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NEWSLETTER

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Synthesis and Foreign Policy Debates

The newsletter is developed by Sorina Ștefăruță, editor-coordinator

TOPICS OF THE EDITION:

1. **Ion Sturza, businessman, former Prime Minister of the Republic of Moldova: "The new Government should communicate rather internally, and instead of Brussels - go to Comrat or Otaci"**
2. **Editorial by Marc Behrendt and Gina S. Lentine: "Moldova's crisis offers a chance to reform a captured state"**
3. **Iulian Rusu, Deputy Executive Director, Institute for European Policies and Reforms: "In a politically subjugated system, there will always be a "better" offer"**
4. **Expert Opinion. Dionis Cenușa: "Release of the European assistance for Moldova - with or without conditionality?"**

News in Brief



The European Commission announced on July 23 that it resumed budget support to the Republic of Moldova, allocating EUR 14.54 million to support the implementation of the EU-Moldova Free Trade Area, education and vocational training programmes, and the Action Plan for the liberalization of the visa regime. According to a statement issued by Brussels, the payments were resumed because the new Government made a number of important decisions, which prove that the conditions for the resumption of budget support are met, namely: the new Government has firmly expressed its commitment to implement the reform agenda within the Association Agreement; identified the fight against corruption as an absolute priority in its Programme of activity; re-established the relations with the IMF and reached an agreement at the technical level on the fourth and fifth revision of the economic programme supported by it; the Parliament has begun to work on a new legislative agenda, among the first decisions taken being the cancellation of the mixed electoral system and the implementation of the Venice Commission recommendations; an inquiry commission on the 2014 banking fraud was established; decisions were taken to support the depoliticization of state institutions and to fight corruption. The European Commission also mentions that the new Moldovan authorities have committed to conduct the local elections set for October 20th in a credible, transparent and inclusive manner.



The current situation in the Republic of Moldova, the reform programme and the foreign policy priorities, the support for the implementation of the Association Agreement provisions and the activation of the cooperation with the European institutions, but also with the Member States - these are the topics addressed by the Minister of Foreign Affairs and European Integration, Nicu Popescu, in an informal discussion at the EU Foreign Affairs Council. The head of the Moldovan diplomacy informed in detail his European counterparts about the latest developments in Chisinau. Special attention was paid to efforts to counter the phenomenon of corruption, to relaunch the reform process under the Association Agreement, to unlock access to external assistance, and to foreign policy priorities. The Minister advocated the activation of cooperation with both the European institutions and the EU Member States, by invigorating the political dialogue and carrying out concrete projects.



"Good relations with the Russian Federation, Ukraine, Belarus are important foreign policy goals, but we do not want integration with these states or with some post-Soviet organizations, including the Eurasian Economic Union. The only integration objective of the Republic of Moldova is the European Union". The statement belongs to Minister Nicu Popescu and was made in an interview for the Radio Free Europe on the occasion of a visit to Moscow planned for September in order to prepare the ground for the Prime Minister Maia Sandu's visit to the Kremlin. These will be the first contacts between the Moldovan and Russian government officials of such rank after a long break in the relations with Moscow. According to Popescu, the agenda is not finalized, but there will be discussed both the unblocking of the Moldovan agricultural exports on the Russian market and the restoration of economic ties with Moscow, without prejudice to those with the EU. Also, in September, Nicu Popescu will visit Bucharest.

The stormy summer of 2019: is it or is it not for the change to happen?



The first protest against the new Government: HoReCa calls for the maintenance of fiscal facilities

Sorina Ștefăruță

We can say anything about the Chisinau summer of 2019, except that it is devoid of dynamism and inspiration. It started out in force, by radical change (at least, as it seemed then) of political power, to continue at the same rhythmical-alert pace. So for the last two months, the news more and more resemble chronicles from the battlefield ... or a tennis match, where the

speed is so high that you can no longer understand who beats whom...

Fortunately, for now, the battles are at the level of declarations - and so we hope to stay, because the discussion characterizes the democratic societies. And yet ... Prime Minister Maia Sandu is fighting with the dragon of justice, who, due to the spear - «procedure», oscillates between the posture of windmill that

cannot be reached by Don Quixote sword and the Phoenix bird, who knows how to be reborn from the blackest ash. A little further down the Cathedral Park, the Ministry of Finance is fighting - without having specifically planned it - with a part (mainly the honest one) of the HoReCa sector. The Parliament that is officially on vacation has its own struggles - both in sight, between the representatives

► of the Power and those who unexpectedly found themselves in the Opposition - as well as within the PSRM-ACUM alliance. This despite the fact that the 100-day grace period, granted to any Government, has not passed yet. Apparently, this doesn't seem to refer to Maia Sandu's cabinet.

The criticisms brought to the Government during these two months were harsh and categorical, and the fact that they came even from the ACUM MPs amplified both the concern about the possible hidden agreements between the members of the alliance and the scepticism regarding its future. The peak was reached by the deputy Octavian Țăcu from the ACUM Bloc who, referring to the appointments for several key functions of the state (eg, the appointment of a close relative of Igor Dodon as director of the National Anticorruption Center), stated that, in fact, genuine change in coalition with PSRM is quite difficult.

„... We have entered a very dangerous game in which there is sharing of positions, ministries, contests, parliamentary commissions, and more recently of ambassadors on par with the Socialist Party. It is a highly veiled form of hybrid warfare, in which the mixture of right and left is tried in order to create a hybrid form of government that I do not know what can lead to. The risks are very high, because PSRM has many skeletons in its cupboards, one of the biggest being Igor Dodon himself. And this creates many impediments in our desire to cleanse the state and de-oligarchise it”, argued his position Octavian Țăcu.

