

## *Chapter 10*

# **Moldova: What It Should Expect from the West and What It Should Expect from Itself**

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### **Transformational and Geopolitical Challenges**

Since Moldova's November 2014 election, the country's image has changed drastically from the "success story" of the EU's Eastern Partnership to that of a "captured state." Moldova's politics continue to be defined by corruption and vested interests, which take advantage of weak state institutions and public administration, and ineffective judiciary and law enforcement agencies. This environment has enabled hostile takeovers of financial companies, often through concealed offshore operations, for criminal purposes, money-laundering schemes, and a spectacular banking fraud, which was uncovered in autumn 2014. Low incomes have prompted hundreds of thousands of Moldovans to leave the country in search of a better life. Rivalries for political power, control over institutions, and economic assets have generated growing crises within different ruling coalitions, resulting in rapid changeover in governments, the break-up of major political parties and the formation of new parliamentary majorities with precarious democratic legitimacy.

All of these factors have subjected Moldova to an unrelenting series of governmental, economic, financial, and social crises since early 2015. The deeper causes of these crises can be traced to much earlier developments, however, and are deeply rooted in local structures. Since 2009 the political system has essentially turned from semi-authoritarianism to a more pluralistic but also increasingly oligarchic model. As a consequence, Moldova's Europeanization has remained largely superficial. Over this period, Moldova's rapprochement with its Western partners has contrasted starkly with its lack of progress in strengthening liberal democracy, market economy and the rule of law. At the same time, society and politics increasingly became subject to geopolitical polarization. When the first pro-European

coalition was formed in 2009, European integration was promoted by all major parties and enjoyed broad support within the population. As Russia's opposition to the Eastern Partnership hardened and European integration failed to bring tangible change, however, Moldovan parties and public opinion split over the competing models of European and Eurasian integration, and a new and strong pro-Russian opposition emerged.

As a result, both reform forces within Moldova, and the EU and the United States as Moldova's predominant development partners, face a problematic dichotomy between geopolitical competition with Russia and the transformational agenda. In the short run the consequence is a dilemma: how to insist on real change and democracy if the only viable alternative seems to be a takeover by pro-Russian forces? In the long run, however, a geopolitical orientation towards the EU or the West can only be sustainable with transformational success, without which Moldova will not break the vicious circle of socio-economic decline, political instability and regional insecurity. The Western development model, however, is likely to become discredited—in fact, this has already partly happened. Focusing on geopolitical stability rather than on transformation, therefore, is likely to be a self-defeating strategy.

Russia can only play the role of geopolitical competitor by capitalizing on vulnerabilities generated by Moldova's own domestic challenges—corruption, dysfunctional institutions, a deficient rule of law, and oligarchic control over politics and economic assets—that result in political deadlocks, lack of development, and polarized societies. Russian interference has not created these challenges, but Russia can profit from them. The key obstacle for transformation has been the entrenched strength of vested interests in conjunction with weak institutions and a weak civil service. These interests are not aligned with any particular geopolitical preference. They are well established within all political camps, which means that they also must be overcome within those forces who claim to be pro-Western.

For this reason, the transformation of Moldova, as in other post-Soviet countries, is not likely to follow the model of transformation as set forth by central-eastern European countries on their path to NATO and EU accession. Within the NATO and EU enlargement processes, NATO and EU each provided standards and support for reforms, but left it to local elites to implement them and to reap the benefits. This worked because in each of these countries transformation was generally supported by a broad domestic consensus that embraced both governing and major opposition parties and ensured the continuity of reforms despite changing gov-

ernments. In eastern Europe there is also a broad willingness for change within the society and among elites, but they face the veto power of vested interests, and the geopolitical polarization of societies can mean that the respective opposition, upon coming to power, may not continue the same basic domestic and foreign policy objectives, but fundamentally alter the course of the country. It is therefore questionable whether local elites can substantially reform their countries on their own.

EU instruments and U.S. leverage can be a powerful combination for change, if closely coordinated and applied thoroughly. In supporting change in Moldova, Western development partners should explore a new type of partnership to support and empower local reformers in ways that could help them target local resistance to reforms. This would not require infringing on the country's sovereignty, but it would require an important shift in how to deal with transformational policies. Instead of merely supporting reforms, Western interlocutors need to assume co-responsibility for them by combining rigorous external pressure with greater direct participation in both the design and implementation of such reforms.

### **A House Divided: What Can or Should Moldova Expect from Itself and from Others?**

Moldovan society has found it difficult to reach a broad consensus about the desired course of the country, both with respect to which geopolitical preferences and which development model to follow. These difficulties begin with national identity, which has remained rather weak and divided along cultural or ethnical lines. Equally important are competing historical narratives that cut across ethnic and cultural lines. These lines are also a predominant factor in dividing the political landscape between different parties, majorities and opposition. The political left is more connected to Moldovan than to Romanian identity, takes a pro-Russian stance, and is influenced by Soviet historical narratives. The political right is more connected to Romanian than to Moldovan identity and is influenced by Romanian or Western historical narratives. The two camps split over their competing narratives of the Second World War. Consequently, there is even not a universally accepted term for the country's citizenship. Whereas governments under the leadership of the Party of Communists (PCRM) ran campaigns to promote a specific Moldovan identity, the idea of a Moldovan nationality is rejected by considerable parts of society and elites as a politically motivated invention.

