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The honouring of obligations and commitments by the Republic of Moldova

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

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Summary

Since the Parliamentary Assembly's last monitoring report in 2007, the Republic of Moldova has carried out further reforms in order to honour its obligations and commitments towards the Council of Europe, according to the Monitoring Committee. In particular, it has ratified 81 Council of Europe conventions and has adopted Action Plans on improving the judiciary and reinforcing human rights. The committee acknowledges this progress and the country's ongoing commitment to meeting Council of Europe standards.

Recent political life has been marked by repeated parliamentary elections in April 2009, July 2009 and November 2010 as well as a constitutional referendum in September 2010. A serious political crisis from January to May 2013 revealed dysfunctions in the Prosecutor's Office and other law enforcement agencies. The committee welcomes the election of the President of the Republic in March 2012, after a three-year political deadlock, but urges the amendment of Article 78 of the Constitution to avoid a similar situation in the future.

The committee remains concerned about a number of issues that still need to be addressed, such as reform of the Prosecutor's Office, the separation of powers and de-politicisation of judicial institutions, the fight against corruption and the effectiveness and independence of the National Anti-Corruption Center, freedom of the media, combating discrimination, revision of the electoral code, and bringing the statute and legislation of the Autonomous Territorial Unit of Gagauz-Yeri into line with national legislation so that it meets international standards.

Concerning the Transnistrian region of the Republic of Moldova, the committee welcomes the resumption, in 2012, of the 5+2 discussions and the progress made in some concrete areas. However it remains concerned about ongoing human rights violations and regrets certain unilateral steps taken by the de facto authorities which undermine efforts to resolve the conflict.

The Moldovan authorities should be encouraged to pursue the reform process, the committee concludes, while the Assembly should assist by continuing its monitoring procedure.

1. Reference to committee: [Resolution 1115 \(1997\)](#).



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A. Draft resolution²

1. The Republic of Moldova joined the Council of Europe in 1995. It has since then shown the political will to honour its commitments and obligations towards the Council of Europe, notably by ratifying 81 Council of Europe conventions. Some crucial concerns, however, still need to be addressed in the field of democracy, human rights and the rule of law.
2. After the adoption of [Resolution 1572 \(2007\)](#) on the honouring of obligations and commitments by Moldova, political life was marked by a high number of elections. The parliamentary elections on 5 April 2009 led to a constitutional deadlock with regard to the election of the President of the Republic with the required majority (namely 61 out of 101 votes of MPs). Early parliamentary elections were held on 29 July 2009 and brought into power the “Alliance for European Integration”. However, the repeated inability of the incumbent parliament to elect the President led to early parliamentary elections on 28 November 2010. On 5 September 2010, a constitutional referendum proposing the direct election of the President of the Republic failed to meet the minimum participation threshold of 33%. All elections and the constitutional referendum were observed by ad hoc committees of the Parliamentary Assembly.
3. The acts of violence which took place during and after the post-electoral protests in April 2009, as well as the constitutional deadlock related to the election of the President of the Republic, prompted the Assembly to adopt [Resolution 1666 \(2009\)](#) on the functioning of democratic institutions in Moldova and [Resolution 1692 \(2009\)](#) on the implementation of [Resolution 1666 \(2009\)](#).
4. The Assembly recalls that the Republic of Moldova faces strong economic challenges and remains the poorest country in Europe. The Assembly therefore acknowledges the efforts launched by the authorities to continue the democratisation process with the support of international partners. In this context, the Assembly appreciates the adoption by the parliament in July 2012 of an Action Plan on the honouring of the Republic of Moldova’s commitments towards the Council of Europe, which reflects the level of the Republic of Moldova’s compliance with the commitments undertaken when joining the Council of Europe and highlights the issues that still need to be addressed. The Assembly encourages the authorities to fully comply with the remaining commitments and with the honouring of their obligations, in co-operation with the Council of Europe.
5. The Assembly takes note of the aspirations of the Republic of Moldova to pursue its European integration process and the desire of the Moldovan authorities to initiate an Association Agreement, including a Deep and Comprehensive Free Trade Agreement with the European Union in the framework of the Eastern Partnership, as well as to complete the implementation of the European Union-Republic of Moldova Action Plan on Visa Liberalisation. At the same time, the Assembly notes that economic ties with eastern European countries remain important.
6. The political crisis from January to May 2013, following the “hunting accident” of December 2012, revealed serious dysfunctions of the Prosecutor’s Office and other law enforcement agencies. It highlighted the need to de-politicise State institutions and ensure a better separation of powers. The Assembly now expects all political parties to draw lessons from this political crisis. It calls in particular on the political parties in power to adopt the responsible attitude necessary to ensure the proper functioning of the institutions needed for a democratic society, based on transparency and accountability. This is a prerequisite for securing the rule of law, democracy and human rights, but also for boosting the economy, attracting foreign investment, reducing poverty and working in the interests of the public to ensure better living conditions for all. Democracy implies checks and balances in democratic institutions. State institutions should never serve only one party or one individual’s interests.
7. Concerning the functioning of democratic institutions, the Assembly welcomes the election by the parliament of the President of the Republic on 16 March 2012, thus ending nearly three years of political deadlock and re-establishing the separation of powers in accordance with the Moldovan Constitution. The Assembly calls on all political parties to engage in discussion and find the necessary political compromise to revise Article 78 of the Constitution (regulating the election process of the President). Such a revision would avoid future political deadlocks and possible repeated early parliamentary elections, thus providing the political stability necessary for pursuing the much-needed reform process. In the long term, the Moldovan authorities should consider a broader revision of the Constitution.
8. Based on its observation of elections, the Assembly remains concerned about the shortcomings in the electoral process. It notes with satisfaction the efforts undertaken in 2009-2010 to upgrade the electoral process, despite the conduct of repeated elections and a referendum in that period. However, the Assembly

2. Draft resolution adopted unanimously by the committee on 6 September 2013.

encourages the Moldovan authorities to fully implement the electoral code adopted in June 2010, including the requirement to set up an electronic voters list and to further decrease the number of electors registered in the supplementary voters lists. It expects the authorities to allocate the necessary funds to equip adequately all polling stations, and to train the members of the electoral boards, in order to secure all the necessary guarantees for free and fair elections. Electoral processes have been a continuous bone of contention between the majority and the opposition. Completion of the electoral reforms should therefore be considered as a priority area for the authorities.

9. In the framework of the electoral reforms, the Assembly expects in particular the Moldovan authorities to upgrade the legal framework pertaining to the financing of political parties and electoral campaigns in the light of the joint opinions of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) and the European Commission for Democracy through Law (Venice Commission), adopted on 11 March 2013, and the recommendation made in April 2013 by the Group of States against Corruption (GRECO) on transparency of party funding.

10. The Assembly encourages the Moldovan authorities to pursue the decentralisation process and carry out the necessary consultation on the reorganisation of local authorities. The Assembly welcomes the adoption of the National Decentralisation Strategy on 5 April 2012, following the adoption of Recommendation 322 (2012) of the Congress of Local and Regional Authorities of the Council of Europe. The Assembly invites the Moldovan authorities to pursue the implementation of the decentralisation strategy in compliance with the European Charter of Local Self-Government (ETS No. 122). The Assembly expects all political parties to remain focused on strengthening the competencies and finances of local authorities in order to enhance local democracy and deliver quality services to the Moldovan population. The Assembly acknowledges the latest amendments to the law on public finances and expects these modifications to ensure equitable budget transfers to local authorities.

11. The Assembly encourages the Moldovan authorities and the elected representatives of the Autonomous Territorial Unit of Gagauz-Yeri to launch a constructive dialogue with a view to harmonising the statute and legislation of the Autonomous Territorial Unit of Gagauz-Yeri with national legislation and ensuring its compliance with international standards and respect for the sovereignty of the Republic of Moldova. It recalls that the Council of Europe is ready to provide expertise on this issue.

12. Concerning the rule of law, the Assembly underlines that a number of reforms are expected from the Moldovan authorities to secure the separation of powers and de-politicise the judicial institutions. In particular, the Assembly invites the Moldovan authorities, in consultation with civil society and in co-operation with the Council of Europe and its Venice Commission, to:

12.1. pursue the reform of the justice system and fully implement the Action Plan on the Justice Reform (2011-2016) with adequate funding;

12.2. clarify the competencies of the Constitutional Court and the appointment procedures of its members, based on the expertise of the Venice Commission;

12.3. reform the Prosecutor's Office, in compliance with Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system and Assembly Recommendation 1604 (2003) on the role of the public prosecutor's office in a democratic society governed by the rule of law.

13. The Assembly remains particularly concerned about the level of corruption in the judiciary, the police, and the education and health-care systems, which is seriously undermining the confidence of the citizens in their institutions and the correct functioning of public institutions. The Assembly calls on the Republic of Moldova to take firm action against corruption, implement the remaining recommendations of the Group of States against Corruption, promote a "zero-tolerance" approach at all levels and make use of the criminal-law provisions related to bribery and trading in influence offences, as highlighted by GRECO.

14. The Assembly stresses that full support must be provided to ensure the effective functioning of the National Anti-Corruption Centre (NAC) and the National Commission on Integrity. After the amendment of Law No. 106 that transferred the control of the NAC back from the parliament to the government in May 2013, the Assembly expects the NAC to perform its duty independently. It urges the authorities to ensure that no undue political interference undermines the work of the Center, which is essential to prevent and combat corruption.

15. Concerning the respect of human rights, the Assembly welcomes the adoption of the revised version of the National Human Rights Action Plan (2011-2014) of February 2012 and invites the authorities to implement it in the light of the recommendations of the United Nations last Universal Periodic Review and the anti-discrimination issues raised by the Parliamentary Assembly and the Council of Europe Commissioner for Human Rights.
16. The Assembly remains supportive of the efforts made by the Moldovan authorities to comply with the requirements of the European Convention on Human Rights (ETS No. 5, "the Convention") and the rulings of the European Court of Human Rights. In this respect, the Assembly welcomes the launch of a co-operation programme in 2013, funded by the Council of Europe Human Rights Trust Fund, to support a coherent national implementation of the Convention.
17. The Assembly takes note of the reform process undertaken since 2010 by the Minister of the Interior with a view to reforming its subordinated and decentralised institutions (for example the police and the carabinieri) and encourages the Republic of Moldova to comply with human rights standards. It reiterates the call made in [Resolution 1666 \(2009\)](#) for the authorities to transfer the competence over pre-trial detention centres from the Ministry of the Interior to the Ministry of Justice.
18. The Assembly remains concerned by the fact that prosecutions following the April 2009 events have not yet been finalised. It reiterates the requests made by the Assembly in 2009, inviting the authorities to fully investigate these events, prosecute the perpetrators and ensure accountability for crimes committed by law enforcement officials, as recalled by the Commissioner for Human Rights during his March 2013 visit to the Republic of Moldova.
19. The media remains a sensitive issue in the Republic of Moldova. The Assembly expresses its concern following the lengthy procedure related to the withdrawal of the licence of the NIT channel in 2012. The Assembly urges the authorities to create the conditions necessary to secure media freedom and avoid political interference by clarifying media ownership regulations, de-politicising and de-monopolising the media sector, and addressing the issue of media concentration, which is an issue in most democracies. The Assembly hopes that the parliament will soon adopt the new broadcasting code, which was revised in line with Council of Europe's recommendations.
20. The Assembly stresses that the Republic of Moldova was the first member State to ratify the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) on 19 May 2006. It encourages the Moldovan authorities to further strengthen the fight against trafficking in human beings, in line with the recommendations of the Group of Experts on Action against Trafficking in Human Beings (GRETA) of June 2012. It welcomes the adoption of a new action plan on prevention and combating trafficking in human beings (2012-2013) and the drafting of guidelines to improve identification of victims.
21. The Assembly commends the Republic of Moldova for the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "the Lanzarote Convention") on 12 March 2012 and its active participation in the "One in five" campaign. It also welcomes the subsequent amendments to the Criminal Code and the Criminal Procedure Code.
22. The Assembly welcomes the adoption of the anti-discrimination law in 2012 as a first step to ensuring respect of the rights of all citizens and minorities. It hopes that the authorities will allocate sufficient financial and human resources to the Anti-Discrimination Council and that its findings will be taken into account by the authorities to redress possible shortcomings.
23. Deconstructing homophobic prejudice remains a challenge in the Republic of Moldova. The Assembly calls on all political and religious leaders, who bear responsibility as opinion makers, to promote tolerance and refrain from stirring up homophobic attitudes and making statements which have no place in a democracy. Wide awareness-raising campaigns should also be launched, with the firm political support of the authorities.
24. In this context, the Assembly is concerned by the recent adoption of an amended Article 90.1 of the Contravention Code on 24 May 2013, promulgated on 5 July 2013, which punishes "dissemination of information and/or carrying out acts aimed at spreading ... some other relations than those related to marriage and family, in accordance with the Constitution and the Family Code". Such a provision is clearly in contradiction with European standards on non-discrimination. The Assembly therefore urges the Moldovan authorities to repeal this provision and welcomes the preliminary steps taken by the Ombudsman, the Anti-Discrimination Council and the Ministry of the Interior to ensure the correct and uniform application of the amendments until they are repealed.

25. The Republic of Moldova is a multicultural and multilingual society. The Assembly invites the Moldovan authorities to further study the possibility of ratifying the European Charter for Regional or Minority Languages (ETS No. 148), which remains an unfulfilled commitment, and to take advantage of the Council of Europe expertise to assess the feasibility, impact and added value of such ratification.

26. Concerning the Transnistrian region of the Republic of Moldova, the Assembly welcomes the resumption, in 2012, of the 5+2 discussions involving the Republic of Moldova, the *de facto* Transnistrian authorities, the OSCE, the Russian Federation and Ukraine, with the United States of America and the European Union as observers. The Assembly welcomes the progress made on practical issues, notably in the fields of education, environment, transport and telecommunications. It remains concerned, however, by the escalation of tensions in recent months caused by unilateral decisions of the *de facto* authorities in the Transnistrian region. The Assembly reiterates its call to all the stakeholders to engage in constructive dialogue to settle the Transnistrian issue, whilst respecting the sovereignty and territorial integrity of the Republic of Moldova.

27. Recalling paragraph 25 of its [Resolution 1896 \(2012\)](#) on the honouring of obligations and commitments by the Russian Federation, the Assembly reiterates its call on the Russian authorities to complete the withdrawal of the remaining Russian military forces and their equipment from the territory of the Republic of Moldova without further delay.

28. Notwithstanding the settlement of the Transnistrian conflict, the Assembly is particularly concerned about violations of human rights and fundamental freedoms in the Transnistrian region that affect the population in their daily life. It calls on the *de facto* authorities to consider the conclusions of United Nations expert Thomas Hammarberg of February 2013 regarding notably the judiciary, compliance with international human rights law, torture and ill-treatment, criminal investigation and prosecution, the penitentiary system, access to housing, health and education rights, the HIV and tuberculosis pandemic, trafficking in human beings and rights of disabled people.

29. The Assembly also calls on the Russian Federation and the *de facto* authorities to implement the ruling of the European Court of Human Rights in the case of *Catan and others v. the Russian Federation and the Republic of Moldova* related to the right to education in Latin-script schools.

30. The Assembly encourages the Moldovan authorities and the *de facto* Transnistrian authorities to continue to co-operate on the confidence-building measures across the Dniestr/Nistru River launched by the Council of Europe, which enhance people-to-people contacts.

31. In conclusion, the Assembly acknowledges the progress and continuous commitment of the Republic of Moldova to comply with Council of Europe standards. However, it points out that a series of fundamental issues still need to be addressed to ensure the sustainability of democratic institutions. In the first place, more attention should be devoted to promoting a political culture that focuses on separation of powers, respect for checks and balances, de-politicisation of State institutions and law enforcement agencies, but also on the promotion of human rights and the fight against discrimination.

32. The Assembly believes that the Republic of Moldova's democratisation efforts and aspiration to fully comply with European standards should further be supported by the international community. The Assembly therefore invites the Secretary General of the Council of Europe to consider pursuing and strengthening co-operation programmes on the most pressing issues to be addressed by the Republic of Moldova, including the constitutional, electoral and judicial reforms, the fight against corruption, the promotion of human rights, the fight against discrimination and the promotion of good governance at all decision-making levels. The Moldovan authorities are invited to continue to seek the expertise provided by the Organisation and its Venice Commission.

33. In view of the commitments and obligations that still need to be fully addressed, the Assembly resolves to pursue its monitoring procedure of the honouring of obligations and commitments by the Republic of Moldova.

B. Explanatory memorandum by Ms Christoffersen and Mr Wach, co-rapporteurs

1. Introduction

1. The Republic of Moldova became a member of the Council of Europe on 13 July 1995 and has been under the monitoring procedure since 1996. A number of resolutions have been adopted by the Parliamentary Assembly of the Council of Europe since then, in particular [Resolution 1572 \(2007\)](#) on the honouring of obligations and commitments by Moldova. Several information visits were undertaken by the co-rapporteurs in 2009 and 2010 (leading to the adoption of [Resolution 1666 \(2009\)](#) on the functioning of democratic institutions and [Resolution 1692 \(2009\)](#) on the functioning of democratic institutions: implementation of [Resolution 1666 \(2009\)](#)). The 2009 resolutions focused on the events of April 2009 and on the constitutional deadlock resulting from the inability of the parliament to elect the President of the Republic.