The time will show whether Octavian Țăcu is an oracle or if he remains the «rebellious child» of the current government, as the journalists rushed to baptize him. It is true that the relations within the alliance are far from rosy, the democratic inheritance taken over at the beginning of summer has not begun yet to turn from burden into opportunity, and the quite dynamic foreign policy, although it means a lot, doesn't mean enough. Read about all these dilemmas in the July issue of the Newsletter.

The new Government should communicate rather internally, and instead of Brussels - go to Comrat or Otaci



Ion Sturza, businessman, former Prime Minister of the Republic of Moldova

For many years, Ion Sturza, the most reforming prime minister of the independent Republic of Moldova, as he has often been called by journalists and analysts, is himself caught up in the challenge of political analysis. So there are a few who have made a habit of seeing “what Sturza says” about a situation or a topical phenomenon - whether it is on TV or in a more informal setting, on the social networks... Due to his active presence in the public space - always in a critical and even harsh way, including with reference to the top echelon of the Chisinau Power -, he has become both loved and detested by both the “former” and the “current”

protagonists of the local political life. Because, almost all the time - and this has been seen over time - he knows something more than others do, and this helps him to anticipate the future ... About the future - that of the Republic of Moldova - I talked with Mr Sturza during a brief stopping in Chisinau in July.

■ *Mr Sturza, your posts in the last one month and a half on Facebook, which is also the first month and a half of the new Chisinau Power, suggest that you are quite lenient with the current government, even if you have previously criticized some of its top exponents ... It is a period of expectation or?..*

■ *It is a natural period of common sense, because too little time has passed for us to start criticizing ... At the same time, it is a natural impatience for many people.*

They are especially impatient and even disappointed with the way the change takes place, those who have suffered from the former regime, who have struggled with it. The explanation is simple: the expectations have been very high, most do not quite imagine how the state machinery works, and this new government is disappointing at times - for the time being, however, within a generally acceptable margin of error...

However, the resilience of the former regime is quite strong

■ **What is disappointing, can you tell us more exactly?**

■ Personally, I'm upset that they are taking it very linear. It is a war with a system created and strengthened, over several years, by various corrupt leaders with vested interests, which cannot be dismantled in a frontal battle. The forces are unequal, and the resilience of the former regime is quite strong. A frontal attack does not work, you need more intelligent movements, based on expertise. It is also the mistake of the Power and of the society that want beheadings, victims, blood - and all more than immediately. Like I said, it's the natural reaction of people. But this is an illusion, just as an illusion is the belief that the system could reform from within. It cannot, which is why people from outside must be brought in - or, at least, people who are not associated with the control buttons of the former regime. This is especially true for the institutions of force, which have been a tool of political pressure and settling of accounts for several governments, but also a kind of state in the state. Because they were a very well-welded gang who did pretty much everything they wanted in this country.

■ **It turns out that we can hardly subscribe to a statement that resounded on June 8th - "The regime has fallen!"?**

■ It didn't fall, because it remained in the heads of the people. And it will not fall as

long as we don't overcome our fear and mutual hatred that have dominated us. To do this, we should start a process of winding up our own habits - and do this through new people. Over the years, I have had the opportunity to interact with the prosecutor who is considered the parent of "clean hands" in Italy, with Mrs. Laura Codruța Kovesi, but also with the representatives of the American FBI, who ... insisted that Romania be cleansed of controversial and dubious personalities. They all confirmed to me that the police factor is not enough, the handcuffs are not enough. The stake is also the renewal of the political class, and the anti-corruption education. Otherwise, we can remain without elites, as it happened in Italy and, in part, in Romania at one point. At the same time, let us not be under the illusion that we will have a Commissioner Cattani or Laura Codruța Kovesi at the Prosecutor's Office. This is not realistic either. More realistic is to use the algorithm with which Kovesi was identified in Romania.

■ **Do you think such a person can be found among the current prosecutors?**

■ In Romania they proceeded almost scientifically. The desired profile was analyzed and it was taken into account not only the professional achievements of the candidates. Because the degree and the seniority in the work are rather traps here, than advantages... Therefore, the combatant psychological profile mattered - ready to sacrifice his/her life for the mission he/she undertakes, to be extremely proud of other principles than the material ones, to be concerned with the inner and not the outer form of things. Certainly, we could also find such profiles - a prosecutor of the third-fourth grade, from any district (Kovesi was prosecutor in I don't know which county in Romania), plus-minus a beginner, plus-minus young. And - essentially - he or she should not be part of the gang. For this, however, political will is needed and here, I don't exclude certain complications. Because, within the current governing alliance, political will is characteristic of

only one party. The other ... is still part of the old system. I hope, however, that the balance will be tipped by the ambitious young people in the Government who, I want to believe, have maximum honesty, who will not steal and who can bring change through their behaviour. That they may be mistaken sometimes is a different thing, what counts is the intention.

As much as a technocrat, this Government is a political one above all

■ **What benchmarks should this Government have in order to bring about qualitative change?**

■ I said it before: ethics and morals first of all. Because we fell so low when it comes to "landmarks", we accepted so many things unacceptable to a society, that the ethics and morals will be the defining ones. Because we accepted not only Plahotniuc and his acolytes, we accepted the lowest kind of politicians, such as Ilan Shor. We have seen comparable phenomena not only in the Republic of Moldova, but also in other countries, where similar specimens have sucked economies with an unimaginable cynicism. In our case this phenomenon was embodied by Ilan Shor and Sergei Iaralov, seconded by Oleg Reidman - some extremely cynical characters, who have nothing to do with the Republic of Moldova and its people, and whose erotic dream was to devalue the National Bank and to "put to work" the national currency. I know about this from the first source. But getting back to the Government, we need to talk about some technical points. Because ... life beats Harward sometimes. And the functions of an executive are not only matrix and algorithmic, from what I see the Ministry of Finance is trying to do.