Up to around one third of Moldova's population consists of Russian speakers, most of whom belong to different minorities, with Russian media providing their most important and often only source of information (while native Romanian speakers also usually understand Russian, many native Russian-speakers have command only of the Russian language). The Romanian-speaking majority is also divided among different historical narratives and between those who identify as Moldovan and those who identify as Romanian. A cultural Romanian identity is particularly pronounced among elites on the right, yet only a small minority of society supports unification with Romania and others parts of society, in particular minorities, stridently oppose it. Since these identity divisions correspond to political divisions, it is quite difficult to build the type of consensus within society necessary to embark on really national projects. Every major political project tends to polarize the society along identity lines.

The diversity of identities within Moldova is also reflected in the Transnistria conflict. The predominantly Russian-speaking parts of Moldova on the left bank of the Dniester River formed a breakaway region supported by Moscow after an armed struggle in the early 1990s. While different identities dominate on both sides, the Transnistria conflict lacks the ethnic divisions, expulsions and hatred that characterize other "frozen" conflicts throughout eastern Europe. Accordingly, conflict settlements efforts have failed primarily because of the different political interests of the key actors involved: Transnistria demands far reaching self-determination, right-bank Moldova is not prepared to accept anything except limited autonomy, and Moscow is interested in providing Transnistria with far-reaching veto powers, including on foreign relation, in a reunified state.

The Transnistria conflict has often been referred to as an obstacle for Moldova's domestic transformation. However, this is convincing only at first glance. There may be some business interests linked both to the status quo and to the political leaders on both sides. But it would be difficult to find an instance where Transnistria or effects of the conflict have prevented right-bank Moldova from implementing reforms. In fact, as opinion polls regularly indicate, Moldovan society attributes little priority to the conflict. Likewise, since 2009 Moldovan governments have dedicated little attention, and only very limited resources, to conflict settlement efforts, so that it has also not distracted considerable capacities. Even more than Russian interference, Transnistria has rather served as an excuse than been a cause of lacking reforms.

For these reasons, Moldova has also become highly polarized geopolitically, between those looking to Russia and those looking to the EU and the West. To some extent, such geopolitical leanings can be traced to a tendency to look to external powers to fix Moldova's problems, which reflects the country's long history as part of greater empires. But different geopolitical vectors also reflect varying preferences as to the most appropriate development model for the country. There is almost universal discontent with the current situation in Moldova. Those favoring closer integration with the West seek a better alternative based on democracy and the rule of law. Those favoring closer relations with Russia favor the Lukashenko/Putin model of a strong leader who would be expected to crack down on vested interests and corruption.

Socioeconomic trends are another obstacle to a common agenda. Moldova is perhaps the only remaining country in Europe where the rural population still accounts for the majority of society. The middle class is a minority. Moldova suffers from the massive emigration of young, skilled and well-educated people. One third of the working population has left the country. Up to 30% of the economy has become dependent on remittances. This has not only increased the share of dependents, it has strengthened clientelist mentalities within the society that tend to reinforce authoritarian sentiments and drain support for liberal reforms seeking to improve the rule of law and establish a market economy.

Nevertheless, the geopolitical divide in Moldovan society has largely been created by external actors. In fact, to a large extent the divide has been generated by pro-Western and pro-European forces that have discredited themselves. Opinion polls consistently demonstrate that the vast majority of the population would prefer good relations with both Russia and the West. For this reason, the neutrality guaranteed by the constitution has always been supported by a clear majority, while support for NATO accession has remained limited. European integration, however, had initially been backed by a broad majority in the society, when pro-European coalitions first came to power in 2009, shortly after the EU launched its Eastern Partnership program.

Three developments changed this situation. First, as Russia's opposition to the Eastern Partnership hardened, Moscow responded with its own model of integration in the form of the Eurasian Economic Union, which confronted Moldovan society with a choice between two incompatible options. This was accompanied by an increasingly polarizing propaganda campaign by Russian media.

Second, Moldovan parties split over the issue of European integration. While the PCR—by far the largest party until the November 2014 elections—had supported European integration while in power, it increasingly started to oppose it after being forced into opposition in 2009.

The third and most important factor was that pro-European coalitions discredited themselves among wide swaths of the public. One reason for this was the continual infighting between the two strongest men within the coalition, Vlad Filat, the leader of the Liberal Democratic Party (PLDM) and Prime Minister between 2009 and 2013, and Vlad Plahotniuc, the dominating figure behind the Democratic Party (PDM). Their conflicts escalated into a number of major coalition crises. While Plahotniuc commanded greater resources, Filat was initially more successful in mobilizing electoral support. Both men, however, drew their resources from considerable business interests and remained closely associated with them. In the public eye, the conflicts between them were thus largely seen as fights for control over economic assets and key state institutions; and the coalition became more and more associated with corruption.

At the same time, the coalition largely failed to deliver. In its rapprochement with the EU, Moldova registered successes in the form of speedy negotiations on an Association Agreement with the EU, signed in 2014, and by being the first country in the Eastern Partnership to obtain visa-free travel to the Schengen area. But on crucial domestic reforms—concerning the rule of law, the building of functioning and independent institutions, fighting corruption, and restricting oligarchic control over the state and the economy—little progress was made. As popular confidence in the government declined, so did support for European integration. And because increasing competition with Russia in the post-Soviet space prompted Western leaders to support rather than to distance themselves from the pro-European coalition in Chisinau, in the popular mind the EU and the West also became increasingly associated with corruption.

In the gravest of the coalition crises, Plahotniuc forced Filat out of the Prime Minister's office in 2013, bringing the coalition to the brink of collapse. Under new Prime Minister Leanca the government managed to conclude the crucial Association Agreement with the EU and to basically restore public confidence. Thus the "pro-European" parties still gained a majority in the election of 2014. But the different and changing majorities that were formed thereafter in parliament largely disconnected the government from public support.