2. After a first visit to Chişinău and Comrat in March 2011³, we carried out a second fact-finding visit to the Republic of Moldova from 28 November to 1 December 2011⁴ and a third visit from 15 to 19 October 2012, where we went to the Republic of Moldova, including its Transnistrian region. We intended to focus on the implementation of [Resolution 1572 \(2007\)](#), [Resolutions 1666 \(2009\)](#) and [1692 \(2009\)](#), the state of play of the election of the President of the Republic, and other current issues, such as the reform of the judiciary, the action taken to combat corruption and organised crime, the legislation and measures to combat discrimination and the latest developments in the Transnistrian region of the Republic of Moldova.⁵

3. We would like to express our gratitude to the Moldovan delegation to the Parliamentary Assembly and the Moldovan authorities for their excellent co-operation and their warm hospitality. During our visits, we had the opportunity to have high-level meetings, including with the President Mr Nicolae Timofti, the then Speaker, Mr Marian Lupu, the then Prime Minister, Mr Vladimir Filat, the then Minister of Foreign and European Affairs, Mr Iuri Leanca, the then First Vice-Speaker of the parliament, Mr Vlad Plahotniuc, representatives of political parties, high-level representatives of the judiciary and law enforcement bodies, the Broadcasting Council, as well as the Ombudsmen in Chişinău and Tiraspol, representatives of the media and non-governmental organisations (NGOs). The support of Mr Akhundlu, Head of the Council of Europe Office in Chişinău, was extremely useful for facilitating our meetings.

4. Our contacts with the Ambassadors of Germany, Poland, Romania, Russia and Sweden and Ukraine, as well as with the European Union delegation, the Mission of the Organization for Security and Co-operation in Europe (OSCE) in Chişinău and the United Nations Development Programme (UNDP), were also very useful for understanding the current political situation in the Republic of Moldova.

5. This report – the first full monitoring report since 2007 – will review the progress achieved by the Republic of Moldova and identify issues that should still be addressed by the authorities. In this context, we would like to emphasise the outstanding co-operation of all authorities and their commitment to comply with Council of Europe standards. The adoption of an “Action plan on the honouring of the Republic of Moldova’s commitments towards the Council of Europe”⁶ by the parliament in July 2012, was a valuable step to define benchmarks and set orientations for future action. It reflects the authorities’ commitments to carry this process forward.

2. International co-operation

6. The Republic of Moldova, a country of 3.6 million inhabitants, remains one of the poorest countries in Europe. According to the 2013 Index of Economic Freedom that covers 183 countries, it ranks 115th – a slight improvement since 2011, when it occupied the 120th position. Its economic freedom score is 55.5 (55.7 in 2011). The Human Development Index of the UNDP gives a rank of 113 out of 187 countries with comparable data.⁷

7. The Alliance for European Integration, which came to power in 2009, is committed to speeding up the European integration process, which is a core objective of its policy. The Republic of Moldova is part of the Eastern Partnership dimension of the EU Neighbourhood policy; the EU financial support increased drastically between 2006 (€25 million) and 2012 (€122 million), with Moldovans receiving the highest level of support in

3. See document AS/Mon (2011) 13 rev.

4. See document AS/Mon (2012) 03 rev.

5. Referred to hereafter as “the Transnistrian region”.

6. See document AS/Mon (2013) 03.

7. <http://hdrstats.undp.org/en/countries/profiles/MDA.html>.

the European Neighbourhood (€41 per capita). According to the President of the European Commission Mr José Manuel Barroso,⁸ the increase in EU bilateral assistance by 30% in 2012 was a mark of recognition of the country's important reform progress. On 14 June 2013, the European Union allocated financial support to the justice sector reform (60 million euros) and the implementation of the EU-Moldova Agreement (30 million euros).

8. In March 2013, the Republic of Moldova completed negotiations on the Association Agreement including its provisions on the creation of a Deep and Comprehensive Free Trade Area with the European Union. The Republic of Moldova is expected to implement the second phase of the Visa Liberalisation Action Plan in 2013.⁹ The liberalisation of the visa regime would have a direct impact on citizens' daily lives, especially in a country where remittances from migrants, notably living in Russia and Italy, amounted to 23.2% of the GDP in 2010 (up to 36% in 2007) and a considerable positive impact on the economic stability in the Republic of Moldova.¹⁰

9. At the same time, the country reinforced its economic ties eastwards. The parliament ratified the free trade agreement within the Commonwealth of Independent States (CIS) on 27 September 2012. It provides for the exclusion of taxes on the import and export of several products to CIS member States.

10. The communist faction in the Moldovan Parliament had sought the adoption of a law on the establishment of the Eurasian Economic Union (EurAsES) and the possible organisation of a referendum on the Republic of Moldova's accession to the Customs Union of Russia, Belarus and Kazakhstan. In 2012, the Social Democratic Party of the Republic of Moldova gathered the signatures of over 231 000 Moldovan citizens in favour of such a referendum, the minimum number of signatures being 200 000. However, the Central Election Commission considered that as many as 197 954 signatures (out of 231 978) were invalid.

11. On 27 August 2013, the Republic of Moldova had ratified 81 Council of Europe treaties, and had signed 15 others without ratification. Since 2009, the Republic of Moldova ratified, among others:

- the Convention on Cybercrime (ETS No. 185) on 12 May 2009;
- the Convention on Information and Legal Co-operation concerning "Information Society Services" (ETS No. 180) on 19 March 2010;
- the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows (ETS No. 181) on 28 September 2011;
- the Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127) on 24 November 2011;
- the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention") on 12 March 2012;
- the Second Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (ETS No. 182) on 26 December 2012.

12. We would like to congratulate the Republic of Moldova for this achievement, as well as for its active participation in the parliamentary network "One in Five",¹¹ which promotes the ratification and implementation of the Lanzarote Convention.

8. www.enpi-info.eu/maineast.php?id=31313&id_type=1&lang_id=450.

9. See the European Commission report on "Implementation of the European Neighbourhood Policy in the Republic of Moldova – progress in 2012 and recommendations for action", published in March 2013.

10. Strengthening links between migration and development in the Republic of Moldova, Note by the National Statistics Bureau, Republic of Moldova, October 2012, www.unece.org/fileadmin/DAM/stats/documents/ece/ces/ge.10/2012/WP_26_MOL_eng.pdf.

11. Valeriu Ghiletschi was appointed contact parliamentarian for the Republic of Moldova. See www.coe.int/t/dg3/children/1in5/PACE/Network_en.asp.

3. Functioning of democracy

3.1. Outcome of the 2009 early parliamentary elections

13. On 5 April 2009, parliamentary elections took place (which were followed by violent incidents on 7 and 8 April 2009).¹² Due to the failure of the parliament to elect the President of the Republic (which required a three-fifths majority) on 20 May and 3 June 2009, new parliamentary elections were organised on 29 July 2009. The parliament again failed to elect the President of the Republic on 10 November 2009 and 7 December 2009. The proposal of the Communist Party of the Republic of Moldova (PCRM) to amend the Constitution with a view to electing the president in the parliament in three rounds (with 61, 57 and 52 votes) was not accepted by the parliament. The initiative of the Alliance for European Integration to organise nationwide, direct presidential elections was submitted to a referendum on 5 September 2010. The referendum failed, however, due to an inadequate voter turnout (30.29%, instead of the 33% required). On 29 September 2010, Mr Mihai Ghimpu, Acting President of the Republic of Moldova, dissolved the parliament and signed the decree calling early parliamentary elections for 28 November 2010.

14. The International election observation mission (IEOM), including a 24-member Assembly delegation,¹³ concluded that the 28 November 2010 early parliamentary elections in the Republic of Moldova “met most OSCE and Council of Europe commitments. ... the elections were administered in a transparent and impartial manner and a diverse field of candidates provided voters with a genuine choice. ... However, the introduction of a new mandate allocation system – shortly [i.e. 5 months] before the elections and without public consultations – was problematic. The quality of voter lists remained a weak point and led to diminished public confidence. Further efforts are needed to remedy remaining deficiencies and strengthen public confidence”.

15. Four parties passed the 4% threshold, namely:

- the Communist Party of the Republic of Moldova (PCRM): 39.3% of the votes (42 seats)
- the Liberal Democratic Party of Moldova (PLDM): 29.4% of the votes (32 seats)
- the Democratic Party of Moldova (PDM): 12.7% of the votes (15 seats)
- the Liberal Party of Moldova (PLM): 10% of the votes (12 seats).

16. Subsequently, a pro-European government formed by the Alliance for European integration (AIE) (comprising the PLDM, the PDM and the PLM) was set up. The AIE (comprising 59 members in parliament) however still does not have the required qualified majority to elect the President.

3.2. Election of the President of the Republic: the end of a three-year deadlock

17. In our previous information notes, we described at length the developments relating to the election of the President of the Republic since 2009.¹⁴ To give a brief summary of the main and latest facts, we should mention that, on the basis of the “*Amicus Curiae* Brief on the interpretation of three questions related to Article 78 of the Constitution and the election of the President”,¹⁵ adopted by the European Commission for Democracy through Law (Venice Commission) in June 2011, the Constitutional Court ruled, on 20 September 2011, that the provisions of the Constitution providing for the election of the President could not be amended by means of an Organic Law. This decision stipulated that the President should be elected with a minimum of 61 votes in a two-round election. If this should not succeed, the parliament should be dissolved and new parliamentary elections should be organised.

12. See [Doc. 11878](#).

13. See the report of the ad hoc committee of the Bureau of the Assembly of 24 January 2011, [Doc. 12476](#). The IEOM also comprised members of the Parliamentary Assembly of the OSCE, the European Parliament and the election observation mission of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

14. See AS/Mon (2011) 13 rev, paragraphs 7-17.

15. CDL-AD(2011)014. The Venice Commission stressed that it was “possible, and even desirable” to “clarify some procedural aspects of the election procedure through an organic law”. However, “as to the substantive requirement of a three-fifths majority for the new elections of the President”, “the most appropriate solution is to amend the relevant constitutional provisions explicitly, in accordance with the provisions of Title VI of the Constitution or to find a political compromise within the parliament itself on the appropriate presidential candidate”. In its conclusion, the Venice Commission, however, left it to the Moldovan Constitutional Court “to decide whether it is justified, under the present circumstances in the country, which the Constitutional Court of the Republic of Moldova has considered unique, to proceed on the basis of a textual interpretation of Article 78 or rather to follow, based also on the comparative experience of other countries, a functional interpretation of the Constitution in order to avoid the continuing constitutional crisis”.

18. The election of the President by the parliament was then planned for November 2011. At that time, three communist MPs – including Mr Igor Dodon, who would later set up the Socialist group – decided to leave their parliamentary group – opening the possibility to reach the required majority but, as no candidate was registered, the presidential election did not take place. Another vote was organised in December 2011. Mr Marian Lupu, the only candidate, obtained only 58 votes in the first round. But, on 12 January 2012, the Constitutional Court declared that there had been a breach of the secrecy of the vote (as the MPs had openly shown their ballot papers), and ruled that the elections were unconstitutional.

19. A referendum was then envisaged by the coalition in spring 2012, aiming to amend the Constitution and simplify the procedure for electing the President. However, the Communist Party considered that the Constitution could not be amended by a referendum, launched weekly protests and initiated a campaign against the proposed constitutional referendum. Eventually, after the coalition decided to drop the idea of a referendum, the Communist Party claimed that the parliament, which had failed repeatedly to elect a President, should be considered as illegitimate, decided to boycott the plenary sessions of the parliament and called for snap elections.

20. On 24 February 2012, the Prime Minister, Mr Vlad Filat, announced that the Liberal Democratic Party, the Democratic Party and three Socialist members would support the candidacy of Ms Veronica Bacalu, former Vice-Governor of the National Bank of the Republic of Moldova and current Deputy Division Chief in the International Monetary Fund's (IMF) Middle East and Central Asia Department. However, the leader of the Liberal Party, Mr Ghimpu, did not back this proposal. He said that he was not aware of the AIE contacts with the "Dodon group", felt betrayed and could not support a candidate unknown to society. Mr Ghimpu's attitude led the parliament to postpone, once again, the date of the election of the President. Mr Lupu threatened to ask the Constitutional Court to rule on the possibility of dissolution, should the parliament fail to set a date for the presidential elections in the near future. On 7 March 2012, the parliament decided to set the date for a new presidential election for 16 March 2012.

21. On 16 March 2012, Mr Nicolae Timofti, former Chairman of the Superior Council of Magistrates, was elected President of the Republic with 62 votes. We congratulate the Moldovan Parliament on this election, as we had, on many occasions, stressed its importance to ensure the separation of powers, avoid repeated early parliamentary elections and pursue a much-needed reform process.

3.3. Political consequences of "the hunting accident" of 23 December 2012

22. Recent political life was marked by the consequences of the "hunting accident" affair. The accident happened on 23 December 2012: a businessman was accidentally shot in the natural reserve "Padurea Domneasca" in the Falesti district. A number of prominent State officials (including the General Prosecutor, Mr Valeriu Zubko), judges, and members of the Moldovan secret services took part in this hunt. The accident, however, was only revealed on 6 January 2013 by the Director of the Anti-Mafia Movement, Mr Sergiu Mocanu. The accident spawned a lot of speculation as to whether information had been concealed by the Prosecutor's Office, whether the victim had had access to proper medical assistance, etc. This accident revealed dysfunctions in some State institutions and created serious political tension among the parties of the ruling coalition. The main consequences of the "hunting accident" are summarised below:

22.1. After the information on the accident was made public, a parliamentary enquiry commission¹⁶ was created, which released its report on 14 February 2013. It concluded that the hunt had been illegal and stated that "the unsatisfactory actions of law enforcement bodies, which contributed to cover up the crime, are a clear proof of the malfunctioning of democratic institutions in Moldova, ... The case revealed serious dysfunction of the prosecutors' system linked to the functional (within the system) and institutional (as against external factors, including politics) independence ... The way the State bodies have been acting in order to cover up the hunting incident in Padurea Domneasca, proves that the State institutions ceased to act in the interest of the society and served the interests of certain political leaders". The committee recommended that "all the State officials involved in the hunting incident or the illegal organisation of the hunt be dismissed"; and that "proper action be taken by the General Prosecutor's Office and the Superior Council of Magistracy and amendment of the legal framework related to several ministries and law enforcement agencies, as well as the General Prosecutor Office".¹⁷

16. The ad hoc committee was chaired by a Communist MP and was composed of nine members (three Liberal Democrats, one Liberal, one Democrat and four Communists).

17. Conclusions and recommendations of the Inquiry Committee, CA No. 58, 14 February 2013 (unofficial translation).

22.2. The crisis led to a reshuffle of the government: on 13 February 2013, the Liberal Democratic Party of Mr Filat announced that it would either leave the ruling coalition or renegotiate the coalition agreement. On 5 March 2013, a vote of no confidence was supported by the Communists, some members of the Democrat Party and some independent MPs, leading to the resignation of Mr Filat's government. After difficult negotiations between the alliance members, President Timofti proposed, on 7 April, Mr Filat's candidacy for the post of Prime Minister. As the leader of the Liberals, Mr Ghimpu vowed not to vote for Mr Filat, seven Liberal deputies (out of 12) decided to form a "council to reform the Liberal Party" to renew the leadership of the party and supported Mr Filat's candidacy. On 10 April 2013, the President proposed Mr Filat as Prime Minister. However, on 22 April, the Constitutional Court annulled the decree of the President, arguing that, when the government is removed from office by a no-confidence motion for corruption allegations, the President of the Republic has the constitutional obligation to appoint an interim Prime Minister from among the members of the government whose integrity had not been affected.

22.3. The law on "the acting Prime Minister's attributions and the acting government" was adopted on 3 May and promulgated on 9 May 2013. On 18 May, the Constitutional Court ruled that it was unconstitutional to expand the responsibilities of the acting Prime Minister and of the caretaker government. Subsequently, the court held that the Moldovan President's decree on the removal of Deputy Prime Minister, Mr Mihai Moldovanu, the Minister of Transport and Road Infrastructure, Mr Anatol Salaru, and the Head of the "Moldsilva" State agency, Mr Ion Cebanu – all appointed by the Liberal Party – was illegal.

22.4. At parliamentary level, the Minister of the Interior (PLDM) announced, on 14 February 2013, after much speculation, that the First Deputy Speaker, Mr Vlad Plahotniuc (DP), was or had been on the watch list of Interpol. The parliament subsequently abolished, on 18 February 2013, the position of the "First Vice-Speaker" (which was set up in 2009) by 73 votes (pertaining to PLDM, PCRM and independent MPs). On 26 April 2013, Mr Marian Lupu (DP) was dismissed as Speaker of the Parliament and Mr Igor Corman was elected to succeed him.