■ **Which seems to have started with the wrong foot, even if the cause and the intention are right...**

■ For the Ministry of Finance I would have an excuse, since their primary mission is to accumulate money for the budget. Only their changes are not important for the fiscal system as a whole. And the functions of a government are much more complex and concern also social security, health and education reforms, which are essential for the development of a country. Therefore, you cannot act in a strictly accounting manner. All these things, however, cannot be learned only from books, they sediment with time, from a different kind of wisdom. Also we were extremely linear, but in more dramatic conditions. We had to act fast after the 1999 crisis, which is not the case today - the macroeconomic data are proof to that. So my advice to the current government is to think a little wider. Because, no matter how technocratic, the government is eminently political. This, of course, if they want to win on their side also less sophisticated sections of the population that are not willing to suffer and sacrifice. And in this context, the second suggestion is to focus more on the internal factor so as not to fall into the sweet trap of being loved abroad and less at home ... To communicate more internally, with their own citizens. Instead of Brussels – to go to Comrat or Otaci. There is energy and this should be properly utilized.

■ **How to find balance, though? External- internal? Former-current? The few competitions for key functions, which have been held so far, indicate that things don't happen as some expected, nor as others wish ... And what should we do with those who, as it seems, are professionals, but used to stay with the hand on the button?**

■ To find this fragile balance, I would say that at least three things are necessary. One: to insist on the phrase "usurpation of state power", and those who are guilty of this should be

penalized, at least, from a political point of view. Two: to outlaw the Democratic Party that was a gang of interlopers. Three: a lustration law is adopted which stipulates that, over the next five years, those who have had political functions or are politically associated cannot hold positions that imply political independence. And here I refer to the National Bank, to state secretaries, to various regulatory institutions. And then things will settle by themselves, and those who have collaborated will disappear.

The question is what Russia will want?!

■ ***One of the remaining questions with reference to the current government is how was the alliance between two groups that seemed antagonistic forever possible? And why is the imbalance between the PSRM and ACUM ministers so great?***

■ The number of ministers, most likely, is the result of negotiations. I am inclined to believe that Maia Sandu preferred to assume the full responsibility of the government, without the interference of the PSRM, which would have meant algorithm, distribution of functions, etc. I think she got as much as possible in this case, the Socialists - in a more or less deliberate form - giving up almost the entire Executive. Another thing is that the major decisions will have to be voted in Parliament anyway and there will be the first dissonances and sparks. But today it is not clear to what extent Mrs. Sandu will be able to exploit the lack of desire for early elections of the Socialists. In the meantime, obviously, the socialists are trying to get their people into different positions. At "Moldova-Gaz", for instance. Or those two candidates for the Constitutional Court, selected by the Government- Mr Esanu and Mr Grosu - I realize it's the socialists who have promoted them. But governance means compromise.

■ ***How far will the compromise go, and how long will the alliance last?***

■ I cannot tell you this today. Some blood will flow in the local elections, but a lot depends on how Igor Dodon will be positioned, which is in an extremely difficult situation, resulting from his relationship with the main sponsor from the East and with the local electorate. I don't rule out, however, that as he accepted to be humiliated by Plahotniuc, only to be installed in the "palace", he will accept it from others too. Mr Dodon is therefore extremely vulnerable and I think Mrs Sandu can play this card. As for my relationship with him ... I know too many things from the inside that draw a very clear demarcation line between me and the current President.

■ ***How plausible is, one day, a visit to the PSRM, similar to the one made by the US Ambassador at the PD headquarters, on June 14th?***

■ I don't know, they do interact quite often anyway, maybe even more often than it is the case and the diplomatic rigor stipulates. Nine meetings in the first half of the year is hilarious, even for a banana republic like ours. They must have become friends, I don't know. But it's not on the USA that Mr. Dodon depends, but on his sponsor from the East, who is extremely disappointed by the result of negotiations with Plahotniuc. Negotiations that have not been a set-up... Which is why he will be much more malleable than we can imagine. What does the Russian Federation want? –this is the question.

■ ***And what will Russia want? For the "peaceful change of power" was supported, alongside the USA and the EU, also by the Kremlin. And for many of the contestants of the new government, this detail is a great cause for concern.***

■ I'm going to disappoint you: only the Russians mattered. And the explanation

is simple: it reached the Russians' level. It didn't happen now, it all started when Plahotniuc was messing with Rogozin. It was then that Plahotniuc's end began. And the political issues overlapped with the financial and business problems in which the Russians felt screwed up. As a result, they put the machine into action.

■ **What is next going to happen in Chisinau? Renato Usatii is rumored to have been restored to Moldova to be the new, reincarnated Vlad Plahotniuc...**

■ I don't think so, it's excluded. First of all, Renato has no money - and the Russians won't give him money. Secondly, he must solve his legal problems in the Russian Federation and which are very serious. Because the group in which he was a loyal host was severely affected and dismantled both at the level of secret services, and at the level of banks and business. In addition, no one has canceled his criminal cases in the Russian Federation and in this case, of course, he can be a useful, manipulative piece - as he has always been. But as a minor mechanism, which would ring in the ear, not as a spear to replace Plahotniuc or even Igor Dodon. They will rather try via Mark Tkaciuk & Co. which has already shown its political ambitions. Certainly, the Kremlin will not withdraw from here without leaving behind a "friendly" and reliable regime, as it did in 1945 throughout Eastern Europe. Let's not delude ourselves in this regard.

The recovery of the billion is a great illusion

■ **By the way, speaking about illusions, you mentioned earlier about Ilan Shor - who for many people was a kind of illusion and still is - and that you noticed similar phenomena in other parts. Is it really a model that can work anywhere?**

■ Rather, we can speak of the "quality" of society than of the geographical

factor. We did not have statehood, we are not consolidated as a nation, and we didn't find our place in this state. So, the soil is more fertile for various "Shors" than it would be in Germany or Sweden.

