Institut für Europäische Politik

Assessing the State of European Integration and Potential for Transatlantic Cooperation in the Post-Soviet Space: The Case of Moldova

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Research Paper

No 02/17

This study was prepared as part of the Project "German-American Dialogue on the Post-Soviet Space: Assessing the State of European Integration and Potential for Transatlantic Cooperation – the Case of Moldova" supported by the Transatlantik-Programm of the Federal Republic of Germany, funded by the Federal Ministry for Economic Affairs and Energy (BMWi) through means of the European Recovery Program (ERP). The views expressed in the Study are the views of the authors alone.

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About the project

The project: *"German-American Dialogue on the Post-Soviet Space: Assessing the State of European Integration and Potential for Transatlantic Cooperation – the Case of Moldova"* seeks to foster a transatlantic dialogue on the post-Soviet space and is implemented in co-operation with the German Marshall Fund of the United States (GMF).

The project aims at reviewing policies and instruments of Germany, in the framework of the European Neighbourhood Policy and the Eastern Partnership and those of the U.S., both with respect to their capacity to support transformation processes in the post-Soviet space. It further seeks to create synergies between German and American approaches to the region and to identify the specific domestic obstacles to transformation within the countries of the Eastern Partnership (EaP).

Within a series of four dialogue workshops, to be held in Berlin and Washington, the dialogue and exchange between representatives from the U.S., Germany and other EU member states and the target countries of the Eastern Partnership will be promoted.

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Executive Summary

The study assesses the state of affairs of the transatlantic cooperation to support the transformation process in the Republic of Moldova, as a case study for the post-Soviet space. For this purpose, the authors reviewed the course of European integration and reform process in the Republic of Moldova, since mid-2009, when the declared liberal-democrat pro-European and pro-reform Coalition replaced the eight years of Communist rule. The study maps out and analyzes the impact of the US and the EU support to transformation reforms in the Republic of Moldova as well, arguing for a stronger transatlantic coordination of development support. Finally, before formulating a set of recommendations for the way ahead to upgrade the transatlantic approach in Moldova to overcome resistance against real change, the study outlines the key challenges why the transformation processes fell short of expectations.

The internal perception and external image of Moldova in particular during 2015 dropped from the success story of the Eastern Partnership of the EU to a country that was stigmatised as a "captured state". Thus, the factors that contributed to this worrisome trend are twofold.

First, corruption and oligarchic interests have continued to define Moldova's politics. Low incomes have made hundreds of thousands of Moldovans go abroad in search of a better life. Weak state institutions and public administration, an ineffective judiciary and law enforcement agencies all formed the breeding ground for an increased control by oligarchic groups who have consolidated their positions in Moldovan politics. This environment was used for raiders attacks in the banking and financial sectors of the country since 2012 in particular, money-laundering schemes like the "Magnitski case" and the banking fraud that was discovered in autumn 2014. All of these ultimately threw Moldova into governmental, economic, financial and social crises that unfolded in 2015. The effects are still and probably will be felt for years in advance. Essentially, since 2009 the political system turned from semi-authoritarianism towards increased oligarchic control and effective privatization of state functions and institutions. Consequently, the Europeanization of Moldova remained largely superficial, as the rapprochement between Moldova and its Western partners during this time contrasts with the desire for progress in strengthening liberal democracy, the market economy and the rule of law. The key domestic obstacle for transformation has proven to be the veto power of vested interests. It rests on systemic corruption and oligarchic control over large parts of the economy, state institutions and political parties – which, in effect, have largely bypassed or instrumentalised both democratic processes and constitutional authorities. The extent of these challenges and the resulting veto power of vested interests marks the crucial difference between the successful transformation processes that took place in Central Eastern European countries in the context of EU and NATO enlargement processes on the one hand, and the desire for similar reforms in post-soviet Europe on the other hand.

The second group of factors are more related to geopolitical context. When the pro-European coalition was first formed in 2009, European integration, being promoted by all major parties, enjoyed broad support

within the population. Thereafter, increasing Russian interests, propagated by negative coverage in Russian media and the Party of Communists of the Republic of Moldova (PCRM) following suit to establish an anti-EU stance, turned European integration into a key issue dividing government and opposition, with its approval and disapproval ratings following the public support (or lack thereof) of the coalition parties. Despite a drop after the coalition crisis of 2013, a small majority was still supporting European integration as opposed to Eurasian integration before the November 2014 elections. With the formation of the new government in February 2015, the support ratings for European integration plummeted together with its approval ratings. Since then, support for European integration in Moldova has been encouraged rather by the EU's increasingly critical stance towards the new coalition's reform efforts and the suspension of financial assistance until a new IMF deal was agreed with the Government in mid-2016, which resumed the development and macro-financial assistance for the Republic of Moldova.

Thus, the growing and escalating conflicts in recent years with Russia over NATO enlargement and European integration have raised US and EU awareness of threats emanating from regional instability and geopolitical competition in Eastern Europe. However, the vulnerability that allows such threats to materialize in post-soviet Europe (in this context excluding the Baltic states) results less from any foreign intervention – they could only capitalize on it – but rather from domestic challenges within post-soviet countries, such as corruption, dysfunctional institutions, a deficient rule of law and oligarchic control over politics and economic assets. These, in turn, result in political deadlocks, a lack of development and polarized societies. For the untenable nature of this state of affairs, the risks emanating from socioeconomic decline and political disintegration in the form of regional instability, state failure and organized crime may in the long-run well outweigh those resulting from geopolitical competition in the post-Soviet space. Thus, to focus on geopolitical stability rather than on transformation would by necessity be a self-defeating strategy. Ensuring stability in a sustainable way will require, first of all, a successful transformation and structured reforms.

The US and the EU have already made considerable efforts to support transformation processes within the post-Soviet space. With the Neighbourhood Policy and the Eastern Partnership – which has resulted in the recently concluded Association Agreements – the EU has provided a far-reaching framework for political reforms and economic integration, as well as financial support. The US has strongly supported the European integration of Moldova and related reform processes, and has provided significant funding for the development of the country. In practise, however, US and EU policies, as well as the efforts of reform-minded elites within post-Soviet countries, have largely failed to meet their transformational goals.

EU instruments and US leverage can be a powerful combination for change, if closely coordinated and applied thoroughly. To focus on the eventual impact of EU and US policies is not to deny or neglect the responsibilities of local elites, nor is it to suggest that Western powers could simply impose transformation from abroad, nor that they should or could replace local authorities in implementing them. It takes, however, account of the challenge that reform-minded local elites, even if holding constitutional authority, may not be able to overcome the veto power of vested interests.

So far, the approaches Western partners used in promoting reform in the post-Soviet space have been largely modeled as a sort of "lighter" version of the transformational processes of previous EU and NATO enlargement processes. They followed the logic that local governments would commit

themselves to fulfil general standards, and Western partners would offer support for reforms but would rely for their design and implementation on the readiness and ability of local elites, with whom alone the responsibility for and the ownership of reforms reside. The success of this approach depended on two preconditions that may not exist in the post-Soviet space: that a broad consensus existed among local elites on the substance and direction of reforms, and that they could marshal the political power to ensure implementation. But since reform efforts in the post-Soviet space face the veto power of vested interests, the logic of transformation that worked in Central Eastern Europe may likely not be applicable to the post-Soviet space. This requires in the view of the authors a review and eventual revision of US and EU policies and instruments, beyond a stronger coordination of development to structured reforms.

Therefore, in its conclusions the study will explore new kinds of instruments and policies of transatlantic partnership to back up sustainable transformation and capacitate local reformers in ways that could address resistance against reforms, targeted at those places from where it originates. This would not require infringing on a country´s sovereignty, but it would require one major shift in how to deal with transformational policies. In short, this shift can be described as a change from merely supporting reforms to applying more rigorous external pressure, using existing and new instruments, in the spirit of co-ownership of transformation, in combination with the internal pressure from the local agents of change in the government and from the Moldovan society in general.

The instruments employed would need to take effect at all stages of reform in which they could otherwise be frustrated: their design, its implementation and the selection of key personnel. Since the precondition for nearly all progress in post-Soviet countries is state building, they would need to focus, first of all, on the functioning and independence – from political actors, oligarchic control and corrupted interests – of the institutions ensuring the rule of law: the judiciary, the law enforcement authorities and key regulatory bodies. Thus, the necessary instruments would primarily need to focus on seven areas:

- Use the Association Agreement and DCFTA as the main leverage instrument to create irreversibility in the transformation process;
- Apply targeted use of political leverage against vested interests;
- Upgrade conditionality from requiring the meeting of general standards to the development and demanding of concrete reform steps with clear benchmarks;
- Direct participation with EU missions and personnel, or other types of structured support in implementing crucial reforms;
- Involvement in the selection of key personnel, including from the diaspora, in the most important non-political institutions;
- Capacitate reform forces in the government;
- Strengthen democratic competition.

All these measures find their justification in the existing framework of relations, in particular in the Association Agreement with the EU, in which Moldova – as well as Ukraine and Georgia – has committed itself to far-reaching reform goals. The failure to comply with these obligations can justify requests for concrete reforms and Western participation in their implementation by the EU and the US. Concerns for sovereignty limit the possibility to directly participate in exercising executive powers. Below this threshold, however, a considerably stronger and coordinated Western support of reforms would be required.

The pattern of such an involvement would not be to impose measures from abroad against the will of local elites or the society, but to conclude a more effective partnership with the reform interests among the elites

and agents of change from the establishment and within the society against the resistance of vested interests. The Western support, particularly via European integration, is in any case already a subject of domestic rather than foreign policy, and not at least a matter of political legitimacy. It would therefore be unrealistic to draw a clear line between international relations and domestic involvement anyway. The real challenge is rather to ensure that Western structured and coordinated support is not used for the purpose of special interests, but rather pushes through real and sustainable reforms in the interests of the State and its people.

Introduction

The following study analyses the case of the Republic of Moldova with respect to the long-term failures or deficiencies of transformation in post-Soviet Europe, although with a choice of Western oriented course of reform and integration, having the support of the US and the EU.

In recent years, growing and escalating conflicts with Russia over NATO enlargement and European integration have raised US and EU awareness of threats emanating from regional instability and geopolitical competition in Eastern Europe. However, the vulnerability that allows such threats to materialize in post-Soviet Europe (in this context excluding the Baltic states) result less from any foreign intervention – they could only capitalize on it – but rather from domestic challenges within post-Soviet countries, such as corruption, dysfunctional institutions, a deficient rule of law, and oligarchic control over politics and economic assets. These, in turn, result in political deadlocks, a lack of development and polarized societies. Ensuring stability in a sustainable way will require, first of all, a successful transformation and reforms.

The US and the EU have already made considerable efforts to support transformation processes within the post-Soviet space. With the Neighbourhood Policy and the Eastern Partnership – which has resulted in the recently concluded Association Agreements – the EU has provided a far-reaching framework for political reforms and economic integration, as well as financial support. The US has strongly supported the European integration of Moldova and related reform processes, and has provided significant funding for the development of the country. In practise, however, US and EU policies, as well as the efforts of reform-minded elites within post-Soviet countries, have largely failed to meet their transformational goals. This state of affairs may require a review of US and EU policies and instruments. The following study will map out how the US and the EU supported reforms in the Republic of Moldova, explain why transformational processes fell short of expectations, and will suggest policies and instruments to overcome resistance against real change. In doing so it proceeds from four basic considerations:

1. Both the policies of the US and the EU in post-Soviet Europe face a highly problematic dichotomy between the geopolitical competition with Russia and the transformational agenda within the other countries. The consequence is a dilemma. In the short-run, this dichotomy can result in contradictory interests – in the form of the choice between containing Russian interventions and pushing for reform. The current Moldovan government poses a concrete example. How is it possible to insist on real change and democracy for a government if the only viable alternative seems to be a takeover by pro-Russian forces? In the long-run, however, the geopolitical interests of the EU and the US can only prevail with the success of transformation. Without successful transformation, pro-Western policies will not break the vicious circle of socioeconomic decline, political instability and regional insecurity, but will get discredited, as has already partly happened in Moldova.

2. The key obstacle for transformation has been the effective veto power of vested interests, which are fundamentally opposed to substantial reform. This obstacle has usually evolved not from any external enemy, but the enemy from within post-Soviet countries and from within political forces that officially supported Western integration. Basically, it rests on systemic corruption and oligarchic control over large parts of the economy, state institutions and political parties – which, in effect, have largely bypassed both democratic processes and constitutional authorities. None of these factors have been absent in other parts of Europe, which underwent successful transformations, but in the post-Soviet space they go far deeper, to such an extent that they effectively create a veto power that did not exist in other parts of Europe. Other explanations for the transformational shortcomings in the post-Soviet countries have focused on the lack of the membership perspective to the EU and the opposition by Russia. For the authors of this study, both explanations have their merits but fall also short of the mark, for neither the nature nor the veto power of vested interests would change with the membership perspective. And though Russian opposition increased the leverage of vested interest, its absence wouldn't make it disappear either. Thus, the key question for successful transformation in the post-soviet Space is: how can the veto power of vested interests be broken?

3. The logic of transformation in post-Soviet countries will likely not follow the model of transformation in Central Eastern European countries in the course of their NATO and EU accession. Nor may the policies with which the EU and US have supported transformation in Central Eastern Europe be sufficient in the post-Soviet space. The contrast between both examples is all the more striking, since in particular the instruments of the Eastern partnership, despite the fact that it kept ambiguity on the membership perspective, have been modeled after previous enlargement processes. Within NATO and EU enlargement processes, NATO and the EU provided the standards and support for reforms, but left it to local elites to implement them and reap the benefits. This worked because there was generally a broad consensus supporting transformation, which embraced both governing and major opposition parties and ensured the continuity of reforms over changing governments. In Eastern Europe there is also a broad willingness for change within the society and the elites, but they face the veto power of vested interest, whereas the geopolitical polarization of societies can mean that the respective opposition may fundamentally alter the course. It is therefore questionable whether local elites can succeed in substantially reforming their countries on their own.

4. Time is playing against transformational success because of declining socioeconomic trends. Demographic trends are shaped by immigration, a heavy brain drain and an aging society, resulting in a shrinking middle class – which would support reforms towards liberal democracy, a market economy and Western integration – and a growth of dependency, clientele mentalities and resignation within the society. Economic trends may be unsustainable too, as the economy is substantially rent-seeking, largely consisting of core services controlled by oligarchies, monopolies and non-transparent state-owned enterprises, with little production, innovation or investment that could promise development. Moreover, the economy is overdependent on the inflow of money from abroad in the form of remittances and foreign aid, which may also not be sustainable at current levels. Thus, both support for reforms as well as the economic basis of an already poor society may erode further. Due to the untenable nature of the prevailing socio-economic trends in the region, the US and EU may face growing security risks emanating from rising political instability, state failure or organized crime.

In addressing these problems, the authors also proceed from the understanding that many of the structural problems and challenges identified in this

study are basically shared within post-Soviet Europe in general, and in particular in those countries who chose a Western oriented course of reforms and integration. The one exception where transformation has registered relative success is in the case of Georgia, which rather confirms than contradicts this rule. For, unlike in the events of April 2009 protests in Moldova or the Orange Revolution and the Maidan in Ukraine, the Rose Revolution in Georgia actually brought a coherent reformist leadership to the levers of power, largely unconstrained by oligarchic control and intervention or a polarized society. Thus, this study aims to be a case study with broader implications on how EU and US policies in the post-Soviet space can support transformation.

EU instruments and US leverage can be a powerful combination for change, if closely coordinated and applied thoroughly. To focus on the eventual impact of EU and US policies is not to deny or neglect the responsibilities of local elites, nor is it to suggest that Western powers could simply impose transformation from abroad, or that they should or could replace local authorities in implementing them. It takes, however, account of the challenge that reform-minded local elites, even if holding constitutional authority, may not be able to overcome the veto power of vested interests. Therefore, in its conclusions the study will rather explore a new kind of a structured partnership to back up and capacitate local reformers and agents of change from within in ways that could address resistance against reforms targeted at those places from where it originates. This would not require infringing on a country´s sovereignty, but it would require one major shift in how to deal with transformational policies. In one sentence, this shift can be described as a change from merely supporting reforms to applying a combination of more rigorous external pressure, using existing and new instruments in the spirit of co-ownership for transformation, and internal pressure from the local agents of change in the government and from the Moldovan society in general. How such an approach could work shall be elaborated and exemplified in the conclusions.

A. Overview on the European Integration process in Moldova (2009-2016)

Under this chapter we shall briefly present key events and actions with respect to Moldova in its path toward closer ties with the European Union. The overview shall look at the existing relations between Moldova and the EU at the beginning of the reference period and analyze it in the local political context, before moving onto the reload of the EU-Moldova relations, the negotiation of the Association Agreement and other related activities, and finally presenting the progress in the implementation of the Association Agenda since the provisional entry into force of the Association Agreement, as well as the current EU-Moldova dialogue.

I. EU-Moldova relations before 2009

The EU and Moldova have commonly agreed to an EU-Moldova Action Plan, which was signed in 2005 and had a period of implementation of 3 years. Additionally, the Partnership and Cooperation Agreement, concluded in 1994 for an initial period of 10 years, was prolonged until a new cooperation document was negotiated between the EU and Moldova. Moreover, the EU opened its permanent Delegation to Moldova in 2005.

Moldova also registered some progress in the visa facilitation dialogue with the EU, which resulted in the launch of the Common Visa Application Centre in 2007 and a series of subsequent facilitations offered to Moldovan citizens applying for a Schengen visa, including long-term visas for educational, cultural

and research purposes, as well as for business, partial waivers of the visa fee for some beneficiaries and the keeping of the same price for short-term visas as opposed to the proposed increase of price for other states. On the part of Moldova, the short-term visa requirement was abolished for the EU, EEA, US and Canada starting in 2007.