Two developments brought about this loss of public confidence. The first was the extent of the banking fraud that came to light after the election. The second was the formation of a number of governments in defiance of the election results and of public opinion. At first, despite previous pledges to re-establish the pro-European coalition, Plahotniuc and Filat choose to build a new majority involving the PCRM. This did not only prove to be highly unpopular but resulted in a row of governmental crises which shook Moldovan politics, leading to the resignation of two Prime Ministers in 2015. A number of different coalitions and majorities were formed over the course of the year, during which major parties nearly disintegrated and political actors which had presented themselves as clear antagonists in previous elections seemed to switch sides and join common ranks.

Behind the scenes various power struggles were under way. In October 2015 Filat was arrested and the PLDM was eliminated as a competing force. A new parliamentary majority under the *de facto* leadership of Plahotniuc was formed by splitting the PCRM and PLDM parliamentary groups<sup>1</sup> and bolstering the PDM, which had only won 16% in the election but was poised to control a broad majority of members of parliament. The most important offices, including that of the Prime Minister and of the Speaker of Parliament, were filled with close associates of Plahotniuc, who was initially nominated to become Prime Minister but was denied by the President, and then assumed the unofficial role of a coordinator of the coalition.

At the same time, shortly after the November 2015 elections, it was revealed that a massive fraud scheme in three Moldovan banks had resulted in a loss of around \$1 billion—equivalent to 15% of Moldova's GDP—that required a bailout from the state budget. In the court of public opinion, the coalition and its leaders were heavily implicated. The lack of a thorough investigation and prosecutions—at first the only person arrested in connection with the bank fraud was Filat—reinforced public mistrust.

As a consequence, government approval ratings plummeted and the entire Moldovan party system was reconfigured. The country's previously two largest parties, the PCRM and the PLDM, dropped respectively to around 5% and 2% support. The remaining coalition parties, effectively the PDM with the Liberal Party as junior partner, together have since not

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<sup>1</sup> Kamil Calus, "Moldova: from Oligarchic Pluralism to Plahotniuc's Hegemony," OSW Commentary (April 11th, 2016), <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony>.

polled much above 10%, with disapproval ratings up to 90%.<sup>2</sup> On the left, new and essentially pro-Russian parties have been established, in particular the Party of Socialists (PSRM) which now enjoys the highest public support. New political parties have also emerged on the right, but face considerable resource constraints and still need to consolidate.

Perhaps most important, the pro-European electorate has turned overwhelmingly away from the government and now supports new opposition parties, in particular the Party Action and Solidarity (PAS), led by former education minister Maia Sandu—known for her strong stance on reforms—and the Party Dignity and Truth (PDA), led by Andrei Nastase, who also led public protest movements against the coalition in 2015–2016 and thus became known as the most radical opponent of Plahotniuc.

The banking crisis and murky parliamentary maneuvering triggered a protest movement in spring 2015 that continued to organize large-scale demonstrations well into 2016. These protests were initiated and largely driven by the pro-European part of the society, though later the leaders of the pro-Russian parties also joined in. Nonetheless, the protest movement also highlighted the dilemma faced by Moldova's pro-European forces: on the one hand they want to protect the European course against a potential takeover by pro-Russian parties, but they also must contest the government's claim to be the guarantor of a pro-Western course.

The loss of government credibility, incessant political divisions and the weakening of the pro-European forces also affected public opinion. Following the November 2014 elections support for European integration, which had remained on a par or was somewhat stronger than support for Eurasian integration, dropped to considerably lower levels in a number of opinion polls.

With its demand for early parliamentary elections, the protest movement became a serious threat to the coalition. It likely triggered the return to direct presidential elections, which were brought about by a controversial ruling of the constitutional court<sup>3</sup> and held in November 2016. The pro-European opposition rallied behind the candidacy of Maia Sandu in the first round of voting, forcing the candidate of the coalition to withdraw.

<sup>2</sup> Institutul de Politici Publice, "Barometrul de Opinie Publica," April 2016, pp. 34, 47, 53, [http://ipp.md/public/files/Barometru/BOP\\_04.2016\\_prima\\_parte\\_finale-r.pdf](http://ipp.md/public/files/Barometru/BOP_04.2016_prima_parte_finale-r.pdf).

<sup>3</sup> Stanislav Secrieru, "Erase and Rewind: Moldova's Constitutional Reform," European Council on Foreign Relation Commentary, April 17th, 2016, [http://www.ecfr.eu/article/commentary\\_erase\\_and\\_rewind\\_moldovas\\_constitutional\\_reform\\_6082#](http://www.ecfr.eu/article/commentary_erase_and_rewind_moldovas_constitutional_reform_6082#).

In the second round, however, Igor Dodon of the pro-Russian PSRM won, which was not at all surprising. Publicly, Plahotniuc endorsed Sandu as the remaining pro-European candidate. But this was not real support. Being the politician with the highest disapproval rating his endorsement could only discredit Sandu. And the media controlled by Plahotniuc also participated in discreditation campaigns against Sandu. Sandu and the new pro-European opposition seem to be the far more fundamental antagonists to the de-facto Plahotniuc government than the pro-Russian forces.

The presidential election was only superficially a geopolitical choice. In reality it pitted a broad de facto alliance of status quo interests encompassing both Dodon and Plahotniuc against serious reform interests represented by Sandu. Both Dodon and the current coalition have an interest in highlighting geopolitical divisions as a means to attract support from their respective international partners. Whether the different factions will find an arrangement or will seriously contest each other, their struggles are primarily about the distribution of power and assets within Moldova and only secondarily about geopolitics. Dodon has promised a referendum on the Association Agreement with the EU, yet such an initiative can hardly succeed, much less be implemented, against the current coalition. In this respect Dodon's election hardly marks a geopolitical shift.