■ **You have a special relationship with Vlad Filat, with Iurie Leancă, you periodically dedicate messages to them ... What are the chances to find the famous billion, including after the hearings organized by the Parliamentary Commission for the investigation of bank fraud?**

■ Another great illusion! First of all, because it's been a long time – about five years - and since then the money has gone everywhere, metaphorically speaking. Yes, it is possible to partially recover the bad loans, of which not only Shor & Co. benefited. But I do not see how we could return the money that was taken out of the country and placed in various jurisdictions. It is too complicated ... The solution I see is to make claims with the banks through which they transferred this money - top banks, which did not verify the origin of the financial flows, and thus contributed to their legalization -, but also to the regulators in the respective countries and the countries themselves. This is Germany, Switzerland, and the Baltic States. In this way, we could recover some money and, at the same time, we could create a precedent, also showing to the public opinion, and to the banks and regulators, that they should not tolerate violations of their own rules. And our country could, from a shameful case, become a happy model.

■ **You have recently published a list of those who, in your opinion, would be guilty of the bank fraud. Do you find justified the request of the Parliamentary Committee of Inquiry to start a criminal case against the former Prime Minister Iurie Leancă?**

■ Leanca has many sins that could

possibly be interpreted criminally. But in this case, I think, it was rather a political decision. To what extent that decision was prepared and influenced, who promoted it intensely and to what extent there were interests, and subsequently benefits - that is already the prosecutors' job. If it proves that Mr Leanca has actually benefited from the stolen billion, then he will have to answer.

■ **And, finally, how do you think things will move in the European context?**

■ We live in a period of major uncertainties and here I would mention two aspects. The first is that we are in the process of changing the composition of the European Commission and this will take at least half a year. New people will come, some of whom will have to identify the Republic of Moldova on the map. Fortunately, however, the institutional memory - that is, the people who actually managed the files - will be preserved. The second aspect is determined by the actual turbulence that the EU has been going through for several good years, such as Brexit. This is why many mandates (the economic ones, for instance) will be delegated to institutions such as the IMF, etc. At the political level, mandates will be increasingly delegated to member countries - an example is Germany. As far as we are concerned, the European Union remains a crucial partner and a role model for us. And I am convinced that most citizens, regardless of their ethnicity or standards of living, want the deepest association with Europe. In addition, I really believe that the Russians have somehow resigned themselves to the idea that the Republic of Moldova is on the path to Europeanization. It depends now on the ability of political leaders and government to create the necessary partnerships, promote and modernize the country.

■ **Thank you for the interview.**

Sorina Ștefăruță

Editorial

Moldova's crisis offers a chance to reform a captured state



Marc Behrendt and Gina S. Lentine

“After Moldova’s constitutional crisis was unexpectedly resolved, there is an opportunity to introduce genuine democratic reforms in a post-Soviet state whose institutions have been held captive by oligarch rule”. This is how Marc Behrendt and Gina S. Lentine begin their [commentary](#) on the events produced in the last two months in the Republic of Moldova, published in the “Reporting Democracy” section of the “Balcan Insight” portal. An analysis we are hosting, including because it offers an answer to a key question still open in Chisinau: What can be done to prevent the new success from being an old failure?.. Marc Behrendt is the Director for Europe and Eurasia at Freedom House, with over 20 years of experience working in peacebuilding, governance and human rights. Gina S. Lentine is senior programme officer for Europe and Eurasia at Freedom House, where she leads the organization’s human rights and democracy assistance efforts to civil society in Moldova and Ukraine.

Last month the unthinkable happened in Moldova: a state that was firmly controlled by its [shadowy oligarch leader](#), Vlad Plahotniuc, came into the hands of his political opponents. Moldova has long been called a captured state,

where all the levers of administrative, financial and media control over society are held by one authoritarian leader - and where even the Constitutional Court was infamous for its politicised decisions. Another unthinkable thing happened last month, with all of the pundits getting it wrong. Many believed that the competitive forces pitting the West against Moscow were too steep to broach, and many also believed Plahotniuc’s fear-mongering that, without him, Moldova would fall to the ravages of the Socialists, manipulated like marionettes by the Kremlin.

Geopolitical competition in Moldova certainly exists, situated as it is between Romania, an EU member since 2007, and Ukraine. Moldova also has had [2,000 Russian troops](#) on its territory since 1992 as supposed peacekeepers in Transnistria, a region that has been disputed since a conflict erupted in 1992 during the break-up of the Soviet Union. Unlike Georgia or Ukraine, where public opinion is firmly against Russian interference and united against Russian military aggression, the Moldovan public is [evenly divided](#) in its outlook to Europe or Russia. But what surprised Moldova-watchers the most was that the often vociferously pro-Kremlin Socialist Party, led by President

Igor Dodon, and the liberal, Western-oriented ACUM (“It’s Time”) Bloc could find common ground to form a coalition and remove the ruling coalition, the Democratic Party and its strongman Plahotniuc, from power.

Captured states have become increasingly predominant in Eurasia, a disappointing outcome following almost universal optimism when the Soviet Union collapsed in 1991. A mix of a reconsolidation of power into the hands of a narrow elite of mostly former Communist Party apparatchiks that was able to reap the financial and political benefits of mass privatisation and weak democratic institutions unable to keep the system fair for all citizens. While quite a number of “colour revolutions” throughout the region have tried to wrest power from these interests, none have been completely successful in anything but handing power to new elites. This tells us two things about Moldova - first that we need to take notice that a captured state does not relinquish power often or easily, secondly that, regardless of the relative ease of this transfer of power, Moldova has a lot of work ahead if it is going to succeed in a meaningful way.