22.5. After Mr Zubko had finally resigned from his post on 18 January 2013, a new Prosecutor, Mr Corneliu Gurin, was elected in April 2013. His election was, however, challenged on procedural grounds. A special ad hoc investigation commission was set up at the initiative of the PCRM and PLDM. It found that the appointment of Mr Gurin as Prosecutor General was marred by procedural shortcomings, including an insufficient number of votes (49 instead of the necessary 51). It was also established that Mr Gurin did not meet the necessary conditions to become Prosecutor General (i.e. 15 years of work experience in activities related to the Public Prosecutors Service). As a consequence, Mr Gurin was dismissed on 3 May 2013 by 65 votes (pertaining to the PCRM, PLDM, and Socialist factions) from the post of Prosecutor General. However, the Constitutional Court declared the election valid on 20 May, considering that a majority of the MPs present was sufficient (49 out of 95 present during the voting). The Constitutional Court cancelled the decision of the parliament to dismiss the newly appointed Prosecutor and reinstated Mr Gurin as Prosecutor General. Surprisingly, the Constitutional Court also held that the parliament had violated Article 2.2 of the Constitution, prohibiting "usurpation of State power", when it decided to declare the Gurin appointment null and void.¹⁸

22.6. In mid-February 2013, the National Anti-Corruption Centre (NAC) launched a series of investigations, notably against three PLDM Ministers (the Ministers of Finance, Culture and Health) and the Head of Tax Inspection, Mr Nicolae Vicol, also a Liberal Democrat. On 3 May 2013, the parliament adopted amendments to Law No. 106 on the National Anti-corruption Centre, transferring control of NAC from the parliament to the government, a reversal of the previous reform, which – by increasing the Centre's autonomy and institutional independence – had been considered to be progress.

22.7. Fundamental legislation was also considered in a hasty way during this political crisis, obviously to meet some specific party interests. The parliament decided on a speedy revision of the electoral code in mid-April 2013 in order to introduce, with neither large consultation nor consultation of the Venice Commission, a mixed electoral system (whereby 50% of the members of parliament would be

18. The decision of the Court of 20 May 2013 reads as follows: "In light of the above-mentioned, the Court concluded that Parliament Decision No. 104 on 3 May 2013 on the abrogation of the Parliament Decision No. 81 on 18 April 2013 regarding the appointment of the Prosecutor General contravenes to the constitutional regulations enshrined in the Article 1.2, Article 2.2, Article 6, Article 7, Article 39, Article 76 and Article 125.1 of the Constitution of the Republic of Moldova, as well as the provisions of other legislative acts which aimed at developing constitutional norms." Article 2.2 of the Constitution stipulates that "Neither an individual person or a group of people, nor a social group, a political party or any other public organisation may exercise the State power on their own behalf. The usurpation of the State power shall constitute the gravest crime against the people".

elected on party lists). The fast-track adoption of the electoral code raised a number of questions. An ad hoc parliamentary committee assessed the impact of this legislation (that would have notably prevented citizens living in the Transnistrian region of the Republic of Moldova from voting), and this led the parliament, on 3 May 2013, to cancel its previous decision, although it maintained the provision increasing the electoral threshold.¹⁹

22.8. The parliament also sought to amend the law on the Constitutional Court so as to enable the parliament to dismiss any judges of the Court who no longer enjoyed the “trust” of the parliament. This law was adopted on 3 May. However, it provoked strong reactions from the Secretary General of the Council of Europe, the President of the Parliamentary Assembly, the President of the Venice Commission and the European Union. The President of the Republic, Mr Timofti, decided not to promulgate the law and sent it back to the parliament.

22.9. On 30 May 2013, President Timofti appointed Mr Leanca, former Minister of Foreign Affairs and European Integration, Prime Minister, putting an end to a five-month political crisis and thus avoiding early parliamentary elections.

23. To conclude, we cannot but note that the “hunting accident” affair not only led to a political crisis and to the revision of the agreement between the coalition partners, it also revealed dysfunctions in State institutions, their proximity to political parties and/or prominent politicians, and the use of the legislative procedure as a tool or political negotiation among the coalition partners, to the detriment of the quality of the decision-making process. It resulted in a number of laws being cancelled, overruled or not promulgated. Unfortunately, such a crisis further undermines good governance and the citizens’ trust in the State institutions.

3.4. Revision of the Constitution

24. In the current political context, no single political party can hope to have the three-fifths majority in parliament required to elect a President. There are also diverging views and strong competing personalities within the ruling coalition. As a consequence, and in line with the opinion of the Venice Commission²⁰ and the ruling of the Constitutional Court of 20 September 2012, amendments to the relevant constitutional provisions, based on a broad consensus, are necessary to avoid another constitutional deadlock in the future. They should be rapidly adopted, so as to be implemented after the next regular parliamentary elections. We have therefore encouraged the Moldovan authorities to take the necessary steps to prepare the revision of the Constitution, with the assistance of the Venice Commission.

25. We understood from our meetings with the leaders of the political groups that the revision of the Constitution, or the drafting of a new constitution, was out of reach. We insisted, however, that the parliamentarians, whose mandates expire in 2014, should now revise Article 78 of the Constitution in order to avoid future deadlock. Reaching a consensus might prove difficult, however, as political parties, even within the ruling coalition, do not share the same views on the competences of the President, or on how he/she should be elected. While the leader of the Liberal Democratic Party and Prime Minister Vlad Filat declared that the President should be elected directly by the citizens, and the way of governing should be presidential,²¹ the leader of the junior coalition partner Liberal Party (PL), Mihai Ghimpu, said he would not support the Republic of Moldova becoming a presidential Republic.²²

26. We urge all political parties to address the issue and find a legal and legitimate solution, based on a large consensus, in the interest of the country. We would like to emphasise once again that the non-election of the President is incompatible with the separation of powers between the Head of State and the Speaker of the Parliament since, as long as the President is not elected, the Speaker acts *ad interim* as the Head of State. It leads to the concentration of power in one person, which is not in line with democratic standards.

3.5. Electoral law

27. On 1 April 2011, the parliament amended the Electoral Code as follows: the implementation of the electronic voter register has been postponed for 2015; local elections will take place four years after the date of the last local elections (and not after the validation of the mandates); no free airtime on public television and radio will be provided to candidates during the local elections. A series of recent modifications to improve

19. The threshold was increased from 4% to 6% for single parties, from 7% to 9% for coalitions comprised of two parties, and from 9% to 11% for coalitions comprised of three or more parties.

20. See CDL-AD(2011)014.

21. Moldpres, 4 September 2012.

22. Ibid., 11 September 2012.

electoral procedures, including decreased electoral thresholds,²³ decreased restrictions of the right to elect and be elected, prevention of abuse of administrative resources, improved procedure of examination of electoral disputes, measures to facilitate the vote of disabled and old people, etc.²⁴ The opposition continuously opposed the system of allocation of seats, which favours small parties.²⁵

28. In its Needs assessment mission report on the local elections of 5 June 2011, published on 5 April 2011, the OSCE/ODIHR highlighted some remaining problems, in particular the postponement of the production of a centralised electronic voter register; the review of provisions for the allocation of free airtime to election contestants; and the review of rules of voting by students.

29. We stressed that special attention should be paid to the remaining problems identified at the last early parliamentary elections, ie. the accuracy of the voters' list and the existence of a supplementary or special voters' list, aiming at enabling as many citizens as possible to vote. This system is however not backed up by legal procedures for ensuring the accuracy of the voters' lists and avoiding risks of duplication, where particular groups of voters, such as students and people living abroad, could easily be on the ordinary and supplementary lists at the same time.

30. We were pleased to learn that the 2012-2015 Strategic Development Plan of the Central Electoral Commission (CEC) has been drawn up. It aims in particular at improving and computerising the electoral register. We expect the authorities to work with the Council of Europe to assist in the implementation of this plan. The government also approved, on 11 September 2012, a bill that should allow Moldovan nationals working and residing abroad to be able to vote by correspondence. We were informed that the CEC adopted, with a view to the 2009-2010 elections, a series of measures to improve the quality of the lists, regulate the preliminary registration and voting for the citizens from the Republic of Moldova living abroad, increase co-operation between the CEC and the local public authorities to update the voters' lists, launch campaigns to inform the electors on the need to examine electoral lists, etc. The adoption of a new model of electoral lists sought to raise the responsibility of election officers and protect data in the lists. As a consequence of these measures, the number of electors registered in the additional electoral lists decreased from 5% to 3.4%.²⁶

31. A bill to amend the Law on political parties was debated in February 2012, compelling political parties to present financial reports specifying their income, including donations from private individuals and legal entities. These reports are to be submitted to the CEC, which should inform the Ministry of Justice in case of mistakes or misuse of funds. The Ministry can then initiate the procedure for disbanding the political party. This bill was approved by the government on 19 June 2013 and sent to the parliament.

32. At the proposal of the communists, the parliament also adopted amendments on 26 December 2012 enabling the Central Election Commission (and no longer the local councils) to revoke the mandate of local councillors in case of incompatibility of positions or the councillor's resignation or death. The PCRM parliamentarians, however, did not vote in favour of these amendments, because the AIE majority refused to introduce essential amendments. The amendments should come into force only in mid-2015.²⁷

33. In March 2013, the Venice Commission adopted three opinions requested by the Moldovan authorities, related to the draft law on amendment and completion of legislative acts, the draft law concerning the financing of political parties and electoral campaigns and the electoral code (as of 17 January 2012).²⁸ We expect the parliament and all relevant authorities to take into account the recommendations of the Venice Commission and to ensure that progress can be made on the voters' list, which has been a matter of continuous concern at each election. Electoral processes have been a continuous bone of contention between the majority and the opposition. Completion of the electoral reforms should therefore be considered as a priority area for the authorities.

23. The electoral threshold was established as follows: 2% for independent candidates, 4% for parties, 7% for alliances composed of two parties and 9% for blocs of three or more components. These thresholds were again increased on 3 May 2013.

24. See AS/Mon (2013) 09, pp. 4-5.

25. According to information provided by the delegation, "As for the procedure of distribution of the deputy mandates – according to the new provisions of the Electoral Code from June 2010 the remaining mandates are to be distributed successively, one to each party represented in the parliament, starting with the electoral competitor who received more mandates in diminishing order (Article 87). The actual method of distribution of mandates favours small parties, thus giving them the possibility to maximise their electoral advantage in the process of transforming the votes into mandates". See AS/Mon (2013) 09, p. 5.

26. See AS/Mon (2013) 09, p. 3.

27. Infotag, 26 December 2012.

28. Respectively CDL-REF(2012)037, CDL-REF(2012)038, CDL-REF(2012)039.

3.6. Functioning of the parliament

34. The functioning of the parliament is marked by fierce competition between the ruling coalition and the opposition. On 12 October 2012, a group of MPs headed by Mr Vladimir Misin and Mr Igor Dodon announced that they would create a new faction in the Moldovan Parliament, which would include seven former members of the opposition Communist Party. However, legal steps were taken to exclude the possibility of setting up parliamentary groups 10 days after the institution of parliament, a move welcomed by the Communist Party. The draft amendments to the Rules of Procedure²⁹ were adopted in first reading on 26 October 2012. We find such provisions quite surprising, as they are not in line with the practices of many parliaments. Elected representatives are responsible *ad personam*. They are not bound by imperative mandates. It would seem not quite democratic to forbid them to join or form political groups within the parliament.

35. In the course of the preparation of the presidential election, we were quite concerned by the declaration by Mr Vladimir Voronin, President of the Party of the Communists (PCRM), who reiterated that the PCRM considered the current parliament illegitimate, and that his party would therefore not participate in the presidential election scheduled for 16 March and would not recognise the President if he/she were elected. Mr Voronin stated that the parliament should be dissolved, and early parliamentary elections held. The dismissal of the Communist MP, Artur Reshetnikov, from the post of Deputy Speaker³⁰ has further exacerbated the tensions between the opposition and the ruling coalition. We strongly urge all political parties not to challenge the democratic legitimacy of the democratic institutions and to recognise the legitimacy of a President elected in accordance with the constitutional requirements. It is high time for lawmakers to revise the Constitution, based on public, inclusive consultations and a large consensus.

36. Boycotting parliament is often used by the opposition as a political tool to obstruct the work of the parliament. On 1 March 2012, the parliament adopted amendments to the law on the status of the members of the parliament and the Rules of Procedure of the parliament. They provide for the loss of a part of the salary and other indemnities by a member of the parliament in case of repeated unauthorised absences from the plenary sessions of the parliament or from meetings of the permanent commission on which he/she sits. These provisions were challenged through the Constitutional Court, which decided that deprivation of part of an MP's salary for such unauthorised absences was not a political penalty but a component of labour relations; that a distinction should be made between unjustified absences and parliamentary protests; that politically motivated absences should not allow the majority to deprive an MP of his/her mandate, but it did not mean that such absences could not result in adjustments to the salaries of the members of parliament proportionate to the time actually spent on legislative activity.³¹ On 14 June 2012, the PCRM parliamentary group returned to the parliamentary plenary meetings.

3.7. Ban on totalitarian symbols

37. On 12 July 2012, the parliament adopted amendments to Law No. 294-XVI, dated 21 December 2007, on Political Parties, to the Contravention Code of the Republic of Moldova No. 218-XVI, of 24 October 2008, and to Law No. 64, dated 23 April 2010, on freedom of expression, specifying that:

- “the use by the political parties of the symbols of the totalitarian communist regime (the hammer and the sickle and any other support with these symbols) is prohibited, as well as the promotion of totalitarian ideologies;
- propagation and/or use of the symbols of the totalitarian communist regime (the hammer and the sickle and any other support with these symbols) on the territory of the Republic of Moldova with political and propagation purpose, as well as the promotion of the totalitarian ideologies shall be sanctioned with a fine from 100 to 150 conventional units applied to a physical person, and with a fine from 300 to 500 conventional units applied to a person with a position of responsibility and to a legal person.”

29. Currently, the parliament's Rules of Procedure read: “Parliamentary factions shall be created, as a rule, within ten days after the parliament's legal creation and function based on the regulation.” Therefore, by deleting the expression “as rule”, the creation of parliamentary factions will be possible only within the period of time specified by the law.

30. Mr Reshetnikov's dismissal was proposed by the Chairman of the parliamentary Liberal Democratic faction, Valeriu Strelet, as a result of his “absenteeism and his violation of parliamentary working rules”. Mr Strelet stated that Artur Reshetnikov while stripped of his parliamentary immunity to allow the Prosecutor General's Office to investigate the offences he committed when Director of the Information and Security Service [until 2009]. Infotag, 6 March 2012.

31. Decision of the Constitutional Court of 12 July 2012 on the Recognition of Parliament Right to Establish the Amount of the Salary of the Members of the Parliament.

38. We were informed that the *rationale* behind these amendments was to redress the sufferings of thousands of Moldovans who had been subjected to the policy of the Communist Party of the Moldovan Soviet Socialist Republic – a part of the Communist Party of the Soviet Union at that time – which, according to the information note on the above-mentioned law, usurped power and replaced the State institutions, organised repression and mass deportations, forced collectivisation, planned starvation, thus depreciating and destroying methodically and systematically the national culture, folk traditions and customs, the people's history and the native language. The law also refers to international texts on the condemnation of crimes of totalitarian regimes.

39. Assembly [Resolution 1481 \(2006\)](#) indeed addressed the issue of “The need for international condemnation of crimes of totalitarian communist regimes” – and we would like to recall some of its provisions:

6. Consequently, public awareness of crimes committed by totalitarian communist regimes is very poor. Communist parties are legal and active in some countries, even if in some cases they have not distanced themselves from the crimes committed by totalitarian communist regimes in the past.

7. The Assembly is convinced that the awareness of history is one of the preconditions for avoiding similar crimes in the future. Furthermore, moral assessment and condemnation of crimes committed play an important role in the education of young generations. The clear position of the international community on the past may be a reference for their future actions.

12. Therefore, the Assembly strongly condemns the massive human rights violations committed by the totalitarian communist regimes and expresses sympathy, understanding and recognition to the victims of these crimes

13. Furthermore, it calls on all communist or post-communist parties in its member States which have not yet done so to reassess the history of communism and their own past, clearly distance themselves from the crimes committed by totalitarian communist regimes and condemn them without any ambiguity.

40. [Resolution 1481 \(2006\)](#) therefore did not make a specific reference to symbols, but a strong emphasis is put on education, assessment of history and a clear distancing from the crimes committed by the totalitarian communist regimes – what we today expect from the Party of the Communists in the Republic of Moldova.

41. We should also recall the case of *Vajnai v. Hungary*³² (known as the “Red Star judgment”), where the European Court of Human Rights found a violation of Article 10 (freedom of expression) of the European Convention on Human Rights (ETS No. 5, “the Convention”). Mr Vajnai was convicted in 2004 for wearing a red star on his jacket during a demonstration and was convicted under a law prohibiting the displaying of totalitarian symbols in public. Hungary referred to the dangers of communism as a form of totalitarian government. The Court, however, considered that, twenty years after the fall of communism in Hungary, there was no “real and present danger” of its restoration and concluded that the interference was not “necessary in a democratic society”. We note that the scope of the Moldovan law was narrower, as the ban on totalitarian symbols concerns political parties when used for political and propagation purpose.

42. We note that some steps have recently been taken to review the history of the Republic of Moldova, such as the setting up of a Commission for the study and assessment of the totalitarian communist regime from the Republic of Moldova (Presidential Decree No. 165-V of 14 January 2010), which presented a study and an analytical report regarding the historic, political and legal assessment of the communist totalitarian regime. On 12 July 2012, the parliament adopted Decision No. 191 on “the historical, political and legal assessment of the totalitarian communist regime”.³³

43. The parliament furthermore decided, on 10 October 2012, to create an inquiry commission to examine the situation of the archives administrated by the Moldavian Soviet Socialist Republic's Committee for State Security (KGB). This commission should present a report to parliament on the number and classification levels of the KGB files which are stored in the archives of the Security and Intelligence Service, the Ministry of the Interior and the National Archives. The commission will be composed of 11 members of parliament and chaired by a Liberal MP.