One surprising result of the election was the very good result obtained by Maia Sandu. With a budget of only a few tens of thousand dollars, she relied largely on social media to fight most of the mass media and in the face of far larger administrative resources and funding wielded by her opponents. The ability of new pro-European parties to unite behind a common candidate means that the most consequential result of the presidential election could be the re-establishment of a third political force in Moldova. If they can manage to survive and sustain their unity, the political landscape will be divided into three strong camps: the pro-Russian parties, the current coalition around Plahotniuc, and the new pro-European opposition.

The re-emergence of strong pro-European parties could help re-establish the credibility of a European development model and regain a popular majority support for it. The mistrust in the pro-European electorate likely runs too deep for the current government coalition, even if it would implement serious reforms, to ever win over its support again. Only an independent and credible pro-European opposition can be expected to mobilize again the part of the electorate that supports democratic transformation based on the rule of law. The re-emergence of a strong pro-European force in Moldova also means that the West does not face the unappealing

geopolitical choice between the current coalition and pro-Russian forces. And this can help the West to avoid the geopolitical trap created by supporting one unattractive coalition over another, which in the past has simply pushed voters away from Western causes. The West has now gained additional options to distinguish between the values and interests for which it stands, and those promoted by the coalition, which should also give it greater leverage to exert more pressure for reforms.

Moldovan support for European integration has shrunk primarily because of deep disappointment and loss of confidence in Moldova's own system, rather than rejection of a Western development model per se. European integration promises considerably greater middle- and long-term benefits for Moldovan society, but it also requires change, which can be painful; time, which can be frustrating; and trust that the government would actually implement necessary reforms, which is questionable. A considerable part of the electorate has lost faith in the government and to an extent also in pro-European elites. If people believe European integration is nothing but an empty promise, it is only rational that they wonder why they should pay a price for it, for instance through heightened tensions with Russia, which can dispense considerable short-term benefits—such as reduced energy prices and loans—and threaten immediate costs—such as imposing trade sanctions and limiting access for migrant workers.

Under these circumstances, who defines what Moldova should expect from itself and from its international partners? The government wields constitutional authority and declares itself to be pro-European, but it has limited democratic legitimacy and low approval ratings. The strongest opposition forces are pro-Russian, but according to nearly all opinion polls they do not represent a majority. The second largest opposition bloc consists of pro-European forces who are still in the process of organizing themselves essentially from the scratch. The current government—essentially the PDM—organizes only the smallest part of the electorate in the political center which sways the balance.

There is broad consensus across Moldovan society that the country must find a way out of the decline and stagnation that have shaped its evolution from independence till today. Socio-economic trends are deteriorating. Emigration is accelerating. Corruption, together with deficient rule of law and protection of rights, hampers economic development and keeps foreign direct investment at a low level. The rent-seeking nature of the economy neither attracts nor generates much investment or innovation,

which impairs the country's competitiveness and increases its dependence on finance from abroad, in the form of remittances, loans or international assistance, none of which may be sustainable.

Where could the necessary investment for an economic turnaround come from, if not from the West? And what other development model is actually available to Moldova? The key question for Moldova is how to make a transformational reform agenda really work that is based on respect for the rule of law, a functioning state and a real market economy.

Moldova's Western development partners, in turn, need to ask what they should expect from Moldova. The country's limited transformational progress could prompt Western partners to scale up their support or scale down their objectives. Here Western development partners are advancing two interests, each of which contains contradictory elements. First, they have an interest in prevailing in their geopolitical competition with Russia, which suggests that at least in the short run they should support a pro-Western government, despite its poor track record on reforms. Yet without serious transformational change, this approach risks becoming self-defeating, as it could discredit a pro-Western course that fails to produce results in favor of a turn to other models.

Regardless of geopolitics, Western development partners and particularly the EU also must have a strong interest in transformational change in Moldova, as in other European post-Soviet countries, because further socio-economic deterioration can accelerate the spread of all sorts of illegal trafficking and other forms of organized crime operating from these territories into EU space, while systemic corruption and growing private influence over public authorities can undermine the legitimacy of the state, which in turn can lead to state failure or even disintegration. Indeed, the social and economic decline of societies and the capture and disintegration of states in the post-Soviet space pose equal or even greater threats to regional stability and the security of the EU than the geopolitical ambitions of Russia. The strategic interests of the EU and Western development partners in general are challenged by the failure of transformational reforms in the post-Soviet space, and time is not on the side of the reformers. This raises the question: what are the key obstacles to change?

## **Where Expectations Meet Realities: Systemic Challenges for Change**

The lack of transformational progress in Moldova is not due to a lack of forces for reform or a lack of desire for change within society, but rather to the challenges that reformers have to overcome. In Moldova, reformers need to fight on two fronts. Due to the geopolitical polarization of society, they face a strong pro-Russian opposition that threatens to fundamentally reverse their transformational and geopolitical course, while at the same time they have to overcome strong vested interests in their own camp. These vested interests, not Russia, have prevented substantial reforms from materializing, but Russia's geopolitical competition has strengthened the power of these interests. Concerns about Russia pushed Western development partners to support pro-EU governments, largely irrespective of their reform records, and in fact to ease up on pressures for reform. This has directly strengthened the veto power of vested interests, because they have been able to threaten to sway the balance because a pro-Western and a pro-Russian course. In effect, it changed the political rationale of reform forces from pushing for reform towards compromising on reforms in order to stay in power.

The second and more fundamental problem is the power of vested interests themselves, which in Moldova, like in other post-Soviet countries, are much more deeply entrenched than it had been in central-eastern European countries that underwent far-reaching transformation processes in the wake of their accession to the EU. One key characteristic is the emergence of oligarchic structures—meaning the mutually reinforcing control by or crucial influence of business people over economic assets, mass media, political parties and key state institutions. The power of vested interests rests on a number of mutually reinforcing factors.

