

Report on the results of the

HUMAN RIGHTS MONITORING MISSION TO THE REPUBLIC OF MOLDOVA

in the period between
26 and 28 July 2018



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1. Executive summary

A human rights monitoring mission took place in Chişinău, Republic of Moldova, from 26 to 28 July 2018. The mission was led by **Mr Antonio Stango**, President of the Italian Federation for Human Rights, and **Ms Paola Gaffurini**, Advocacy Officer for the Open Dialog Foundation.

The purpose of this visit was to monitor the honouring of the obligations of the Republic of Moldova, within the ratified international treaties and the EU–Moldova Association Agreement and assess the general situation with regards to the respect of human rights, the rule of law and political pluralism.

Thanks to the support of the Embassy of the Republic of Moldova to the Italian Republic, delegates were able to meet and exchange views with the State Secretary of the Ministry of Justice and the Deputy Prosecutor General. The mission also met with representatives of the Italian Embassy to the Republic of Moldova, NGOs and think-tanks, whistle-blowers, members of opposition parties, independent journalists and endangered lawyers and judges.

The mission aimed to gather first-hand testimonies to evaluate the current situation in Moldova and was able to collect many valuable insights from different viewpoints. The following report presents what emerged from these meetings, including references to external sources and testimonies, and provides key findings and recommendations for further cooperation with authorities and civil society both within Moldova and abroad.

The discussion with CSOs addressed the issue of the concentration of power into the hands of the Democratic Party of Moldova (PDM), which has undermined democracy in the country by tightening control over different crucial sectors, from executive and legislative bodies, to the judiciary and the media. In particular, one of the main challenges to democracy and the rule of law has been represented by the electoral reform, which was characterised by several violations of democratic standards.

CSOs commented on the unacceptable events that led to the invalidation of the results of the democratic election of the mayor of Chişinău, as an example of the unsettling consequences of the grip that power politics has established over the democratic process. Moreover, issues such as money laundering schemes, abuse of power by oligarchic clans, the persecution of independent judges, lawyers and human rights defenders and the practice of exploiting pre-trial detention were tackled.

2. **The Captured State: usurpation of power in the Republic of Moldova**

On Thursday 26, the human rights delegation held a series of bilateral meetings with civil society representatives, namely: **Ms Lilia Carasciuc**, Executive Director of Transparency International Moldova, **Mr Stefan Gligor**, Co-founder and Justice and Advocacy Program Director at the Center for Policies and Reforms, **Mr Valeriu Paşa** and **Mr Sergiu Tofilat**, activists for WatchDog.MD.

During the visit, the mission members were informed about Moldova's financial flaws and the appropriation of the country's state apparatus by an oligarchic clan whose chief is Vladimir Plahotniuc, an influential Moldovan oligarch and the controversial chairman of the ruling Democratic Party of Moldova. CSOs highlighted how the country's severe democratic decline is directly linked to the rise of Plahotniuc's concentration of power in the last few years by means of blackmail, corruption and the use of selective justice towards his opponents. Through a widespread network of proteges and collaborators, Plahotniuc established his hegemony on the executive and legislative bodies, the judicial system, media ownership and the anti-corruption institutions, as well as the financial flows of the country.

It is important to underline that both the PDM and Vladimir Plahotniuc have unpopular rates of electoral support (PDM 6%) and achieved only 19 seats in the last 2014 parliamentary elections. Currently, however, PDM benefits from a majority of around 60 seats, coming from the Liberal Democratic Party, the Liberal-Reform Party and the Communists. The current parliamentary composition highlights that clientelism and bribery are well established practices within the Moldovan Parliament.

At the same time, despite the pro-European facade that PDM intends to promote at the EU and international level, direct connections with the Russian Federation have been indicated. The issue of how Chişinău continues to receive electricity supplies from Transnistria, powered by a Russian state-controlled company, as well as the issue of Moldova's increasing debt towards Gazprom, the largest shareholder of "Moldovagaz", caused by Transnistria's consumption of gas are still unsolved. Moreover, the existence of a political tandem between Plahotniuc and the so-called "pro-Russian" and opposition President, Igor Dodon, has been proven by the consensual drafting and approval of the new electoral reform. Finally, the intended plan to build a Cryptocurrency mining farm by the Russian Federation on the territory of Moldova, whose legislation does not regulate Bitcoins could result in another money laundering machine¹.