The EU has offered, based on the common dialogue between Moldova and Ukraine, a border assistance mission (EUBAM), which started its activity in late 2005. The Mission is still being implemented with the support of the European Commission, having been prolonged 5 times already.

The political context in Moldova in the course of 2009 generated two general elections and mass demonstrations after the first general election in April. With just one vote insufficient to elect the president of the country, early general elections took place in July 2009 and led to the formation of a coalition of four political parties. This change in the local political arena was also combined with an increased dialogue with the EU and the US, which aimed to bring Moldova to an agenda of reforms and to increase cooperation using all available cooperation instruments, in particular the recently launched EU Eastern Partnership.

II. Increased EU-Moldova cooperation (2010-2014)

Since 2009 the European Integration narrative shaped the internal developments in Moldova. The new Alliance for European Integration, installed in autumn 2009, raised hopes that the new Moldovan Government would finally focus on long-awaited democratic reforms, which would make Moldova a better place for its citizens. Two key political objectives were projected at that time. First, to conclude a new Agreement with the EU that would set a clear way for Moldova's prospective accession into the EU, setting a solid basis for political association and economic integration. It was also one of the main goals outlined by the Eastern Partnership initiative launched in March 2009. The second key objective of the new Coalition was to provide Moldovan citizens with the right to travel without a visa to the EU.

The relations between Moldova, the EU and the US had deepend considerably. An opportunity for the creation of positive momentum appeared. The Pro-European Coalition, which embarked with clear determination to pursue the European integration track, was credited with unprecedented support from Western partners, both political and financial, which was officialised in March 2010 at the Brussels Donor's Moldova Partnership Forum based on the strategy development country paper "Rethink Moldova", which pledged over 2,6 billion USD to support the reform agenda in Moldova during 2010-2013.

The period was broadly characterised by an intense travel diplomacy, which saw many Western leaders, including US Vice President Biden, German Chancellor Merkel as well as the Presidents of the European Council and the European Commission paying visits to Chisinau. In turn, Moldovan Prime Ministers and Minister of Foreign Affairs and European Integration were received on the highest level in all EU member States and the US. Brussels and Bucharest became the most frequented destination for visits of Moldovan government representatives and one of the strongest supporters of Moldova in the EU, short of promoting a membership perspective. Particularly close relations developed between Chisinau and Berlin, which initiated, together with Russian president Medvedev, the Meseberg Initiative to resolve the Transnistrian conflict. All this expressed support, but also trusts and hope in a European future for Moldova.

The pro-European coalition governments in Moldova were dominated by a double conflict: an open one between the two preeminent leaders of coalition

parties, Vlad Filat and Vlad Plahotniuc, and a less visible struggle between reformers and vested interests. Accordingly, the constellations within political parties were as important for the country's development as the competition both between coalition parties and between coalition and opposition parties. In terms of reform versus vested interest, the pro-European parties contained both the best and the worst characters in Moldovan politics; yet it was the latter who wielded both the greater determination and leverage.

Between 2009 and 2013 Moldovan politics were hampered by a constitutional crisis caused by the inability of the Parliament to elect a new president with the required 3/5th majority, which led to the early elections in 2010 and were only overcome with the election of president Timofti in 2012. There were also several coalition crises caused by clashes between Filat and Plahotniuc. The last and deepest of these crises, which lasted from March to June 2013, resulted in the defeat of Vlad Filat, who was replaced by Foreign Minister Iurie Leanca as Prime Minister. In the following one and a half years, the new Government quickly restored both the confidence of the public and of transatlantic partners in Moldova's pro-reform European agenda. It did develop plans for substantial reforms with a considerable involvement of EU partners, but didn't manage to push through much progress while in office. During that period a number of landmarks in the advancement of EU-Moldova relations were struck, completing one of the first 2009 pro-European Government key political objectives as well.

The EU-Moldova Association Agreement was initialled, signed, ratified and provisionally applied as of 1 September 2014. The visa free travel for Moldovan citizens was introduced on 28 April 2014, because of a well-structured EU-Moldova Visa Liberalisation Dialogue with clear legislative and implementation benchmarks to reform the justice and home affairs sectors. This exercise was probably the most effective in advancing reform in the Republic of Moldova's track-record. A perfect synergy between the conditionality on the side of the EU and the demonstration of political will in Moldova to implement reforms was ensured.

The EU committed important financial assistance to Moldova, both as direct budget support and as technical assistance programmes. The assistance to Moldova was far-reaching, with assistance offered to reform the justice sector, a High-Level Advisors' Mission to ministries and agencies, a Comprehensive Institutional Building Programme (CIB), technical assistance to implement the commitments taken by Moldova in various sectors, including with respect to the Visa Liberalization Action Plan. Part of the EU budgeting process, the EU reserved up to 411 million Euro for assistance and development cooperation for Moldova for the 2014-2020 period.

Part of the enhanced EU-Moldova cooperation was the continuous direct budget support, offered to implement some of the pressing institutional reforms in the country. For 2014 alone the EU committed 119 million Euro for direct budget support.

Key infrastructure projects such as the Iasi-Ungheni gas pipeline and the electricity interconnections with Romania were heavily supported by the EU, with co-financing from Romania, including of the part Moldova had to invest to ensure interconnection with the EU's energy market.

In spite of the general progress, the Government operated nearly all of the time in a kind of a crisis mode to repair the deep loss of credibility caused by the preceding infighting in the coalition, to maintain stability in a society increasingly polarized over geopolitical preferences, to defuse resulting tensions with the Gagauz autonomy and other minorities, to address the economic damages caused by the wine

embargo and trade embargos imposed by Russia after the initialling and signing of the Association Agreement, and finally by trying to resolve the fraud in the banking system.

Before November 2014, Moldova became a so-called "success story" of the Eastern Partnership. However, despite this progress, already in 2015 the picture became less optimistic. With respect to crucial domestic reforms, the success story of Moldova was indeed rather a hope for the future than a reflection of real development. All crucial reform areas – rule of law, the building of functioning and independent institutions, fighting corruption and restricting oligarchic control over the state and the economy – saw little progress.

III. The implementation of the EU-Moldova Association Agreement

The provisional entry into force of the Association Agreement was used as a tool to counteract the Russian embargo on Moldovan products from the summer of 2014, which in turn led to increased quotas of strategic goods for Moldovan agriculture and has diminished the effects of the trade ban from the Eastern markets.

To enhance the implementation process, the Moldovan Government approved an Action Plan directed at the commitments under the Association Agreement for 2014-2016.

With the general elections taking place in November 2014 and the failure of the three political parties to form a coalition Government in early 2015, the pace of implementation of the Association Agreement has significantly diminished. Due to political instability with two Governments and three acting Governments during 2015, many of the Moldovan commitments under the Association Agreement have not been fulfilled.

After the public became aware of the bank fraud which led to the loss of around 1 billion Euro, mostly from the Moldovan Savings Bank ("Banca de Economii"), the sharp devaluation of the national currency and the loss of credibility in the face of external development partners, Moldova's direct budget support from the EU was suspended.

The recent evaluations made in July 2016[1] by independent experts show a rate of around 29% of implementation of the Association Agreement commitments valid until the end of 2016, with another 71% still under way or with no action taken. The Moldovan Government has reported a 45% general implementation rate, which reflects not only the finalized actions, whose corresponding intermediary results are reached, but also actions that have either started or are in a more advanced stage of implementation. Since February 2016 the activity of the Government and of the Parliament has increased, but it mainly used the preliminary deliverables from ministries and agencies, while the process of review and public consultation was sacrificed in the interest of speed.

There are growing concerns that many of the reported activities as completed are not in essence progress, as the key aspects of the justice sector, investigation of fraud, the freedom of media and transparency of the banking system are still not resolved.

The approval of a new cabinet in January 2016 by a newly formed coalition, with very little trust from the Moldovan society, declared a firm commitment to return to the Association Agenda and implement 100% of the commitments as provided by the Association Agreement and the national planning documents. The Council of the European Union reacted with Conclusions on Moldova, having a very precise and clear conditionality on the EU-

1 IPRE Monitoring Report on the implementation of the EU-Moldova Association Agreement (1 July 2016) http://ipre.md/new/index.php/2016/07/29/raport-anual-privind-monitorizarea-implementarii-acordului-de-asociere-rm-ue-1-iulie-2016/?lang=en

Moldova relations, and indicating eight key aspects that required immediate attention, among them the effective criminal investigation of bank fraud, ensuring the independence of the judiciary, freedom of media, transparency of the banking system, depoliticisation of the state institutions and a proper business environment.

The Moldovan Government and the Parliament have answered to the Council with a Roadmap of high priority actions to be implemented by the Moldovan authorities by the end of July 2016. The Roadmap has contributed to the mobilization of the internal efforts. Thus, the Government reported on the 1st of August 2016 that 90% of the Priority Actions were implemented.[2] However, an independent assessment undertaken by a group of non-governmental organizations[3] evaluated that at the beginning of the month of June, 51% of actions were implemented and 33% of actions were in progress. Nevertheless, the evaluation of the Moldova-EU Association Agreement progress will foremost depend on the level of achievement of the priorities identified in the Association Agreement and outlined in the AANIP, for which the deadline is set at the end of the year.

Most of the high-priority actions have a legislative nature, and less emphasis is put on the enforcement of legislation and regulatory framework already approved. Moreover, most of the actions of legislative nature that were undertaken had a very high speed of review and approval by the Parliament, which did not allow for a thorough assessment from the civil society, many expressing concerns that there might be issues of collision of norms, including in some cases serious constitutionality issues.

2 http://www.mfa.gov.md/img/docs/raport-foaie-parcurs-2016.pdf

3 http://www.expert-grup.org/en/activitate/comunicate-de-presa/item/1306-impact-incert-reforme-implementate-guvern-foaia-de-parcurs/1306-impact-incert-reforme-implementate-guvern-foaia-de-parcurs

There are two essential reasons for the diminishing of the intensity of EU-Moldova relations and the cooperation dialogue:

The first reason is the extent of the fraud in the banking system that came to light, and the apparent unwillingness or incapacity of the subsequent governments to seriously investigate or prosecute those responsible. The exact amount of the money lost is still not established, but estimated at around 1 billion Euro – a staggering sum of more than 15% of the country's official GDP, which badly hit the public finances since the government bailed out the banks shortly before the general elections in November 2014 and in March 2015.

Yet the only person seriously prosecuted for the fraud was Vlad Filat – and his arrest was a political move, staged to scapegoat him while removing him as a political leader, and motivated by a sudden confession by Ilan Shor, the former chairman of the "Banca de Economii", the biggest of the three failing banks, who blamed Filat for having forced him to give him bribes of 250 million Euro.

Directly after the November 2014 elections, then acting Prime Minister Iurie Leanca called for US and EU support to help Moldovan law enforcement authorities with the investigation of the banking fraud and recovery of stolen financial assets. The acting government called for an independent specialized international company to audit and investigate the facts and conditions under which the banking fraud was committed. However, the Kroll investigation went as far as its first – scoping – phase, whose findings remained dependent on the information provided by the National Bank. The crucial second phase commenced in late 2015 after considerable international pressure. A preliminary second phase Kroll report was already presented to the National Bank of Moldova. According to recent partial leaks in the Moldovan press, allegedly more conclusive

information about the responsible persons, beneficiaries and schemes were identified. The long-term passivity of the National Bank as well as of the law enforcement authorities – despite the fact that the abuses in the banks, if not necessarily their full extent, were known to them long before November 2014 – implicates other powerful actors than Filat as well, as he wasn't known to control either of these institutions. While the bailing out of the affected banks put strain on the public finances, the EU, as mentioned, reacted by suspending the direct budget support and made its continuation conditional on a thorough investigation into the banking fraud and on the conclusion of an agreement with the IMF on stabilizing the financial situation.

The second reason for a cooling down of EU-Moldova relations is the way in which the new government was formed after the November 2014 elections, raising doubts on the seriousness of its commitments to reforms and European integration. Though overshadowed by incidents like the removal of Renato Usatii or the placement of a clone communist party on the ballots, the election again produced a majority for the "pro-European" parties. Nevertheless, after more than two months of negotiations a minority government between the PLDM and the PDM with the toleration by the Party of Communists was formed. It was presented as being without alternative due to an alleged intransigence of PL's leader, Mihai Ghimpu. In reality, the negotiations had only been a charade. The new government, "minority" only in name, was in fact based on the majority of their choice, based on Vlad Filat's interest to get rid of Leanca as a potential rival within the Liberal Democratic Party of Moldova (PLDM) – who couldn't consent to the collaboration with the Party of Communists of the Republic of Moldova (PCRM) – and based on Vladimir Plahotniuc's interest in building a new majority that would weaken the position of the PLDM and finally make Filat redundant. The conduct of the subsequent governments also suggests that both Filat and Plahotniuc shared the common interest of preventing rather than promoting serious reforms and investigations.

The following crises, which led to the resignation of Prime minister Gaburici after the local elections and subsequently to the dismissal of the Strelet government in autumn 2015, were essentially only variations of the same theme. They were fueled on the one hand by the need to react to public dissatisfaction and growing protest, and on the other hand by Plahotniuc's efforts to extend his own control at the expense of PLDM, which finally resulted in the arrest of Vlad Filat. The following re-modeling of the parliamentary majority was brought about by splitting PCRM and PLDM fractions and finally consolidated Plahotniuc´s position as the sole remaining leader.

Although President Timofti denied him the premiership, with the appointment of Pavel Filip as the new Prime Minister and Adrian Candu remaining Speaker of Parliament, the two top positions in the new "coalition" were now held by Democratic Party of Moldova (PDM) representatives and close Plahotniuc confidants – indicating that all other parties in the new majority were at best junior partners.

However, the creation of the government, with a majority that defied election results, lacked democratic legitimacy and faced considerable public protests. This led to a scaling down of Moldova's relations with the EU and its member states, with European leaders avoiding visits to Chisinau and representatives of the Moldovan government usually not receiving high level invitations, except for routine meetings in Brussels.

B. Mapping the transatlantic policies and instruments to support transformation in Moldova

This chapter will present the structure of the transatlantic policies and instruments towards Moldova that have aimed to ensure the necessary internal transformation processes, the depth of support to transformation, how the policies and instruments have been enforced in practice, what was the foreseen and real impact and how the US and EU have reconciled their support efforts to ensure the maximum possible efficiency in the transformation processes.

The analysis shall focus on the period 2009-2016 and will also evaluate the tendencies of support under both policies and instruments used by the US and the EU in their bilateral cooperation with Moldova.

I. USA policies and instruments

1. General figures

The US and Republic of Moldova started their diplomatic relations in February 1992 with the opening of the US Embassy in Chisinau and the Moldovan Embassy in Washington DC.

The US supported Moldova since 1992 with over 1.4 billion USD to strengthen its democratic institutions, increase prosperity, secure its borders and integrate into the European and Euro-Atlantic communities.

During 2009-2016 the assistance received from the US has significantly increased and was directed to three key areas of democratic governance, economic growth and security. For year 2014 alone, the US committed significant financial assistance to Moldova, which was raised to 30.2 million USD compared to 20,66 million USD for 2013. The financial assistance was directed to:

- Support the development of more effective and accountable democratic institutions and strengthen the rule of law
- Improve the business climate and increase private sector competitiveness to support sustainable economic growth
- Support Moldova's role as an international partner and promote the territorial integrity and sovereignty of Moldova, including the Transnistrian region

Support was also available under other areas of cooperation, such as security issues (foreign military financing and military training) to support the capacity of Moldova in peacekeeping operations and increase cooperation with NATO. The funds available in 2014 were 1.25 million USD for foreign military financing and 0.75 million USD for military training.

Further below we shall detail by intervention areas the policies and instruments the US promoted and applied with respect to Moldova.

2. Political dialogue and reform (Reform, Justice and Home Affairs, Security and Defense, Reintegration)

Overview of political dialogue

The political dialogue increased in pace significantly after 2009 with some prominent official visits taking place in Chisinau, including the visit of the US Vice President Mr Joseph Biden (March 2011), the US Secretary of State Mr John Kerry (December 2013), five US Congressional Delegations (June 2011, April 2014, May 2014 and December 2014), as well as numerous visits of US officials in charge with various policies, including in the fields of democracy, human rights, energy, law enforcement and development assistance.

Similarly, the Moldovan official visits to the US have increased significantly, with three visits of Moldovan Prime Ministers Mr Vlad Filat and Mr Iurie Leanca (January 2010, September 2013, March 2014), deputy

Prime Ministers Mr Victor Osipov, Mr Iurie Leanca, Ms Natalia Gherman, Mr Eugen Carpov and Mr Adrian Candu (May 2010, March 2012, September 2013, May 2014, October 2014), Speakers of Parliament Mr Marian Lupu and Mr Igor Corman (June 2012 and May 2014), as well as numerous visits of ministers and other public officials.

The US-Moldova Strategic Dialogue

The US-Moldova political dialogue resulted in an increase of both political and financial support for the Moldovan Government and in a bilateral commitment to have an institutionalized US-Moldova Strategic Dialogue, which would focus on four strategic areas: rule of law, trade, energy and security and defense.

In the course of 2014 and 2015, a number of sessions of the thematic working groups took place to advance the strategic dialogue agenda.