Corruption has been identified by all opinion polls as a key concern of the population. A recent poll by IRI in April 2016 shows that over 90% of Moldovan citizens consider corruption as a big or very big issue and about 78% consider that some vested interests groups govern Moldova.<sup>4</sup> The extent and acceptance of corruption is closely connected to low pay scales in public services, which are far below comparable jobs in the private sector, and for higher officials effectively below subsistence levels for per-

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<sup>4</sup> International Republican Institute, "Public Opinion Survey: Residents of Moldova," March 2016, pp. 7–8, [http://www.iri.org/sites/default/files/wysiwyg/iri\\_poll\\_presentation-moldova-march\\_2016.pdf](http://www.iri.org/sites/default/files/wysiwyg/iri_poll_presentation-moldova-march_2016.pdf).

sons of similar education and qualification. Still, considerable numbers of decent professionals serve, at least temporarily, in public offices. But low pay scales lead to high fluctuation rates, which further weaken institutions.

Low pay scales make office holders susceptible to extracting or accepting bribes or to taking parallel payments in exchange for political alignment. For those affected, the result are dependencies that supersede the hierarchy and duties of public office, reinforced by vulnerability to prosecution and blackmailing, which creates a vital self-interest in the status quo. Corruption can be termed as systemic in Moldova, not because officials are generally corrupt, but because corruption is such a regular occurrence that institutions or the civil service have little or no defenses against it. Corruption does not only impair the functioning of state institutions and hamper economic development. It makes institutions vulnerable to the influence of vested interests and resistant to reform.

Due to this vulnerability, state institutions actually may have been overtaken by vested interests. A term that became known in Moldova and was even taken up by the Secretary General of the Council of Europe to describe this situation is that of the “captured state.”<sup>5</sup> Key targets have been institutions that can provide direct resources of power, such as judicial, law enforcement and financial authorities as well as key regulatory bodies. In Moldova this process actually accelerated with the so-called pro-European coalitions since 2009, when coalition leaders agreed not only to distribute governmental positions among them but also control over key non-political institutions such as tax and custom authorities, law enforcement agencies, and important regulatory bodies. In effect, personal or clientelist loyalties can prevail over professional hierarchies and duties in public offices and result in the emergence of parallel structures of command, rewards, and sanctions, which can bypass control by constitutional authorities in parliament and government. Those who control these authorities can protect and redistribute the possession of economic assets, enforcing loyalties and punishing defectors or opponents.

Control over judicial and law enforcement authorities appears to have become a key instrument to extend and cement power. One indicator has been the removal of Renato Usatii and his party—whose high showing in the polls had become a threat to the ruling majority—from participating

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<sup>5</sup> Thorbjorn Jagland, “Bring Moldova Back From the Brink,” *New York Times*, August 10th, 2015, <http://www.nytimes.com/2015/08/11/opinion/bring-moldova-back-from-the-brink.html>.

in the November 2014 elections.<sup>6</sup> The handling of the banking fraud raises more questions: how could a fraud of this size happen, without being noticed and without intervention by relevant oversight and law enforcement agencies—and despite the fact that there had been warnings already much earlier. One of these warnings came from former finance minister Negruta, a person with a solid reputation for integrity who was then convicted in court over a dubious accusation.<sup>7</sup>

In addition, subsequent governments appeared to be unwilling or unable to seriously investigate or prosecute those responsible, despite the fact that the EU made further budget support dependent on both an investigation and an agreement with the IMF.<sup>8</sup> An independent investigation initiated by former Prime Minister Leanca was at first put on hold after its scoping phase, only to continue in late 2015 after considerable international pressure. Initially the only person prosecuted for the banking fraud became former Prime Minister Filat. His arrest was motivated by a confession of the chief executive of the largest bank concerned, Ilan Shor, who also turned out to have used middlemen to become the owner of large shares of all the banks involved.<sup>9</sup> Shor remained free, could even run for a mayoralty in the local election of 2015, only to be arrested in 2016 before the visit of a crucial IMF mission to Moldova, but released into house arrest after its departure. The third prominent figure to be arrested—in July 2016 in Kiev and extradited to Moldova—in connection with the banking fraud was Veaceslav Platon, who has been since a long time a person with a dubious image, but who also happened to be an adversary of the coalition's leader.

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<sup>6</sup> Regardless of the reason cited for his removal—party financing from abroad—the timing was political, coming immediately after the expiration of the period before the election until which Usatii could have switched to running for another party. And since a failed attempt to remove Usatii would have likely resulted in a surge of votes for him from an infuriated electorate, it could have hardly been initiated without prior knowledge of how the courts would rule.

<sup>7</sup> Mariana Colun, “Sentence of Veaceslav Negruta Condemned in the Case of Record Compensations, Upheld by the Court of Appeal Chisinau,” *Centrul de Investigatii Jurnalistice*, December 12th, 2015, <http://anticoruptie.md/en/cases-of-corruption/sentence-of-veaceslav-negruta-condemned-in-the-case-of-record-compensations-upheld-by-the-court-of-appeal-chisinau>.

<sup>8</sup> Council of the EU, “Council Conclusions on the Republic of Moldova,” February 15th, 2016, <http://www.consilium.europa.eu/en/press/press-releases/2016/02/15-fac-moldova-conclusions/>.

<sup>9</sup> The report has been published by Speaker of Parliament Candu, at: [http://candu.md/files/doc/Kroll\\_Project%20Tenor\\_Candu\\_02.04.15.pdf](http://candu.md/files/doc/Kroll_Project%20Tenor_Candu_02.04.15.pdf).

