Andrian-Candu--dupa-audierile-parlamentare-in-cazul-expulzarii-din-tar> (from minute 08:20).

6. „WatchDog.MD“ Community Association
7. Transparency International Moldova (TI-Moldova)
8. Institute for Public Policy (IPP)
9. Promo-Lex
10. Centre for Independent Journalism (CJI)
11. Centre for the Analysis and Prevention of Corruption (CAPC)
12. Association of Independent Press (API)
13. CPR Moldova
14. GENDERDOC-M Information Centre
15. Law Centre of Lawyers (CDA)
16. Centre „Partnership for Development“ (CPD)
17. The Institute for European Policy and Reforms (IEPR)
18. Independent Analytical Centre Expert-Grup
19. Rehabilitation Centre for Torture Victims “MEMORIA” (RCTV “Memoria”)

The list of signatories remains open