32. Application No. 33629/06, judgment of 9 October 2008. See also <http://echrblog.blogspot.fr/2008/07/red-star-judgment.html>.

33. The [Constitutional Court](#) decided, on 4 October 2012, to reject, as inadmissible, the complaint lodged by the Party of Communists, considering that the Parliament Decision No. 191 was not a normative act, but an eminently political act of the parliament that is exempted from constitutional review operated by the Constitutional Court.

44. We understand that this issue might be very sensitive, especially for those who suffered under the Soviet regime. However, we had expressed our doubts about the legal and practical implementation of such a law and pointed out that it would lead to the banning of political symbols, which have been in use for the last 20 years in the Republic of Moldova, by the main opposition party, the Party of the Communists, that had collected almost 40% of the votes during the last elections, and would be, *de facto*, targeted by such measures.

45. Our concerns were confirmed by the Venice Commission in the *Amicus curiae* brief³⁴ adopted on 8-9 March 2013 related to the ban of the totalitarian symbols. The Venice Commission recalled that “States are not prevented from banning, or even criminalising, the use of certain symbols and the propaganda of certain ideologies. Yet, such ban or criminalisation needs to comply with several requirements, in order to satisfy the European standards on freedom of expression and freedom of association, as developed in the case-law of the European Court on Human Rights and in the works of the Venice Commission and the OSCE/ODIHR” (paragraph 124). The Venice Commission made it clear that such bans need to be formulated “with sufficient precision”; must “pursue exclusively the legitimate aims enumerated in Articles 10 and 11 ECHR”, need to be “necessary” in a democratic society and have to respond to “a pressing social need” and be proportionate to the legitimate aims pursued. The Venice Commission concluded that Law No. 192 of 12 July 2012 appeared to fail to meet these requirements on several grounds. It was also of the opinion that “if the use of the hammer and sickle by the Moldovan Communist Party is not acceptable any more, this party should be given a reasonable opportunity to proceed with the required changes and in the meantime its candidates should be allowed to run in elections with the official symbol”.

46. In the light of the position of the Venice Commission, the Moldovan Constitutional Court decided to rule, on 4 June 2013, that the Law on Prohibition of the symbols of the totalitarian communist regime and of promotion of totalitarian ideologies was unconstitutional, pointing out that, while the challenged provisions pursued a legitimate aim, they did not fulfil the requirements of clarity and predictability.³⁵

3.8. Local self-government and decentralisation

47. The Republic of Moldova is divided into communes, villages, towns, raions (districts) and the Autonomous Territorial Unit of Gagauz-Yeri. There are 32 raions, three municipalities, the Autonomous Territorial Unit of Gagauz-Yeri and the Transnistrian region.

48. The Republic of Moldova needs to reform local self-government, with a view to bringing its standards in line with the standards of the European Charter of Local Self-Government (ETS No. 122), and to its European integration. The Moldovan Government has established a joint commission to guide and oversee the decentralisation process. Mr Bodi, Secretary General of the Government (in charge of local authorities), indicated in March 2011 that the Parity Commission (PC) brings together, on an equal basis, representatives of the central and local governments. He presented the decentralisation Strategy for local government in the Republic of Moldova, drafted with the support of the UNDP and the Council of Europe. This Strategy addresses the following issues: decentralisation of services and competences; financial decentralisation; decentralisation of patrimony; local development; administrative capacity; institutional capacity; democracy; ethics; human rights; and gender equality. Mr Bodi stressed that the separation of powers and fiscal decentralisation should be achieved by 2016. The reform would aim at setting up functional local units (which would be able to implement the Governance Programme at local level) and self-sustainable local authorities. In this perspective, a territorial reorganisation could eventually take place in the future, Mr Bodi stated, pointing out that 30% of the villages have less than 1 500 inhabitants. In order to ensure a large participation in the drafting process of the strategy, public debates and consultations with civil society representatives, social and development partners, academic and scientific, as well as with all relevant stakeholders have been organised.³⁶

49. The decentralisation process is continuing. A national strategy of decentralisation, including an action plan, was adopted on 5 April 2012. However, it seems that funding still needs to be secured. Further consultations to launch a territorial reform are necessary and there is a need to strengthen the capacities of local authorities.

34. CDL-AD(2013)004, 11 March 2013.

35. www.constcourt.md/libview.php?l=en&idc=7&id=471&t=/Overview/Press-Service/News/Finding-of-unconstitutionality-on-the-safety-measure-of-Chemical-castration-Complaint-No-11a2013.

36. AS/Mon (2013) 09, p. 6.

50. On 22 March 2012, the Congress of Local and Regional Authorities of the Council of Europe adopted Recommendation 322 (2012) on local and regional democracy in the Republic of Moldova (Rapporteur: Francis Lec (SOC, France)) highlighting the progress and shortcomings, among which:

- the national decentralisation strategy developed by the government of the Republic of Moldova is a sign of this country's commitment to conducting a thorough reform of local public administration;
- the Congress called on the Moldovan authorities to ensure that local authorities were allocated resources commensurate with their responsibilities and to adopt a new law on the status of the municipality of Chişinău;
- numerous positive aspects were noted, including growing cross-border co-operation and an increase in the number of women acceding to local public office;
- nonetheless, the Congress felt that local authorities were far from having the resources they needed to fulfil all their responsibilities and they still had insufficient financial and tax independence. Furthermore, the competences of the different tiers of government continued to be inadequately defined;
- the report also focused on the problems facing the inhabitants of the security zone and in the neighbourhood of the Transnistrian region of the Republic of Moldova, particularly regarding movement and transport. The Tiraspol authorities had declined to meet the Congress delegation.

51. We encourage the Moldovan authorities to implement the Congress recommendations as well as the national strategy for decentralisation, in consultation with the relevant NGOs and associations of local authorities. Reform of the territorial organisation and fiscal decentralisation are key elements for successful decentralisation. In this respect, we have been informed that the parliament adopted a draft law on public finances at first reading on 15 June 2013. Funding local authorities is a key issue for ensuring successful decentralisation. We therefore hope that this law will ensure equitable budget transfers to local authorities. The Council of Europe could provide valuable expertise on decentralisation strategies, territorial reorganisation and funding of local authorities.

3.9. The Autonomous Territorial Unit of Gagauzia

52. During our visit of March 2011, we went to the Autonomous Territorial Unit of Gagauzia (Gagauz-Yeri). This region aspired to independence in December 1991. A peaceful solution was then negotiated over two years, which led the Moldovan Parliament to adopt Law No. 344-XIII of the Republic of Moldova on the Special Status of Gagauzia, on 23 December 1994.

53. Gagauzia spans three principal districts and a total of 85 km², with a population of approximately 155 000 inhabitants (82% of the inhabitants declare themselves Gagauz), namely 4,5% of the Moldovan population. As regards the hierarchy of legislation in Gagauzia, the Moldovan Constitution is followed by the Law on the Special Status of Gagauzia, the Legal Code of Gagauzia and, finally, Gagauz laws adopted by the People's Assembly of Gagauzia.

54. Gagauzia can be highlighted as a good model for the peaceful coexistence of different national communities. The NGO representatives we met, however, complained about the discrimination they face in the Republic of Moldova, mostly due to their poor command of the State languages when applying to the University in Chişinău or for jobs.

55. In its [Resolution 1572 \(2007\)](#), the Assembly invited the Moldovan authorities to work with the Council of Europe to harmonise the legislation of the Autonomous Territorial Unit of Gagauzia with the Moldovan Constitution and the national legislation. The clarification of the distribution of the competences between the Autonomous region and the central authorities was clearly requested by the local and regional authorities we met. They complained that the laws passed by the Popular Assembly could be annulled by the Moldovan Supreme Court. Therefore the authorities are eager to resume talks with Chişinău to ensure that the Law on the Special Status of 1994 becomes an Organic Law mentioned in the Moldovan Constitution. The elected regional representatives also request a representation of the Gagauz region in the Moldovan Parliament.

56. Our discussions with the Governor, the representatives of the Executive Committee and the People's Assembly also highlighted the following requests:

- the need to receive funds to teach the State language and preserve the Gagauz language and culture;
- the setting up of a "Supreme Court of Gagauzia";
- the grant of a proportional part of excise taxes and VAT, as well as of funds and grants allocated by the international community;

- better access of minorities to the justice system.

57. It is quite surprising that the competences of the Autonomous Unit of Gagauzia in relation to the Moldovan Constitution have still not been fully clarified since 1994. We invite the Moldovan authorities to use the legal expertise and knowledge that the Council of Europe (for example the Venice Commission and the Congress of Local and Regional Authorities) can provide to improve the legislative framework and the sustainability of the region.

58. The Republic of Moldova has granted to the region of Gagauzia a large autonomy which can be seen as a model of interethnic relations in Europe. This experience will also be instrumental for the reintegration process of Transnistria. In this respect, the Bashkan (Governor) issued a very clear message to the co-rapporteurs: “The status of Gagauzia should not be lower than the one in the Transnistrian region. Otherwise we will not guarantee political stability in the region”. We are quite puzzled and remain concerned by such a statement, which can only hamper the democratisation process of the Republic of Moldova. We therefore urge the Gagauz authorities to engage in a constructive dialogue with Chişinău and contribute, by peaceful and democratic means, to the shaping of the future political architecture of the Republic of Moldova if that should be debated in the country.

59. The election of the Bashkan (governor) of Gagauzia took place on 11 and 26 December 2010. The then-incumbent Bashkan of Gagauzia, Mikhail Formuzal, received 51.4% and his opponent, Nikolai Dudoglo, the Mayor of Comrat town (Gagauzia's capital) and leader of the New Gagauzia Movement, 48.6%.

60. On 23 September 2012, the election for the Popular Assembly took place. On 12 October 2012, the Appeals Chamber of Comrat finally validated the results of the elections. 35 members of the Popular Assembly were elected: 25 independent deputies, 7 representatives of the Moldovan Communist Party, 2 representatives of the Liberal Democratic Party and 1 representative of the Party of Socialists. These elections saw a loss of influence of the communists, who had 18 seats in the previous legislature.³⁷

61. Since the day of the second round of the elections, held on 23 September 2012, the New Gagauzia movement (Nikolai Dudoglo) and the United Gagauzia movement (Mikhail Formuzal) have waged a fierce “positional warfare”, each trying to form a majority. It seems that this year-long rivalry ended in Dudoglo's favour, as the Comrat Mayor and his team managed to preserve a qualified majority, for which it is necessary to have a minimum of 19 deputies in the 35-member Popular Assembly: the New Gagauzia socio-political movement, headed by Comrat Mayor Nikolai Dudoglo, formed the majority faction of 22 thanks to independent deputies and to the communist deputies.

62. We were informed that the authorities of the Autonomous Territorial Unit of Gagauz-Yeri had recently, or intended, to launch a number of legislative initiatives to reform the electoral code, the broadcasting law, the draft a law on a “Gagauz Constitutional Court”, etc. We expect the authorities of the Autonomous Territorial Unit of Gagauz-Yeri to adopt legislation that complies with domestic legislation. In addition, the Council of Europe could provide expertise to ensure the compliance of Gagauz legislation with international standards and avoid contradiction with the domestic legislation. In this context, we hope that discussions initiated by the Speakers of the Parliament, Mr Igor Corman, and the People's Assembly of Gagauzia, Mr Dmitry Konstantinov in July 2013 will lead to reinforced co-operation and legal steps to harmonise the statute and legislation of the Autonomous Territorial Unit of Gagauz-Yeri with domestic and international standards, a long-lasting requirement from the Parliamentary Assembly.

4. Rule of law

4.1. Reform of the judiciary

63. In its Action Plan 2011-2014, the government plans to reform the judiciary, including the reforms of the Superior Council of Magistrates and the Supreme Court of Justice, the prosecution system, the administration of funds and resources of the judiciary. In March 2011, we met Mr Tanase, then Minister of Justice, who became President of the Constitutional Court in October 2011. He presented some of the components of this reform, which would modify the role of the Court of Cassation – it would become a last resort court, which would only review the legal basis of the cases –, introduce fewer but better qualified judges and dismantle the specialised and military courts. The two economic courts were to be replaced by economic units in regional appeal courts with a view to eliminating corruption.

37. For more information on the 2012 elections, see www.e-democracy.md/en/monitoring/politics/comments/gagauzia-legislative-elections-2012/.

64. Mr Zubco, then General Prosecutor, recalled the adoption of the Law on the Public Prosecution Service (PPS) of 25 December 2008 and explained that the Public Prosecutor's Office (Prokuratura) is independent from the legislative and executive branches. He deplored the lack of means (outdated equipment, lack of investigation tools) that hampers the work of the General Prosecution Service, which is preparing a draft law in co-operation with the OSCE, to reform the PPS. The draft law proposes to change the term of the General Prosecutor (who would be elected for a single seven-year instead of a renewable five-year term), change the composition of the Superior Council for Prosecutors, dismantle the territorial and specialised courts, etc. The success of such a reform was however subject to political will. The Minister of Justice added that this complicated reform required a multidimensional approach to clarify for example the competences and status of the General Prosecutor or the possibility to appeal against the decisions of the General Prosecutor.

65. We emphasised the need for the Moldovan authorities to carry out the reform of the Public Prosecution Service and to draft a comprehensive law complying with Council of Europe standards enshrined in particular in Recommendation Rec(2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system and Assembly Recommendation 1604 (2003) on the role of the public prosecutor's office in a democratic society governed by the rule of law.

66. Mr Muruianu, Chairman of the Supreme Court of Justice, regretted the lack of financial autonomy of the Chairman of this Court, the appointment procedure of the appeal judges and the members of the Superior Council of Magistrates (by the President of the Republic), the lack of well-trained specialists (leading to different decisions for similar cases) and voiced his concerns about the grounds for sanctioning judges.

67. Mr Timofti, then Chairman of the Supreme Council of Magistrates, who was elected President of the Republic in March 2012, feared the decreasing independence of judges due to deteriorating social and material conditions, insufficient financial support granted to the justice system resulting from budgetary negotiations between the government and the parliament, the lack of assistance granted to judges (as now granted to the Supreme Court of Justice). He also pointed out the lack of experience of the newly graduated students from the National Institute for Justice, who automatically become judges once they graduate. The Minister, Mr Tanase, confirmed that this was a problem which would be tackled in the upcoming reform of the training of judges that would make initial traineeship of the graduates of the Institute compulsory.

68. We discussed with the then Minister of Justice, Mr Tanase, the follow-up to Assembly Resolution 1787 (2011) on the implementation of judgments of the European Court of Human Rights, where the Assembly deplored "the continuing existence of major systemic deficiencies which cause large numbers of repetitive findings of violations of the Convention and which seriously undermine the rule of law in the States concerned" (paragraph 5.3). The Assembly had urged the Republic of Moldova to "promptly take measures to ensure the enforcement of domestic final judgments, in particular in so-called social housing cases (the Court's pilot judgment *Olaru and Others v. the Republic of Moldova*). Moreover, it should also strengthen its efforts in order to avoid further cases of ill-treatment in police custody and ensure effective investigations into such abuses. Additional measures should also be taken with a view to improving conditions in detention facilities and filling lacunae in procedures concerning arrest and detention on remand, revealed by the Court's judgments. Lastly, it is essential that an effective domestic remedy is introduced in response to the pilot judgment of *Olaru and Others*" (paragraph 7.4). We were later pleased to learn that a co-operation programme, funded by the Council of Europe Human Rights Trust Fund, was to be launched in 2013, to support a coherent national implementation of the European Convention on Human Rights.

69. Mr Tanase explained that the Republic of Moldova was confronted with budgetary constraints resulting from the implementation of the *Olaru and Others* judgment. According to Mr Tanase, 30 million euros are needed to provide housing, which could be covered by the Council of Europe Bank of Development and the local authorities.

70. Mr Tanase confirmed that remedy would be created when the judgments of the Court were not implemented in reasonable time. The Moldovan authorities added that the parliament already adopted on 21 April 2011 Law No. 87 – providing a general remedy in case of excessive length of judicial and enforcement proceedings – that entered into force on 1 July 2011.

71. In our discussions, the opposition and NGO representatives deplored the interference of politics in the judiciary. According to these interlocutors, this was demonstrated by attempts to dismiss the President of the Supreme Court of Justice (which were ruled out by the Constitutional Court³⁸), by the replacement of the President of the Constitutional Court by the Minister of Justice; by the replacement of the President of the Court of Appeal by a member of a small party that joined the ruling coalition. This perception was also

nourished by allegations – which however were not documented – that a secret protocol signed by the ruling alliance sought to distribute the highest posts in the judiciary among the coalition partners. Such practices could obviously contribute to undermining people's confidence in the judiciary.