Irrespective of their responsibility or guilt, the prosecutions of Filat and Platon appear to be rather selective justice, and like in the case of Negruta a number of other criminal prosecutions have also raised questions about political implications. The arrest of the former communist parliamentarian Grigory Petrenco, after a demonstration in front of the Prosecutor General's office, has been listed by the U.S. Department of State as a possible case of a political prisoner.<sup>10</sup> The leaders of the protest movement were threatened with prosecution for instigating public unrest. A sense of intimidation has grown among pro-European opposition parties in particular. Members of the pro-Western opposition complain about threats of prosecutions, and court proceedings seem to be directed at politicians and officials, also at local levels, to encourage alignment with the coalition. One rather high profile example is the removal from office of the major of Taraclia—who also happened to be a leader of the Bulgarian minority—over the alleged felling of some trees without permission.<sup>11</sup> Only following great pressure from Moldovan civil society and Western ambassadors has he been reinstalled. In public opinion, the justice system is nearly as universally mistrusted as government or the political parties.<sup>12</sup>

The economic structure is a largely rent-seeking economy divided into monopolistic or oligopolistic structures. Opaque ownership schemes and offshore connections can be used to conceal operations, including hostile takeovers by criminal elements, money laundering schemes or the massive bank frauds. Because access to finance is difficult, corruption is rampant, and rule of law and protection of rights are deficient, the share of small and medium sized enterprises has remained small, as has been the amount of foreign direct investment.

The extent and opaque nature of state enterprises as well as their possible privatization offers ample opportunities for those in power to tap into or channel financial flows, including for purposes of maintaining or extending political loyalties and control. Sales of state owned enterprises and entities in which the state is an important shareholder comprise 18% of Moldova's GDP. Despite their large procurements budgets, state-owned enterprises are not required to comply with public procurement standards,

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<sup>10</sup> U.S. Department of State, "Moldova: 2015 Country Report on Human Rights," April 13th, 2016, <http://www.state.gov/j/drl/rls/hrrpt/2015/eur/252877.htm>.

<sup>11</sup> Info-Prim Neo (IPN), "Pirkka Tapiola: Citizens of Moldova Deserve Independent Justice," April 9th, 2016, <http://www.ipn.md/en/politica/75878>.

<sup>12</sup> Institutul de Politici Publice, "Barometrul de Opinie Publica," April 2016, p. 34.

which is a factor creating an environment for embezzlement. Nor are they subject to a rigorous reporting framework or accountability standards.

Control of vested interests over parties or parts thereof generates political leverage over constitutional powers. It can also safeguard vested interests from interventions by state authorities or from politics. One key instrument for this has been to create financial dependencies of party structures and/or relevant members. In the two largest of the so-called pro-European parties which governed since 2009, the PLDM and the PDM, financial control got effectively established by Vlad Filat and Vlad Plahotniuc respectively. The formation of the recent parliamentary majority, and in particular the split of the PLDM and the PCRM, suggests that such control had been extended to considerable parts of other parties, crossing also geopolitical preferences.<sup>13</sup> In both cases the splitting of MPs from their former parties and subsequent joining of the new majority contradicted key preferences for which they were elected in the first place.

Selectively or abusively enforced legislation on illegal party-financing, anti-corruption and transparency, and other means of retribution against or deterrence of donations from other sources can be used to shield this dependence against potential competitors within or by other political parties. Laws on state financing of parties would still have to take effect. Poverty, bureaucratic restrictions and a society that is not used to contribute via membership fees impedes broader party financing. Bottom-up party building is particularly difficult due to the lack of a deeply rooted civil society. Pro-Russian forces appear to be able to rely on foreign support. But pro-European parties now in opposition are constrained by a lack of resources. Thus, even without directly manipulating elections, democratic processes can be effectively checked by narrowing down—and eventually controlling—the choices that voters have in the first place.

Finally, control over the media reinforces control over parties in order to consolidate political power. Mass media ownership is usually a political rather than an economic investment made or held not for financial return but to promote particular interests or parties, discredit opponents or withhold publicity from them in the first place. A somewhat positive develop-

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<sup>13</sup> Vladimir Socor, "Plahotniuc's Power Base in Moldova: Allies and Instruments," *Eurasia Daily Monitor* Vol. 13, 7, January 12th, 2016, <https://jamestown.org/program/plahotniucs-power-base-in-moldova-allies-and-instruments-part-one/>; <https://jamestown.org/program/plahotniucs-power-base-in-moldova-allies-and-instruments-part-two/>.

ment was registered in March 2015, when amendments to the Audiovisual Code were passed by the Parliament,<sup>14</sup> thus increasing the transparency of media ownership. However, a prohibition on registering companies in offshore areas that has been used to conceal media ownership is missing; and media ownership has not been limited. There is evidence that Vlad Plahotniuc now controls four of the five television stations with national coverage and a large part of the advertisement market, which could also impede financing for independent media.<sup>15</sup> A previous business partner and later opponent of Plahotniuc, who subsequently was sentenced in absence by Moldovan courts, owns Jurnal TV, the only mass media with broad coverage that is strongly critical of the government. Leftist parties receive still support from Russian media. But the pro-European opposition has little access to independent mass media.

Under the current coalition, Moldova seems to have reached an unprecedented extent of oligarchic control. Such amalgamation of economic and political power can hardly be reconciled with Western standards of democracy, the rule of law, or a market economy. However the challenges resulting from the influence of vested interests are systemic, they cannot be reduced to nor changed with just one individual actor. The dynamics of vested interests follow an intrinsic logic, as the weakness of state institutions creates a dilemma even for those in charge. As long as no external guarantor exists, even if key representatives of vested interests accepted the need for substantial change, relinquishing control would lead not to the establishment of independent institutions but rather to the hostile takeover of an adversary, turning an asset into a threat.