Due to the unstable political conditions Moldova faced during 2015 and the beginning of 2016, the strategic dialogue was suspended by the US side. With the new Moldovan Government in place, efforts are being taken to relaunch the strategic dialogue agenda in all four sectors.

The US-Moldova Congressional Caucus

To advance in the US-Moldova Parliamentary cooperation, in June 2012 the Congressional Moldovan Caucus was formed. The format of cooperation was used to advance on a series of issues of common interest such as Euro-Atlantic Integration and the advancement in permanent normal trade relations.

The US political support towards the advancement of the European Integration Agenda

The US position with respect to the deepening of the cooperation relations with the EU has been strong, especially since the new Government was installed in September 2009. The political support was further backed up with coordination activities of the assistance offered by the EU, including technical assistance in negotiating and then implementing the EU-Moldova Association Agenda and the Association Agreement, including the Deep and Comprehensive Free Trade Area.

The political support of the Moldovan "pro-Europe" Government was not unconditional and instead subject to effective fights against corruption and the promotion of genuine reforms.

Justice reform and the fight against corruption

The US supported the reform process in the justice sector and the fight against corruption. In this respect the efforts were directed to implement European standards in the fight against corruption, enhance the judiciary with instruments that eliminate involvement in the activity of judges and support civil society and investigative journalists in their efforts to monitor and oversee the reform process.

The Rule of Law Institutional Strengthening Program (ROLISP) was implemented in the reference period and was directed towards increasing the effectiveness of the Moldovan judiciary via transparent and accountable activity, trained professionals and the supporting of civil society in monitoring the reforms and increasing legal public awareness.

Security, defense and reintegration

The US offered training to the Moldovan military in increasing their peacekeeping capacities and increased cooperation with NATO. Also, mid-level and senior officers were trained in strategic management skills to enhance human relationships in the Moldovan military forces.

Border security was enhanced via electronic equipment and systems to ensure better tracking of goods and persons, including to better perform the border monitoring function for various prohibited or regulated goods.

The reintegration efforts were directed towards an increased cooperation of civil society on both sides of the Nistru River, enhanced people-to-people contacts and increased confidence via involvement in common activities. The US is also part of the "5+2" negotiation format and acts as an observer along with the EU. Although actions were taken to boost the resolution process, there is considerable evidence that points to the existence of strong vested interests, which do not reconcile with the common goal of the final resolution of the conflict.

3. Trade and energy

Trade

Congressional action in the trade sector

The Congress lifted the application of the Jackson-Vanik amendment for Moldova, which in essence meant that the Moldovan goods would be treated under permanent normal trade relations or, in WTO terms, have access to the most favored nation treatment. The House of Representatives approved the amendment on 16 November 2012, the Senate passed the bill on 6 December 2012 and the US President signed the bill on 14 December 2012.

The Jackson-Vanik amendment was applicable to Moldova since its membership to the former USSR. After Moldova joined the WTO in 2001, the lifting up of the Jackson-Vanik amendment became more relevant. With the efforts in the House of Representatives taken in 2012 and the subsequent adoption of the bill, permanent normal trade relations with Moldova have been instated.

Development support in the trade sector

USAID was active in implementing trade-related support projects in Moldova. The efforts were focused on:

- Competitiveness enhancement through workforce development and innovation
- Agriculture competitiveness and enterprise development
- Improved Business, Regulatory, Trade and Investment Environment (BRITE)
- Support of the National Wine and Vine Registry of Moldova

Efforts were taken by USAID to reduce regulatory burden, facilitate harmonization of regulations, promote the increased use of e-governance tools and increase transparency, which would reduce corruption, as well as support the agricultural businesses in increasing their efficiency, including via strong commercial linkages, access to finance, high value agriculture and increased harvest and post-harvest infrastructure.

Energy

Congressional action in the energy sector

Representative Ted Poe introduced a bill to counteract the Russia's strong position on the EU and former USSR states in the gas market, which essentially means that exports of US natural gas were made possible, including for Moldova. Although the measure intends to lift some of the internal restrictions pursuant to US legislation, there are other key aspects of the energy dependency, such as connectivity to the European energy market and existence of local infrastructure to deposit, process and distribute fuels.

Development support in the energy sector

In its Country Development Cooperation Strategy towards Moldova, USAID has identified energy dependency as one of the key challenges for Moldovan economic development. In this respect, USAID highlighted that it will cooperate with other donors to support investment in infrastructure projects, and that one of the indicators of success is the support of PPP projects related to infrastructure.

4. Financial assistance (Infrastructure projects)

Support under the Millennium Challenge Corporation

During the 2010 visit to the US, the Moldovan and the US Governments agreed to initiate a 262 million USD compact program to support Moldova in rehabilitating 93 km of a national road which connects the capital with the Northern part of the country, as well as in repairing up to 11 irrigation systems in Moldova that would serve 15,500 hectares of arable land to ensure high-value agriculture.

The 262 million USD compact program was successfully finalized in September 2015 and is currently in the monitoring and evaluation stage.

Due to constraints under the MCA (former MCC) rules, the Moldovan Government has so far not been offered a second compact project.

II. EU policies and instruments

1. General figures

EU-Moldova relations have been formalized with a Partnership and Cooperation Agreement since 1994, which entered into force in 1998 and was set for a 10-year period. In 2005, following a revived series of discussions with the Moldova Government, an EU-Moldova Action Plan was concluded, which set 80 key sectors for which reform action was set. In 2009, Moldova entered the EU Eastern Partnership, along other 5 states – Armenia, Azerbaijan, Belarus, Georgia and Ukraine. Starting in 2010, the EU and Moldova initiated the negotiations on the conclusion of an Association Agreement, which also included the conclusion of a DCFTA. Following a 4-year period of negotiations, the Association Agreement was initialed in November 2013 and signed in June 2014, ratified by the Moldovan Parliament in July 2014, and provisionally entered into force on 1 September of the same year. With the last EU Member State – Italy – to have ratified the Association Agreement in November 2015 and the deposit of the ratification instruments at the beginning of 2016, the EU-Moldova Association Agreement is set to fully enter into force on 1 July 2016.

Starting in 2009 as part of a stronger EU-Moldova cooperation, visa liberation talks also increased with the adoption of a Visa Liberalization Action Plan in 2011 and the granting of visa-free status for Moldovan citizens in the EU, starting 28 April 2014.

The financial and technical assistance to Moldova on the part of the EU has also registered significant increases since 2009. For 2010-2015 the EU offered grants to Moldova under various support instruments of about 840 million Euro. The EU also co-financed important infrastructure projects, which came to Moldova through loan support from BEI, EBRD and other development partners.

An immediate support action from the EU was a disbursement of 90 million Euro in 2010 as direct financial support to the Moldovan Government. This action was intended to cover the payment deficit due to the impact of the global financial crisis on the Moldovan economy as well as insufficiently responsible management of public funds.

Under the European Neighborhood instrument, the EU committed to support Moldova alone, with 335-410 million Euro in the budgeting period 2014-2017.

Besides the EU, some of its Member States also offered important financial and technical assistance, such as Romania, Sweden, Poland, etc.

Further below we shall detail by intervention areas the policies and instruments the EU promoted and applied with respect to Moldova.

2. Political dialogue and reform (Reform, Justice and Home Affairs, Security, Reintegration)

Overview of political dialogue

The 2009-2015 period registered a sharp increase in bilateral political cooperation with the EU. The issues of cooperation were rather vast, and included the initiation of the negotiations of the Association Agreement, the visa-free regime and implementation of the autonomous trade preferences unilaterally offered by the EU to Moldova.

There have been numerous visits of Moldovan officials to Brussels and of EU officials to Chisinau, the subjects of discussion and agreement being, among others, the conclusion of the Association Agreement, implementation of the Visa Liberation Action Plan, preparation for the negotiation of the DCFTA and successful implementation of its preconditions, and the effective absorption of the ATPs.

High level officials, including the President of the European Council, the President of the European Commission, the High Representative of the EU for Foreign Affairs and Security Policy, MEPs, Ministers of Foreign Affairs of EU Member States, etc. visited the country. Moldova was considered in the beginning of 2014 as the pioneer of the European Eastern Partnership, and there were discussions at the Moldovan level that by 2016 a careful consideration towards a membership country application should be made. The unstable and unclear position of the political parties in Moldova after the November 2014 elections led to a significant decrease in political dialogue, as well as to a carefully considered conclusion regarding Moldova in the Common Statement at the Eastern Partnership Summit in March 2015. Although even in the course of 2015 attempts have been made to revive the pro-European Parliamentary coalition, the 2015 political events in Moldova, especially in the second half of the year, have only contributed to the further reduction of the political dialogue with the EU.

The March 2016 Conclusions of the Council of the European Union have underlined the cautious and conditional approach towards Moldova in further progressing with the political dialogue. An increased number of MEPs, as well as officials in the Council and Commission, have underlined clear conditions, such as effective investigation of bank fraud, depoliticisation of state institutions, freedom of media and transparency in the financial sector, as key for further cooperation with the EU, including the relaunch of direct budget support for the Moldovan Government. The proposed Roadmap by the Government for key priority areas is considered to be an important step towards the revival of EU-Moldova relations, and special monitoring of its progress was highlighted as part of the relaunch of the political dialogue.

EU High Level Advice Mission to Moldova

Aiming at a stronger cohesion of Moldovan policies towards reforms, and in the ambit of the already existent commitments with the EU as well as the upcoming EU–Moldova Association Agreement, in 2011 the Moldovan Government requested a High-Level Advice Mission to support Moldovan ministries and agencies and to better steer their efforts. Initially the mission was comprised of 15 High Level Advisors. In 2016, the number grew to its current 25 High Level Advisors. The key aspect of the mission is the day-to-day interaction of the advisors with key decision makers and the synergy of the national sectorial policies in implementing the Moldovan reform agenda.

The EU Comprehensive Institutional Building Programme

Part of the Public Sector Reform, the EU offered support to a number of Moldovan institutions as part of the Institutional Building Programme (CIB). The programme involves assistance to targeted public institutions, including financial aid to improve their capacities in better performing their functions. The EU High Level Advisors also assisted the central

ministries and agencies in better developing their request for assistance under the CIB. The Programme targeted institutions based on the most pressing needs identified by the central Government.

Justice reform and the fight against corruption

The EU plenary embarked on the support of the justice sector, including via direct budget support, to complement the actions envisaged under the Justice Sector Reform Strategy approved by the Moldovan Parliament in 2011. Out of the 51 million Euro planned under direct budget support, about 30 million Euro have been implemented. Although the official sources of the Moldovan Government mention a 75% rate of implementation of the Justice Sector Reform Strategy, its effectiveness and efficiency is considered limited. Some of the key aspects of the justice sector reform are still pending, and the real impact is yet to be seen. Due to several pressing issues of concern, such as the banking fraud and concerns over politicized state structures, the EU froze its direct budget support generally, which is also valid for the justice sector.

Part of the political dialogue in 2014 with the Moldovan Government came with a proposal from an EU JUST mission, which would mean much more than counseling or advice from expert missions either under a technical assistance project or ad-hoc, but rather an institutionalized involvement of EU officials in justice delivery and reform. The mission was set to start with a peer review mission on the current condition of the Moldovan justice system, identify key aspects which require action, and then turn to the actual implementation of the best agreed practices in the justice sector and support, mentor and consult the Moldovan investigation officers, prosecutors and judges in best enforcing the justice sector legislation. Additional training and capacity building exercises as well as periodic monitoring of process, quality assurance and general overview of the implementation of the Justice Sector Reform Strategy were also envisaged. Unfortunately, the EU JUST mission, the negotiation of which was initiated in 2014, did not come to a lucrative result in 2015 and 2016.

There have been, however, efforts to implement at least parts of the EU JUST mission, discussions on which took place in 2014, namely regarding the peer review mission. Such a mission was initiated in November 2015 and has resulted in a list of reports and recommendations, presented to the Moldovan Government and to the public at the end of May 2016. A natural follow-up to the presented conclusions and recommendations is their discussion and identification of areas that require attention, as well as common efforts to return to the initial talks on the EU JUST mission and its subsequent institutionalization.

3. Security and home affairs

Border management

Since 2005 the EU has been implementing an EU Border Assistance mission to Moldova and Ukraine (EUBAM) to counteract the illegal activities along the Moldo-Ukrainian border, which is not controlled by the Moldovan Government (in total 454 km). Although the launch of the mission was considered a very important instrument to improve the practices used for effective border control and to ensure security, the competences of the mission were rather limited. The mission was prolonged four times, and the current mandate expires on 30 November 2017. The key objective of the mission was to ensure an effective control over the region and eliminate the smuggling of goods through the transnistrian region. With the negotiation and entry into force of the Association Agreements between the EU and Moldova and the EU and Ukraine, the mission received an additional important role to support the efficient implementation of DCFTA by the two states, as well as an increase in confidence building between Chisinau and the transnistrian region. As a monitoring and assistance mission, the EUBAM holds competences

to make unannounced visits to the Moldo-Ukrainian border, including visits to the relevant present public officials (customs, border police, etc.), and to check the already processed lots of goods documents.

Cooperation under international crisis management operations

Moldova joined the EU-led efforts under the Common Security and Defense Policy, which involved the participation of Moldovan experts and security personnel in internal training and advisory missions.

Reintegration and confidence building

The EU supported confidence building between the two sides of the Nistru river by promoting and enhancing civil society cooperation on the two sides. Considerable efforts were made to identify solutions to the on-going resolution process of the frozen transnistrian conflict via the existent cooperation and negotiation instruments, including the working groups and the "5+2" format. However, the resolution process has not yet amounted to a tangible result, with some consideration being with respect to the over-reaching vested interests present both in Chisinau and Tiraspol, which are not in line with the final resolution of the conflict, albeit an artificial one.

4. Trade and energy

Trade

Autonomous trade preferences

The EU supported the Moldovan economy with its asymmetric trade preference system by granting autonomous trade preferences starting in 2008. This trade policy instrument essentially grants exports of Moldovan products to the EU with no import tariffs. Some products are subject to quotas on preferential import tariff treatment. The ATPs have been available for Moldova until 31 December 2015.

Implementation of the DCFTA with the EU

To counteract the Russian embargo on Moldovan products as a response to the Association Agreement entering into force provisionally between the EU and Moldova starting 1 September 2014, the EU has increased the available quotas for most strategic Moldovan goods. The effects of the provisional entry into force of the DCFTA was the increase of exports of some strategic Moldovan goods, but also the decrease of the value of the exported goods. On the other hand, plenty of animal origin Moldovan products are not yet eligible for export due to a lack in the implementation of the proper sanitary and phyto-sanitary standards. An important gap in the export promotion of Moldovan products is the lack of proper certification mechanisms which could ensure compliance with EU rules on animal origin products and boost Moldovan exports to the EU.

Implementation of the DCFTA in the Transnistrian region

At the end of 2015, the diplomatic effort taken by the EU resulted in a Roadmap negotiated with the de-facto representatives of the transnistrian region with the plenary participation of the official Moldovan Government. The implementation of the Roadmap is essential for the survival of business in the region and to further the building of confidence between the two banks of the Nistru river. The export numbers of the region indicate a dependency on exports to the EU and the economic activity with the right bank (over 70% of the entire exports), and with only marginal exports to Russia (around 10%). The key commitments undertaken for the trade with the region is to totally lift any import duties and transpose EU standards and regulations, primarily those already implemented by the right bank, but also those specified under the DCFTA.

Technical assistance to support the implementation of the DCFTA commitments

The EU supported the Moldovan Government with technical assistance projects to ensure proper implementation of the commitments under the DCFTA, which resulted in some progress. However, the end result of the efforts seen so far is not sufficient, which is also due to the partial freeze of the financial support for Moldovan infrastructure, support that is dependent on the conclusion of a micro-financial agreement between the IMF and Moldova.

Energy

The EU and Moldova have advanced in the energy agenda, especially in the ambit of the European Energy Community. Moldova became a member of the European Energy Community in May 2010 and has committed itself to the implementation of a series of reforms in the energy sector, including transposition of various EU Directives in the energy sector, most important of which is the Third Energy Package. Due to the lack of local traditional sources of energy and a very heavy dependency on imports of gas and electricity, mainly from Russia and Ukraine, and with practically no other alternative source of imports, Moldova sought support from the EU to diversify its sources of energy imports and to increase the diversification of energy resources in its energy mix.

The technical support offered to the EU for Moldova in the energy field also resulted in some progress in the adjustment of the national legislation to the EU Acquis and partial transposition of the Third Energy Package.

An important effort was made with respect to diversifying gas supplies via the construction of the Iasi-Ungheni gas pipeline, with access to gas from the EU market. Although initially Moldova made the commitment to co-invest in the 20,2 million Euro project, the EU covered 7 million Euro out of the cross-border support projects instrument, while the rest of the 13,2 million Euro were covered by the Romanian Government out of the committed 100 million Euro of support from the Romanian Government to Moldova. Hence, the Moldovan budget did not share any expenses related to the large energy infrastructure project.

Although it was planned that the gas pipeline would be further extended in 2015 to reach Chisinau, that never happened, with no plans of investment being considered for 2016.

There are sufficient grounds for believing that over-reaching vested groups are not permitting this investment project to continue and ensure competition on the Moldovan gas market. Although the final consumers' fees for gas are designed to include an investment in infrastructure, the current national gas pipeline operator – Moldova Gaz, which has as a main shareholder the Russian giant GazProm – is not performing any foreseen investments in infrastructure and extensions of the national gas pipeline system.