International money laundering schemes and fraudulent financial flows carried out by high-ranking officials constitute another threat to Moldova's national security and stability, with dangerous consequences for the whole region. Illustrative examples were given by **Transparency International Moldova**, which reported a series of financial scandals and controversial bills: the so-called "**Russian laundromat**" in which the Moldovan justice system played an active role between 2012 and 2014 in the laundering of twenty-two billion USD of Russian provenance; the "**theft of the century**" during which one billion USD (12% of Moldovan GDP) was stolen

1 <http://www.transparency.md/wp-content/uploads/2018/04/Observator-Nr.-7-1.pdf>

from Moldova's banking system with the direct involvement of state officials² and legislative initiatives to legalise the stolen money from the aforementioned schemes and other money of illicit origin. Among them, Transparency International Moldova recalled: the Draft Law on Liberalisation of Capital and Fiscal Stimulation³, the Draft Law on Decriminalization of Economic Crimes⁴, amendments to the Citizenship Law⁵ and attempts to award Moldovan citizenship⁶ to private enterprises, and the recently adopted Capital Amnesty Law⁷. The latter was approved on 26 July 2018 by the Moldovan Parliament, in a non-transparent manner and just one day before the summer break of parliamentary activities. There were immediate reactions from the U.S. Embassy to Moldova⁸, the International Monetary Fund (IMF)⁹, the World Bank¹⁰, the Head of the EU Delegation in Chişinău (Mr Peter Michalko¹¹) and the Council of Europe¹².

The decriminalisation of financial crimes, misleading information and stagnation of the investigations into the billion-dollar theft are a clear sign of the authorities' attempts to legalise money of dubious provenance and to protect the high-level officials involved from criminal responsibility. Moreover, international fraudulent flows of money may pose a threat to the European democracies by financing destabilising activities in the region.

On the same day, delegates also met with **Mr Gheorghe Petic**, former officer of the Ministry of Internal Affairs and in charge of border control between Moldova and Romania, who explained how cigarette smuggling constitutes an important source of profit amounting to thousands of euros per day. After Mr Petic denounced the trafficking and disclosed incriminating videos, he lost his job and became victim of intimidation and physical attacks. On the same morning, three police veterans injured him in the arms and hands and threatened him not to reveal the name of the smuggler involved. Mr Petic stated that such illegal traffic is run by border control police chiefs linked to PDM and the Socialist Party of Romania. Mr Petic reported that after his testimonies he was subjected to defamatory actions aimed at discrediting his integrity.

Similarly, **Mr Sergiu Cebotari**¹³, a former employee of the state company "Posta Moldovei" (Eng. Post of Moldova) who disclosed the smuggling of anabolics through the state postal service run by a close family member of Plahotniuc, told the mission that the criminal prosecution against him continues. The meeting with Mr Cebotari took place on Friday 27.

2 <http://www.transparency.md/2016/12/20/radiography-of-a-bank-fraud-in-moldova-from-money-laundering-to-billion-fraud-and-state-debt/>

3 <http://www.transparency.md/2016/12/12/the-adoption-of-the-law-on-the-liberalization-of-capital-and-financial-incentive-undermines-anti-corruption-efforts-and-discourages-honest-taxpayers-and-state-servants/>

4 <https://crjm.org/wp-content/uploads/2017/12/2017-12-13-Apel-MJ-nepromov-decrimin-infr-economice-ENG.pdf>

5 <http://www.transparency.md/2017/08/22/position-paper-the-new-amendments-to-the-citizenship-law-a-risk-of-legalizing-fraudulent-financial-means/>

6 http://www.transparency.md/wp-content/uploads/2018/04/Observer_8F.pdf

7 <http://www.transparency.md/wp-content/uploads/2018/07/Observer-Nr.-11.pdf>

8 <http://tribuna.md/en/2018/07/27/ambasada-sua-legea-privind-declaratia-voluntara-si-stimularea-fiscala-contravine-angajamente-lor-pe-care-guvernul-republicii-moldova-si-le-a-asumat/>