Liberating a captured state may not be easier than liberalizing an authoritarian one. It does Not only must the manner in which power is exercised within the state be changed, state institutions themselves must be reconstructed by eradicating the parallel and informal chains of loyalty, command and control that hide behind their facade.

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<sup>14</sup> Law No. 28 of March 3rd, 2015, on Amending the Audiovisual Code of the Republic of Moldova, <http://lex.justice.md/md/358202/>.

<sup>15</sup> Nadine Gogu, "Who Really Rules the Airwaves in Moldova?" Open Democracy Russia and Beyond, March 28, 2016, <https://www.opendemocracy.net/od-russia/nadine-gogu/who-really-rules-airwaves-in-moldova>.

## **How to Support Real Change: What Could Moldova Expect from the West?**

Three major struggles have defined Moldova's development since 2009. The first and probably most obvious for external observers has been the geopolitical polarization between the supporters of European and Eurasian integration. The second, which escalated in a number of coalition crises, was a struggle for power and influence between the two leaders of the pro-European coalitions, Vlad Filat and Vlad Plahotniuc. The third struggle has been between reform forces and vested interests. Because reformers and vested interests worked within the same pro-European parties, with the former often dependent on the resources of the latter, this was the least visible but probably the deepest and most consequential struggle.

Of these conflicts, the first saw the prevalence in government of coalitions declaredly pro-European, but against considerable pro-Russian opposition. The second ended with Vlad Plahotniuc prevailing with uncontested and far-reaching control over government institutions and the parliamentary majority. Consequently, the coalition now clearly has the coherence and power to enable it to focus on far-reaching reforms. It is less clear, however, whether this also means a breakthrough for reform forces against vested interests, since so far the record and profile regarding reforms of political actors within the coalition has remained rather low and has failed to garner public confidence. Therefore, a new split has opened up within those political forces that declare themselves to be pro-European, with the overwhelming majority of the traditionally pro-European constituency in the electorate according to all opinion polls now supporting new parties in the opposition. Yet, without maintaining and extending support in the electorate, European integration and a Western development model in Moldova can hardly be sustainable.

Under these circumstances, reform forces—whether within or outside of government—may not be able to overcome the resistance of vested interests to serious reforms, in which case neither confidence in the European model nor Moldova's geopolitical course can likely be maintained over the longer run. In order to change the situation, the policies and instruments of Western development partners would need to get more directly involved in reforms, effectively aligning their efforts with reform forces within Moldova. This would require accepting a kind of a joint responsibility for reforms—meaning that if the government would not or cannot implement crucial reforms, the EU and the United States would

proceed from requiring general reform goals towards producing concrete reform proposals and reinforcing reform implementation directly with their own instruments. It also means that these instruments would need to take effect at all stages in which reforms could be frustrated: their design, its implementation and the selection of key personnel.

This can be done without infringing on sovereignty. But it would require not just a stricter but a fundamentally upgraded conditionality, with a readiness to fully exploit EU and U.S. leverage. In doing so the EU and the United States would need to put the transformational agenda before geopolitics. A readiness to compromise on reforms for geopolitical interests can render all conditionality toothless, since it can be easily exploited by vested interests. Vested interests within pro-European or pro-Western camps can play with the threat of a geopolitical turn. But they also remember the Maidan in Ukraine and still need the West for political legitimacy and financial support. By compromising and experiencing a further loss of credibility, Western development partners could make such a geopolitical turn possible.

So far, conditionality has largely been defined by general standards to be met, such as they are outlined in the international commitments Moldova has made, most significantly in the Association Agreement with the EU. To insist on general standards and to leave it to the government how to meet them, however, offers ample opportunities for vested interests to obstruct or divert reforms from the background, including by responding to reform pressure with superficial or pocket reforms which look nice but change little. Measuring real success requires a detailed understanding of the desired reforms, and not only the desired outcomes, in the first place. In addition, eventual resistance can only be identified clearly—and pressure be applied in a targeted way—in the implementation of concrete and individual reform steps.

Western development partners should therefore respond to a lack of progress, first of all, by making quite concrete the individual reforms required. Often, for crucial reforms, there are models from other countries that can be largely transferred. It needs a mechanism that would work out—rather impartially—the reforms required. A basic example for how such a process could work is a peer review mission on the judiciary the EU has carried out recently in Moldova—whereby experts from judicial authorities of EU member states identified specific reform requirements in Moldovan institutions. It could also be possible to involve independent local experts or civil society.

The commitments Moldova made in particular in the Association Agreement with the EU can justify, in case of failure to meet these commitments, to extend conditionality to reform proposals put forward by the EU and other Western development partners themselves. In case of rejection, these commitments can also justify to respond by suspending financial support or even parts of the Association Agreement, as Moldova remains free to opt out of it itself. Western development partners can also use more public diplomacy and be more outspoken about reform requirements and eventual resistance.

Effective conditionality also needs clear priorities. Since most institutions and areas of legislation require some kind of reform, it would otherwise always be possible to sidetrack conditionality by presenting minor reforms as success, which do not meet much resistance. But avoiding resistance cannot meet success, as the most important reforms are also the most difficult to assert. Crucial preconditions for all other progress to occur are related to state building, in particular the functioning of state institutions ensuring the rule of law: the functioning and independence— from political actors, oligarchic control and corrupted interests—of the judiciary, the law enforcement authorities, and key regulatory bodies. In addition, legislation on the transparency of state enterprises, offshoring, media control and party financing would be crucial in limiting the leverage of vested interests.