5. Financial assistance (Infrastructure projects)

The EU offered considerable amounts to support various infrastructure projects in Moldova via its available financing instruments. The total EU support offered to Moldova during 2007-2014 amounted in total to 782 million Euro. Thus, in 2014, the EU aid for Moldova was nearly 37 EUR per inhabitant, being the highest rate among the EU's eastern neighbours.

As we have mentioned above, the EU supported Moldova with direct budget support programmes up to 2015, when it froze its financing due to the unresolved bank fraud and the continuous lack of a long-term macro-financing agreement with the IMF. On the 1st September 2016, the European Court of Audits revealed[4] in its special report on the EU assistance to Moldova additional reasons that most

4 Special Report: EU Assistance for strengthening the the public administration in Moldova, European Court of Audit, 2016, http://www.eca.europa.eu/Lists/ECADocuments/SR16_13/SR_MOLDOVA_EN.pdf

probably determined the European Commission back in June 2015 to suspend the direct budget support to Moldova. The auditors examined if the EU assistance had contributed effectively to strengthening public administration. We shall further analyze the auditors' findings in the next chapter of the study, which goes more into detail on the impact of the EU support for the transformation in Moldova.

Without any doubts this ultimately led to increasingly high lost opportunities for the Moldovan reform process and agenda, as well as putting pressure on the budget. To compensate for the lack of financial resources, the Government has issued short and medium-term state bonds with an interest rate of over 25% in MDL. This may further endanger the financial stability of the Government and create incentives for quick, non-transparent and highly damaging privatization of public assets as a justification of the need to cover the financial deficit.

With respect to infrastructure projects themselves, the EU has been a very supportive donor to both directly financed projects as well as co-financed projects, when the other participants were BEI and EBRD. On average, the EU co-financed around 30% of the share of infrastructure projects to decrease the burden on the local and central budgets, which, due to the loans contracted from BEI and EBRD, would have an increased pressure on them.

With the current commitments in force from the EU, conditioned on the existence of an agreement with the IMF, Moldova has already lost around 40,5 million Euro in direct budget support assistance and risks to lose another committed 63,2 million Euro of direct budget support assistance planned under the first tranche of support for the reform of the police in 2016. Other financial assistance was already lost due to the lack of a clear reform agenda and the country's continuous political instability in 2015.

In the meantime, a possible window of opportunity for unlocking the EU direct budget support appeared on 26 July 2016, when an IMF staff-level agreement[5] on a three-year economic reform program, amounting to 179 million USD, was reached with the Moldovan Government. The respective arrangement aims to make swift upfront improvements in financial sector governance and supervision, and will be based on two pillars, namely (1) the implementation of policies to ensure macroeconomic and financial stability and (2) structural reforms to facilitate growth.

In November 2016, the IMF Board endorsed the staff-level agreement with the Moldovan Government, which, as predicted, contributed to the resumption of the EU direct budget support connected to existing programs that have been ongoing since their signature before 2014, not being related to new Budget Support programs. Thus, on 21 December 2016 the EU Delegation in Moldova announced the partial payment to Moldova of 43,5 million EUR out of 50 million EUR (eligible), corresponding to four programs: Economic Stimulation in Rural Areas (ESRA), European Neighborhood Program for Agriculture and Rural Development (ENPARD), Public Finance Policy Reform and Vocational Education Training.

III. Analysis of the impact of the EU and US support for transformation in Moldova

1. General presentation on coordinated assistance

The Moldovan Government acted to reinforce the attention and the support of the international development partners. The EU and the US have been involved in two major donor assistance initiatives:

5 https://www.imf.org/en/News/Articles/2016/07/26/20/57/PR16365-Moldova-IMF-Staff-and-the-Moldovan-Authorities-Reached-a-Staff-Level-Agreement

- The "Rethink Moldova Programme", proposed by the Moldovan Government to the international development partners in 2010, which envisaged 1,9 billion Euro external assistance in three priority areas – Responsible Governance, Economic Recovery and Human Capital.[6]
- The creation of the Donors' coordination Council for Moldova, with the participation of the donors' representatives active in the Moldovan context.

Both the EU and the US have participated at the donors' coordination meetings to set the priorities, identify areas of intervention and exclude overlaps among donor assistance.

The European Court of Audit report, issued in September 2016, unveiled important structural problems related to the use of the EU funds in Moldova. In particular, the EU auditors evaluated four areas of EU assistance, namely justice, public finances, public health and water, which amounted to a total of 218,6 million EUR. It also included 20 projects in various public authorities. Since little progress had been made since 2007 in the sectors targeted, the auditors concluded that budget support had a limited effect in strengthening the public administration.

In its report, the Court appreciated the new approach by the European Commission in May 2012 introducing an upgraded risks analysis mechanism and an early warning system, which includes new eligibility rules on transparency and oversight, a formal risk assessment process, a senior management governance framework and a set of rigorous criteria on public finance management. However, it noted that the European Commission could halve responded more quickly when risks associated with the budget support programmes materialized. In this context, the Commission recalled that as soon as the banking scandal broke out in November 2014, the Commission's Budget Support Steering Committee decided in December already to review aid modalities in the context of the 2015 programming and to introduce further risk mitigation. Furthermore, this led to a significantly reduced share of budget support programmed in 2015 compared to the previous years, and ultimately to suspension of further disbursements pending the conclusion of an IMF agreement with the Moldovan Government.

The auditors also challenged the application of the Eastern Partnership "more for more" principle for additional incentive-based funds to reward partner countries' reform progress, under which Moldova received in total an additional 93 million EUR in 2012-2014, which supplemented new or ongoing budget support programmes. In its response, the European Commission managed to defend the application of the respective principle, pointing that the decisions on additional awards to Moldova were decided following strict internal review processes in the framework of its mandate on external assistance, in close consultation with the European External Action Service and with endorsement from the EU Member States.

Finally, the report noted that the EU assistance to Moldova continues to be faced by significant challenges, such as political and macroeconomic instability, poor governance and weak public administration.

Thus, in order to minimize potential risks the Court outlined a set of recommendations that shall be applied in the future by the European Commission to the implementation of EU funds in Moldova, in particular: (1) to mitigate more rigorously the risks linked to budget support programmes; (2) to better link the budget support to the existing and future national strategies; (3) to strengthen the conditionality applying strict performance indicators and respond proportionally and quickly where the Moldovan

6 For more details please consult the document at: http://siteresources.worldbank.org/INTMOLDOVA/Resources/Rethink-Moldova-2010-2013-Final-edit-110310.pdf

government is not complying to its commitments; (4) to apply more stringently the conditions for additional incentive-based allocations; (5) to use more systematically and timely the technical assistance to prepare the implementation of the direct budget support programmes; (6) to ensure sustainability of the projects by more rigorous assessment of the capacities and political commitments to sustain outcomes.

Below we shall review in more detail how the support to the various sectors of transformation in Moldova from both the US and the EU have contributed to the attainment of their goals, and which aspects of the common assistance did not work and why.

2. Political dialogue

As mentioned above, there was no formalized forum of tri-lateral EU-US-Moldova political dialogue, although action was taken to prioritize the interventions of the EU and the US with respect to support for the Moldovan transformation processes.

The results of the political dialogue were: the creation of the strategic US-Moldova dialogue on four thematic areas, which are reconciled with the priorities established by the EU and Moldova in the negotiation, approval, entry in force and the enforcement of the Association Agreement.

Thus, this structured dialogue resulted in the US getting more involved as a development partner to support the communication component of the EU integration process, mainly as a counterbalance to the growing anti-European integration propaganda promoted by the Russian Federation. To ensure genuine support, the radio “Free Europe” was supported with additional resources, and an online internet TV platform was launched.

3. Promotion of the reform agenda

The structured dialogue resulted in better coordination of the US and EU support to the transformation processes inside Moldova such as justice, trade, energy, security and defense. The formalization of the strategic US-Moldova dialogue under the respective four thematic areas is also an indication of synergy from the US and the EU towards Moldova’s transformation processes.

4. Justice reform and the fight against corruption

The structured US-EU dialogue on Moldova involved the US supporting the implementation of the justice reform strategy via its ROLISP program and the EU handling the direct budget support of 51 million Euro, technical assistance under the High Level Advice Mission and specific technical assistance on the monitoring of the implementation of the justice sector reform strategy, including the support to the Ministry of Justice as the entity in charge of the monitoring and reporting, convening of the working groups per strategy pillar, etc.

The US offered its assistance for the implementation of the random file distribution system and the integrated case management system, and supported financially the implementation of some specific actions in the justice reform strategy, such as the feasibility studies on the court map reform and support to the National Institute of Justice to better manage and train judges, prosecutors and other justice related personnel.

In September 2015, the EU complemented the justice reform in Moldova with a comprehensive peer review mission of the justice sector institutions. The main aim of the peer review was to have an all-encompassing picture of all the public institutions involved in the justice sector and come up with a comprehensive list of recommendations and solutions to overcome the identified problems.

As can be seen, the final end result of the justice reform process was not reached. Instead of an independent, accountable, transparent and fair justice system, the justice sector is still considered non-transparent, politically controlled and selective.

The US and the EU have not imposed sufficient conditions on the use of the assistance and have not requested stable and periodic intermediary results in exchange for the undertaken financial commitments. There have, however, been general reactions from both the US and the EU embassies on the quality of the justice sector reform process, which have underlined key gaps in the process.

The Courts

The assistance offered to the integrated case management system did provide improvements to the handling of the files and accessibility of data to the public. On the other hand, the management systems themselves are not without external influence. The amendments to the Law on the court system management allow the chairmen and vice-chairmen of courts to both trial litigations and appoint the chief of the court secretariat, who oversees the random file distribution. The feasibility studies that the US funded on the reorganization of the court system led, in fact, to the optimization of the courts only without the review of the workload of the judges and revision of the numbers of judges per district. In the process of adopting the law on the reorganization of the court system, the Parliament admitted early termination of mandates of chairmen and vice-chairmen of courts who have been appointed for a term of 4 years. Thus, the investment in the courts' reform system only proved to be partially effective with respect to some aspects of the management of cases and some elements of the training of judges, as well as of other legal professionals by the National Institute of Justice.

The Prosecution Office

The prosecutors' reform did not proceed on the reforms agenda as did the reform in the court system. The debates on the new law started in 2011 and continued with various working committees, was planned in several national strategic planning documents and ended up being crippled and not yet in force. Key aspects of the reform agenda in the justice sector with respect to the prosecution office needed more elaboration in targeted conditionality. Instead, the new law:

- Has not resolved the lack of clarity on the competences of the special prosecutor offices: anticorruption and anti-organized crime. That is to be resolved under different special legislation.
- Empowers the current members of the Supreme Council of Prosecutors, appointed under the old law, to nominate the candidate for Prosecutor General, which is a serious liability in a system that is said to be exposed to reforms. On the other hand, the old members of the Supreme Council of Prosecutors do not wish to resign from their current positions, as the new law prescribes. In other words, the final piece of legislation was drafted so badly that is allows these and other avoidance schemes.

The funds offered by the EU to the Prosecution Office alone, including under the CIB programme, the High-Level Advisors Mission and potential direct budget support discussed for this sector as well, have – similarly to judges – not been conditioned on a sound, "all from the top" approach to reforms in this particular institution.

The National Anticorruption Centre

The reform of the National Anticorruption Centre did not lead to tangible results, although efforts were taken both by the EU and the US to implement the Anticorruption Strategy and the reform agenda of the Centre. The institution is still seen as a non-transparent institution, which lacks clarity on its competences, with some of the them being inconsistent with each other. The reform agenda did not lead to increased

independence of the institution, with low efficiency in handling high-profile cases and little cooperation with the EU and US investigative authorities to increase efficiency. The Centre was weak in implementing its anti-money laundering competences, which resulted in a very low level of public trust, including with respect to the unresolved banking fraud.

The National Integrity Commission

Although efforts were taken to increase the effectiveness of the National Integrity Commission – including the revision of the functioning of the Commission, effectiveness in reviewing public officials' statements, the content of those statements and checks on property and income obtained outside Moldova – the cooperation with the EU's OLAF and the US intelligence services did not take place.

5. Trade and energy

Trade

The EU and US efforts to enhance trade of Moldova goods has demonstrated an increased degree of coordination. The US continued the integration of the Moldovan economy into the EU's internal market and supported initiatives that would have enhanced exports of strategic Moldovan goods, primarily of agricultural and animal origin. It has also focused on best trade and business management practices. The US also lifted up the formal restrictions it had under the Jackson-Vanik amendment for Moldova, thus opening up the path for normal trading relations with Moldova. The EU supported the preparation and the implementation of the DCFTA in Moldova and granted several strategic trading advantages to Moldovan businesses to increase their revenues and thus lead to increased state budget incomes and prosperity.

The investments into irrigation to enhance high-level agricultural production did not lead to the foreseen increase of trade with the EU of such products. The quotas of agricultural products available under the DCFTA have not been met for most of the vegetables concerned. Grain and related products, as well as apples, did register an increase in production.

The efforts to increase the capacity of customs to faster process and better monitor trade from both the US and the EU, including the monitoring of the Moldo-Ukrainian border, proved an improvement. However, they have not excluded corruption at customs.

Primarily, the missing link in the trading enhancement business processes is the lack of proper certification and laboratory checks of products proposed for exports. With the non-compliance of the sanitary and phyto-sanitary requirements, as prescribed by the DCFTA, the investment in irrigation infrastructure made by the US is yet to see its beneficial effects on the Moldovan economy, as the exports trends have not increased as expected.

Again, coming back to the conditionality of both EU and US investments as an insurance policy in their transformation agenda for Moldova, they have proved to be either absent or insufficient, as the Moldovan Government did absorb the offered assistance, but did not deliver on its part by resolving the bottlenecks of the trading stages from production to export certification and revenues in the public budget.

Energy

Moldova's energy profile is impacted by insignificant known reserves of solid fuels, oil and gas, low hydroelectric potential and poor framework of alternative sources of supply. This resulted in a 96% dependency on energy imports, in particular from Russia (natural gas) and Ukraine, as well as supplies from the Transnistrian region (electricity). Moldova does not have underground gas stores or LNG facilities, and is largely dependent on supplies of natural gas from Russia (JSC Gazprom). Moldova's electricity system operates synchronously with the Ukrainian system as part of the former Soviet

Union's United Power System (UPS). This limits the current supply options and exposes the country to very significant energy security risks. Approximately 70-75% of the energy sector equipment is outdated. The gas pipeline losses are estimated at 3.3% in the distribution and 2.3% in transmission systems. The losses in the electricity distribution networks are averaged to 9%. Meanwhile, the district-heating sector in Moldova has experienced even higher level of heat losses estimated to ca. 20%.

The high investments in the energy infrastructure made by the EU, coupled with US efforts to increase exports of US LNG to the EU, had a promising perspective for Moldova to decrease its dependency on one source. The construction of the Iasi-Ungheni gas pipeline was heavily financed by the EU and Romania. Moldova only played the part of a beneficiary, without investing funds into the project. Although it was considered a wise step to initiate the construction of the pipeline without asking too much from the Moldovan Government, in order to reach the desired effectiveness of the alternative gas pipeline more ambitious commitments should have been obtained from the Moldovan side, including making the construction of the pipeline subject to a similar effort from the other end – the construction of the pipeline from Chisinau to Ungheni, including the appropriate infrastructure.

The vested interests have not allowed for, or the combined EU and US efforts on energy security did not result in, a more ambitious energy diversification agenda for Moldova. The planned electricity interconnections have also not been implemented.

6. Financial assistance (infrastructure projects)

The financial support offered directly to the Moldovan Government via direct budget support aimed to contribute to the implementation of the public-sector reforms. Nevertheless, as described above, the EU auditors outlined certain shortcomings on efficiency of the used funds. Nevertheless, the EU is still projecting quite significant funds for Moldova by the end of 2017, amounting up to 410 million Euro.

Once the Moldovan government eventually concludes the 3-year Cooperation Agreement with IMF before the end of 2016, the resumption of the EU assistance planned in 2015-2016, as well as the new funds projected until the end of 2017 and onwards, shall be subjected to a further decision of the European Commission. Here it should be noted that recent findings and the recommendations of the EU auditors may create additional layers of scrutiny for the European Commission before it begins to disburse tranches of EU funds to Moldova. The effective transfers will most probably not reach the Moldovan budget immediately and in full. The EU would have to first consider the level of implementation of the budget support Policy Matrix conditions for the disbursement. Moreover, even though formally macroeconomic conditions may be improved given the IMF deal, one would have to still closely evaluate the situation in the Moldovan banking sector, not to mention the general social and political situation in Moldova after the upcoming Presidential elections.

The infrastructure projects, such as the rehabilitation of the main road from the capital to the North supported by the MCC and the co-participation of the EU in rehabilitation of sectors of roads, all had immediate beneficial impacts on both the economy and public perception. In the medium- and long-term, however, these investments require upkeep expenses, and if the momentum of economic development is lost in the first years of use of the road infrastructure, the effectiveness of the infrastructure investments greatly diminishes.

Because the rehabilitation of the 93km road was managed by the MCC, the implementation did take place and the road was rehabilitated on schedule. On

the other hand, some of the planned infrastructure projects, including the ones linking the capital with Ungheni and providing an alternative to the existing road infrastructure to connect to the EU external border and increase trade, did not reach the expected goals, with significant delays from the planned schedules.

Because the infrastructure projects were not subject to progress in other sectors, their intended effectiveness did not reach the desired goal, namely increased trade and economic activity as a result of the investment. Although the impact and evaluation stages are not yet over for the MCC 93 km road rehabilitation, it becomes evident, if coupled with the main trade indicators, that the Moldovan economy did not make the most of the received assistance.