9 <http://tribuna.md/en/2018/07/27/fmi-pachetul-de-modificari-bugetar-fiscale-si-masuri-de-amnistie-a-capitalului-nu-se-aliniaz-la-obiective-le-programului-sustinut-de-fmi/:https://www.imf.md/press/press/press1-180726.html>

10 <http://www.worldbank.org/ro/news/statement/2018/07/27/world-bank-moldova-statement-on-the-tax-initiatives-and-capital-amnesty-package>

11 <http://tribuna.md/en/2018/07/27/reactia-sefului-misiunii-ue-la-adoptarea-pachetului-de-masuri-privind-amnistierea-capitalului-si-stimularea-fiscala/>

12 <https://www.coe.int/en/web/portal/-/moldova-council-of-europe-anti-money-laundering-committee-concerned-about-misleading-media-reports>

13 <https://en.odfoundation.eu/a/8460,report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu>

3. **Political pluralism stripped away: the electoral reform and the invalidation of the election of Chişinău's mayor**

Between Thursday 26 and Friday 27, Mr Stango and Ms Gaffurini visited the premises of **Platforma DA**'s office (The Dignity and Truth Platform Party), an opposition party that positions itself as pro-European and anti-oligarchic. Mr Stango and Ms Gaffurini had the opportunity to meet with the leader of Platforma DA, **Mr Andrei Nastase**, Chişinău's elected mayor, and Party members **Ms Inga Grigoriu**, **Mr Liviu Vovc** and **Mr Iurie Tesa**.

Mr Andrei Nastase won the June 3 mayoral elections in Chişinău, but the Moldovan courts annulled the elections results. Mr Nastase explained the events which led to the unlawful invalidation of his election as mayor of Chişinău following a decision by the Supreme Court of Moldova on 25 June 2018. The invalidation of Mr Nastase's election has raised harsh criticisms from: the US Department of State¹⁴, the European Parliament¹⁵, the VP/HR of the European Commission Federica Mogherini, Commissioner Johannes Hahn¹⁶ and the Congress of Local and Regional Authorities of the Council of Europe¹⁷, which deemed it a dangerous precedent for future elections.

In addition, the ODF and FIDU collected the testimony of a member of the party and former public officer, Mr Iurie Tesa, who was subjected to threats and surveillance due to his political activity. Mr Tesa recounted to the ODF and FIDU that the Moldovan authorities put pressure on him in his workplace following his involvement in opposition activities and after his disclosure of video materials denouncing the endemic corruption in the country. Eventually this resulted in him being fired. Additionally, Mr Tesa reported that, on 24 June 2018, an officer of the Moldovan Intelligence Service threatened him. Similarly, on 25 and 27 June 2018, during the anti-government protests held in front of the Moldovan Parliament, persons in plain clothes intimidated him.

Representatives of both CSOs and Platforma DA underlined the lack of independence of mayors in the country. They estimated that around 726 out of 900 mayors are totally controlled by Plahotniuc and his clan, while the remaining independent mayors have become the target of dubious criminal cases. There are reasons to believe that such episodes are the direct result of the blatant interference of oligarchic elites in the political process and judicial institutions, which severely hinders the fundamental civil and political rights of Moldovan citizens.

With civil society activists, the mission examined the controversial aspects of the newly adopted electoral law voted in by the Parliament of the Republic of Moldova in July 2017 despite the negative opinion of the OSCE/ODIHR and the Venice Commission¹⁸. The electoral system of Moldova was changed from one based on party lists to a mixed system (with half of the members of the

14 <https://www.state.gov/r/pa/prs/ps/2018/06/283445.htm>

15 <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2018-0303>

16 https://eeas.europa.eu/headquarters/headquarters-homepage/47472/statement-hrvp-mogherini-and-commissioner-hahn-invalidation-mayoral-elections-chisinau_en

17 <https://www.coe.int/en/web/congress/-/congress-president-expresses-concern-after-the-invalidation-of-the-elections-in-chisinau>

18 <https://www.osce.org/odihr/elections/moldova/228581>

parliament to be elected from party lists, and the other half in single-member majority constituencies). The mixed electoral system increases the chances of pro-government political forces in the forthcoming parliamentary elections.