Parliamentary elections took place on February 24, with the [result](#) that no party was in the position to form a government independently. (...) The Socialists and the Democrats, long expected to join forces, were unable to agree. This development surprised many in the international community who had predicted a potential [outcome](#) of a cynical power-sharing arrangement between them. The cynics believed that the geopolitical opposition between the two parties was a ruse, and not based on real political differences. In retrospect, there are many more nuanced analyses to be had, an indication that Moldovan politics are perhaps less predictable than many thoughts. But on the surface, the least obvious grouping is what came to pass - an ACUM-Socialist coalition, where the Socialists [agreed](#) to ACUM’s general reform agenda and gave up on their rejection of Moldova’s economic integration into the European Union. Both groups agree that targeted democratic reforms, ensuring a level playing field in the future, are in their mutual interest, regardless of their longer-term differing orientation and vision for the future. The new government is headed by Prime Minister Maia Sandu from the ACUM Bloc, who was the runner-up in the 2016 presidential elections and the leader of the Party of Action and Solidarity.

In a functioning democracy, the ultimate formation of a coalition would have led seamlessly to the establishment of a new government. In Moldova, however, the old government, in a desperate attempt to save itself, used the Constitutional Court as an instrument to reject the new coalition. (...) For three days, there were, in fact, two

governments of Moldova, one with Constitutional Court sanction, and the other with the mandate of the people through the elections. Only after nearly eight days, and due to public and international pressure, did the old government back down, [resign](#) and recognise the authority of Prime Minister Sandu’s new government. European governments, the US State Department and the Russian Ministry of Foreign Affairs all issued statements in support of the new government and worked in concert to advise all parties involved in the crisis. This is a rare event in recent years. (...)

On June 26, every single judge on the Constitutional Court resigned in corpore. An institution that was once captured can now be reformed. But how can the new government, assuming its commitment to democratic reform, simply appoint a new court, without politicising it as much as its predecessor? This story would seem to be over, with a nice tidy political solution to a failed challenge to the constitutional authority of the elections. Unfortunately, in Moldova, as well as elsewhere in the region and in the world, this in itself has become a dysfunctional and destructive pattern. Weak democratic institutions, like the Moldovan Constitutional Court, are co-opted by special interests. Challenges that must be settled through the rule of law are decided by politics, papering over the gaping hole in democracy left by an increasingly long series of compromises. For example, from June 7-9, when the incumbent parliament and President Dodon were unable to agree on the outcome of the governing coalition, instead of accepting the difficult repercussions of a political deadlock that ultimately required compromise to be resolved through dialogue, the Constitutional Court simply [removed](#) the authority of the president temporarily so that the Democratic Party-led parliament could decide, and in this case, call snap elections to foil the Socialist-ACUM coalition. In what mature democracy would we allow one branch of government to co-opt another branch of government in order to force its position on a third branch? It would be analogous to the US Congress pressuring the Supreme Court to overturn an unpopular presidential veto.

The Constitutional Court in Moldova has suspended President Dodon from performing his duties after he refused to sign laws that the parliament passed. The Constitutional Court did this no less than [five times](#) over the last two-and-a-half years. In quite a number of these instances, civil society, Western analysts, diplomats and others among the international community remained silent because their preferred resolution to the dispute prevailed, usually along geopolitical lines.

There is a lot at stake in countries like Moldova. The success of their democratic experiments can have a huge

► impact on their neighbours or even serve as a beacon of hope for more closed societies in the region, such as Belarus or Azerbaijan. However, a declarative victory of form over substance, of “pro-Western” oligarchs and dictators instead of real democratic reforms, regardless of their countries’ geopolitical orientation, will send Moldova back to the same position it held under the rule of the Democratic Party and Plahotniuc. In addition to the obvious need to reform the Constitutional Court, the new Moldovan government has a lot of work in front of it to succeed in its Euro-Atlantic ambitions and its democratic reform process.

The United States, the EU and all others wishing Moldova success in its democratic reform process should not ignore what is at stake, help them where possible and insist on concerted institutional reform. Civil society is already leaping into the new government, including leading analyst Nicu Popescu, the new Minister of Foreign Affairs, and judicial reform advocate Olesea Stamate as the new Minister of Justice. We wish them well and are sure that their expertise will be an important resource. However, civic actors need to hold the new government accountable for its mistakes and to encourage its progress towards concerted democratic reform. At this important crossroads, civil society cannot abdicate its responsibility to keep government honest and to avoid paper solutions to institutional problems.

In a politically subjugated system, there will always be a “better” offer

Julian Rusu, Deputy Executive Director, Institute for European Policies and Reforms



There has been so much discussion about the Moldovan justice reform that, as the years go by, the number of citizens who believe in the success of the reform is decreasing. Evidence to this are the opinion polls, where the justice ranks among the last when it comes to trust in the institutions. But hope, it is known, dies last, and people, no matter how disappointed they are, understand that neither individually nor as a state can we progress without an upright judicial system, as the welfare of the society depends largely on the efficiency of this sector. It is also the message continuously conveyed to us by our development partners. “The justice of the Republic of Moldova has very big problems, and the changes should include the structures that have the mission to guarantee the

independence of judges and prosecutors,” Peter Michalko, Ambassador of the European Union to Chisinau, told TV8 on August 14th. What does the justice sector look like and where is it going today, including after the change of political power produced in June? I talked to Julian Rusu, Deputy Executive Director at the Institute for European Policies and Reforms (IPRE), about all this.

■ ***Mr. Rusu, I will start from a relatively recent event which is called “Adriana’s Betisor resignation” - the prosecutor who has become the symbol of the ‘democratic’ justice. Do you think that, in a similar way, we could talk about this resignation as a symbol of the restoration of justice in the Republic of Moldova?***

■ As far as I understand, this time Adriana Bețșor resigned from the prosecutor's office, ie from the system in general, because previously she had resigned only from the position of head of the Anticorruption Prosecutor's Office, which she had taken over after Viorel Morari's retirement. I think there are many reasons for her resignation, the most important being the arrival of a new interim Prosecutor General. To what extent her resignation is a real signal of the healing of the system remains to be seen.

There are at least two major topics that are not journalists' inventions

■ How do you characterise the Moldovan justice system today?