7. Security and defense

The US and the EU have complemented each other on the assistance offered to Moldova on security and defense issues. The EU focused on the Moldo-Ukrainian border through its EUBAM and the US offered NATO bases and military trainings to Moldovan officials, as well as the involvement of both the EU and the US in international peacekeeping operations.

One of the important results of the EU-US cooperation with respect to Moldova is the counterbalancing of the increasing anti-European propaganda through the extension of support for the “Free Europe” radio station and the launch of the online internet TV station.

8. Electoral processes and the building up of party democracy

The EU and the US supported the electoral processes in the country and focused mainly on the development of the capacities of the Central Elections Commission. The Commission did obtain important progress in management of electoral exercises, but it did not address the functioning of the vehicles that are used in a developing democracy: the political parties.

The internal democracy of a political party is key to developing a responsible, integral and transparent Government, as the practices in the political parties are then replicated at the Government level. The starting point of a political party is very important, as if at least one of the key components related to internal democracy is missed, in the long run it will become, if popular, the promoter of its internal practices.

The US has indeed offered support via the IRI and NDI in Moldova and is providing support to political parties, including by offering surveys, trainings on party building, campaigning and strategic planning and development.

Similarly, the EU acts through its European Endowment for Democracy as a promoter of the drivers of change. Some EU Member States – notably Germany – involve their political foundations to transfer best practices on party management and internal party democracy.

It must be mentioned that the efforts taken by both the US and the EU have been rather diplomatic with respect to the way the political parties are structured, how the internal democratic processes take place and how the party financing is implemented and monitored. There are a number of internal party building practices, which do not reconcile with the existing EU and US best practices.

It is argued that this sector of transformation is key, and probably more important to the transformation processes in the country than the investments in infrastructure and institutional reform, as the political parties, once created and educated in the spirit of transparency, internal democratic decision-making, promotion of equality (including gender-based equality, decentralization of decision-making and prior consultation before important decisions are taken) would then replicate the same practices and promote good governance.

The lack of progress in this sector was also due to vested rights and the highly vertical structure of the political parties that called themselves pro-European, whose representatives were essentially the counterparts in the discussion process. However, due to very low political education of the masses, it became less likely for the drivers of change to survive the lack of fair play on the current political arena and promote the transformation through their own example.

Although the EU and the US have supported the amendments to the law on political parties, which aimed at public budget financing of the political parties and received the support of the population, that support was not fully seen in the local context. One may indeed say that the budget financing of the political parties may reduce the possibility to influence political decisions via financial means. However, that financial support no longer has the foreseen result if the political parties, which obtained the support of the population, were already captured in their financial dependency on one or a limited number of sources. Since no other better vehicle was discovered so far in the contemporary democracy, it becomes key to the sustainability of the local transformation processes that the party structure financing is properly addressed via effective legislative and regulatory frameworks, as well as adequate enforcement. Lack of major interventions in the national political party legislation as a condition for successful implementation of the technical assistance policies and instruments is a lost opportunity and should be reconsidered as an instrument for both the EU and the US to ensure irreversibility of the transformation processes in Moldova.

C. Key challenges for the sustainable transformation process in Moldova

The internal perception and external image of Moldova in particular during 2015 dropped from the success story of the Eastern Partnership of the EU to a country that was stigmatised as a “captured state”. One could see many reasons for this worrisome trend, but the factors that contributed to it are twofold. First, corruption and oligarchic interest have continued to define Moldova’s politics. Low incomes have made hundreds of thousands of Moldovans go abroad in search of a better life. Weak state institutions and public administration, an ineffective judiciary and law enforcement agencies all formed the breeding ground for increased control by oligarchic groups who have consolidated their positions in Moldovan politics. This environment was used for raiders attacks in the banking and financial sectors of the country since 2012 in particular, money-laundering schemes like the ”Magnitski case” and the banking fraud that was discovered in autumn 2014. All ultimately threw Moldova into governmental, economic, financial and social crises that unfolded in 2015. The effects are still and probably will be felt for years to come.

The second group of factors are more related to the geopolitical context. When the pro-European coalition was first formed in 2009, European integration, being promoted by all major parties, enjoyed broad support within the population. Thereafter, increasing Russian interests, propagated by negative coverage in the Russian media, and the Party of Communists of the Republic of Moldova (PCRM) following suit towards an anti-EU stance, turning European integration into a key issue that divided government and opposition, with its approval and disapproval ratings now following the public support or lack thereof of the coalition parties. Later, this narrative was actively propagated by the Party of Socialists of the Republic of Moldova

(PSRM). Despite a drop following the coalition crisis of 2013, a small majority was still supporting European integration as opposed to Eurasian integration before the November 2014 elections. With the formation of the new minority government in February 2015, the support ratings for European integration plummeted together with its approval ratings. Since then, support for European integration in Moldova has been encouraged rather by an increasingly critical stance of the EU towards the coalition's reform efforts and the suspension of financial assistance than by any collaboration or support for the government.

We will go into more details to explain the context of how the factors outlined above challenged the European integration transformation path of Moldova over the last years.

I. Corruption and politicisation of state institutions

One of the first and most outstanding domestic challenges in Moldova is corruption and political control by, or the crucial influence of, business people over state economic assets, mass media, political parties and key state institutions. A recent opinion poll released by IRI in April 2016[7] shows that over 90% of Moldovan citizens consider corruption as a big or very big issue, and about 78% consider that some groups with vested interests govern Moldova. At the same time, the Public Opinion Barometer issued also in April 2016[8] by IPP confirms this picture, indicating that almost 90% of Moldovan citizens believe that the country is not governed by the peoples' will.

In Moldova, political control over state authorities has been established as a means to redistribute and safeguard possession of economic assets, but furthermore also to effectively overtake and privatize key institutions. The weakness of state institutions with strong top-down command structures in conjunction with firmly established and systemic corruption opened easy gateways for oligarchic influence. Low salaries in the public service made office holders susceptible or even in need of extra income, which they secured either by using the authority of their function to extract money or by accepting bribes or payments in exchange for political alignment. Thus, interests and dependencies outside of the duties and hierarchies of the public service emerged while the vulnerability of the affected officials to blackmailing increased. As a consequence, parallel decision-making structures emerged, overlaying or often superseding professional responsibilities and chains of command. The efficiency of governmental structures is also suffering from the same problems, which are reflected in an often-extreme top-down structure of decision-making, a lack of delegation, information sharing, engagement and collaboration, as well as planning and co-ordination capabilities. This, in turn, slows down and impedes the implementation of policies, even if the necessary political will for reforms exists, and eases obstruction.

Strict but only selectively enforced legislation on illegal party financing, anti-corruption and transparency, in conjunction with the deterring of donations, has made it nearly impossible for opposition parties to finance themselves through contributions from the broader society. There is no established tradition of membership fees, bureaucratic procedures limit small donations and, in the case of larger donations, the donor should expect retribution from the government in the form of investigations, prosecutions or the loss of contracts for businesspeople, or threats thereof.

In Moldova, pro-Russian forces appear to be able to rely on foreign support, with which the government seems to be reluctant to interfere. However, since any party financing from abroad is prohibited and

7 http://www.iri.org/sites/default/files/wysiwyg/iri_poll_presentation-moldova-march_2016.pdf

8 http://ipp.md/public/files/Barometru/prezentare_2016-1_final.pdf

the EU or its Member States cannot support parties anyway, the pro-European parties now in opposition are all constrained by a want of resources. One of the consequences is that any bottom-up party building is generally quite difficult. Thus, even without directly manipulating the elections, oligarchs can effectively still manipulate the democratic process by limiting the choices voters have in the first place.

The general perception in Moldovan society is that the key state institutions, in particular those carrying real power such as justice, law enforcement and financial authorities, became effectively taken over by vested interests, bypassing the control of constitutional authorities in parliament and government. The process accelerated with so-called pro-European coalitions since 2009, when its three protagonists agreed not only to distribute governmental positions among them but also control over key non-political institutions. Most notably, the Liberal Democrats took tax and custom authorities, the Liberals the National Bank, and the Democrats law enforcement, especially the Prosecutor General. Lately the powers of the Democrats increased, taking over control of the institutions that were under the Liberal Democrats' watch as the new Pavel Filip Government was formed in January 2016 by the Liberal Party and the Democratic Party with the support of the separated groups of former Communists and Liberal Democrats MPs.

In the meantime, Vladimir Plahotniuc, a Moldovan businessman who financially supports, controls and, as of 24 December 2016, chairs the Democratic Party of Moldova, holding an informal function of the Executive Coordinator of the current Governing Coalition as well, appears to have consolidated his control over state institutions and the country. In fact, Vladimir Plahotniuc is emblematic of a larger problem, namely the monopolization of the country's financial resources and positions of power in the hands of small groups with vested interest. At the same time, it's presumed that Plahotniuc's influence extends to nearly the whole of the justice system. The former General Prosecutor is said to be a close associate of his. It is perhaps no coincidence that, when the banking fraud came to light, the investigations led to the imprisonment of Plahotniuc's political rival and head of the Liberal Democrats, former Prime Minister Vlad Filat. While it is quite possible that Filat was indeed involved in the scandal, the fact that he was the only high-ranking politician to be prosecuted suggests that the scandal was exploited for Plahotniuc's benefit.

Moreover, criminal prosecutions or the threat thereof have been used to intimidate and weaken the opposition forces, thus expanding and consolidating power. Together with incentives like financial offers and assurances of impunity, threats of prosecutions and court proceedings also seem to be used on politicians and officials on the local levels as well, in order to encourage alignment with the governing coalition. One rather high profile example is the removal from office of the mayor of Taraclia in April 2016 over an alleged felling of some trees without permission. Later, in August 2016, following pressure from the Moldovan Civil Society and the Western Ambassadors on the authorities to ensure justice on his case, the Supreme Court of Justice satisfied his appeal, and thus Mr. Filipov has been reinstalled in his Mayor position.

On the other hand, Ilan Shor, who benefited from the well-known bank fraud and whose confession provided the justification for Filat's prosecution, ran free as mayor of Orhei for at least one year. In the meantime, in June 2016, after the conviction of Filat for a 9-year sentence with partial confiscation of assets, Ilan Shor was arrested for more than 40 days, and later placed under house arrest on 5 August 2016. At the same time, another controversial banker, Veaceslav Platon, was arrested on 28 July 2016 by the Ukrainian authorities after the Moldovan Prosecutor General office issued an international warrant for allegations

of connections to the billion-dollar fraud. On 29 August, Platon was extradited to Moldova, and soon after was placed under arrest. Platon in turn indicated that he is not guilty for the respective allegations, and that the only person responsible for the fraud is Vlad Plahotniuc. The results of these investigations are yet to be seen. Shor, for example, was previously indicted with similar crimes, but the investigation did not even reach the trial stage.

Thus, the term that broadly came into being used for this state of affairs in Moldova is "captured state". At the same time, the person who allegedly is associated with this narative is Vladimir Plahotniuc. In a recent statement during an Economic Forum organised by the Moldovan Business Association, Plahotniuc went public about his role in the Moldovan political and state establishment by announcing – in front of the Moldovan and foreign business community, EU ambassadors and former President of the European Commission Jose Barroso, who also joined the event – his personal commitment to ensure the necessary equilibrium and stability of the Republic of Moldova.

The evidence described above substantiates the argument that the lack of concrete efforts to liberate public institutions, in particular by depoliticising the law enforcement authorities, could further consolidate the power of the vested interests in Moldova. Another important fact is that this state of affairs has negatively influenced the confidence of Moldovan society in the state institutions. Recent IRI opinion polls show that the level of public trust in such institutions as Parliament, the Government, the President's office, courts of justice and political parties is very low.

Moreover, this also affected the general image of Moldova abroad, undermining the trust in the capacity of the Moldovan Government to deliver. This led to a more conditional approach from the EU and the US in supporting Moldova's transformation, with further financial support being conditioned on the need for a concrete track record of implemented reforms in the area of the judiciary, the fight against high-level corruption and the depoliticisation of state institutions. The most vivid example of this approach was the EU Foreign Affairs Council Conclusions on Moldova,[9] which for the first time went into outlining 10 clear benchmarks for further EU support to Moldova.

The pressure from the EU to push the reform agenda in Moldova shall not be limited only to conditionality and monitoring, but shall go beyond that. One rather positive development in this regard is the fact that EU has recently performed a peer review of the law enforcement institutions[10] that resulted in over 400 concrete recommendations being addressed in order to make Moldovan law enforcement authorities more independent from political control and more effective in addressing corruption. However, the next step to ensure sustainability of the process is for both the EU and the US to consider dispatching a Mission or other types of structured and coordinated support to strengthening the rule of law in Moldova. Any types of future support to Moldova shall not only be limited to advising public institutions on the reforms, as in the case of the EU High Level Policy Advisory Mission. The new structured support shall, among other functions, aim to convene with Moldovan authorities on justice and anticorruption target benchmarks, and ensure corresponding monitoring and evaluation of the respective commitments in the areas of judicial reform and the fight against corruption. The main outcome that should be aimed for in this regard will be the creation of real, independent institutions in Moldova, which will be able to oppose and fight political corruption and oligarchic control.

9 http://www.consilium.europa.eu/en/press/press-releases/2016/02/15-fac-moldova-conclusions/

10 http://eeas.europa.eu/delegations/moldova/press_corner/all_news/news/2016/20160622_en.htm

II. Press freedom: from "not free" to "partially free" – however largely politically affiliated or influenced by Russian media content

The extent of independent mass media is very limited in Moldova. Even though, according to Freedom House reports, Moldova moved from being ranked as "not free" in 2009[11] to "partially free" over 2010–2016,[12] providing a media environment with a wide choice for audiences, the media concentration and lack of transparency in media ownership are the basic issues that facilitate a strident politicisation and oligarchisation of the media in Moldova.

Before 2009, the mass media was largely under communist party power control, be it the national public broadcasting company or a number of private TV stations. At that time, there were only a few independent media organisations, which operated under a difficult environment, sometimes under the threat of being closed, like the case of PRO TV when in 2008 the Audiovisual Coordination Council issued a decision not to prolong the broadcasting license. However, due to pressure from the development partners, in 2009 the Audiovisual Coordination Council prolonged the TV company's license for another 7 years. After 2009, when the pro-European Government was installed, more private independent media started to emerge, though certain cases of limitation of the media in Moldova still happened. This time the turn came to NIT TV, one of the main private TV stations used as a propagandistic instrument in favour of the Communist Party. In 2012,[13] the licence of NIT was cancelled after a number of warnings and sanctions issued by the Audiovisual Coordination Council on systemic violations of pluralism of opinion principles. The Communist Party then reacted by stating that the decision to close NIT was politically motivated. Even though the EU closely monitored the developments related to the closure of NIT, expressing concerns over this action, no revision of the decision was admitted. However, in 2013, Accent TV, a new cable TV channel close to the Communist Party, was launched, basically replacing NIT. It is interesting to note that after the split in the Communist Party in summer 2013, Accent TV was bought by a Russian media company, which started to broadcast media content that favored the Dodon's Socialist party.[14]

A somewhat positive development was regestered in March 2015, when amendments to the Audiovisual Code were passed by the Parliament,[15] thus increasing the transparency of media ownership. However, the law was missing a key prohibition on registering companies in offshore areas, which has been used to conceal media ownership. The positive side of the law is that individuals are now obliged to declare their ownership in media. In November 2015, all private media broadcasting companies in Moldova published the data on their owners.

This action evidenced that various politico-oligarchic groups or individuals control most of Moldova's influential media outlets and use them to present distorted information, especially about their political opponents. According to www.mold-street.md and www.rise.md, the Democrat Vladimir Plahotniuc owns four out of five TV stations with national coverage (Prime TV, Publika TV, Canal 2, Canal 3)[16] and nearly all of the advertisement market impeding financing for independent media.[17] Victor Topa, another Moldovan oligarch and previous business partner of Vladimir Plahotniuc, sentenced by Moldovan courts for banking frauds, who now manages his business from Germany,

11 https://freedomhouse.org/report/freedom-press/2009/moldova http://eeas.europa.eu/delegations/moldova/press_corner/all_news/news/2016/20160622_en.htm
12 https://freedomhouse.org/report/nations-transit/2016/moldova
13 https://freedomhouse.org/report/nations-transit/2013/moldova
14 http://ava.md/2015/04/16/prodal-kanal-kupil-partiyu/
15 Law nr. 28 from 05.03.2015 amending the Audiovisual Code of the Republic of Moldova, http://lex.justice.md/md/358202/
16 http://www.mold-street.com/?go=news&n=4266
17 https://www.rise.md/articol/plahotniucleaks/

is the owner of Jurnal TV. The Liberal Democrat Vlad Filat, who is currently arrested and being investigated for corruption allegations, is also known to have invested via proxies in the creation of his own media holding that includes TV, radio, newspapers and online media. Another Liberal Democrat member of parliament, Chiril Lucinschi, owns TV7 and TNT Bravo, which broadcast local media content, based on the licensed retransmission of Russian NTV and TNT in Moldova. In early 2016, Russian NTV opened a separate Moldovan content TV station, NTV Moldova, which is reported[18] to be close to and owned via proxies by the Socialist Party leader, Igor Dodon. Lately, according to different open and unnamed sources, in September 2016 another independent TV and Radio holding, i.e. NOROC TV, was purchased by a businessman affiliated with the Liberal Party of Moldova.

However, there is still a number of TV, radio and online media broadcasting companies with national coverage that are owned by businessmen and not affiliated to political parties in Moldova, such as PRO TV, Realitatea TV, TV Canal Regional and www.agora.md.