72. On 25 November 2011, the parliament adopted a comprehensive strategy to reform the justice system. The action plan was adopted on 16 February 2012 together with a budgetary cost estimation (about 124 million euros), which was a very positive innovation. A national council for reform of the justice system was set up. The adoption of the strategy was important for the improvement of legal standards. It was also a condition to gain access to EU funds. This justice reform package targeted the court system, the police and prosecutors. The Justice Strategy is structured in seven pillars to “strengthen the independence, accountability, impartiality, efficiency and transparency of the judicial system”. This strategy notably aims at bringing the role of prosecutors into line with European standards; ensuring effective access to justice (efficient legal aid, investigation of cases and enforcement of court decisions within reasonable periods of time, upgrading the status of some legal professions related to the justice system); reducing corruption; contributing to the creation of a favourable climate for sustainable economic development; and improving respect for human rights.³⁹

73. The Justice Strategy resulted in the adoption of a number of laws: notably Law No. 160, adopted on 5 July 2012;⁴⁰ the Criminal Procedure Code and the Civil Procedure Code, amended by Law No. 66 of 5 April 2012; and Law No. 155 of 5 July 2012, the Law on recruitment, appointment and evaluation of judges' performance, adopted on 5 July 2012. In order to clarify the role and competencies of criminal investigation and of the authorities carrying out operational investigations, the Criminal Procedure Code was amended.⁴¹ A new law on the organisation of the activity of notaries is in its final stage of drafting and should be sent for public consultations in due time. The Presidential Decree No. 219 of 6 August 2012 approved the new composition of the National Council for the reform of the law enforcement bodies. The government also adopted, on 3 October 2012, Decision No. 736 on the organisation and functioning of the Ministry of Justice.

74. The reform of the judiciary included the dismantling of the economic courts, as announced during our last information visit. The law on the removal of the specialised courts from the judicial system was adopted on 22 July 2011. However, following an application filed by communist MPs, the Constitutional Court ruled in February 2012 that the dismantling of the economic courts was unconstitutional, as the activity of specialised courts of law is regulated by the Constitution and an organic law cannot annul this provision.⁴² On 6 March 2012, the parliament approved Law No. 29 that liquidated the Economic Courts and amended the competencies of economic judicial courts.

75. The Minister of Justice informed us that the construction of new detention centres in 2012 should facilitate *de facto* the transfer of the competence to run pre-trial detention centres from the Ministry of the Interior to the Ministry of Justice, as requested by the Assembly in its [Resolution 1666 \(2009\)](#). This, however, remains to be done.

76. The General Prosecutor's Office is also undergoing a reform process. A draft law, amending and supplementing the Law on Prosecution No. 294-XVI of 25 December 2008, is still being discussed by a working group, while the law on amending and supplementing the Civil Procedure Code limits the role of prosecutor in non-criminal proceedings.⁴³

77. We were informed that, on 7 July 2012, the General Prosecutor had established working groups responsible for achieving the benchmarks of the Action Plan for implementation of the judicial reform strategy (2011-2016). The Superior Council of Prosecutors approved, on 12 April 2012, the Prosecutor's Offices

38. On 4 March 2011, the parliament dismissed Ion Muruianu, then President of the Supreme Court of Justice, following a number of judgments of the European Court of Human Rights against the Republic of Moldova, and after Ion Muruianu called the journalists “rabid dogs” at the 2011 Annual Assembly of Judges. On 27 April 2011, the Constitutional Court reinstated Mr Muruianu in his post, ruling that the decision of the parliament was unconstitutional. Press agency IPN (Info-Prim Neo), 21 February 2011.

39. Further details related to the seven pillars of the Justice Strategy can be found in AS/Mon (2013) 09, pp. 7-9.3. See also the report of Amnesty International related to the justice reform: www.amnesty.org/en/region/moldova/report-2012.

40. Law No. 160 relates to the revision of the institutional framework of judges' inviolability regarding criminal investigation and prosecution; the amended provisions, according to which judges are selected for elective positions; the revised process of designation of magistrate judges in courts; the establishment of the court administration posts, which will assume total responsibility for organising the administrative activities of the courts; the obligation to publish decisions of the Superior Council of Magistracy on its website, as well as new regulations governing judicial immunity.

41. Law No. 66 came into force on 27 October 2012.

42. IPN, 9 February 2012.

43. AS/Mon (2013) 09, p. 8.

Strategic Development Programme for 2012-14, which provides analysis of current needs, the priority targets linked to national and international policy documents, medium-term priorities, performance evaluation, institutional capacity, etc.⁴⁴

78. The General Prosecutor has prepared amendments to the Law on the Prosecutor's Office. Again, the key issue is the appointment of prosecutors, the role of the General Prosecutor's Office in the judiciary, its independence, its financial autonomy, the demilitarisation of the prosecution service and the status of prosecutors. This is an essential reform, especially in the light of the "hunting accident" affair of December 2012. It is high time to seriously address this issue, restore the people's confidence in the justice system, and ensure that the new legal framework complies with European standards (see supra). In this respect, we take note of the joint decision, taken on 11 July 2013, by the Minister of Justice and the General Prosecutor to establish an inter-institutional working group to reform the General Prosecutor's Office, with the participation of international experts and civil society representatives.

79. Reform of the judiciary still needs to be pursued despite a number of important laws and strategies that have been adopted since 2009. This is of utmost importance to guarantee the rule of law in the Republic of Moldova. Strengthening the independence, integrity and impartiality of the judiciary, while placing human rights at the forefront of ongoing reforms was emphasised by the Council of Europe Commissioner for Human Rights, Mr Nils Muižnieks, during his visit to the Republic of Moldova in March 2013. We would also refer to the findings of the International Commission of Jurists and the Soros Foundation, which published a comprehensive report about the judicial reforms in the Republic of Moldova⁴⁵ on 21 February 2013.

4.2. Combating corruption and organised crime

80. Corruption remains a serious problem in the Republic of Moldova. It seriously undermines the trust of citizens in their institutions. According to a survey carried out by Transparency International in 2012, corruption was felt to be most prevalent among police, employers, health-care and educational institutions, customs, prosecutors and judges for domestic respondents, while domestic and business respondents both considered that the judiciary was the most corrupt branch of State power.⁴⁶

81. This problem was acknowledged by the authorities we met during our fact-finding visits. In 2011, Mr Viorel Chetaru, Director of the then Centre for Combating Economic Crimes and Corruption, confirmed that corruption deeply penetrates the State institutions. He deplored the lack of means of the governmental institutions which should enforce the law, the lack of legal provisions to carry out "integrity tests", the absence of State mechanisms to seize assets – which are presumed to be legally acquired, according to Article 46 of the Constitution – when officials are corrupt. He underlined the link between the shadow economy and economic crimes, deplored the political interference in the Centre (placed under the government), which has a negative impact on its work. He emphasised the need to depoliticise the Centre, to remove the subordination from the government, to put it under the responsibility of the parliament (in order to ensure a greater public oversight) and to provide safeguards for the staff to promote their stability and integrity. Mr Chetaru stressed the need to put in place mechanisms to comply with the United Nations Convention against corruption ratified by the Republic of Moldova on 1 October 2007.

82. On 6 April 2011, the Group of States against Corruption (GRECO) published its Third Round Evaluation Report on the Republic of Moldova. It acknowledges improvements in the legislation to fight corruption and regulate political funding, but concludes that improvements are needed to combat bribery and calls for a stricter supervision and greater transparency of political funding. Several deficiencies remain which need to be addressed: the concept of "persons holding positions of responsibility" used in the relevant bribery provisions does not cover all civil servants and public employees and does not ensure coverage of foreign and international public officials or foreign jurors and arbitrators; active and passive bribery offences in the public sector lack consistency and clarity; and bribery in the private sector and trading in influence are not fully addressed by the country's legislation. While GRECO recognises that the Republic of Moldova has gradually introduced legislation on political funding, there are still significant shortcomings in the legislation and, above all, in practice, which are linked, for example, to the lack of in-depth, proactive supervision and the very restrictive range of sanctions – scarcely applied so far – for infringements of the rules on political financing. GRECO calls on the authorities of the Republic of Moldova to increase the level of disclosure obligations

44. Ibid., p. 9.

45. www.icj.org/moldova-more-work-needed-to-implement-judicial-reforms/.

46. www.transparency.md/content/blogcategory/16/48/lang/en/, p. 43.

relating to ordinary party funding and to extend the supervision of political finances to services provided in kind and to entities related to a political party or under its control. GRECO also welcomes the plan to introduce State aid for the regular financing of political parties.

83. On the latter issue, GRECO published, on 5 April 2013, its 3rd compliance report on the Republic of Moldova on transparency of party funding.⁴⁷ Greco noted that the provisions on bribery in the public and private sectors and on trading in influence have been brought into line with the standards of the Criminal Law Convention on Corruption (ETS No. 173). The authorities launched training and awareness-raising measures targeting the authorities responsible for enforcing the legislation. The authorities should now ensure that full use is made in practice of the criminal law provisions relating to bribery and trading in influence offences. Concerning the transparency of party funding, GRECO notes that a draft law has not yet been adopted by the parliament. It invites the authorities to verify that “the supervisory mechanism – which according to the draft law will be concentrated in the hands of the Central Electoral Commission – has the necessary resources to implement substantive, proactive oversight of the financing of election campaigns and of political parties in general”.⁴⁸

84. We should also mention that the Venice Commission adopted, on 8-9 March 2013, a joint opinion on two draft laws (submitted by the CEC and the parliament) of the Republic of Moldova pertaining to Financing Political Parties and Electoral Campaigns.⁴⁹

85. We were informed that a number of initiatives had been launched by the authorities to combat corruption and reform the police and the prosecution service. However, the reform of the Centre for Combating Economic Crimes and Corruption was heavily debated and gave rise to considerable expectations and concerns. One of the key issues was to identify who should appoint the Director of the Centre and should control him/her. This reform was obviously very sensitive and has been under way for the last two years. While it had finally being agreed to subject the control over the CCECC – and later the National Anti-Corruption Centre (NAC) – to the parliament in the framework of the negotiations on the Moldova-EU visa liberalisation action plan, the control of NAC was eventually transferred back to the government in the aftermath of the political crisis of early 2013. We now expect the authorities to ensure that the NAC will be able to work independently, without political interference, while being subject to the control of the government.

86. The Centre for Combating Economic Crimes and Corruption became the National Anti-Corruption Centre (NAC) in 2012. The investigation of economic offences was transferred to the Ministry of the Interior and the Customs Service. Viorel Chetaru, Director of the CCECC, was appointed Director of the National Anti-Corruption Centre.

87. The Director of the NAC indicated that 2012 saw a rise in the number of corruption cases discovered, nearly 400, and a much more diversified range of cases compared to previous years. Some 240 cases of corruption were sent to court in 2012, and they involved different categories of perpetrators, including high-ranking tax officials and heads of territorial subdivisions. There were also cases of traffic police officers arrested, about 20 lawyers were caught in the act of mediating acts of corruption, and four prosecutors were indicted on corruption charges. Mr Chetaru welcomed the fact that there were 13 prison sentences in 2012, unlike previous years when courts mostly delivered probation sentences or imposed fines.⁵⁰

88. On 17 February 2012, the parliament approved a plan for the implementation of the national anti-corruption strategy for 2012-2013, which includes four chapters – investigation, legislation, institutional and public communication components – and should contribute to implementing the GRECO recommendations.

89. Under the fourth pillar of the Justice Strategy, Law No. 180 of 19 December 2011 regarding the National Integrity Commission was adopted. A new mechanism to control income and ownership declarations and a mechanism for solving conflicts of interest was established, as well as the control to respect the incompatibility regime imposed on public officials, judges, prosecutors, civil servants and persons in high office.

47. [Greco RC-III \(2013\) 2E](#), Third Evaluation Round, Compliance Report on the Republic of Moldova, “Incriminations (ETS Nos. 173 and 191, GPC 2) and “Transparency of Party Funding”, adopted by GRECO at its 59th Plenary Meeting (Strasbourg, 18-22 March 2013) [www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2013\)2_Moldova_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)2_Moldova_EN.pdf).

48. [Greco RC-III \(2013\) 2E](#), pp. 18-19.

49. [CDL-AD\(2013\)002](#), Joint opinion on the draft legislation of the Republic of Moldova pertaining to political party and election campaign financing.

50. www.allmoldova.com/en/int/interview/viorel-ketraru-281212.html.

90. The authorities also informed us that a draft law was being prepared to: *inter alia*, forbid communication outside the trial; establish mandatory polygraph tests for candidates applying for the positions of judge and prosecutor; amend the Criminal Code with a new provision on “extended confiscation”; review the Criminal Code sanctions for corruption offences; introduce a new offence “illicit enrichment”, etc. According to the new draft law, the law on the status of judges, the law on the Superior Council of Magistracy, the Criminal Code, the law on the application of the polygraph and the law on prosecution should be amended. A draft law on the remuneration of judges was developed to substantially raise wages for the actors in the justice sector and simplify the criteria for calculating salaries.⁵¹

91. The National Integrity Commission was created to verify the assets and conflicts of interest of public officials, such as judges, prosecutors, civil servants and other persons in positions of authority. Its five members (three for the majority, one for the opposition, one for civil society) were elected by the parliament for a five-year mandate on 22 June 2012. The position of the CNI member delegated by the civil society was left vacant after the former delegate of the civil society, Cristina Cojocaru, resigned on the grounds that she had doubts about the institution's legal foundation. However, the candidacy submitted by the civil society, namely Galinia Bostan, former director of the Centre for Corruption Analysis and Prevention, was rejected by the parliament on 27 December 2012, as she only obtained 45 votes: the liberal and communists groups did not support her. Subsequently, by decision No. 17 of 28 February 2013, the parliament appointed Mr Victor Stratila a member of the National Integrity Commission on behalf of civil society.

92. Questions were also raised about measures to combat corruption in the judiciary. Experts of the Centre for Analysis and Prevention of Corruption (CAPC) voiced concerns about the draft law on the disciplinary responsibility of judges, developed by the Ministry of Justice, which, according to them, should be improved to create an efficient and transparent system of disciplinary responsibility.

93. The President of the Republic submitted to the parliament a bill that provided for the gradual increase of judges' salaries up to 2015. This move should contribute to essentially improving justice, strengthening judges' independence, combating corruption and ensuring the rule of law, with corrupt persons being removed from the judicial system.⁵²

94. Corruption in the judiciary was an issue often raised during our discussions. On 21 June 2012, the parliament adopted, at first reading, the package of legislation aimed at lifting judges' immunity in cases of active and passive corruption. This law was, however, challenged. The President of the Constitutional Court of the Republic of Moldova requested an *amicus curiae* opinion from the Venice Commission on the constitutionality of certain legal provisions referring to the immunity of judges. The issue arose with respect to Law No.153 of 5 July 2012, amending and supplementing certain legislative acts, which introduces a series of amendments to the legislative framework that governs the functioning of the judicial system, including the law on the status of judges (No. 544-XIII, 20 July 1995). In its *Amicus curiae* brief,⁵³ of 8-9 March 2013, the Venice Commission concluded that the Moldovan legislation does not seem to contradict international standards: “While functional safeguards are needed to guarantee judicial independence against undue external influence, broad immunity is not. Judicial independence does not depend on wide immunity and judges should answer for any alleged crimes on the presumption that normal procedures of defence, appeal and other elements of the rule of law are at their full disposal.”

95. Concerning the measures to combat money laundering and terrorist financing in the Republic of Moldova, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) concluded in February 2013 that progress has been achieved, in particular after the Anti-Money Laundering and Counter Terrorist Financing Law entered into force in 2011, but further improvements are needed. In particular, the continued judicial insistence on a prior conviction for the predicate offence as a precondition for prosecuting stand-alone money laundering remains a major deficiency. The provisional measures and confiscation regime should also be strengthened. Existing legislative powers to seize and confiscate assets are insufficiently used by the authorities and there remain deficiencies in the regime of freezing terrorist assets under the United Nations Security Council Resolutions.⁵⁴

51. AS/Mon (2013) 09, p. 8.

52. IPN, 19 December 2012.

53. CDL-AD(2013)008, 11 March 2013.

54. Press release DC 020(2013), MONEYVAL(2012)28, Report on Fourth Assessment Visit of 4 December 2012, published on 18 February 2013.

96. The authorities pointed out that they follow the European Union best practices on the concept of intelligence-led policing and a specialised unit has been created. In the same context, a “National Council for Coordination of activities to prevent and combat organised crime” was created under the leadership of the Prime Minister. Furthermore, the General Prosecutor’s Office has established the Council for Co-ordination of Special Investigative Activity.⁵⁵

5. Human rights

97. The Republic of Moldova remained committed to promoting human rights and has launched a number of strategies and action plans since 2007. The National Human Rights Action Plan (2011-2014) was adopted in February 2012 and invites the authorities to implement it and review it in the light of the recommendations of the last United Nations Universal Periodic Review⁵⁶ and the anti-discrimination issues raised by the Assembly and the Commissioner for Human Rights.

98. We were informed by the authorities of a number of reforms undertaken since 2010 by the Minister of the Interior with a view to reforming the police and the carabinieri and complying with human rights standards. This included: the setting up of a centre for planning and achieving the objectives of the reform of the Ministry of the Interior in 2012; the implementation of a strategic development plan of the Ministry of the Interior from 2012-2014;⁵⁷ organisational and operational changes to separate the police from the Ministry of the Interior apparatus; enhancing the level of transparency and communication with society, NGOs, the media and other services available to citizens, including online services; installing video monitoring systems in all police offices and isolators for temporary detention; the demilitarisation of police personnel not directly involved in policing activities; launching surveys on the Ministry of the Interior website, etc.⁵⁸

99. We note, however, that the transfer of the competence over pre-trial detention centres from the Ministry of the Interior to the Ministry of Justice, as requested by the Assembly in its [Resolution 1666 \(2009\)](#), has yet to be achieved.

5.1. Torture and ill treatment

100. On 12 January 2012, the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its last visit to the Republic of Moldova in June 2011.