When prioritizing reforms, Western development partners should focus on game-changers—reforms that cannot easily be frustrated or bypassed by vested interests, but will broadly and effectively change the rules of conduct for all actors in the country. An example which could well be transferred to Moldova, is the Romanian anti-corruption directorate (DNA), which came into being also with strong support of Western development partners, not least the United States. In practice it would mean the creation of one authority responsible for all charges of high-level corruption, which has the necessary powers and capabilities to directly conduct and control the whole process from investigation to prosecution, not needing to rely on the co-operation of any other authority, and with a strong independent position for the institution as well as for the prosecutors involved. The result would be an institution strong enough that even the most powerful oligarch could not be sure to control it nor to be able to bypass or block its proceedings.

In the implementation stage, in particular more human resources and stronger mandates would be needed. One key instrument can be by the

employment of missions to contribute directly to reforms in state institutions. Existing instruments like the EU high-level advisory missions lack manpower and leverage. To provide the necessary resources, would require the EU to align the Eastern Partnership more closely with the instruments of EU Common Foreign and Security Policy. Stronger missions would require mandates that—while remaining non-executive—can go beyond advisory and training tasks, to include also assisting, monitoring and reporting, eventually also participation in the vetting of officials—in order to obtain both the intelligence and the capacity for targeted reforms and to back reform forces on the ground. As individual advisors can be sidelined and depend in their effectiveness on those advised, they would also require strong mission headquarters tasked to pro-actively take up reform requirements with all relevant authorities on the national level.

Prime Minister Leanca promoted the concept for a EU rule of law mission in which 60–70 judges and prosecutors from EU states would have been deployed for a number of years in the major courts and prosecutors' offices to monitor proceedings and support judicial reform implementation on the ground. A central mission headquarters was to be tasked to report on progress and shortcomings and to elaborate with the relevant constitutional institutions of government and parliament the reform measures required to overcome problems. Such a mission should have provided the EU with the possibility to apply reform pressure on all levels of the judicial system, to support decent and reform-minded elements within the system, and to obtain both the intelligence and the leverage to push for crucial and specific decisions.

A direct deployment of external personnel can strengthen implementation capacities and help neutralizing institutions from political influence and informal structures of control. To share or participate in executive functions has generally been a red line for Western development partners out of concerns for sovereignty. But Ukraine has provided a model for employing foreigners in governmental positions by granting them citizenship—which is an example that could be taken up by Moldova as well. Western development partners could support this by identifying and seconding suitable personnel and providing financial assistance for their employment. They could also launch programs that could finance the employment in key positions of members of the diaspora—which could be a considerable source of independent, knowledgeable and competent professionals.

Western development partners can provide crucial capacities in investigating the banking fraud as well as other major economic crimes in terms of investigators and intelligence. This way, a serious investigation can be ensured, the recovery of stolen assets supported, prosecutions be enabled and a future repetition of such crimes better deterred. In this respect, the role of the United States may be particularly crucial because of its probably unique possibility to track flows of funds internationally. Providing such independent resources can also serve as a general example of how Western development partners can directly capacitate reformers within Moldova.

The best reform concept for any state institution can only succeed—or be frustrated—through the selection of personnel. This problem can be addressed in two ways. The first is to raise payments for positions of responsibility in the public service comparable to those in the private sector and thereby increasing their financial independence. Though raising pay scales will not reduce corruption in itself, it is a precondition for doing so. Western development partners can both push and ease such a reform by offering compensating budget support in a regressive form, by paying for instance 80% percent in the first year, 60% in the second, 40% in the third and so on. In return, development partners can request the application of high professional standards for the selection and promotion of the public servants affected, with officials from the EU or the United States eventually being admitted to monitor procedures.

A second and even more crucial requirement is the selection of an independent and competent leadership for key law enforcement and regulatory bodies such as the prosecutor general's office or the national bank. Trust in national institutions is so low that most independent candidates may not even apply in a competition organized just on the national level; and even if selected they would hardly meet the minimum public confidence to act with the necessary authority and independence. Therefore, first Leanca, and thereafter also other Moldovan politicians, suggested organizing competitions with EU representatives jointly participating in the selection of candidates. It would likely not matter much if for concerns over sovereignty EU representatives would be limited to consultative votes, as their participation itself could transform the procedure towards more transparency and accountability, and outvoting their advice would likely cause considerable political repercussions.

So far, Western development partners have been reluctant to involve themselves to a greater extent in the reform processes of other countries out of concerns to interfere in their internal affairs. In reality however, the

lines between foreign relations and domestic politics are already blurred in Moldova, in particular with respect to European integration. Even more because of low approval ratings at home, foreign recognition—which gets transmitted already by official meetings with EU and US representatives—has become a crucial aspect of domestic legitimacy. In consequence, Western development partners will be associated with those with whom they interact in Moldova, and the more so, the less they get involved distinguishing their own profile of values and policies in the domestic discourse.

More involvement rather than less is what the pro-Western constituency would generally expect and welcome. It could also provide crucial assistance for the government or reformers within the coalition in considering and implementing institutional reforms: an external involvement that can help ensuring the establishment of institutional independence that really strengthens public accountability and the rule of law instead of leading just to a change of ownership. More commitments still mean more risks, since in case of failure more commitments can mean more blame; and by themselves alone, Western development partners cannot ensure a successful transformation. This could only be possible by capacitating and joining the efforts of the reform forces in Moldova. However, just on their own also these reform forces may not possess the capacities or the necessary leverage for successful reforms. And in the final analysis, the risk of more involvement may be outweighed by the risk of a failed transformation.