The National Public Broadcasting Company "Teleradio Moldova", financed from the state budget, keeps a relatively politically independent stance, though the company still lags behind in truly becoming a public broadcaster, and throughout the years has undergone several stages of restructuring, but kept being biased and has been known to propagate the official viewpoint of the authorities.[19]

At the same time, there are still few media organisations supported via grants from abroad, in particular online and radio media, and which are known to broadcast independent, objective and credible information, such as www.europalibera.org, or investigative and analytical news portals, such as www.mold-street.md, www.rise.md, www.anticoruptie.md, www.newsmaker.md and www.zdg.md. Investigative journalism is becoming more powerful as more investigations uncover corruption, leading to pressure from public opinion and, on occasion, legal actions. However, the independent investigative journalism is limited to online content, not reaching the TV screens of national broadcasters. At the same time, investigative journalists and their newspapers are often subject to political pressure and have cases filed against them in courts.

In a recent statement issued in May 2016,[20] a group of civil society representatives that monitor the press freedom situation in Moldova highlighted that the political control over media outlets remained in place; excessive concentration of the media in the hands of owners-politicians was confirmed, and competition on the media market was unfair.

The mass media ownership is usually a political rather than economic investment, made or held not for financial return but to promote one's own interests or parties, to discredit opponents or to withhold publicity from them in the first place. Consequently, the dominance over the media is used to promote the government and to either discredit or to largely exclude opposition forces from media access at all. Left wing parties receive direct or indirect support from Russian media, which holds a lot of sway over Moldovan public opinion. But the pro-European opposition has little access to mass media and found support in few of the independent radio and online media companies, which are not politically affiliated and are supported by grants or businessmen. Social networks are also used as instruments to promote their messages.

Even though there is currently a legal obligation to ensure the transparency of media ownership,

18 http://newsmaker.md/rus/novosti/kanal-vliyaniya-telekompaniya-ntv-zaklyuchila-kontrakt-s-firmoy-blizkoy-k-partii-s-20438

19 http://ejc.net/media_landscapes/moldova

20 http://media-azi.md/sites/default/files/Memorandum%20on%20Press%20Freedom%20in%20Moldova%20%28May%202015-%20May%202016%29_0.pdf

the phenomenon of media concentration did not disappear and needs to be addressed. Moreover, the fact that the many media companies are still registered in offshore jurisdiction makes it difficult to clearly identify the final beneficiaries and ensure full transparency. Another important issue related to mass-media is the concentration of the TV and radio advertising markets, which does not allow for genuine editorial independence of the private mass-media outlets, or at least seriously hampers them.

Finally, local media have been unable to provide Russian language content of sufficient quality to prevent Moldovans from relying on Russian media for information. The 2016 Freedom House Report underlines that, according to the Broadcasting Board of Governors,[21] 69% of the general population and 85% of Russian-speakers use Russian-language media. Moreover, according to IREX "Europe and Eurasia Media Sustainability Index 2015", many TV stations in Moldova rebroadcast Russian content, including that which is produced by Russian state media. Thus, the dependence on Russian media makes it easy for Russian-language propaganda and disinformation to be effective in Moldova.

III. Rent-seeking economy

Moldova continues to remain the poorest country in Europe. Despite the impressive cumulative growth of 14%, in 2013 and 2014, the country faced an economic contraction in 2015. Remittances, which were arguably the economic engine for the last 15 years, representing more than one quarter of Moldova's GDP in 2014, decreased by roughly 30% in 2015. This factor, in combination with the regional conflict between Moldova's important trading partners Russia and Ukraine, the Russian trade embargo on Moldovan products, as well as the massive banking fraud, further weakened consumer purchasing power. Thus, the local currency depreciated by almost 30% against the main foreign currencies such as the Euro and the US Dollar. Despite the difficulty posed by a reduction in consumer purchasing power, the context also creates a unique opportunity to redesign Moldova's economic development paradigm, shifting from a remittance based consumption model, to an export growth-fuelled economy. The economic challenges faced by the country also led to 13,5% inflation in 2015 (compared to 4,5% in 2014), which in turn triggered a tightening in monetary policy. This put significant pressure on the real sector of the economy, as small and medium size enterprises had to restructure their loans and even cut jobs.

In the real sector, state owned enterprises and entities in which the state is an important shareholder (SOEs) continue to dominate the economy, their total sales comprising 18% of the GDP. Despite their sheer size, in 2014 they accumulated losses of more than 1,3 billion MDL (roughly $90 million at the 2014 exchange rate). The inefficiency of these institutions comes from the lack of a rigorous reporting framework and non-existent accountability standards. Despite their large procurement budgets, SOEs are not required to comply with the public procurement standards, which is a factor creating the necessary environment for embezzlement.

Another important problem in the acquisition procedures and the economy in general is the participation of offshore entities. Large amounts of bids won by economic agents for providing goods or services to government authorities wind up in the hands of companies with links to offshore areas, which leads to money outflows and tax avoidance. In this context, legislation is needed to ensure greater transparency in the owners of legal persons, as well as restrictions for companies coming from areas not implementing internationally accepted transparency standards.

Another big challenge for a sustainable economic development of the Republic of Moldova is the

21 http://www.bbg.gov/wp-content/media/2016/02/BBG-Gallup-Russian-Media-pg2-02-04-164.pdf

situation in the financial banking sector. A recent statement by the IMF Office in Moldova[22] indicated that one of the most important problems originates in the in transparency of ownership in the banking sector. At the same time, despite the large number of indications of suspicious transactions over the last two years, the National Commission for the Financial Market (NCFM), responsible for overseeing registration and transfers of shares in listed banks, and the National Bank and Financial Intelligence Unit of the National Anti-Corruption Centre, which monitors the major banking transactions, did not undertake significant actions against bank shareholders and managers who violated anti-money laundering regulations. This was evidenced by the fact that decisions issued by the National Bank to restrict cross-border interbank credit exposures, which were supposed to prevent the fraud in Banca de Economii, Banca Sociala and Unibank, have been challenged and suspended by courts several times just in 2014. Finally, the issue with political and judicial interference with supervision and regulation of banks was underlined.

Thus, as financial institutions manage people's money, and often their lifetime savings, it is imperative to bring to light banks' ultimate beneficial owners. Increasing transparency standards is an important task that lies with the central bank. Creating a friendlier environment for foreign banks can create the premises for improved governance in the sector. Today, more than 60% of the assets in the banking industry are held by three banks, which are under special administration, and are highly scrutinized by the central bank. This speaks to the weakness of the entire system.

All in all, the economic prospects look gloomy for the country. According to most forecasts, after the 0.5% contraction in 2015, the expectation is that the economy will rebound by 2% at most, given weather conditions are favourable for the agriculture sector. In order to see faster growth, the authorities will have to display a firm commitment to address the issues described above.

IV. European integration between a reforms-driven agenda and geopolitical vectors

European integration is a civilizational choice for Moldova without any real alternative. However, European integration shall not be seen only as a geopolitical vector. It should be promoted in the first place as the best development model to ensure sustainable transformation in Moldova. For many years Moldova aimed to become eligible for accession to the European Union. The Association Agreement is the key instrument to fulfil this objective. However, accession to the European Union shall not be an ultimate goal for the country, but rather a tool to consolidate democratic institutions, strengthen the rule of law and ensure sustainable development.

However, one of the biggest mistakes that was admitted by Moldovan pro-European politicians since 2009 was the excessive politicisation and consequently geopoliticisation of European integration. Even though the title of Alliance for European Integration for the first pro-European Government that was voted in autumn 2009 was a natural decision, the subsequent titles to define the later pro-reform coalition Governments probably were not inspired choices. They implied an association of the Government's performance with the European integration process. In this context, if in the case of Central and European Countries there was a consensus over the European integration reform agenda, in Moldova, because it was more promoted in the geopolitical context in opposition to the Customs Union and later the Eurasian Economic Union, it made European integration a key issue dividing government and opposition. However, while the debate about the foreign policy vectors of Moldova is certainly important, it tends to distract from two other

22 http://www.imf.md/press/pressl/pressl-160516.html

significant issues, such as the country's longstanding corruption and its inability to push through effective reforms.

Consequently, the society was divided over two geopolitical vectors. According to the recent public opinion barometer, performed by IPP in April 2016,[23] the citizens' support for European integration in Moldova decreased to over 41%, while the support for Eurasian Union promoted by Russian Federation has increased to over 52%. However, the majority of Moldovan citizens are united around the understanding that the key problem of Moldova is corruption and a growing mistrust in state institutions and political parties, no matter their orientation. This results in a general feeling of apathy and widespread public frustration with low confidence in the future. The Moldovan public is still reeling from the discovery in December 2014 that as much as a billion Euros had vanished from three Moldovan banks. The corruption and self-interest of Moldova's political elite consistently impede the development of Moldova and put at risk its rapprochement with the EU.

Thus, the political corruption of pro-European politicians discredited the European integration process in Moldova and ultimately divided and polarised the Moldovan society. This polarisation is further expanding due to a high degree of mistrust in Moldovan society of political and public institutions. Mistrust leads to high interaction costs and a low level or non-existence of organisational culture. Behind every organization or institution, any norm, contract or law, people easily suspect only a special interest and a hidden agenda. People rely far more on personal relations than on merits, with the consequence that the former indeed regularly play a far greater role in social advancement. Thus, the investment in sufficient confidence building between individuals for effective collaboration and information sharing shall accordingly be further addressed.

A broader civil society, which in Western democracy bundles and promotes these interests in politics, is largely weak in Moldova. The general perception is that civil society is usually limited to NGO activities, which operate on implementing projects predominantly financed by development partners of the Republic of Moldova, but which only form a thin layer without deep roots in their societies.

However, this general perception began to change in 2015, when a group of opinion leaders and representative of the active civil society organisations launched in February 2015 the Civic Movement, "Dignity and Truth Platform" (Platforma Civică "Demnitate şi Adevăr"). A deep feeling of injustice and the high level of political corruption that remains unaddressed in Moldova powered its public appeals for peaceful manifestations demanding punishment of the corrupted ruling politicians and organisation of early parliamentary elections. The popular support for the Civic Platform grew slowly. The first meeting, in April 2015, was attended by approximately 4,000 people, compared to 50,000 in May 2015. Unlike other public manifestations before 2015, the protests driven by the Civic Platform became permanent, setting up a tent city in front of the Moldovan government building. After a summer lull, the protest activity surged in early autumn, culminating with a mass rally on 6 September 2015 on the central square of the capital Chisinau, attended, according to the organisers, by nearly 100,000 people.

At the same time, in late September 2015, aiming to capitalise on the popular protest movement initiated by the Civic Platform "Dignity and Truth", two pro-Russian political party leaders – the Socialist Igor Dodon and the newly elected Mayor of Balti Renato Usatyi – initiated a parallel protest in front of the Moldovan Parliament, demanding early elections. Later, since October 2015 until January 2016 when the

23 http://ipp.md/public/files/Barometru/prezentare_2016-1_final.pdf

new Government controlled by the Democratic Party was installed, the leaders of the pro-Russian parties and of the Civic Platform "Dignity and Truth" united efforts in organising joint protests.

Thus, even though this development generally attempted to evidence the fact that pro-European and pro-Russian forces were united over the objective of fighting the increasing political control of the vested interests and alleged political corruption in the Governing coalition, one of the important side effects of this protest amalgamation was in fact that the Civic Movement had been taken away by the political forces rather in their political interest. At the same time, the fact that, a political party was created in late 2015, based on the Civic Platform "Dignity and Truth" and with the same name, further affected the numbers of Civic Movement supporters.

In this regard, the launching of the Civic Platform "Dignity and Truth" was an expression of the desire of Moldovan society to curb the political control by the vested interests. However, the further capitalisation of the protest movement by political forces decreased the credibility and thus intensity of the civic protest movements.

Both rounds of presidential elections on 30 October and 13 November, where the pro-Russian candidate Igor Dodon won, were yet further proof of the active use of the geopolitical vectors by Moldovan politicians in the political discourse. The electoral campaign was widely influenced by controlled mass-media and the use of administrative resources. However, the international observers have concluded that the elections generally met international standards for free and fair elections.[24] Now it is to be seen what will be the medium- and long-term impact of the results of these presidential elections on the future path of the Republic of Moldova.

24 http://www.osce.org/odihr/elections/moldova/257956

D. Conclusions: Priorities of transatlantic cooperation for a stronger support to the transformation process in Moldova

I. Analytical Framework: From support to co-ownership by an effective combination of internal and external pressure

The previous analysis followed the evolutions which have underlined Moldova's changing image from a "success story" to a "captured state". Essentially, since 2009 the political system turned from semi-authoritarianism towards increasing oligarchic control and the effective privatization of state functions and institutions. Therefore, the Europeanization of Moldova remained largely superficial, as the rapprochement between Moldova and its Western partners during this time contrasts with the want of progress towards strengthening liberal democracy, market economy and the rule of law. Reforms remained overall fragmented. Crucial levers of oligarchic control have not been touched, only strengthened. Ultimately, democratic legitimacy has even been weakened, as the current majority in parliament has been formed in direct contradiction to electoral pledges and results, as well as by the breaking up of major opposition parties under allegations of corruption and blackmail.

In a clear contrast to the success of transformational processes in Central Eastern Europe, EU and US policies could not meet their transformational goals in Moldova, even though it has been governed for seven years by coalitions which deliberately defined their core political identity as "pro-European". Despite the country's European aspirations – which were once broadly embraced within the society – trends in Moldova have turned towards the prevalence of

post-Soviet oligarchy and thus towards an Eastern rather than Western development model. Parallel, yet informal, chains of loyalty and command, rewards and sanctions have largely superseded the formal state structure, bypassing constitutional authorities and overriding checks and balances. Whether the resulting concentration of power will now allow the government to concentrate on reforms, or whether the consolidation of power and the subjugation of state authorities and democratic processes will be a purpose in itself, still remains to be seen.

However, the systemic challenge these processes mean to a Western development model should be obvious. The amalgamation of economic and political power cannot be reconciled with Western standards of democracy, the rule of law, or a market economy. What is more, the extension of oligarchic control over the state and the de facto privatization of authorities can create a bigger impediment for transformation than an authoritarian system. This is because in the latter case transformation has a starting point in changing the way power is exercised within a functional state structure, but in the former the structure itself needs to be rebuilt, first eradicating all the parallel, informal and corrupted chains of control that hide behind the facade. Thus, to liberate a "captured state" may prove to be more challenging than to liberalize an authoritarian one.

The evolution of the political system as well as the lack of progress has created broad resentment in the population. It also backfires against support for a Western development model in general and European integration in particular within the society. The protest movement in Chisinau, which started as a genuinely pro-European one, has shown that parts of the society still place so much hope in European integration that any government which couldn't uphold this perspective may provoke events like the Maidan. This need to keep a pro-European commitment is, in turn, the strongest leverage that Western partners have vis-à-vis the government. However, the longer a pattern continues in which Western powers are associated with a government that is associated with corruption rather than real change, frustration may grow to a point where a turn towards or a takeover by pro-Russian forces becomes inevitable, or could only be prevented by increasingly undemocratic measures. Since the current situation is likely untenable, for Western powers to focus on geopolitical stability rather than on transformation would by necessity be a self-defeating strategy.

A more sustainable choice seems to be between either disengagement or stepping up the commitment to and involvement in transformation by projecting concrete external pressure on the government and supporting the pro-reform pressure from within. A strategy of disengagement could in the best case turn post-soviet Europe into a kind of geopolitical buffer zone between Russia and the West. It would hold, however, no answer to the growing potential of security risks in case of a failing transformation emanating from socio-economic decline and political disintegration in the form of regional instability, state failure and organized crime. An improved push for the transformational agenda, however, would require also a paradigm shift in the approach and instruments of, in particular, the EU. This shift would be from supporting reforms to applying more rigorous external pressure using existing and new instruments in the spirit of co-ownership for transformation, in combination with the internal pressure from the local agents of change in the government and, more importantly, from the Moldovan society in general. Within the existing framework of relations, Western partners essentially followed a "lighter" version of the transformational paradigm, which worked in Central Eastern European countries during their accession to NATO and EU. Within this framework, the general standards to be met are agreed on jointly and Western powers offer support for reforms, but rely for their design and implementation on the readiness and ability of local

elites, with whom alone the responsibility for and the ownership of reforms reside. However, for political polarization and veto power of vested interests, the transformational logic that worked in Central Eastern Europe may be unsuitable for Eastern Europe if not upgraded and tailored.

Making it work will likely require a far stronger and more direct involvement of Western powers in the development and oversight of the reforms process by effectively combining the internal and external pressure. The instruments employed would need to take effect at all levels of the society and stages of reform in which they, otherwise, could be frustrated: their design, its implementation and the selection of key personnel. Since the precondition of nearly all other progress to happen in post-Soviet countries is state building, they would need to focus, first of all, on the functioning and independence – from political actors, oligarchic control and corrupted interests – of the institutions ensuring the rule of law: the judiciary, the law enforcement authorities and key regulatory bodies on one hand, and on the other contributing to a creation of a critical mass of pressure from within in support of such instruments.

Thus, the necessary instruments would primarily need to focus on seven areas:

- Use the Association Agreement and DCFTA as the main leverage instrument to create irreversibility in the transformation process;
- Apply targeted use of political leverage against vested interests;
- Upgrade conditionality from requiring the meeting of general standards to developing and demanding concrete reform steps under clear benchmarks;
- Direct participation of EU missions and personnel, or other types of structured support in implementing crucial reforms;
- Involvement in the selection of key personnel, including from the diaspora, in the most important non-political institutions;
- Capacitate reform forces in government;
- Strengthen democratic competition.