■ Several actions have been taken to reform this system over the last three years, but the process has not been completed. There have been made attempts to create a new Prosecutor's Office, through the 2016 Law and the Law on specialized prosecutor's offices, and actions have been taken in order to strengthen the sector – for instance, giving a bigger role to the judicial inspection or giving more powers to the Superior Council of Prosecutors. That was to provide for structures that clean the system from the inside. Because - and this continues, unfortunately - the great problem of the Moldovan justice is the feeling of lack of integrity of the system. A feeling generated by the journalistic investigations, which showed that the most resonant money laundering schemes in the Republic of Moldova, such as the bank fraud and the "Russian laundromat", involved judges, prosecutors, judicial executors and local lawyers. These schemes aimed at channelling funds of unclear origin from the Russian Federation or other jurisdictions to different offshore accounts, where it is already difficult to determine who the actual beneficiary is and it is almost impossible to take actions to recover the money. Because, by definition,

these jurisdictions are a kind of a black hole in which the Moldovans, through the judicial system, have fully participated. It is a cancer of the global banking system, which can only be exterminated by a joint effort. This is why, earlier this year, the EU approved new regulations that would restrict the legalization of doubtful funds in offshores.

■ ***You mentioned journalistic investigations as a starting point, but also as a barometer of the state of affairs in the system. I am afraid, however, that the actors in the justice sector would not really share your point of view - on the contrary, they would accuse reporters of ruining their lives and preventing them from living, and that the press is making it up...***

■ As I said earlier, there are at least two major topics that are not media inventions. The first relates to the "Russian laundromat" - and proof to that is that criminal cases were opened against 16 judges apparently involved in the crime. The cases were instrumentalized by the Anticorruption Prosecutor's Office, and its former chief, Viorel Morari, stated at one point that he had various problems at the trial stage of the case. This is because it is difficult to secure the judgment of some judges by other judges. It is about an obvious conflict of interest, but also about the fact that our criminal procedure provides for abstention. And there are countless examples when the magistrates abstained themselves from examining cases involving their colleagues with whom they have had various activities. In addition, the actual body of judges is not very numerous- there are about 400 people in total and as many vacancies. All this makes it difficult to examine the cases.

■ And which is the second topic?

■ The way in which the assets and interests are declared, which - and this is the good part - today anyone can consult. But bizarre aspects persist, such as declaring income from family events, weddings or donations, in addition to offering expensive properties

or goods for usage like real estate, new cars ... Here the press certainly does not make mistakes, but is based on facts. The National Integrity Authority (ANI) should take actions that should lead to penalties. For the incoherence between the legal incomes offered by the positions held by certain persons and their true properties is absolutely evident. Unfortunately, we are just here at the beginning of the process. Because one thing is to compare the asset declarations with the reality and another is to see if there are other assets, which are not reflected in the declarations.

"Integrity amnesty" can be just as inefficient as tax amnesty

■ ***However, those whom in winter, at the start of the election campaign, ANI refused to issue integrity certificates, are very few...***

■ De facto, law provides for an extract that confirms or denies the existence of court decisions establishing the incompatibility of functions. I mean, the right to participate in the elections and ... that's all. That is why certificates have been issued to such controversial personalities as Ilan Șor. The name of the certificate, the notion of "integrity" present in it, has only misled, discredited and further compromised the fragile system of integrity, which is currently being set up. We are all interested in having upright officials and politicians, but also the concept and the form of this certificate should be revised.

■ ***Let's admit that we come to the day when ANI is fully functional. How "in-depth" should the investigation of controversial assets be? How far should we go "in the past"? Maybe it's better to draw the line and look into the future?***

■ You're not the first I hear this idea from - a kind of "integrity amnesty" - and I think it's a wrong message. We had tax amnesties and they proved inefficient. Rather, it was a comfort exercise for a very small circle of people. There is a risk

that this failure will repeat itself in this case - and thus we will only perpetuate corruption. That is big corruption, which, in turn, generates small corruption. Because the big corruption limits the opportunities of ordinary people and leads them to the level of survival, and this determines the members of society who, although lacking an essential decision-making power, still have certain levers - doctors, teachers, other professionals- to resort to acts of corruption. So, in order to eliminate petty corruption, we will need to fight the big one. The second element is the personal example: both the good example of pride and integrity, and the one that generates fear. So that people are no longer lead by the principle: why cannot I do it once the higher ranking allow it? But, on the contrary, the people should understand that if someone "with a high function" has been judged and imprisoned, they must be careful, otherwise they risk getting there too!

■ **Regarding the personal example, after June 8th, several exponents of the legal system made public disclosures about abuses of the law that took place inside the institutions they work for. Are these evidences of integrity or, perhaps, attempts to reconsider and adjust positions?**

■ I think it's both. Certainly, there are upright people in the justice sector who do their job honestly - to the extent that the system allows them, of course. Now, we have the chance to promote new leadership in the sector, including through these people. It is important to be encouraged and - together with the public declaration of the political will for reform - to be offered additional guarantees. It is about basic things, such as paying or ensuring a decent living. Yes, wages have risen, but compared to the work these people do, the existing guarantees are too small. I would accept to walk on broken roads for the next five years, but have instead judges who, by their decisions, will not admit that we walk on the same roads for another 20 years.

In order to join the system, the upright people need additional guarantees

■ ***Quite an impossible mission to convince people of such sacrifice...***

■ We can call it investment that the society can assume in order for the system to reach that level of integrity and efficiency, when the corruption rate is negligible. As a proof I would mention the situation of public procurement, which accounts for about 35-40% of the budget of about 60 billion lei of the country. It is an area that is still far from being transparent, but an investment in justice would also contribute to the efficient use of funds aimed at public procurement. If we do not change anything in courts, we will continue having tricky public procurement that doesn't respond to the needs of taxpayers, but favors narrow interest groups. The same is true of other sectors. In addition, let's not forget that the decision-making process was politically controlled. And in a politically subjugated justice system, no matter how upright the judges are and no matter how well they are paid, there will always be a "better" offer, which comes either from the great corruption or intimidation: "you can see that we can open a case to you "or" see that in four years you will come to reconfirm your mandate, be careful how you act ". If you really want upright people to come into the system, they need to be protected. Otherwise, we will sacrifice the few we have.