101. In its report, the CPT notes that a significant proportion of detained persons interviewed by its delegation complained of police ill-treatment during the months preceding the visit. Consequently, the CPT recommends that the Moldovan authorities continue to implement anti-torture measures with determination.

102. The CPT also recommends reinforcing the mechanisms for the investigation of alleged ill-treatment. It makes a generally positive assessment of the conditions of detention at the temporary placement centre for foreign nationals in Chişinău, but recommends that the Moldovan authorities resolutely pursue the nationwide scheme to renovate police temporary detention facilities.

103. As regards prisons, in the light of allegations received by its delegation, the CPT recommends that the Moldovan authorities exercise greater vigilance vis-à-vis the behaviour of staff at penitentiary establishments No. 11 in Balti and No. 17 in Rezina towards prisoners who have been segregated for their own safety. Alleged beatings of inmates by other prisoners belonging to an informal hierarchy within the prison population were another subject of concern, and the CPT recommends that efforts to counter inter-prisoner violence and intimidation be stepped up. As for conditions of detention, the CPT notes with satisfaction that, in the light of the delegation’s preliminary observations at the end of the visit, an action plan was immediately drawn up to combat overcrowding and improve material conditions in prisons.

104. We should note here that, in October 2012, the parliament adopted amendments to the Criminal Code and to the Criminal Procedure Code to exclude the existing inconsistencies regarding the classification of certain acts as acts of torture, inhuman or degrading treatment, and increase the level of punitive sanctions for acts of torture depending of their gravity.⁵⁹

55. AS/Mon (2013) 09, p. 10.

56. See www.ohchr.org/en/countries/enacaregion/pages/mdindex.aspx.

57. The Strategy and the Action Plan, which entered into force on 5 March 2013, aim notably to de-politicise the activities of the law enforcement agencies and increase their presence through the country, and de-militarise the carabineer troop department, AS/Mon (2013) 09 addendum, p. 3.

58. AS/Mon (2013) 09, pp. 9-10.

105. We were also informed that a draft law on amending and supplementing the 1997 Law on Parliamentary Advocates (ombudsmen) to improve the activity of the Centre for Human Rights and increase the efficiency of national mechanisms for preventing torture was being finalised by the experts from the Ministry of Justice, in the framework of the 6th pillar of the 2011-2016 Justice Strategy.⁶⁰

5.2. Follow-up to the April 2009 events

106. We enquired about the investigation into the April 2009 events.⁶¹ It was explained that the process is still ongoing. The Deputy Minister of the Interior, whom we met, indicated that a special committee had been set up and criminal cases were being investigated by the Prosecutor's Office. *Pro memoria*, an ad hoc Parliamentary Inquiry Commission, had presented its conclusion to the parliament in May 2010, concluding that co-ordination of the law enforcement forces had been inefficient, and that there had been abuses and excessive use of force by the police when apprehending and detaining people. In April 2010, the Moldovan Government established a "commission for identifying persons who suffered as a result of the events on 7 April 2009". The government commission examined and approved 116 applications filed by victims of the April 2009 events, these included 73 civilians and 43 law enforcement officers. By a similar decision, on 15 October 2010, the government allocated 222 700 Lei for treatment of injuries to 18 victims.⁶²

107. In October 2011, the then Commissioner for Human Rights, Mr Thomas Hammarberg, paid a visit to the Republic of Moldova to discuss the follow-up given to his 2009 report. This report focused notably on the treatment of people detained in relation to the post-electoral demonstrations of that period and recommended that decisive action be taken to adopt and enforce a policy of "zero tolerance" of ill-treatment throughout the criminal justice system and that a thorough and comprehensive inquiry be conducted into the events of 6-7 April 2009.⁶³

108. In his reply to the Commissioner's letter, the Prime Minister, Mr Filat, agreed that "a comprehensive inquiry should be continued, while implementing the legal norms will ensure their effectiveness". He also announced the setting up of a Monitoring Commission for the implementation of the National Human Rights Action Plan, under the authority of the Deputy Prime Minister.⁶⁴ We were glad to read that the governmental commission, which includes senior officials from the Ministries of Justice, Interior, Health, Finance, Education, Labour, Social Protection and Family, and representatives of non-governmental organisations, resumed its work in February 2012.⁶⁵ Together with the Commissioner for Human Rights, we encourage the Moldovan authorities to seriously address the remaining issues related to the April 2009 events and ensure compensation for all victims and the prosecution of all those responsible for the ill-treatment.

109. In April 2012, Amnesty International published a report entitled: "Unfinished Business: Combating Torture and Ill-treatment in Moldova", where it expressed its concern about the lack of progress achieved in prosecuting police officers responsible for torture and other ill-treatment during the events following the elections in April 2009. Amnesty International stated that only 58 out of the 108 complaints received by the Prosecutor General's office reached the courts; in 29 of these 58 cases, police officers were charged under Article 309/1 for torture, 19 were charged under Article 328 (exceeding powers or official duties), and 10 for other offences, such as Article 309 (forcing people to give testimony), and Article 308 (illegal arrest). To date, there have been 19 acquittals. Amnesty international also pointed to the low number of prosecutions, the inadequate sentences and the excessive delays.

110. We cannot but reiterate the requests made by the Assembly to fully investigate the April 2009 events, prosecute the perpetrators and render justice without further delay.

59. *Ibid.*, p. 10.

60. Amendments to Law No. 1349-XIII from 17 October 1997, AS/Mon (2013) 09 p. 8.

61. The Parliamentary Assembly devoted two resolutions to the April 2009 events. See [Resolution 1692 \(2009\)](#) on the functioning of democratic institutions in the Republic of Moldova: implementation of [Resolution 1666 \(2009\)](#), and [Doc. 12011](#).

62. AS/Mon (2013) 09, p. 10.

63. [CommDH\(2012\)3](#), Letter from Mr Hammarberg to the Prime Minister of the Republic of Moldova, Mr Filat, 21 December 2011.

64. [Reply from Prime Minister Filat to Mr Hammarberg, 9 January 2012, www.coe.int/t/commissioner/Default_en.asp](#).

65. Infotag, 9 February 2012.

5.3. Freedom of the media

111. Currently, there are 17 news agencies, 50 radio stations, 63 television channels and about 140 cable television operators, and 260 newspapers and magazines operating in the country. In 2010, new competitive media outlets emerged.

112. Freedom House ranked the Republic of Moldova 117th out of 197 in 2013 concerning the freedom of the press (with a rate of 3),⁶⁶ while the press freedom index by Reporters without Borders put the Republic of Moldova at 55th out of 179 in 2013, compared to 53rd the previous year and 98th the year before.

113. We were informed that a number of steps had been taken to improve the legal framework:

113.1. In June 2010, the rules on how election campaigns should be reflected in the media were amended, these aim to allow broadcasters to work without constraints during an electoral campaign. In the last campaign, compliance with OSCE and the Council of Europe commitments was noted.

113.2. In October 2010, Law No. 64-XVII of 23 April 2010 on Freedom of Expression, which transposes into national legislation the case law of the European Court of Human Rights, came into force.⁶⁷

113.3. In February 2011, a Law on Public De-etatisation also entered into force. This law is a great success for the national media organisations. The Act requires public authorities to privatise newspapers financed by public money, thus encouraging fair competition in the print media.

113.4. In April 2011, a new Journalist Code of Ethics, developed by the Press Council, came into force and was adopted by 84 mass-media institutions in the framework of the Council of Europe Democracy Support Programme. The Press Council should be an independent self-regulating organisation of the Republic of Moldova mass media. It is the guardian of journalistic ethics, which governs the professional conduct and actions of journalists.

113.5. In 2012, amendments to the Broadcasting Code of the Republic of Moldova were approved⁶⁸ in line with the European Union Audiovisual Media Services Directive of 10 March 2010.

113.6. A working group was also created in 2012 to work on the transparency of ownership in the audiovisual field. It drew up a draft law to amend the Audiovisual Code, which was then sent to the government.

114. The government has launched a web page to promote e-government initiatives and services in the Republic of Moldova. The government also decided to create units of information and communication with the mass media in 24 central public administrations. These two actions of the government aim to enhance the transparency of governance and facilitate media access to these institutions.

115. We discussed the situation of the media, and in particular the airtime allocated to minorities, such as the Russian-speaking community, which complained about the new slots allocated to programmes in Russian: the Supervisory Board of the Teleradio-Moldova public service broadcaster adopted a new strategy in October 2011 and decided to broadcast Russian-language news four times a day in 10-minute-long issues, to be shown at 9 am, 5 pm, 11 pm and 2 am, instead of the previously 30-minute-long daily *Mesager* news programme, scheduled at 7 pm, which was replaced by the Romanian news programme.⁶⁹ On 18 October 2011, the Broadcasting Coordination Council (BCC) recommended that the public television channel Moldova 1 air a programme in Russian during evening prime time. Subsequently, the public television channel Moldova 1 decided to change its broadcast schedule on 6 February 2012 and present a news bulletin in Russian at 10 pm, instead of 11 pm.⁷⁰ On 28 December 2012, the Broadcasting Coordination Council decided that, as from 1 April 2013, all television channels and radio stations in the Republic of Moldova shall be ordered to

66. The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). These ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest, www.freedomhouse.org/sites/default/files/Global%20and%20regional%20tables.pdf and www.freedomhouse.org/report/freedom-world/2013/moldova.

67. Journalists and media institutions are exempt from attracting liability for allegedly defamatory articles published more than a year ago, for value judgments, for criticising public persons, authorities and the State, etc. Under the same law, the court may no longer sequester the property of an editor's office and bank accounts to ensure claims for compensation for moral damage. Citizens also have the opportunity to criticise the authorities without being prosecuted and subjected to pressure afterwards.

68. See Law No. 84 of 13 April 2012 and Law No.165 of 11 July 2012.

69. TRM maintains that it broadcasts enough news in Russian even without the popular *Mesager* programme, 12 October 2011, www.allmoldova.com/en/moldova-news/society/1249051488.html.

70. Public television reintroduces Russian news in prime time, IPN, 6 February 2012.

have a minimum of 30% of their own productions in the State language. This decision was however challenged by 14 private broadcasters, who considered that the decision of the BCC violated the Broadcasting Code, and was repealed in June 2013 by the Appeal Court.

116. The closure of the *New TV Ideas* (NIT) television channel, a media broadcasting partly in Russian, and often seen as critical of government, gave rise to considerable concern: on 5 April 2012, the Broadcasting Coordination Council (BCC) of the Republic of Moldova decided to withdraw the licence awarded to the television station NIT. According to the information shared publicly by the BCC, the decision to withdraw the licence resulted from repeated violations of several provisions of the Broadcasting Code, including failure to provide for pluralism of opinion in news bulletins. The media watchdog⁷¹ also pointed out that NIT called for social unrest and inter-ethnic hatred, covered the government's work in a negative light and promoted the political messages of the opposition Party of the Communists.

117. We were informed that, during the period from 2009 to 2012, the BCC had applied for 13 sanctions and issued two recommendations against the NIT channel. In 2010, three decisions of the BCC sanctioning NIT were cancelled by the court on procedural grounds. In 2011, two of the five sanctions imposed by the BCC were challenged. However none of them was overturned by the courts. In order to avoid sanctioning NIT, the BCC issued decisions offering it time to comply with the law. After each penalty, a rehabilitation period was granted to comply with the law. After the gradual application of penalties provided by Article 38 of the Broadcasting Code, the BCC revoked the licence of the NIT television station. On 10 May 2012, the Supreme Court of Justice dismissed the appeal launched by NIT to suspend the BCC decision to revoke the licence. Subsequently, NIT was not entitled to broadcast until the final court decision, but it has been broadcasting programmes on the Internet since 14 May 2012.

118. The Council of Europe Secretary General, Mr Thorbjørn Jagland, expressed his concern about the decision taken by the BCC in the following terms. "The Council of Europe called and calls for pluralism of opinion in the media of the Council of Europe Member States. We are firmly convinced that freedom of the media is a part of a democratic society. We were informed that the NIT television channel challenged in court the BCC decision and that there were other cases relating to previously applied sanctions pending consideration in the courts of law. We hope that the trial will fully comply with the standards of the European Convention on Human Rights, in particular, with Article 10 of the ECHR".

119. The NIT television station challenged the decision of the BCC and appealed to the Chişinău Court of Appeal. The first Court of Appeal hearing on the NIT case, scheduled for 2 July 2012, was postponed to 24 September 2012 due to the absence of the BCC representatives. The subsequent court hearings took place on 8 October and 12 November 2012. A new hearing was held on 10 January 2013.

120. Many of the interlocutors we met agreed that the tone used by NIT was often inappropriate; however, the withdrawal of its licence, suspending NIT's right to broadcast pending the decision of a court, is a very sensitive matter – especially in the Republic of Moldova, where the withdrawal of a media broadcasting partly in Russian had become a political issue for the Party of the Communists. We believe that closing a television station should only be the very last resort and those progressive sanctions, including deterrent financial and administrative sanctions, should be applied to ensure full compliance with the law on the media and with the code of ethics of journalists.

121. On 11 February 2013, the Moldovan Court of Appeal upheld the BCC decision to close the NIT television station. Overall, the condition of the withdrawal of the licence, as well as the length of the judicial procedure, raise concerns.

5.4. Fight against trafficking in human beings

122. The Republic of Moldova was the first member State to ratify the Council of Europe Convention on Action against Trafficking in Human Beings on 19 May 2006. It entered into force on 1 February 2008. This is a positive development with a view to enhancing the protection of victims and the prosecution of perpetrators. We welcome in this respect the adoption of specific anti-trafficking legislation and the setting up of a National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking.

71. Since 2009, according to the new methodology drawn up in the framework of the EU/Council of Europe Joint Programme for the Democracy Support Programme for the Republic of Moldova, the BCC performed 13 monitorings of the main Moldovan television channels. The BCC monitoring results were the same as those of NGOs that observed the elections during the respective periods.

123. The Group of Experts on Action against Trafficking in Human Beings (GRETA) published its first evaluation round on the Republic of Moldova on 22 February 2012,⁷² on the basis of which the Committee of the Parties to the Convention adopted, on 11 June 2012, recommendations addressed to the government of the Republic of Moldova.⁷³

124. According to the Moldovan authorities, the Republic of Moldova is primarily a country of origin and, to a certain extent, of transit for victims of trafficking in human beings. According to statistical information provided by the Ministry of the Interior, 158 victims of trafficking were identified in 2008, 159 in 2009 and 181 in 2010 (105 being women). Practically all of them were Moldovan nationals (there was only one identified foreign victim). The main purpose of trafficking was sexual exploitation (111 victims in 2008, 90 in 2009, 108 in 2010). The country's difficult economic situation, high rate of unemployment (especially in rural areas) and the problem of violence against women are among the main factors contributing to the Republic of Moldova being a country of origin of victims of trafficking. When it comes to trafficking for the purpose of sexual exploitation, the main destinations are Cyprus, Turkey, Ukraine, the United Kingdom and the United Arab Emirates.⁷⁴ However, the authorities expect the real figures to be higher.

125. GRETA referred to the Republic of Moldova as a positive example, for the setting up of multidisciplinary teams in the process of identification of victims of trafficking in human beings. At the same time, it encouraged notably the Moldovan authorities to develop and implement further measures to identify victims and potential victims of trafficking, pay particular attention to groups vulnerable to trafficking, such as women from socially disadvantaged families, women subjected to domestic violence, children left without parental care and children placed in State institutions, providing additional human and financial resources to the agencies involved in the provision of assistance measures, set up a State compensation scheme accessible to victims of trafficking, improve the investigation of trafficking offences and ensure that they lead to proportionate and dissuasive sanctions.

126. The National Plan for Preventing and Combating Trafficking in Human Beings for 2012-2013 was approved by government Decision No. 559 on 31 July 2012. The development of this Plan took into account the recommendations made by the Expert Group GRETA, the OSCE, the US State Department, the priorities of the EU Strategy for Eradication of Trafficking in Human Beings for 2012-2016 and other commitments of the Republic of Moldova aimed at secure migration, respect of human rights and ensuring gender equality, as well as the EU anti-trafficking strategy.⁷⁵

127. We encourage the Moldovan authorities to comply with the recommendations issued by the Committee of the Parties and to strengthen its action in the field of combating trafficking of human beings.

5.5. Anti-discrimination law

128. In its Resolution CM/ResCMN(2010)6, the Committee of Ministers invited the Republic of Moldova to adopt, as a matter of priority, a comprehensive anti-discrimination law and to monitor, on a regular basis, discrimination and racially motivated or anti-Semitic acts, to take resolute measures to combat all forms of intolerance, including in the media and in political life, to carry out effective investigation into and sanction against all forms of misbehaviour by the police, to take resolute measures and to provide adequate resources to ensure that the implementation of the action plan for Roma leads to a substantial and lasting improvement of the situation of Roma in all areas.

129. The adoption of an Anti-Discrimination Law was also recommended by the European Commission against Racism and Intolerance (ECRI) in its last report adopted on 14 December 2009 and by other relevant bodies of the United Nations, European Union and the OSCE.