All these measures can be implemented without infringing on sovereignty. They find their justification in the existing framework of relations, in particular in the Association Agreement with the EU, in which Moldova – as well as Ukraine and Georgia – has committed itself to far-reaching reform goals. The failure to comply with these obligations can justify requests for concrete reforms and Western participation in their implementation by the EU and the US, as the alternative remains always the liberty of each party to withdraw from the agreement. Concerns for sovereignty limit the possibility to directly participate in exercising executive powers. Below this threshold, however, a considerably stronger Western involvement in reforms would be possible.

The pattern of such an involvement would not be to impose measures from abroad against the will of local elites or the society, but to conclude a more effective partnership with the reform interests among the elites, including with the agents of change from within the establishment and the society against the resistance of vested interests. The authors themselves have had vast experience in working with the government or in various governmental positions in Moldova, including on the preparation of some of the measures outlined below, and they know of no reform-minded persons in and outside of government who have not welcomed them. Western structured and coordinated support, in particular via European integration, is in any case already a subject of domestic rather than of foreign policy, and not at least a matter of political legitimacy. It would therefore be unrealistic anyway to draw a clear line between international relations and domestic involvement. The real challenge is rather to

ensure that Western involvement is not used for the purpose of special interests, but in contrast pushes through real reform.

II. Risk assessment

Taking the approach of joint responsibility for stronger pressure from outside and more effective support from within for transformational processes entails a number of risks for both the EU and the US. They include, firstly, a fragmented (if not divided) society and a rather low level of community responsibility. At the same time, continuous pressure could potentially increase the resistance from the local regime and contribute to self-containment.

However, these risks are outweighed by the risks resulting from a failure of transformation, and they are, in fact, only relative, for in substance they exist anyway; since in the established framework of relations the US and the EU already appear clearly involved, they are broadly perceived as partisan, they are held responsible for declared "pro-Western governments" and they will be blamed for any lack of progress.

But the risks described require a flexible posture with respect to the means employed, largely dependent on the extent to which the US and the EU would find allies for substantial reforms within the government and most importantly within Moldovan society that could add value. If there are considerable reform forces within government, to employ general conditionality and external pressure, undifferentiated against those supporting and opposing reforms, may be less effective without supporting and using the societal agents of change outside the government, as it does not help but rather can weaken the supporters of Westernization.

In this case, as presented already, a synergy between constant targeted external pressure from Western partners and pressure from inside on the government – aiming to capacitate reform forces – can be more useful to reveal the concrete sources of resistance against serious reform and ensure sustainable transformation, thus turning the balance of power between reform forces and vested interests against the latter. In Moldova, the situation between 2009 and 2014 may have offered possibilities for such an approach.

Thus, it would be advisable not to limit to deploying, for example, an EU Rule of Law Mission or another type of structured support outlined below, but rather to create and/or use existing instruments such as the EU-Moldova Association Agreement, the main tool of sustainable transformation as it does include international commitments for Moldova to ensure political association and gradual economic integration via the Deep and Comprehensive Free Trade Area (DCFTA) with the EU.

At the same time, in order to construct the necessary critical mass from within for a genuine political will, partners should explore ways of supporting more efficiently the civil society, educate political culture based on democratic principles and empower citizens. However, for the partners to focus only on supporting the accumulation of the internal pressure will not be enough, as this process may bring results in the longer run, or even be challenged by the local regimes controlled by vested interests. Thus, the efforts in facilitating the internal pressure and supporting the agents of change should, for a greater impact, be complemented by contestant external positive pressure and vice versa focusing on prioritised game-changer reforms.

III. Association Agreement and DCFTA with the EU – a key leverage instrument to create irreversibility of the transformation

Although the EU-Moldova Association Agreement does not provide a clear accession perspective, it shall prepare the country for such a scenario contributing to political association and deepen the economic integration and interdependence with the EU. The more Moldova advances in its implementation, the stronger will be the leverage to ensure irreversibility in the transformation of the Moldovan society, business environment and political establishment. Thus, the Agreement and the DCFTA, which is its integral part, has the best potential to ensure an effective application of the combination of external and internal pressure to push systemic reforms in a sustainable fashion. The agreement also provided additional benefits for Moldovan citizens and business. Not to mention that in fact when the Agreement will be implemented this would mean that over 70% of the EU acquis will be harmonised by Moldova, which would bring more foreign direct investments, economic growth and prosperity to the Moldovan people.

Unfortunately, as already presented in this study, the pace of implementation of the Agreement after two years is rather slow. There are different appreciations of the results achieved so far, depending on who makes them (the government or the civil society). The European Commission is expected to issue its first progress report in spring 2017. Yet, generally all relevant stakeholders are in agreement that the progress is rather modest and a good part of the priorities that were set in the Association Agenda with the EU for 2014–2016 are yet to be implemented. The key reasons for that are on the surface and were mentioned here, i.e. the political and economic instability, weak public administration, widespread corruption, a high degree of control over public intuitions by vested interests and a vulnerable financial and banking sector.

On the positive side, however, it shall be mentioned that since the start of the implementation of the DCFTA, Moldova exported products worth over 2 billion EUR to the EU market. It contributed to the change of the export structure of Moldova. Now over 65% of Moldovan products are exported to the EU. At the same time, even though the FDI slightly increased, the numbers are still quite low (in 2015 the figure of FDI was about 200 million EUR). Almost 40% of the EU standards were harmonized and almost 25% of the EU Directives and Regulations are already transposed or partially transposed in the Moldovan legal framework. The problem, however, lies in the implementation of the laws and poor application of the structural reforms in practice. The situation in the area of food safety and in particular the modest application of EU sanitary and phyto-sanitary measures limits the DCFTA potential for Moldovan products to reach the EU market. Even though in the energy sector there is some moderate progress with the gradual transposition of the 3rd EU energy package, there is still a need for additional efforts that would further consolidate the energy independence of Moldova via power and natural gas interconnections with the EU. Here, besides internal political will, support from the EU and the US is crucial.

Against this background, the role and potential of the Association Agreement and DCFTA is determinant for the transformation of Moldova. Thus, the EU and the US should use these instruments to generate pressure on Moldova and benchmark the progress, applying strict conditionality on the government. At the same time, the Western partners should further develop a coordinated development agenda, as the Agreement, and in particular DCFTA, would tighten the economic links.

IV. Upgrading conditionality

1. Employing the political leverage of the EU and US

Since successful transformation requires the fighting and overcoming of the resistance of vested interests, Western soft power – incentives, support, and conditionality – is likely insufficient to ensure the reforms necessary. However, the EU and US possess very strong political leverage, first of all because of the crucial role that the relations with both play for a minimum domestic legitimation of a government for crucial parts of the population. Currently the delays and reservations in addressing the requirements of both the IMF and the EU for providing financial support, even in a severe budget situation, from the side of the Moldovan government has revealed the weaknesses of the conditionality employed so far. Firstly, the financial situation has not yet proven to be vital, and in case it would become vital, the geopolitical interests of the West can fuel the expectation that support would come anyway, if not from the IMF, then from the EU, and if not from Brussels, then from Romania.

If Western powers place the geopolitical interest in stability above the transformational agenda, conditionality remains effectively toothless, as vested interests can exploit this interest against the EU and the US. However, "pro-Western" governments in the post-Soviet space need the recognition as a partner of the EU and the US more than the West would need them. The Maidan has demonstrated what a government should expect in case it cannot uphold at least the promise of European integration. But this leverage will also weaken over time, if Western power seems to back a government which doesn't deliver real change, thus further undermining confidence in European integration and the West. What Western powers should therefore seek to prevent is the allowing of a gradual turn from a Western to an Eastern development model, whereby the increasing frustration in the population over the West's inability either to support reforms or stand up against the lack of reforms will also increase the government's space of manoeuvre for such a turn.

To employ continuous and visible pressure on the political establishment can in particular be justified if a government would not only fail to deliver reforms on its own but also refuse to implement concrete measures suggested by its development partners. The effective use of the political leverage of the US and the EU therefore requires not only the demand that general standards be met, but also the production and requirement of concrete proposals to be implemented.

2. Defining a concrete reform agenda

Besides the possibility that geopolitical considerations being placed over transformational goals weaken Western leverage, it may also be limited by the general nature of the standards in question. For they allow to respond to reform pressure with superficial reforms, appearing to address problems but rendered ineffective through details or levers of control, or pocket reforms, which may be sound in themselves but remain too fragmented so that they can easily be bypassed by oligarchic control or corrupt machinations.

To take one example: integrity testing for public officials has been promoted by Western development partners, but dependent on its implementation can serve quite contradictory purposes. It can be done simply by obliging all officials to turn in digital declarations that directly feed an integrated database to which all relevant authorities have automatic access. This allows for the declared data to be crosschecked with other registries of property, and enables all law enforcement agencies to eventually investigate and prosecute. Yet it can also be done in a more ambitious way, by creating a national body for checking integrity. Yet, for authenticity reasons, officials could also be required to fill in their declarations in handwriting, and the body could remain understaffed to check on all the declarations comprehensively. Finally, a

commission may be elected to decide on sanctions or the forwarding of data for other law enforcement agencies. The first case at least ensures a minimum of transparency and objectivity in the possible use of the data. In the second case – though appearing to go further – one might just have provided a political actor in control with an exclusive pool of intelligence for the selective blackmailing or sanctioning of officials.

Thus, to employ conditionality and political leverage effectively requires already a rather detailed understanding of the desired reforms, and not only of their outcomes. It is also in the implementation of concrete individual reform steps that eventually resistance can be identified and pressure be applied in a targeted way. Western partners should therefore be ready to move from criticising the deficient fulfilment of standards to putting forward concrete and elaborated legal proposals. This, however, also requires an answer as to how and by whom such proposals could be worked out, for EU and US institutions as the direct political counterparts of the Moldovan government may not always be construed as impartial and objective. The mechanism to work out a proposed reform concept would need to be separate from the EU and US authorities that would push for its implementation.

However, there is already a regional precedent that could be elaborated on. As mentioned already, the 2015-2016 Peer Review Mission of the EU on Moldovan rule of law institutions analysed the main issues and offered over 400 suggestions for reforms. Even though the peer review mission did not have the task, time and resources to produce worked-out reform acts, the methods itself can be developed further into a more comprehensive instrument. Civil society could also be involved to strengthen local ownership.

3. Focusing on key reform areas/game-changer reforms

In putting forward reform proposals, a clear prioritization on key reforms needs and a focus towards game-changer reforms would be needed among Western development partners. As nearly all institutions would require some sort of reform, without clear prioritization the tendency would likely be to turn from more controversial to less controversial reforms. However, this would also be an invitation to do only pocket reforms. Crucial reforms will by necessity meet resistance and obstruction. All major financial scandals – money laundering schemes, raider attacks and the banking fraud – and every major political conflict in recent years indicate that the most crucial requirement is about establishing the rule of law. This means the functioning and independence from political or oligarchic control as well as from the influence of corruption of justice, law enforcement and key regulatory bodies such as the National Bank.

In pushing towards this end, Western partners should insist on key game-changer reforms, which means institutional reforms that cannot be bypassed, but create the potential to change the rules of successful conduct. An example for this can be found in the Romanian anti-corruption directorate (DNA), which could also be transferred to Moldova, in particular since a new legal framework was already passed in 2016. The result would be an institution in which all capacities and competences for the investigation and prosecution of high-level corruption are concentrated, which thus needs not rely on the cooperation of other authorities, would not be hampered by workloads of other responsibilities and would be fully independent. There is never a guarantee that this example would work in Moldova as it has done in Romania. However, once established, such an institution would indeed be so powerful that even the strongest oligarch could not be sure that he could control it. The progress of justice reforms and fighting corruption in Romania also poses an example of how successful a strong and targeted political leverage of the US and the EU can push reforms.

V. Personnel policies

1. Selecting the leadership of key institutions

Without the independent and professional functioning of key law enforcement, justice and regulatory bodies, no systemic transformation will be possible. Together with institutional reforms to strengthen the capacities and the independence of these authorities, the selection and the selection mechanisms for their respective heads is crucial to ensure de-politicisation. However, no selection mechanism that would only involve other Moldovan institutions or actors will likely be able to ensure this. Not only would any such mechanism open gateways to unwanted influence, but, more importantly, the mistrust in Moldovan institutions is so widespread in the society that the minimum confidence necessary would be lacking for whomever would be appointed. Doubt in the fairness of the process in conjunction with expectations of retribution could keep truly independent professionals from applying in the first place. Even if an independent professional were chosen, the prevailing mistrust would probably still transmit to him or her. Without a minimum of trust and backing from the society, even an independent, capable and committed professional may achieve little.

Western development partners could bring both real independence and confidence to the selection processes. This would require that an open and transparent competition process be organized and the selection body be composed jointly of representatives of Moldovan institutions and of international representatives – which could be nominated by the EU or the Council of Europe, and may be peers from similar institutions from EU Member States to ensure their independence. Such a mechanism could attract enough interest and confidence for independent personalities to apply, while creating too much uncertainty for vested interest to be able to steer the process. In order to prevent any direct infringement with sovereignty, international representatives could be given consultative votes only. For as long as transparency is ensured, including also the voting itself, it would be politically quite costly to ignore their vote.

2. Public service reforms

Since transformation in the post-soviet space is, first of all, a task of state-building, it can hardly succeed without a reform of the public service, in order to raise the overall level of professional performance and remove, as much as possible, parallel chains of control, awards and loyalty that supersede the constitutional and legal framework. A necessary requirement is a rise in the pay scale of senior civil servants. To be sure: pay rises alone do not eradicate corruption. Neither will a low-paid official by necessity be corrupt, nor will an official stop being corrupt because of better payment. However, payments are not only far below competitive wages in the private sector, but in Chisinau effectively even below subsistence levels. This results in very high fluctuation rates in most ministries, highly varying capabilities of civil servants and often a dependence on other sources of income. Without improved payments the resulting problems remain difficult to address.

Increasing payments, however, will both put an additional strain on the budget and would also be politically costly. The financial burden would not be unbearable. It would neither be possible nor necessary to significantly raise payments of all civil servants. What could be crucial is to start with rises for senior civil servants who take and prepare decisions and thus largely shape the working of the overall system. If that involves raising the salary of – including judges and prosecutors – a few thousand officials to around a thousand Euro per month, the overall sum would add up to a few dozen millions a year, which may not be easy to find from one year to the next but which can be absorbed by the budget over some

years. Still, such pay rises would prove to be quite unpopular, as has been the case with the pay rises for judges that already happened, for in any case eventual improvements would become noticeable only after a while.

A solution for both of these problems would be if pay rises were to come as a part of a broader anti-corruption programme agreed to by Western development partners. This would add credibility to the measure itself. Morever, the inclusion of the additional required funds in the budget could be eased if Western partners were to offer regressing budget support of perhaps 80% of the cost in the first, 60% in the second, 40% in the third year, and so on. This way, compensation would be possible without any direct financing of Moldovan officials. In turn, Western partners could require that stricter and more transparent professional rules be applied for the selection and promotion of civil servants and they could require the monitoring of the proceeding of civil service commissions responsible for personnel policies.

VI. Capacitate constitutional and state authorities

1. Ways to capacitate reform forces in government

A problem with the "pro-European" coalitions since 2009 in Moldova has not been that there were no reform-minded personalities in government, but that they were constrained by two problems: On the one hand, to be in government was often not to be in power, as crucial decision making and information flows bypass constitutional authorities. On the other hand, the capacity of state authorities for the planning and implementation of reforms is weak, even if they would not be blocked by vested interests. To directly capacitate state authorities and reform forces should therefore be one of the priorities in promoting transformation.

For Western development partners, this will require not only support for capacity building but "boots on the ground" in the form of professionals embedded into Moldovan institutions. The experience with instruments such as the High Level Advisory Mission suggest that their role should go beyond merely advisory tasks to include also monitoring and operational roles. This could happen in three different ways:

The first would combine the direct support of reforms with the monitoring of their implementation and the conduct of key institutions – such as in the case of the Rule of Law Mission suggested below. Without holding executive powers, such missions could directly push for good governance and reform by being involved in and reporting on relevant processes on a long-term basis, so that problems and resistance against reforms can be identified where they emerge. This requires not only the fragmented placement of individual advisors in different authorities but also a central coordination and reporting line. A mission headquarters would be necessary, which could process the intelligence gathered and would have the mandate to work and, if necessary, intervene directly with the responsible governmental institutions. However, if such instruments were employed, it would probably also not be efficient to operate a number of individual missions separately from each other to best capitalize on the political leverage Western development partners have. As much as possible, a unified structure of command and coordination would rather be necessary. For the EU – which possesses the most advanced instruments in this respect – this would suggest also de facto appointing the respective head of delegation to a kind of high representative for reforms.

For the second possibility, the Ukraine has created the example by employing professionals from abroad as officials via providing them with citizenship. In Ukraine this was done in a number of politically responsible governmental positions, including those

of ministers. This, however, could be used by local leaders for the sake of appearances and may blur their responsibility. It would thus be probably more advisable to employ foreign professionals as officials in institutions meant to operate non-politically, in particular in such institutions that are key for ensuring the rule of law – such as the Prosecutor General, the Anti-Corruption Centre and the National Bank, as well as other regulatory bodies. There, embedding professionals from Western partners could strengthen the independence and depoliticisation of the institutions. They would become Moldovan officials, but Western partners could second them providing also the necessary payments.