■ ***Why, if we do have professionals and honest people in the system, the justice reform - which has become a scandal, but for which external partners, especially the European Union, have pumped millions of euros - has failed?***

■ The problem with this reform is that, from the beginning, it was built on a weak foundation. You cannot expect from people with integrity problems to change their "approach" overnight. And those who did not subscribe to this generalized pattern were too few to constitute the critical mass.

In addition, let's not forget that politics always regards this sector as a very attractive asset, respectively the temptation to control it is very high.

■ ***And now the risk of political control is gone? The candidates for the Constitutional Court, Igor Dodon's person at the National Anti-Corruption Centre (CNA), the ping-pong with the people from the National Institute of Justice...***

■ Risks do exist and the way in which a number of people have already been appointed in some key functions speaks to the seriousness of the situation. The fact that persons who, at the moment, could take some right actions are appointed through wrong processes does not justify the incorrectness in itself. In this regard, the last two months have been like a small test for us, which we have not passed – look at the appointment process of the interim Prosecutor General - but from which we can draw lessons. In order to avoid such situations and to not bring damages to the image of the sector, the selection process has been much more methodical and rigorous. The profession of "good boy" does not exist. We are interested in professionals and upright people. An important actor, who can act to remove or at least to mitigate these risks, is civil society.

It's a worrying sharing...

■ ***Regarding these contests, Octavian Țăcu says that "we have entered a dangerous game of sharing functions", and the analyst Dionis Cenușă states that "we have no revolution, but only a redistribution of power". Where are we, de facto?***

■ Any change of political power implies a change of leadership in political positions. This should not be the case for structures that have to be independent by definition and by law – CNA and the Prosecutor's Office. The suspicions that the CNA was offered to the Socialists and the General Prosecutor's Office to the ACUM Bloc, and in this case, to the PPDA, exist and, as lawyers

say, are reasonable. It is a worrying sharing and I hope we will not repeat the same mistakes for the next Prosecutor General, who has a seven-year term in front, and bring in this office an upright person, who will not be appointed on the basis of political interests.

■ **How realistic is a Laura Codruța Kovesi variant for this function?**

■ The Socialists' messages are clear-cut: they do not want a prosecutor from outside. And for the Republic of Moldova, it is much more important for Ms. Kovesi to obtain the mandate of European Prosecutor and from there to provide us with the support we need.

■ **How will the developments in the justice sector influence our relationship with the European Union?**

■ There is already a reset of relations and proof to that is the resumption of external assistance. The question is how much the EU is willing to take over part of its mandate on justice reform, as it did through its missions in Albania and Kosovo. For Europeans it is risky, because a failure can discredit them - especially that the Republic of Moldova has had so many failures... It is a sensitive issue, to which there is still no answer. And in this context, I remember the discussions we had in 2014, regarding the bringing of an EU mission in the justice sector. Some voices said then that we cannot compare ourselves with Kosovo, as we are not a transitional justice. And now, after five years - with all the existing problems, with the excessive political control, lack of integrity and unjustified assets - we have just become a justice in transition. Perhaps, if we had taken decisive actions then, the situation in the country today would have been different. Now, however, we are doomed to take it ... from the start. And we will take it, because the justice system is crucial for the public money, and this is essential both for the state and the citizens.

- **Thanks for the interview and wish you success!**

Sorina Ștefăruță

Expert Opinion

Dionis Cenușa: Release of the European assistance for Moldova - with or without conditionality?



As we announced, telegraphically, on the front page of the July Newsletter, the European Commission announced the release of assistance programmes for the Republic of Moldova, allocating a first tranche of 14.54 million euros. The three programmes for which support is provided are: **Implementation of the Free Trade Area with the EU, due to which, between 2014-2018, Moldovan exports to the EU increased by 62%; education and vocational training programme based on the dual education, which supports emancipation of the young generation in the sense of developing its skills and improving its professional insertion capacity; the support programme of the Action Plan for the liberalization**

of the visa regime, which helped the authorities to continue to comply with the benchmarks to benefit from the respective regime. How high will the EU conditionalities vis-à-vis the current government be and how much will they be taken into account? It is the question that the political analyst Dionis Cenușa is trying to answer in his analysis for the Info-Prim Neo.

Extremely positive echoes inside

Political changes in Moldova send extremely positive echoes abroad. The change of the law on prosecutors' office, the corrections to the electoral code to return to the proportional system, and the impetus to the investigation of "the theft of the billion", etc., generate

very high expectations toward the new government. These expectations do not correlate with the real capacity and willingness of all institutions to translate into practice the political will of the new government. The latter struggles to put first the fight against the, already ousted, oligarchic regime, but also to bring the state affairs and assets in order, starting with the urgent balancing of the public budget. Certain actions, ranging from political pressure on civil servants to proposals for tax changes without public consultations, have diluted initial optimism of civil society and the business sector. The government's criticism is, however, inferior to the degree of political support granted for reforming the state at the root. In parallel, President Igor Dodon regularly signals critical areas in the government work, such as tax revision without public consultations and attempts to capitalize on tactical distancing from the governing partners in the ACUM bloc (*Socialistii.md*, 26 July 2019).