According to the analysis provided by CSOs, the move to the mixed election system represents an attempt by Plahotniuc's regime to ensure its influence on the state apparatus and his business. While the mission was taking place, the date for the next parliamentary elections was fixed for 24 February 2019. As pointed out by CSOs, the chosen date represents the latest date possible, considering that the parliamentary mandate expires in November and the three-month limit has to be respected. There are reasons to believe that the Parliament opted for such a decision in order to implement the electoral changes within the constituencies and hinder the electoral campaign during the winter season.

Having the opportunity to listen to other opposition parties, such as **Our Party** and **Red Bloc** gave further insights into the tendency to exclude competitive forces from the democratic race by means of fabricated criminal cases, pressures on candidates' relatives and the invalidation of their elections.

Among the most illustrative examples we recall the case of **Mr Grigore Petreenco**, leader of Red Bloc and currently a political refugee in Germany¹⁹.

4. **Media ownership and media freedom**

The monopolisation of media ownership and media market was highlighted by **Mr Petru Macovei**, executive director of the **Association of Independent Media and Head of the National Platform of the Eastern Partnership Civil Society Forum**. He underlined the worrying situation with regards to the monopolisation of mass media by Plahotniuc. The space for independent media is narrowing and public television is becoming a tool of state propaganda. Another serious concern Mr Macovei communicated to the mission members is the lack of accessibility for independent media channels to the media market, which makes them dependent on international donors. He reported that independent media accounts for just 15% of total outlets in the country. Currently, Plahotniuc owns four of the five national TV stations (Publica TV, Prime TV, Canal 2TV and Canal 3TV), as well as three radio stations (Publica FM, MuzFM and Maestro FM).

Journalists face obstacles in exercising their profession: the authorities often refuse to give them proper access to relevant information, while psychological intimidation through social networks or other forms of pressure against them are commonly used.

During the mission, interviews and exchange of views were held with independent media outlets, such as **JurnalTV**, **Ziarul de Gardă** and **Omega**.

¹⁹ <https://en.odfoundation.eu/a/8460,report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu>

5. **Endangered lawyers and judges: individual cases of politically motivated prosecution**

CSOs, human rights defenders and independent journalists emphasised the lack of independence in the Moldovan judicial system, which is marked by the use of biased criminal prosecution and selective justice. The majority of the country's judges are dependent on political patronage and their appointments are not based on criteria of integrity and merit but political ones. Meanwhile, independent judges are being harassed with arbitrary disciplinary actions and dismissals, prosecuted on dubious criminal charges and marginalised.

The most pressing examples of judges who have been brought before criminal courts were recalled on July 28, when delegates met with some Moldovan judges who had fallen victim to politically motivated prosecution for having exercised their profession independently. Present at the meeting were: **Ms Domnica Manole**²⁰, judge of the Appellate Chamber of Chişinău, **Mr Marian Matcovschi**, judge at the Leova Court, and **Mr Gheorghe Balan** and **Mr Dorin Munteanu**, judges at the courts of Chişinău.

Gross violations in the election for the composition of the Superior Council of the Magistracy (SCM), which consists of 12 members, have also been reported. Heavy political influence in the selection process and direct appointment of judges loyal to the ruling élite were uncovered and the merit-based criteria were completely disregarded. Judges remarked that election rigging was used to obtain a majority of judges connected to Plahotniuc's circle. Particularly, the presence of three candidates appointed by the Moldovan Parliament and that of the Ministry of Justice and the General Prosecutor as honourable members raises serious concerns over its impartiality.

The current composition of the SCM reflects the interests of Plahotniuc. Particularly, impar Judges have been unlawfully punished for denouncing

Not only judges but also lawyers involved in the defence of sensitive and political cases are being harassed, defamed through slandering media campaigns and subjected to illegal searches. Often recalled during our meetings with journalists and judges was the case of **Ms Ana Ursachi**²¹, a Moldovan lawyer and human rights activist who was forced to flee her country after the authorities filed a fabricated criminal case against her because of her participation in high-profile cases sensitive to the interests of Plahotniuc and his proxy.

The ODF and FIDU are thankful for the opportunity to meet with government authorities, particularly with **Mr Anatolie Munteanu**, State Secretary of the Ministry of Justice, and **Mr Alexandru Clacdu**, Deputy Prosecutor General in charge of the Department of International Cooperation and European Integration of the Prosecutor General's Office, and encourage continuous cooperation on the aforementioned issues.