A third way would be to provide intelligence and investigative capabilities. Problems of governmental authorities in dealing with major corruption cases or abuses in the financial system included the weakness as well as the lack of reliability of both the responsible national regulatory bodies as well as the available intelligence. Thus to systematically strengthen the intelligence – in particular with regard to the financial system – of constitutional authorities in government and parliament would make it more difficult to bypass their control by informal means of corrupt influences. In addition, Western development partners could not only provide the necessary capacities and expertise but also insist on joint investigations, including full participation with own capacities in money laundering schemes, raider attacks or the Moldovan banking scandals.

2. Capitalize on the diaspora potential in ensuring sustainable transformation

Moldova is a source country of migrants. Moldova has one of the highest migration rates in Europe. According to various data, currently from 800.000 to 1 million Moldovans are out of country.[25] Most of them are long-term migrants and live in the Western countries (i.e. Italy, Spain, Portugal, France and Greece). A large number of Moldovans live in Canada and the US, particularly high-skilled migrants. An important number of Moldovans (an annual estimate of over 350.000) live and work in Russia, though the majority of them are short-term (seasonal) migrants. In the last 10 years, the diaspora and government started to be more active in valuing the role of the Moldovan citizens residing abroad.[26] In 2016, a new strategy "Diaspora – 2025" was adopted.[27] A Congress of the Moldovan diaspora is organized in Moldova every year. Diaspora Business Forums are aiming to explore ways of improving the investment of the diaspora in the Moldovan economy.

Support the diaspora to contribute to Moldova's development

Remittances constitute approximately 30% of the Moldovan GDP, with an annual estimation of over 1,2 billion USD. With the support of the EU, different programmes to support Moldovan migrants abroad are implemented. One of them is PARE 1+1, aimed to support and complement the investment of a project amounting up to 18.000 EUR. Since 2010, when the program was launched, almost 600 migrants have benefited from the programme. Even if the numbers of such projects increase every year, they still cover less than 1% of the remittances. The Moldovan diaspora still chooses to keep the earnings in saving accounts in countries of residence's banks that are considered more reliable. Recently with the support of international development partners, but also with active involvement of local initiatives, crowdfounding is actively promoted in order to more easily attract

25 http://www.statistica.md/newsview.php?l=en&idc=168&id=5156

26 In October 2012 the Moldovan Government created a special agency – the Bureau for Relations with Diaspora (BRD). With the support of international organizations (IOM and UN), as well as the EU and its member states, a significant number of programs have been implemented in Moldova in the field of migration development, mobility, investment of remittances, social protection of migrants abroad and rebuilding links with the home country and local communities. In 2008, an EU-Mobility Partnership was started, which now includes hundreds of projects implemented with the support of and in cooperation with more than 16 EU Member States.

27 http://brd.gov.md/sites/default/files/sn_diaspora_2025_web.pdf

small scale financing. Thus, crowdfounding should be further explored in the future as an instrument to involve diaspora in local development.

Implement programmes to attract diaspora experts in the public service

Back in 2009–2013 a number of projects were implemented in Moldova with donor's support, in order to attract high-skilled and Western-educated diaspora members to join the public administration. These programmes were successful, but were abandoned due to the lack of an efficient governmental policy in this area. It is recommended that the EU and US explore ways to resume this practice in a more sustainable way and finance such programmes, as diaspora representatives could bring added value competence, and they are free from vested interests.

In Moldova, there is a certain basis to viewing the diaspora as having an important potential to contribute to the transformation of the country. Only a minor number of Moldovans abroad are politically active and choose to invest in the Moldovan economy. Most them still have a low level of confidence in public institutions, political parties, the banking sector and the economy in general. We believe that more efforts should be dedicated in particular to support programs on the recruitment of diaspora members in Moldovan civil service, in order to better value their skills and potential.

3. International support to strengthen rule of law in the Republic of Moldova

As shown already in this study, in Moldova the international development partners, in particular the EU and US, have unfolded a number of technical assistance projects in justice and law enforcement sectors, mainly with advisory, support and monitoring mandates. However, the biggest challenge for Moldova remains the implementation of the reforms, which is the exclusive responsibility of the Moldovan authorities. Nonetheless, more guidance and support to ensure sustainable implementation from the international development partners may be required. To address systemic corruption and demotivate the control of vested interests over justice and law enforcement authorities that shall ensure the application in practice of the law in a non-selective manner and ensure finality in high-level corruption cases, a genuine internal political will is required. Thus, given the previous experience with respect to the Moldovan transformation processes, a newly structured and coordinated EU and US support effort to strengthen the rule of law in Moldova must be considered, negotiated and agreed upon by Moldova with the EU, US and other international development partners of the Republic of Moldova.

The EU Peer Review Mission in the justice sector offered a thorough analysis and conclusions on the current state of play in the justice sector.[28] As mentioned above, the Peer Review Mission could be seen as a starting point for an institutionalized and international EU-led Rule of Law Mission in Moldova, or other types of structured and coordinated international support programmes in the field of justice reform and high-level anticorruption efforts (hereafter the support programme). However, the first step shall be to use the existing EU-Moldova structural dialogue on rule of law issues (i.e. the EU-Moldova Association Committee and relevant sub-committees) in order to gradually transfer the respective recommendations into justice and anticorruption strategies and other legislative and public policy documents.

Thus, the new support programme shall aim at increasing the transparency and efficiency in the justice and law enforcement system in dealing with high-level corruption, capacitate the judiciary and anticorruption prosecutors and demotivate any political influence of judiciary and law enforcement institutions. To do so, the programme shall contribute

28 http://eeas.europa.eu/delegations/moldova/press_corner/all_news/news/2016/20160622_en.htm

advice, support, monitoring and assistance to relevant rule of law institutions, in particular judges, prosecutors, investigative officers, the Supreme Council of Magistrates, the Supreme Council of Prosecutors and the Institute for National Justice.

One of the main functions of the support programme shall be to convene justice and anticorruption target benchmarks with Moldovan authorities, and ensure corresponding monitoring and evaluation of the respective commitments in the areas of judicial reform and the fight against corruption using a similar instrument that the European Commission had set for Romania and Bulgaria in 2007, namely the so-called Mechanism for Cooperation and Verification (MCV)[29] to assess progress in the justice sector reform and fight against corruption.

The low level of public trust in Moldovan justice and law enforcement authorities and the high grade of politicisation of the law enforcement institutions makes it very difficult even for decent officials to implement reforms. Thus, one of the objectives should be to identify, train, assist and support competent and independent Moldovan officials from the justice sector and law enforcement bodies.

The implementation of the structured support programme shall comprise at least 4 phases: (1) needs and impact assessment; (2) inception and setting phase; (3) implementation phase; and (4) transit and exit phase. The initial timeframe for the support could be set for a period of 3 years. The final phase (transit and exit) shall be decided at least 1 year before the decision of the finalisation of the programme is taken.

Prior to any decision for a proposed Mission to be taken by the Moldovan government and development partners, in particular with the EU and US, a Needs and Impact Assessment is recommended to clarify the scope of work, the needs, the mandate, and the transit and exist strategy, as well as to provide a risk and mitigation analysis. It is advisable that the Assessment shall be conducted during 2017 by independent international experts and in consultation with key relevant Moldovan stakeholders (i.e. civil society and relevant authorities). The Assessment shall be a systemic one and shall not be exposed to veto powers from the Moldovan governmental authorities. The 2016 conclusions and the recommendations of the EU Peer Review Mission, as well as the EU Joint Analysis for the Programing development for Moldova by 2020, could be taken as a basis for the ToR for the Needs and Impact Assessment. At the same time, any possible international support to rule of law in Moldova could not be successful without the support of Moldovan society and a clear political will from all or at least one constitutional state authority in Moldova that could back up the initiative and oversee its implementation.

The International Rule of Law support programme shall address the following areas:

- Support, advise and assist Moldovan state institutions in the development and implementation of strategic public policy documents and legislation in the area of justice sector reform and the fight against high-level corruption;
- Monitor and evaluate the implementation of Moldovan authorities' commitments in the area of justice sector reform and fighting high-level corruption, conducting periodic peer reviews;
- Ensure coordination and oversight of existing and future projects and direct budget support funded in particular by the EU in the area of justice sector reform and the fight against corruption, in order to better steer the process and use the available funds more efficiently, creating synergies and avoiding overlapping;
- Conduct stress tests on the functionality of the justice and law enforcement system for adopted key reforms, and support their piloting

29 http://ec.europa.eu/cvm/progress_reports_en.htm

and implementation (measuring of timeframes from the filing of a compliant, until the final court decision is issued);

- Interact directly with and provide guidance to the highest judicial institutions on the national level (in particular Supreme Council of Magistrates and Supreme Council of Prosecutors) on the development and implementation of justice reforms;
- Assist and support in capacitating the Anticorruption Prosecutor Office in the effort to fight high-level corruption, support the reform of the National Integrity Authority, contribute to the reform of the National Anticorruption Centre, consolidate the capacities of the self-governing judiciary bodies (the Supreme Council of Magistrates and the Supreme Council of Prosecutors) to act in a transparent and accountable manner;
- Support the National Institute of Justice in training new judges, prosecutors and other justice sector personnel to better manage their functions, including the review of the curriculums available for initial and continuous training;
- Support the strengthening of the special investigative capacities of the law enforcement authorities in dealing with high-level corruption cases;
- Assist and provide technical advice to law enforcement authorities in the investigation and criminal pursuit and adjudication of high-level corruption cases;
- Undertake continuous monitoring and oversight of the high-level corruption cases in order to contribute to the independence of judges and prosecutors from influences outside the system, be they political or vested interests;
- Participate in the selection and vetting process of the judges and prosecutors dealing with high-level corruption cases by facilitating the creation of independent selection committees, setting clear merit-based and transparency standards.

The main expected results for such an intervention shall be:

- To ensure the sustainability of the justice sector reform in line with EU best practices and standards;
- To increase the level of professionalism of judges and law enforcement authorities, in particular specialized anticorruption prosecutors;
- To strengthen the independence from political control of the judiciary and law enforcement institutions;
- To contribute to an efficient and non-selective fight against high-level corruption.

4. Financial banking sector and offshore jurisdictions

One of the biggest challenges for Moldovan economic development lies in the weak financial banking sector, as the banking fraud indicated. The transatlantic partners should further support the investigation and recovery of stolen assets. There is also a need to reinforce the independent regulation of the banking sector to prevent and avoid similar banking frauds in the future. The issue continues to be outstanding as another three banks in Moldova are under special supervision from the National Bank. At the same time, international corporate governance transparency standards should be implemented in the banking sector.

In other words, the banking sector must become immune from offshore jurisdictions. However, the scope of de-offshorization shall not be limited to financial and banking institutions only, as the latter are in contact with other forms of undertakings,

which may be well used as vehicles to disguise beneficial ownership and control instruments. Thus, the transposition of international standards of transparency must be extended to the public sector spending as well, in particular as regards the public procurement, public private partnerships and privatization of public assets.

In this respect, cooperation with the IMF is crucial, and it should go beyond the conditionality of a new Cooperation Agreement between Moldova and the IMF to be concluded, but address systemic issues and resolve them in the broader financial and banking sectors, as well as in the regulated business environments.

VII. Strengthening democratic competition

Beyond the working of state institutions, limitation of effective democratic competition has especially weakened the leverage of reform forces. In addition to means of corruption, blackmail and repression, control over party financing and media have ensured the leverage of vested interests over the political system. In both areas, similar means ensure this control. Party and campaign financing has become highly monopolized by and dependent on oligarchic players, including by largely removing from eventual competitors other legal possibilities to fund political activities. In consequence, any party building that works bottom-up, instead of being controlled by vested interest top-down, is very difficult and has hardly ever succeeded. This problem works against Western-oriented reform forces, which by necessity lack an oligarchic or – as probably in the case of pro-Russian parties – a foreign sponsor.

The mass media and especially TV has also become largely monopolized in the same hands, which control large parts of the party system and government. What is more, the advertisement market has also been largely monopolized, constraining the possibility for independent media to finance themselves and thus also limiting competition in this area. Thus, even with largely free elections instead of an outright authoritarian system, a highly manipulative democracy has emerged that keeps control by limiting choice. Thus, the democratic process can only become a driving force for reform if the conditions would allow reform forces fairer chances to compete. Therefore, to strengthen the forces of reform also requires a push for legislative reforms that would limit the possibility to monopolize control over parties and media.

1. Support party building and more active civic and political participation

Strong political parties and a more active civic and political participation may effectively address public scrutiny over the transformation processes in Moldova. As we have previously argued, the transformation efforts taken by the EU and the US to contribute to Moldova's European integration aspirations as a development model need sufficient safeguards to ensure sustainability and irreversibility. To attain that aim, the vehicles used to promote democracy – the political parties – must themselves be based on internal democracy, transparency, effective monitoring of financing and quality political and civic education of the young generation. With the current perception of political parties as LLCs, with majority "shareholders" as the promotes of their vested interests, all the efforts taken to reform, improve or fine-tune the justice sector, the business environment or the functioning of the public regulators, would be senseless, as the former's coming to power and holding the decision-making instruments would annihilate any outcome of the reform efforts which are contrary to their own interests. Thus, supporting a more active civic and political participation of citizens and implementation of effective internal monitoring and internal democracy building is essential.

The EU and the US could play a much more active role in addressing the shortcomings of the current political party structure and internal practices and in enhancing civic participation and awareness of democratic foundations in the Moldovan society.

It is suggested that the progress in attaining the transparency of party financing and the internal decision-making in the political parties, the statutory documents of the political parties be exposed to more public scrutiny and be conditioned on access to technical assistance and public financing from the EU and US envisaged for other sectors. It is expected that with the increased transparency of the political parties' structure and activities, higher trust from citizens and increased citizen political participation will be attained. To attain that, both the EU and the US should promote:

- Legislative and regulatory frameworks which set minimum internal democracy standards in political parties;
- Enhanced transparency in the party funds, collected both as party member contributions and as donations. The donations must be subject to a clear anti-money laundering scrutiny and checked for consistency and availability of funds of the donors (cross-checking with income statements, available assets, etc.);
- Gradual implementation of the public financing of political parties from state resources, which in no case should be considered as sufficient for the party to operate, but imply an important part of the party's expenditures;
- Clear register keeping records' rules for political parties and its partial accessibility by the public institutions entrusted with the implementation of the state budget political party financing;
- Clarified rules applicable to political party financing from state resources, based on objective criteria.

It must be stressed that not all objectives of efficient party building may be reached via legislative, regulatory action or enforcement. It thus becomes key for the success of the transformation processes in Moldova that increased interest of the citizens is developed. Thus, working with the young generation to educate interest in democratic governance and its foundations is essential. As part of the increased civil participation objective, efforts are needed at the high-school stage to prepare the young generation to responsibly exercise their voting rights, but also realize that their involvement does make a difference and is directly impacting them and their communities.

Finally, it is recommended to explore more ways to empower the role of the diaspora in exercising their political rights, and to offer additional opportunities to decide the future of the country. According to Moldovan electoral legislation, Moldovans abroad can vote in general parliamentary and presidential elections and referendums. In the last 2014 parliamentary elections over 73.300[30] citizens residing abroad participated, which represents approximately 2.5% of the total number of eligible voters from the Republic of Moldova (2,8 million voters). Thus, alternative-voting options to allow Moldovans abroad to vote shall be supported. The Moldovan Electoral Body already aims to introduce and pilot during the next 2018 parliamentary elections the internet voting solution, so that in 2020 it may be fully operational. The internet voting should indeed contribute to the increase of the role of the diaspora in the internal political process in Moldova, given the potential important number of new voters. Vote by post mail could also be considered.

As part of the political and electoral education efforts, the EU and US could ensure sustainability of the internal transformation processes by promoting at the central and local levels high-school curricula in civil participation, political party building and electoral involvement.

30 http://cec.md/index.php?pag=news&id=1548&rid=12866&l=ro

2. Support to build independent media and improved communication

The EU and the US have improved the communication and visibility support in Moldova, in particular against the background of the anti-European and anti-Western propaganda dispatched in the region. With a Russian-speaking population and a media landscape dominated by Russian outlets and broadcasts, Moldova remains one of the countries in the Eastern Partnership that is highly vulnerable to Russian propaganda. On the other hand, the mass media is controlled or affiliated to a large extent with different political parties or interest groups, which generally broadcast content that favors the respective owners.

Thus, on the policy level, the 2015 initiative to increase transparency in media ownership was a good step forward. However, it is not enough. First, full transparency of media ownership should ensure the declaration of final beneficiaries registered in offshore jurisdictions. Second, media ownership concentration should be limited.

In order to ensure more media freedom and pluralism of informed opinions in Moldova, the EU and US should continue to further deepen their support of qualitative news and entertainment TV, radio, paper and online media projects with local content, both in Romanian and Russian.

The medium- to long-term objective for the transatlantic intervention in this area should be to create and strengthen mass media companies in Moldova, independent from oligarchic and political control and which will address Russian propaganda. In this regard, not only grants supporting projects to such media projects should be considered, but Western transparent private investment should be encouraged as well. Another important area of support that should be ensured in Moldova relates to increased investigative journalism and necessary means of protection of journalists from political pressure and persecution. It will complement the effort of fighting political corruption.

Last but not the least, the international development partners should also broaden the support for visibility and communication programs implemented by local civil society organizations, aiming at providing Moldovan citizens objective information about the pace of the reform process and the results for EU- and US-implemented projects, popularizing democracy and rule of law values and promoting social cohesion and diversity in the Moldovan society. This shall contribute to greater awareness, and address the dividing lines in Moldovan communities.

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Supported by:

Dialog Europa | Otto Wolff - Stiftung

Published in February 2017