Substantial external legitimacy

The symbol of the anti-oligarchic struggle remains visible within the ACUM bloc through continuing the "liberation of the state and the institutions of law captured by the oligarchic regime" (*Agora*, 19 July 2019) or by emitting the request to place the oligarch Vladimir Plahotniuc under individual international sanctions (*ProTV*, 22 July 2019). At the same time, the institutions are under the pressure of political and anti-oligarchic cleansing against the formerly loyal to Democratic Party people. On the one hand, the renewal of institutions takes time if they follow the criteria of transparency, competition and competence. On the other hand, the same process can lead to the replacement of the old guard with new people, but already associated with the Socialists (PSRM), the Action and Solidarity Party (PAS) and the Platform DA.

The government's gestures have rapidly cemented substantial external legitimacy so far. The close contacts of Prime Minister Maia Sandu with the European officials, established at the time when she embodied the extra-parliamentary opposition, and the channels of communication held by Foreign Minister *Nicolae Popescu*, facilitated the revival of the dialogue with the EU (*IPN*, 15 July 2019). So, more than a month after it came to power, the government's representatives managed to meet with the head of the new European Parliament, David-Maria Sassoli (*Gov.md*, 24 July 2019), to present the case of Moldova in the informal discussions at the EU Council of Foreign Affairs (*EEAS*, 15 July 2019) and on two occasions to discuss with Johannes Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations (*Gov.md*, 3 July and 24 July 2019). At the same time, the Chisinau government has received political support from the Romanian MEPs from two large groups of the European Parliament- the European People's Party and the Renew Europe Group- which together hold about 38% of the new European legislative body. MEPs' main expectations from the Moldovan leadership are about "cleaning up the justice system" (*Gov.md*, 25 July 2019) and organising free and fair local elections in the autumn (*Gov.md*, 24 July 2019). All these elements of re-launching the political dialogue with the EU contributed to the unblocking of the European financial help worth more than 60 million Euro, suspended in 2018, after the Chisinau elections were invalidated (*Reuters*, 4 July 2018).

Faster than in 2016 - why?

Moldova repeats the exercise of re-opening the European financial assistance just 4 years after its first suspension, caused by the banking

system fraud, revealed after the 2014 parliamentary elections. This time, restoring the access to European funding took place at a rapid pace, without setting any (pre-) conditions. On the contrary, the EU has made a political assessment of the actions taken by the new government in the first two months of the mandate. In other words, the unblocking of assistance in 2019 relies more on the credibility and intention of the government and the parliamentary majority rather than on exploring definitive and concrete results.

The careful assessment of the circumstances in which European assistance to Moldova was frozen and unblocked in 2015-2016 and 2018-2019 indicates a number of discrepancies in the EU approach towards Moldovan political actors (*See the table below*).

Firstly, the EU imposed a series of conditionalities for the Democratic Party in early 2016 (*EU*, 15 February 2019), whose assessment was essential to restore budget assistance. When resuming budget support in 2019, the EU did not set any specific conditionality for the PSRM-ACUM coalition (*EU Council*, 20 June 2019). On the one hand, the EU requirements for unblocking assistance in 2018 were addressed to the Democratic Party, suspected of cancelling the results of the Chisinau elections through a controlled justice. On the other hand, the establishment of the government in 2019 took place as a result of the failure of Vladimir Plahotniuc's attempt to perpetuate his power, subordinating the Constitutional Court and other state institutions (*3DCFTA*, 19 June 2019). For these reasons, the conditionality linked to the EU budget assistance to Moldova seems to have lost its relevance, at least temporarily, with the defeat of the oligarchic regime. But this will be further tested when the negotiations on macro-financial assistance, halted in 2018, are resumed. This entails both political

preconditions and sectoral conditionality (IPN, 24 September 2018).

The EU, less demanding in the case of the current government

The second point of differentiation is the change of attitude towards the actions of the government in Moldova. During the period of the Democratic Party, the European institutions demonstrated a strict attitude (EU Delegation, 23 December 2016), which contrasts with the friendly and non-exigent treatment of the PSRM-ACUM governing coalition. The lack of exigency on the part of the EU results from the actions of the new Moldovan authorities, considered as sufficient progress in restoring budget support in 2019. Thus, out of four aspects identified as success by Commissioner Hahn (EU, 23 July 2019), only two refer to accomplished facts, but they do not have the reform part – re-launching of relations with IMF and setting the date for local elections. At the same time, the third action is purely declarative - the promise to carry out the reforms in compliance with the AA / DCFTA and the fourth lies in ongoing actions - the Parliament's initiation

of investigation into the case of one billion theft from the banking sector by the Parliament, etc. Consequently, it is noticeable that the EU sympathizes with the PSRM-ACUM coalition for its role in fighting the oligarchic regime, but also for the first steps in delivering certain reforms.

Last but not least, the speed with which the European institutions have unfrozen the budget support in 2016 and 2019, respectively, stands out. Due to the lack of conditionality, motivated by a euphoric approach to the governing anti-oligarchic forces (ACUM bloc), the EU activated its financial support in less than 2 months. In 2016, because of the enormous distrust against the Democratic Party, strongly associated with the bank fraud, which led to the release of the money only after ten months from establishing and evaluating the degree of fulfilment of EU conditions.

Instead of conclusions...

Although the re-launch of the EU-Moldova relations is somewhat at an early stage, trust in the integrity and

sincerity of the government in Chisinau has already triggered the re-launch of financial aid without further conditions. In spite of the negative precedents that led to the suspension of European assistance for Moldova in recent years, Brussels stands in favor of the PSRM-ACUM coalition without putting too much emphasis on conditionality. The EU's expectations overlook the complications that may soon arise in the relations within the parliamentary majority. There are clear signs already that the country's president shows determination to halt the unpopular movements of Maia Sandu's government, enhancing the protagonist status for himself and the Socialists. This can precipitate the hidden animosities within the parliamentary majority, where the Socialists will gradually sharpen their rhetoric against the executive.

The conditionality should belong to the mechanism for granting any kind of European financial assistance, regardless of the degree of harmony in the EU-Moldova dialogue. Inevitably, conditionality will come into play when the debate on macro-financial assistance starts.

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