130. The Ombudsman underlined some positive trends in the field of political and civil rights, with an increased awareness of people about their rights. However, social and economic rights are at stake, with reduced social benefits and pensions, rising prices, and the economic crisis, which will impact on the Republic of Moldova this year. In this respect, we had interesting meetings with NGOs on the situation of people with disabilities. The Republic of Moldova ratified in 2010 the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The Law on the Social Inclusion of Persons with Disabilities was adopted in August

72. [GRETA\(2011\)25](#), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, First evaluation round, Strasbourg, 22 February 2012.

73. [Recommendation CP\(2012\)6](#) on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, adopted on 11 June 2012.

74. GRETA(2011)25.

75. AS/Mon (2013) 09, p. 11.

2012. On 23 January 2013, the government approved the structure and regulation of the National Council for the Assessment of Disability and Working Capacity.⁷⁶ Despite these positive initiatives, it seems that the living conditions of people with disabilities are still difficult.

131. The adoption of a much-needed comprehensive anti-discrimination law was a long and difficult process. The submission of the draft law, in preparation since 2008, has given rise to considerable controversy in the country. In particular some NGOs, members of the clergy, the five Orthodox churches and prominent politicians expressed their hostility and opposition to the inclusion of the terms “sexual orientation” in the draft. We deplore the use of homophobic language, which is unacceptable. On 30 March 2011, the government decided to withdraw the draft anti-discrimination law from parliament in order to have more time for public consultations.

132. The adoption of an anti-discrimination law was important to implement the Action Plan on visa liberalisation with the European Union, approved by the government on 22 February 2012. The Moldovan authorities announced that they would launch, starting from 30 April 2012, a nationwide campaign to improve the population's awareness of the said law and the very phenomenon of non-discrimination,⁷⁷ as this draft law gave rise to wide debate, concern and misunderstandings within Moldovan society.

133. We expressed our surprise and our concern when the Minister of Justice tabled a compromise draft “law on equal chances” rather than a fully fledged anti-discrimination law, limiting discrimination based on sexual orientation to the sphere of employment. We expected the Moldovan authorities to demonstrate political courage, to deliver a strong, unequivocal political message and ensure that a comprehensive law, preventing and efficiently combating discrimination on any ground – including sexual orientation – in all spheres of life, would be adopted for the benefit of all groups, and in particular the most vulnerable and disadvantaged.

134. In addition, we were particularly concerned by a series of manifestly discriminatory decisions adopted in 2012 by local and regional councils: on 23 February 2012, the Balti City Council decided to ban “aggressive propaganda of sexual minorities in the municipality”, a decision welcomed by the representatives of Orthodox youth but condemned by human rights organisations and said to be legally unfounded by the Liberal Democratic Party's councillors.⁷⁸ On 1 March 2012, the Anenii Noi Regional Council voted to make the region “a prohibited zone for homosexual demonstrations”, a decision endorsed by 22 out of the 23 representatives of all the political parties present at the meeting.⁷⁹ The villages of Chetriș, and Hiliuți banned the construction of buildings or temporary shelters connected with the promotion of “homosexuality” or for the practice of Islam, infringing the right to freedom of religion or belief of the Muslims living there. These decisions have yet to be registered with the national authorities and may be challenged in court.⁸⁰

135. Concerning this issue, we noted that the European Court of Human Rights ruled, on 12 June 2012, that the ban of a lesbian, gay, bisexual and transgender (LGBT) demonstration in May 2005 violated the European Convention on Human Rights. In May 2005, the city authorities of Chișinău refused to allow the peaceful demonstration organised by GENDERDOC-M, an LGBT organisation in the Republic of Moldova, in front of the parliament on 27 May 2005, to encourage the adoption of laws to protect sexual minorities from discrimination. The Court said that this decision violated their rights to freedom of assembly and association and to be free from discrimination.⁸¹

136. Amnesty International issued a report in September 2012 “Towards Equality: Discrimination in Moldova”, which proposes amendments to the law on equal chances, that came into force on 1 January 2013, that would prohibit discrimination based on a person's sexual orientation, sexual identity and state of health. The organisation also calls for hate crimes motivated by sexual orientation and identity, as well as disabilities, to be added to the Criminal Code.

137. Amnesty International deeply regrets that the law fails to provide comprehensive protection against discrimination on grounds of sexual orientation and gender identity. Indeed, while discrimination on other grounds, such as race, ethnicity, religion or belief and disability is generally forbidden in all areas of life,

76. Ibid., p. 11.

77. Infotag, 23 February 2012.

78. [Publika TV](#), 23 February 2012.

79. Media release of Genderdoc-M, 2 March 2012.

80. The Republic of Moldova: Banning LGBTI demonstrations creates a dangerous climate, [press release](#) of Amnesty International, 2 March 2012.

81. Moldova: European Court of Human Rights re-affirms LGBT people's right to freedom of assembly, [EUR 59/005/2012](#), 14 June 2012.

discrimination on the ground of sexual orientation is explicitly prohibited only in employment (Article 7(1)). Discrimination on the ground of gender identity is not explicitly prohibited in any area of life. Amnesty International is also concerned that according to the law, the prohibition of discrimination cannot impair the definition of family as based on marriage between a man and a woman, which can significantly narrow the material scope of the legislation.⁸²

138. More recently, the Venice Commission adopted, on 14 June 2013, an “Opinion on the issue of so-called propaganda of homosexuality in the light of recent legislation in some Council of Europe Member States, including Moldova, Russian Federation and Ukraine” that stresses that “the measures in question appear to be incompatible with ‘the underlying values of the [European Convention on Human Rights]’, in addition to their failure to meet the requirements for restrictions prescribed by Articles 10, 11 and 14 of the Convention”.⁸³ The Parliamentary Assembly adopted, for its part, [Resolution 1948 \(2013\)](#) on tackling discrimination on the grounds of sexual orientation and gender identity, based on Håkon Haugli’s report, inviting in particular “the competent authorities of the Republic of Moldova to give full execution to the judgment of the European Court of Human Rights in the case of *Genderdoc-M v. Moldova*; to comply with judicial decisions quashing legislation on the prohibition of so-called homosexual propaganda; and to repeal it if they have not yet done so” (paragraph 10.3).

139. During our last visit, in November 2012, we understood that even the adopted “Law on equal chances” remains a much debated issue.⁸⁴ We expressed our concerns to the Moldovan authorities, and also our expectation that full and effective implementation of the law would ensure that the new anti-discrimination legislation covers all groups of society, and that the Republic of Moldova would comply with the international standards by which it is bound.

140. We were informed that, following the adoption of the Law on equal chances, the government approved, on 6 December 2012, a revised version of the National Human Rights Action Plan (NHRAP), which now includes a separate chapter on the prevention of and fight against discrimination. The Ministry of Justice, with the support of civil society and after public consultation, drafted a law on the activity of the Council on Prevention and Combating Discrimination and Ensuring Equality (adopted on 21 December 2012) and a law amending some legislative acts (Criminal Code, Contravention Code, Civil Procedure Code, the law on the salary system in the public sector, the law on the civil service and the status of the public servant, the law on the status of the positions with public dignity, etc.). The selection process of the members of the Council on Prevention and Combating Discrimination and Ensuring Equality was initiated in parliament on 29 November 2012. A parliamentary commission was set up, which drafted the rules for the selection process and announced the competition⁸⁵ on 20 December 2012. The selection procedure of the members of the Council was completed in 2013. Ms Oxana Gumenaia was elected President. The Council drafted a strategy for its future activities.⁸⁶

141. On 21 December 2012, the parliament adopted a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), recognising the competence of the CERD Committee to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation by the Republic of Moldova of the rights set forth in this convention.⁸⁷ This law entered into force on 13 May 2013.

142. Some encouraging court decisions related to anti-discrimination issues, delivered in 2012, should be mentioned here:

- On 1 November 2012, the Constitutional Court issued a decision regarding the constitutionality of Article 32(4) of the law on the status of military personnel. The court stated that the exclusion of male military from the right to parental leave is unconstitutional.

82. Amnesty International public statement ([EUR 59/004/2012](#)): the Republic of Moldova fails to adequately protect lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals from discrimination, 29 May 2012.

83. Opinion 730/2013 on the issue of so-called propaganda of homosexuality in the light of recent legislation in some Council of Europe Member States, including Moldova, Russian Federation and Ukraine, www.venice.coe.int.

84. On 4 January 2013 again, a group of over 100 priests in the northern districts of the Republic of Moldova demanded that the anti-discrimination law be repealed, asked the country’s population to consider methods of penalising the ruling political class for adopting the anti-discrimination law, IPN, 4 January 2013.

85. <http://parlament.md/Actualitate/Noutati/tabid/89/NewsId/690/Default.aspx>.

86. AS/Mon (2013) 09 addendum, p. 5.

87. See the text of the [International Convention on the Elimination of All Forms of Racial Discrimination](#).

- On 2 November 2012, the Supreme Court of Justice issued a Recommendation (No. 16) on the examination procedure for complaints regarding the rectification of civil status acts following sex changes. The document explains that, according to the case law of the European Court of Human Rights, sexual identity, name and sexual orientation, as well as sexual life, are part of the right to private life protected by Article 8 of the European Convention on Human Rights.
- The Riscani court in Chişinău obliged the company supporting the social initiative “Civic Action”, which owns the website mdn.md, to remove from its website the black list of public officials and human rights defenders who were promoting LGBT rights.
- Regarding the adoption of discriminatory decisions by certain local councils, the State Chancellery notified the local authorities concerned that such administrative acts were illegal and initiated legal proceedings against these decisions. Currently, eight decisions, including from the Balti and Cahul municipalities, have been cancelled by the issuing authorities. Two decisions, including that of Hiliuti village, have been declared illegal by the ruling of the Falesti court on 24 April 2012. A similar rule was applied to the decision of the Cahul municipality by the Cahul court on 11 July 2012. All decisions taken by these local authorities were eventually either cancelled by these authorities or declared illegal by the competent courts.

143. A series of awareness-raising actions were undertaken to promote the content of the new law on television programmes, provide training (such as the training of more than 260 judges and 50 prosecutors, in November and December 2012) by the National Institute of Justice on the “Interpretation and enforcement of the Law on ensuring equality”, and the launch of a programme called “Employers for anti-discrimination”, targeting 15 private companies.

144. We welcome all these initiatives and again stress that discrimination based on sexual orientation should also be covered.

145. The government is also preparing a bill to punish discriminatory practices, with fines of 8 000 to 12 000 lei or up to two years’ imprisonment. The promotion or support of discriminatory practices by the media will be punished with fines of 12 000 to 16 000 lei. Fines for legal entities should amount to 20 000 to 60 000 lei.⁸⁸

146. The Law on equal chances entered into force on 1 January 2013 and we expect its full implementation. We expect citizens to be fully aware of their rights and to feel safe to lodge complaints when their rights have been violated. However, we want to stress, once again, the importance of a comprehensive anti-discrimination law that covers all types of discrimination, including sexual orientation.

147. We also emphasise that politicians have a very special responsibility in securing all citizens’ rights. We therefore urge them to refrain from any statements that would be an insult to human dignity.

148. While we welcomed the organisation of a first ever LGBT march (called “LGBT for traditional values”) in Chişinău on 19 May 2013 and a landmark tolerance festival – despite the opposition of the church and the relocation of the march, ordered by the municipality of Chişinău for security reasons – we were dismayed by the adoption, on 23 May 2013, of the law amending article 90.1 of the Code of Administrative Offences, approved by the Moldovan Parliament, that entered into force on 12 July 2013. This law bans “distribution of public information and/or committing acts aimed at the propagation of prostitution, paedophilia, pornography *or of any relations other than those related to marriage or family in accordance with the Constitution and the Family Code*” (our emphasis). The provisions pertaining to the “relations other than those of marriage or of family in accordance with the Constitution and the Family Code” obviously target sexual orientation and are not compatible with European standards.⁸⁹

149. We welcome the steps taken by the government in July 2013 to clarify the ambiguity of Article 90 and limit its scope. Prior to its adoption, the government had already given a negative opinion on the disputed draft amendment, as it did not comply with the criteria to be concise, unambiguous and clear. The Ombudsman, for his part, issued an explanatory report on 30 July 2013, signalling to the parliament the need to initiate the procedure of revision and amendment of the above-mentioned law, especially the provision regarding “some other relations”. The Ombudsman created an ad hoc working group with the participation of the Ministry of Interior Affairs and the Ministry of Justice, to draft a recommendation on the implementation of Article 90, in

88. IPN, 20 December 2012.

89. See also the appeal launched by four prominent human rights organisations (Amnesty International, Human Rights Watch, ILGA and the Open Society), which deplored that there had been no consultation, and addressed a letter to EU Commissioners Füle and Malmstrom to express their concerns. www.amnesty.md/en/press-releases/amnesty-international-human-rights-watch-ilga-europe-and-open-society-foundations-add.

line with the Constitution and other related laws. On 26 July 2013, the Ministry of Interior Affairs issued a recommendation to all its administrative authorities and institutions on “the correct and uniform application of Article 90 of the Contravention Code”, stating that Article 90 shall be applied strictly in compliance with the Law No. 30 from 7 March 2013 on Protection of Minors from Negative Impact of Information,⁹⁰ which does not refer to same-sex relations or any other issues regarding LGBT people at all. The Moldovan LGBT organisation GENDERDOC-M welcomed these steps, while inviting the authorities to introduce more proactive measures ensuring equality of LGBT people.⁹¹ We now expect the authorities to repeal this controversial provision in order to lift any potential ambiguity.

5.6. Minority rights

150. According to the population census of October 2004, out of the 3 383 332 inhabitants of the Republic of Moldova, Ukrainians represented 8.3% of the recognised minorities, Russians 5.9%, Gagauz 4.4%, Romanians 2.2%, Bulgarians 1.9% and other ethnic groups (Roma, Belarussians, Jews, Poles, Armenians, Germans and undeclared) totalised 1%. The census did not include information from the region of Transnistria.

151. The Framework Convention for the Protection of National Minorities (ETS No. 157) was ratified by the Republic of Moldova in 1996. The Advisory Committee of the Framework Convention adopted its third opinion on the Republic of Moldova on 26 June 2009, and the government transmitted its comments on 11 December 2009. The Committee of Ministers subsequently adopted Resolution CM/ResCMN(2010)6 on the implementation of the Framework Convention at its 1084th meeting of 5 May 2010. The Committee of Ministers praised the continued support to activities to develop the cultural heritage of national minorities but pointed out several shortcomings, including lack of systematic collection of data on discrimination-related cases, linguistic divisions being used to stir up divisions in society, decrease of the support allocated to the Bureau for Interethnic Relations and other institutions dealing with minorities, non-recognition of Islam as a religion in the Republic of Moldova despite the law on religious denominations of 2008, thereby preventing Muslims from effectively exercising their right to manifest their religion and establish religious institutions, organisations and associations, insufficient provision of adequate teaching of the State language to persons belonging to national minorities, and the persistent discrimination faced by Roma living in isolated settlements in substandard housing and conditions of extreme poverty.

152. We were pleased to learn about some developments that occurred since the adoption of the Committee of Ministers’ resolution of 2010:

- Concerning the Roma issue, the Action Plan to support the Roma population for 2011-2015 was approved by the government on 8 July 2011 and subsequently amended on 31 January 2012, in the framework of the National Human Rights Action Plan. According to the Action plan for the Roma community, 47 community mediators should be created in the regions mainly inhabited by Roma people; UNDP Moldova should ensure the mapping of communities densely populated by Roma people, estimate the number of Roma from these communities and identify any problems facing the people of this ethnic group. Since July 2011, training within the joint programme of the Council of Europe-European Union “Intercultural mediation for Roma communities” (ROMED Programme) was ensured. The Ministry of Education launched a series of measures, including the development of curricula for the subject “History, culture and traditions of Roma from Moldova” and its inclusion as an optional subject in the secondary education programmes.⁹²
- In March 2011, the Ministry of Justice registered the Islamic League of the Republic of Moldova. As a result, the Muslim cult was included in the national register of religious cults that can be officially practised in the country.⁹³

153. We welcome the work of the Bureau for Interethnic Relations, which is consulting with and co-ordinating the work of NGOs with a view to implementing the Council of Europe Framework Convention. Ms Beleacova, Director of the Bureau, mentioned the need to raise awareness of the rights of national minorities, the preparation of a new action plan to support the Roma community, the launch of a governmental plan to teach the State language to adults. She also announced, in June 2011, that a round table would be held to discuss the ratification of the European Charter for Regional or Minority Languages (ETS No. 148).

90. Law No. 30 of 7 March 2013 on Protection of Minors from Negative Impact of Information, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=347276>.

91. Press release of Genderdoc-M of 2 August 2013, “Moldovan Authorities Clarify Ambiguity of Article 90”.

92. AS/Mon (2013) 09, pp. 11-12.

93. Comments of the delegation, AS/Mon (2013) 09.

154. The European Charter for Regional or Minority Languages constitutes, together with the Framework Convention for the Protection of National Minorities, the European standards in minority protection, as referred to in the European Union's Copenhagen Criteria. When acceding to the Council of Europe in 1995, the Republic of Moldova undertook "to sign and ratify, within a year from the time of accession, the European Charter of Local Self-Government, and to study, with a view to ratification, the Council of Europe's Social Charter and the European Charter for Regional or Minority Languages".⁹⁴

155. The Republic of Moldova signed the Charter on 11 July 2002 and has, over the last ten years, taken initiatives, in co-operation with the Council of Europe, to prepare the ratification of this instrument thoroughly. The European Union, OSCE and NATO have been urging the Republic of Moldova to ratify the Charter for the last decade.