²⁰ <https://en.odfoundation.eu/a/8460,report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu>

²¹ <https://en.odfoundation.eu/a/8460,report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu>

6. Abuse of pre-trial detentions, incidents of ill-treatment and lack of investigations into deaths in detention facilities

On July 26, **Mr Vadim Vieru**, lawyer for Promo-LEX, raised concerns over the persisting violations of pre-trial detention terms, individual cases of ill-treatment and the lack of investigations into deaths inside detention facilities.

Clear violations of pre-trial detention and illegal arrest were found in the case of **Mr Serghei Cosovan**. Mr Cosovan is being held in detention facility no. 13 in Chişinău without medical assistance. This detention facility is known for being overpopulated and for the detainees' poor conditions. The case of Mr Cosovan came to the attention of Amnesty International²², the UN Special Rapporteur on torture and the World Organisation Against Torture²³. Promo-LEX informed the delegates that his case has been brought to the European Court of Human Rights.

Worryingly, the case of **Mr Andrey Braguţa**, who died in a Moldovan prison during his pre-trial detention, remains uninvestigated. In the detention facility, Mr Braguţa was subjected to harsh battery by his cellmates²⁴.

Mr Vieru stressed the fact that few human rights lawyers have remained in Moldova and that the state's safeguards and budget are limited tools to cope with the poor detention conditions. Moreover, independent and reliable tools, such as the National Preventive Mechanism, have generally been ignored by the authorities.

7. Conclusion and future developments

During the monitoring mission to Moldova and the discussions with representatives of government authorities, civil society, judges, lawyers and whistle-blowers, we noticed a series of concerns.

Demands from civil society representatives were focused on the request to the European Union to investigate the money-laundering schemes in the light of international law and to exploit the existing sanctioning instruments in U.S. legislation, namely the "Global Magnitsky Act"²⁵, presenting evidences against individuals responsible of international fiscal frauds and threatening Moldova's national security.

The ODF and FIDU hereby wish to address the following recommendations to the competent authorities of Moldova, foreign embassies to the Republic of Moldova and the international community (in particular, the European Union and the International Monetary Fund). It is necessary that the EU and the IMF continue to ensure that financial assistance be granted to Moldovan authorities only when they act in compliance with existing agreements, thus respecting the rule of law and human rights. We welcome the fact that, in the aftermath of the nullification of local elections,

²² <https://www.amnesty.org/en/documents/eur59/8516/2018/en/>

²³ <http://www.omct.org/urgent-campaigns/urgent-interventions/moldova/2018/05/d24874/>

²⁴ <https://en.odfoundation.eu/a/8460,report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu>

²⁵ <http://www.transparency.md/2017/01/12/civil-society-appeal-to-the-government-of-the-united-states-of-america/>

the EU froze its financial assistance. Similarly, after the passing of the controversial law decriminalising financial crimes, the IMF reacted by condemning the decision.

We recommend that the Moldovan authorities:

- Immediately cease politically motivated prosecutions in the Republic of Moldova. The Moldovan authorities should in particular guarantee the protection of those more at risk of being prosecuted to end their activities, such as members of the opposition, pro-reform civil activists, independent lawyers and judges.
- Adopt a more assertive stance towards the crime of money laundering. This issue should be tackled concretely by introducing criminal liability for those officials found guilty of such practice.
- Ensure pluralism of the media, by enhancing and guaranteeing the independence of media outlets and the freedom of the media market. This should be achieved by avoiding the concentration of property of public media in the hands of a few oligarchs.

We recommend that the international community:

- Ensure the strengthening of activities monitoring Moldova's adherence to its obligations, as set out in the EU-Moldova Association Agreement.
- Concerning IMF macro-financial assistance to Moldova, include further conditions pertaining to the respect of democratic standards, in line with the conditionality measures enacted by the EU.
- Adopt individual sanctions and promote internal awareness of the Global Magnitsky Act. These measures would ensure that officials and others responsible for human rights violations are sanctioned without punishing the whole country and its population with indiscriminate penalties.
- Moreover, to investigate thoroughly the general issue of international money laundering at the EU level, involving all stakeholders.