156. In October 2011, the Bureau for Inter-Ethnic Relations set up a working group comprising representatives of ministries and national minorities with a view to drawing up a draft instrument of ratification, in co-operation with the Council of Europe.

157. Since then, the preparatory work seems to have slowed down. The authorities indicated that they are now focusing on the assessment of the needs of minorities and the identification of appropriate mechanisms for implementing the provisions of the Charter.⁹⁵ During our last visit, in November 2012, the Minister of Foreign Affairs and European Integration was very cautious and expressed his concerns about the latest developments in neighbouring countries with regard to the use of minority languages. We trust that the Republic of Moldova can count on the expertise provided by the Council of Europe to re-examine this position, and take the necessary steps to consider ratification of the Charter, which would be an important confirmation of the country's commitment to the protection of minority rights and European integration.

5.7. Civil society

158. The parliament approved, on 28 September 2012, the Strategy of Civil Society Development for 2012-2015 and the Action Plan for its implementation. This Strategy should ensure a favourable environment for the development of an active civil society, consolidate the participation of civil society in carrying out and monitoring public policies, and promote and consolidate the financial sustainability of civil society organisations.

159. The implementation of the Strategy, and the Action Plan in particular, will be co-ordinated by the Unit responsible for Co-operation with Civil Society, composed of representatives of the government and civil society. The monitoring process and evaluation of the results will be completed four years after the adoption of the Action Plan by a working group set up by the Speaker of the Parliament, the organisation of hearings and discussions and an annual debate in the parliament.

6. Latest developments in the Transnistrian region of the Republic of Moldova

160. In its [Resolution 1572 \(2007\)](#), the Assembly reiterated its conviction that "the settlement of the Transnistrian conflict must be based on the inviolable principle of full respect for the Republic of Moldova's territorial integrity and sovereignty. Any proposed settlement option should be carefully examined and discussed with all national and international stakeholders and in particular the majority and opposition politicians of the Republic of Moldova, as well as international mediators and observers. Full use should be made of the available expertise on comparative constitutional law developed in particular by the European Commission for Democracy through Law (Venice Commission)" (paragraph 15). Furthermore, in its [Resolution 1666 \(2009\)](#), the Assembly called on "the Republic of Moldova and its neighbours and partners, particularly Romania, Ukraine and Russia, which are also members of the Council of Europe, to play a constructive role in calming the tensions and promoting dialogue between all the political stakeholders, while respecting the country's sovereignty and territorial integrity" (paragraph 9).

161. In its [Resolution 1896 \(2012\)](#) on the honouring of obligations and commitments by the Russian Federation, adopted on 2 October 2012, the Assembly called on the Russian authorities to complete the withdrawal of the remaining Russian military forces and their equipment from the territory of the Republic of Moldova without further delay (paragraph 25.34); to denounce as wrong the concept of two different

94. [Opinion 188 \(1995\)](#) on the application by Moldova for membership of the Council of Europe.

95. AS/Mon (2013) 09 addendum, p. 6.

categories of foreign country, whereby some are treated as a zone of special influence called “the near abroad”, and to refrain from promoting the geographical doctrine of zones of “privileged interests” (paragraph 25.35).

162. The recent period has been marked by important developments in the Transnistrian conflict. After a six-year suspension, the formal 5+2 discussions on Transnistria resumed in Vilnius from 30 November to 1 December 2011, in Dublin on 28 February and 1 March 2012, in Vienna on 12-13 September 2012, in Dublin in November 2012, in Lviv in February 2013 and in Vienna on 16-17 July 2013. These meetings focused on concrete issues, such as free movement for persons and vehicles, railroad transportation, education, environment,⁹⁶ but also human rights observance, combating and preventing crime, problems of the functioning of the Moldovan Latin-script schools in the Transnistrian region (left bank of the Dniestr/Nistru River), etc. This process has continued under the Ukrainian chairmanship of the OSCE, which started in January 2013.

163. After the release of journalist Ernest Vardanyan on 5 May 2011, tax inspector Ilie Cazac was released on pardon on 31 October 2011 (he had been sentenced to 14 years' imprisonment on 16 December 2010 on the same charges as Vardanyan, namely “high treason and spying for the Republic of Moldova”).

164. Mr Filat and Mr Smirnov signed, on 21 November 2011 in Bender, a declaration stating that the constitutional law enforcement bodies will co-operate with the Transnistrian bodies in combating crime.

165. This declaration was welcomed by the EU High Representative for Foreign Affairs and Security Policy, Catherine Ashton, as a contribution to building confidence and to the success of the 5+2 discussions, by the OSCE, by the US Embassy in Chişinău and by Ukraine.

166. The NGO Promo Lex expressed its concern about the item which says that the constitutional law enforcement bodies will co-operate with the illegal bodies from Transnistria, while under the Constitution and national legislation, the constitutional authorities of the Republic of Moldova cannot co-operate with illegal bodies.

167. The elections of the *de facto* President were held on 11 December 2011 in Transnistria. Mr Smirnov ran for his fifth mandate but was no longer supported by Russia.

168. Mr Sevchuk defeated Mr Smirnov, who had been ruling the region for 20 years. The election of Mr Shevchuk as *de facto* President was confirmed on 26 December 2011.

169. On 1 January 2012, an 18-year-old boy was killed by a Russian officer at the Vadul lui Voda checkpoint. This prompted the Moldovan Government to reiterate its call for the transformation of the peacekeeping mission (currently three separate military contingents from the Republic of Moldova, Russia, and the self-proclaimed Transdnister Republic, amounting in total to 1 500 soldiers) into a civilian mission under international mandate. The indicted serviceman was later released by the Russian authorities and the criminal case was closed. We appeal to all relevant authorities to carry out a full investigation and draw lessons from this tragic incident.

170. On 13 June 2012, a new Speaker of the *de facto* Supreme Soviet (the legislative body) of the Transnistrian region was elected: Mikhail Burla, who had held the post of Deputy Speaker up to then, was elected to succeed former Speaker Kaminski in this post.

171. On 13 September 2012, during the Vienna 5+2 talks, Chişinău and Tiraspol proposed creating a joint platform with the participation of civil society and international organisations to defend human rights and monitor their observance in the Transnistrian region of the Republic of Moldova.

172. On 14 September 2012, the Moldovan Education Ministry reconfirmed that diplomas issued in the Transnistrian region did not impede their holders from continuing their studies and seeking employment in the Republic of Moldova, with the exception of medical, military, public order protection and government security diplomas, which are subject to specific regulations and require specific recognition processes all over the world. Their holders may continue their studies and be employed.

173. Discussions are ongoing on ensuring freedom of movement for people on both sides of the Nistru/Dniester, on rail traffic issues, including timetabling, and on other matters of common interest.

96. After the signature of a protocol decision in Vienna on 17 July 2013 as part of the 5+2 discussions, a joint action plan on preservation of natural resources between the co-chairs of the expert working group on agriculture and environmental issues, Mr Viorel Gutu and Mr Yurii Ursul, was signed on 26 July 2013.

174. On 27 September 2012, the EU Council decided to lift a travel ban on the former political *de facto* leadership of the Transnistrian region of the Republic of Moldova. This decision acknowledges the progress made under the new leadership in negotiating certain aspects of a settlement of the Transnistrian conflict within the “5+2” framework. The Council stipulated, however, that travel bans could be reimposed on those blocking progress on the remaining problems regarding the Moldovan Latin-script schools operating in the Transnistrian region. The relevant provisions have therefore not been lifted, but no longer target specific persons.

175. However, on 26 September 2012, the *de facto* authorities introduced new customs duties on Moldovan goods, while the Prime Minister, Vlad Filat, and Transnistria’s leader, Yevgeniy Shevchuk, discussed a range of issues related to ways of implementing the mechanisms for full resumption of the freight train traffic across the Transnistrian region, ensuring the free movement of people, goods and services, and other measures for bolstering confidence between the two banks of the Dniester river.

176. Respect for human rights remains an area of great concern. During our October 2012 visit, we went to the Transnistrian region. Unfortunately, we did not have the possibility to meet the *de facto* authorities (with the exception of the Ombudsman) and address human rights issues.

177. During this visit, we were informed about the situation of Mr Alexandru Bejan and expressed our concerns about the investigation and prosecution of an 18-year-old high school student on charges of “threat of a terrorism act”. The legal procedure raised many questions. We called on the *de facto* authorities to ensure that Alexander Bejan is given a fair trial and provided with adequate legal protection, in compliance with the European Convention on Human Rights, which must be observed in Transnistria. We also raised Alexander Bejan’s case and other human rights related issues with the *de facto* Ombudsman, Mr Kalko, visited Bejan’s Latin-script school and had contacts with NGOs. Since our visit, we have been informed that the procedure against Alexandru Bejan remains open and there is no final court decision. Mr Bejan is, however, no longer living in the Transnistrian region; the Moldovan authorities are taking steps to facilitate his social integration.⁹⁷

178. On 19 October 2012, while we were in the Republic of Moldova, the European Court of Human Rights issued its decision in the case of *Catan and Others v. the Republic of Moldova and Russia*.⁹⁸ It concluded unanimously that there had been no violation of Article 2 of Protocol No. 1 (right to education) to the European Convention on Human Rights in respect of the Republic of Moldova, and, by 16 votes to one, that there had been a violation of Article 2 of Protocol No. 1 in respect of the Russian Federation. The case concerned a complaint by children and parents from the Moldovan community in Transdniestria about the effects of a language policy adopted in 1992 and 1994 by the separatist regime forbidding the use of the Latin alphabet in schools and the subsequent measures taken to enforce the policy. Those measures included the forcible eviction of pupils and teachers from Moldovan/Romanian-language schools as well as forcing the schools to close down and reopen in different premises. The Court found that the separatist regime could not survive without Russia’s continued military, economic and political support and that the closure of the schools therefore fell within Russia’s jurisdiction under the Convention. The Republic of Moldova, on the other hand, had not only refrained from supporting the regime but had made considerable efforts to support the applicants themselves by paying for the rent and refurbishment of the new school premises as well as for all equipment, teachers’ salaries and transport costs. We expressed the hope that the *de facto* authorities of Transnistria and the Russian authorities would execute without delay the judgment of the European Court of Human Rights of 19 October 2012 related to a violation of the right to education in Moldovan/Romanian language schools in the Transnistrian region.

179. We welcomed the first visit paid by Thomas Hammarberg, then Council of Europe Commissioner for Human Rights, to the Transnistrian region of the Republic of Moldova in January 2012, where he had meetings with the *de facto* authorities and civil society organisations. A number of issues were tackled, including the functioning of the local courts system, the police and the penitentiary institutions; the need to improve the conditions in prisons and the international assistance that was requested by the *de facto* authorities to prevent the epidemics of tuberculosis and HIV/AIDS from spreading among the prison population; the need to review and change the rules and regulations governing the media landscape; the importance of developing a genuine dialogue with non-governmental organisations; the functioning of the Latin-script schools in the region and the resumption of co-operation with the CPT.⁹⁹

97. AS/Mon (2013) 09 addendum, p. 7.

98. Applications Nos. 43370/04, 8252/05 and 18454/06.

99. “Sustained efforts needed to ensure effective protection of human rights of the persons living in the Transnistrian region”, [Press release](#) of the Commissioner for Human Rights, 18 February 2012.

180. Thomas Hammarberg was subsequently appointed the United Nations expert on human rights in the Transnistrian region of the Republic of Moldova and tasked with the drawing up a number of recommendations in order to consolidate the protection of human rights in the region. Following his second fact-finding mission to Transnistria on 16-25 September 2012, he recommended revising the criminal justice system in the region, noted that the prisons in the Transnistrian region are overcrowded and that the overwhelming majority of inmates have long-term sentences and are rarely acquitted, and highlighted the poor living conditions in jails, which mean that the detainees often have serious health problems (tuberculosis, HIV/AIDS, etc.). Thomas Hammarberg's report, published in February 2013, addresses a number of recommendations to the authorities regarding compliance with international human rights law, judiciary, torture and ill-treatment, criminal investigation and prosecution, the penitentiary system, access to housing, health and education rights, the HIV and tuberculosis pandemic, trafficking in human beings, disabled persons, etc. Notwithstanding the settlement of the Transnistrian conflict, we share the view that more attention should be paid to the protection of the human rights of people living in the Transnistrian region, because it is affecting their day-to-day life. We hope that the *de facto* authorities will positively consider the recommendations made by Mr Hammarberg and engage in a reform process.

181. We would also like to encourage the *de facto* authorities, together with the authorities of the Republic of Moldova, to continue to co-operate on the confidence-building measures across the Dniestr/Nistru River launched by the Council of Europe, which enhance people-to-people contacts.

182. These developments in the Transnistrian region in 2012 seemed quite promising: the change of leadership, which was welcomed by the Moldovan Government, could bring a new impetus in the region, and the dialogue between Chişinău and Tiraspol has obviously improved, as illustrated by the meeting between the Prime Minister, Mr Filat, and Mr Shevchuk in Odessa on 27 January 2012. The development of confidence-building activities between the two banks of the river Nistru/Dniester by the Council of Europe since 2011 should also be further encouraged.

183. In 2013, the negotiations in the 5+2 format during the February, May and July rounds focused on freedom of movement, transportation, education and some concrete projects. There was little progress achieved on major issues, although, in May 2013, all sides managed to agree to dismantle, under the OSCE auspices, a non-functional cable-car across the Nistru/Dniester river near the cities of Rybnitsa and Rezina. In July 2013, the sides co-ordinated the approval of an action plan on co-operation in the field of ecology and environment protection, with a special focus on Nistru/Dniester river.¹⁰⁰

184. However, we note with concern that the *de facto* authorities have undertaken unilateral steps, such as the decree signed on 10 June 2013 by Mr Yevgeny Shevchuk, marking the border of the self-proclaimed State, which could hamper the dialogue process. We appreciated the declaration adopted unanimously by the Moldovan Parliament on 21 June 2013 calling on the sides involved in the Transnistrian conflict and the guarantor countries to sit at the negotiating table and take decisions in a calm atmosphere. We trust that all the stakeholders will bring new political impetus to the 5+2 negotiations to address these issues and continue to work for the benefit of all.

185. We hope that the positive trend observed in the Transnistrian region will continue and we would like to reiterate the readiness of the Assembly to assist all stakeholders in promoting a peaceful settlement of the conflict. In this respect, we welcome the initiative taken by its President, Jean-Claude Mignon, to offer the services of the Parliamentary Assembly as a platform for relaunching dialogue between the representatives of the Moldovan Parliament and the Transnistrian Supreme Soviet, after his visit to the Republic of Moldova in December 2012, and we encourage all stakeholders to take an active part in it.

7. Conclusions

186. We remain confident that the Moldovan authorities are committed to fulfilling their remaining commitments and obligations. In this respect, we welcome the adoption of an "Action Plan on the honouring of the Republic of Moldova's commitments towards the Council of Europe" by the Moldovan Parliament.

187. We congratulate the parliament for the election of the President of the Republic, which was necessary to comply with the Constitution, secure the separation of powers and speed up a much-needed reform process. Parliamentarians now have the responsibility to consolidate the legal framework and revise the Constitution as regards the election of the President of the Republic. It is their political responsibility to deliver and to enhance the stability of the institutions for the future.

100. AS/Mon (2013) 09 addendum, p. 7.

188. In the light of the recent political crisis that followed the “hunting accident”, we need to emphasize that more attention should be devoted to promoting a political culture that focuses on the separation of powers, respect for checks and balances and de-politicisation of State institutions and law enforcement agencies.

189. We therefore believe that the international community, especially the Council of Europe and its member States, should continue to support the democratisation efforts and the aspiration of the Republic of Moldova to fully comply with European standards and to cope with its many political and social challenges. We hope that the Secretary General of the Council of Europe will consider pursuing and strengthening co-operation programmes on the most pressing issues to be addressed by the Republic of Moldova, including the constitutional, electoral and judicial reforms, the fight against corruption and the promotion of good governance at all decision-making levels. The Moldovan authorities are invited to continue to seek the expertise provided by the Organisation and its Venice Commission, with which it has already established fruitful co-operation.

190. Because of its history, the Republic of Moldova is a country which is looking both east and west. Politically speaking, this is reflected by strong divisions between the majority and the opposition, which propose very different options for the country’s future regional integration. It is up to the Moldovan citizens to make their own choices for the future. All political leaders should be encouraged to promote an inclusive, non-discriminatory, multicultural society, boost political and economic reforms, attract foreign investors and improve living standards – for the well-being of the Moldovan citizens and in full respect of their cultural diversity.

191. In this context, the country still needs to launch and implement essential reforms to secure the rule of law, democracy and human rights. In particular, we believe that the reform of the Public Prosecutor’s Office and of the Ministry of the Interior and the implementation of the strategy for the justice system are much needed. Combating corruption and strengthening the capacity and the independence of the judiciary should remain priorities.

192. We are aware that such reforms need time. It is of crucial importance that this process includes broad consultations with all stakeholders (including NGOs), and is based on the expertise of international institutions to ensure that the legislation will comply with the relevant international standards. We reiterate the availability of the Council of Europe to assist the Republic of Moldova in this process and encourage the Moldovan authorities to pursue their co-operation with the Organisation.

193. In the light of our findings, we recommend that the Assembly resolves to pursue its monitoring procedure of the honouring of obligations and commitments by the Republic of Moldova.