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The functioning of democratic institutions in 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

In June 2019, three months after the parliamentary elections, the Republic of Moldova faced an unprecedented political and constitutional crisis after the Constitutional Court decided to dissolve the parliament, without, as the Venice Commission noted, fulfilling the conditions required.

The Monitoring Committee welcomes the resilience of the Moldovan people and the peaceful end of the crisis with the formation of a parliamentary coalition composed of political parties with divergent views but determined to pursue a common goal: "the de-oligarchisation of the country".

The committee welcomes this move but calls on the authorities to ensure that the reforms undertaken and the "cleansing of institutions" meet the standards of the Council of Europe, aim at the de-politisation and the independence of the institutions, in particular those of the judicial system and the public prosecution office.

The Assembly should call on the authorities, with the assistance of the Council of Europe, to continue their efforts, improve their electoral legislation after the abolition of the mixed electoral system, reform the judicial system, fight against corruption and money laundering and shed light on the 2014 bank scandal.

The Assembly should follow these developments in the framework of its monitoring procedure.

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



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A. Draft resolution²

1. Following the parliamentary elections of 24 February 2019, which resulted in a hung parliament, the Republic of Moldova faced an unprecedented situation: on 7 June 2019 the Constitutional Court of the Republic of Moldova ruled that the deadline to form a parliamentary majority had expired, based – as the Venice Commission stated – on a novel calculation of the three-month time-limit period provided by the constitution. On 8 June 2019, a “temporary political agreement for the de-oligarchisation of Moldova” was reached between the Party of the Socialists and the ACUM Bloc, enabling the formation of a parliamentary majority, the election of a Speaker of the Parliament and the designation of a government. On the same day, the Constitutional Court declared these decisions as unconstitutional, and decided, on 9 June 2019, to temporarily suspend the President of the Republic, who had refused to comply with Constitutional Court’s request to dissolve the parliament and call early parliamentary elections. These decisions of the Constitutional Court plunged the country into a political and constitutional crisis and resulted in an unprecedented duality of power. A new ruling coalition was set up in parliament, while the incumbent government stayed in power. This situation prompted the Secretary General of the Council of Europe to request an opinion of the Venice Commission on 8 June 2019.

2. In its opinion of 21 June 2019, the Venice Commission ruled that the Constitutional Court did not meet the conditions required for the dissolution of the parliament. The Parliamentary Assembly values the fact that this opinion was instrumental in finding a way out of this crisis. Following the resignation of the incumbent government, the Constitutional Court resolved to annul its controversial decisions.

3. The Assembly deeply regrets that this crisis has cast a shadow on the Constitutional Court, which did not act in accordance with the constitution and its own case law, thus discrediting this institution. It calls on the newly elected members of the Constitutional Court to restore confidence in the institution.

4. Given the polarized context of the Republic of Moldova, the Assembly welcomes the peaceful transition of power and the resilience and restraint demonstrated by the Moldovan people who, through their vote, have clearly expressed their wish for political alternance and their expectations for genuine changes. The political forces, i.e. the Party of the Socialists and the ACUM Bloc which formed a ruling coalition, represent a large spectrum of Moldovan voters and managed to agree on common political objectives despite their diverging political visions.

5. The Assembly notes that the newly-established government has undertaken, as a matter of priority and following a “temporary political agreement”, to “de-oligarchise” the country and fight against corruption. The Assembly acknowledges the legitimate and necessary steps needed to eradicate all elements of a “captured state” from state institutions. At the same time, the Assembly calls on the Moldovan authorities to ensure that the measures to be introduced will allow them to reform the system, and eventually consolidate the democratic institutions. The Assembly also stresses that democratic processes should be promoted and, in particular, it calls on the parliament to ensure that the rights of the opposition will be respected.

6. The Assembly welcomes the steps taken to identify those responsible for the use of public institutions for the benefit of private, party or business interests, in particular the setting up of several inquiry commissions by the parliament. It calls on the judicial authorities to take the allegations of wrongdoings seriously and to thoroughly investigate possible crimes. Those responsible should be held accountable and brought to justice.

7. The Assembly recalls that the “bank fraud scandal”, which resulted in massive illegal transfers of money in 2014 from the bank system, resulted in a major financial burden for the Moldovan citizens, as the State had offered financial guarantees. The Assembly regrets that, five years later, the investigations carried out have proved inconclusive. It therefore welcomes the recent steps taken by the parliament to create a parliamentary investigative committee to re-launch the investigation. It welcomes the publication of the Kroll 2 audit report, while urging all information to be brought to the knowledge of the relevant authorities. The Assembly now expects all those involved to be brought to justice. It also calls on all Council of Europe member States concerned to fully co-operate with the Moldovan justice to trace and recover the stolen money.

8. The Assembly notes that the authorities are determined to overhaul the system and to clean it. While there is a pressing temptation to swiftly remove state officials who were allegedly receptive to external influence and pressure, the Assembly underlines that the legal steps taken today to “de-oligarchise” the country will have long-term effects and should therefore contribute to consolidating state institutions,

2. Draft resolution adopted unanimously by the committee on 10 September 2019.

strengthening their independence and ensuring that new legislation and its implementation comply with Council of Europe standards. It also calls on the Moldovan authorities, should it prove appropriate, to repeal pieces of legislation which were deemed necessary to overcome deadlocks.

9. The Assembly notes that the steps taken after June 2019 have restored the trust of international donors. It welcomes the resumption of international financial support by the European Union and the International Monetary Fund, which could significantly contribute towards strengthening the rule of law, increasing investment and job opportunities, improving the social and economic living conditions of the Moldovan people and providing them with strong incentives not to leave their country.

10. The Assembly takes note of the reform of the justice system which was announced by the authorities in August 2019. This reform is likely to substantially alter the election of the General Prosecutor, the composition of the Supreme Court of justice, the Superior Council of Magistrates and the Superior Council of Prosecutors. The reform will also make changes to the evaluation of judges and prosecutors. The Assembly welcomes the determination of the authorities to address pressing issues and restore confidence in the justice system. At the same time, it recalls that it is of fundamental importance to ensure that the changes proposed will strengthen the independence and impartiality of the judicial and prosecutorial regulatory bodies and establish open, transparent and merit-based recruitment systems. The Assembly expects the Moldovan authorities to seek the expertise of the Council of Europe, in particular the Venice Commission, to ensure that the changes proposed are sustainable and comply with Council of Europe standards.

11. The Assembly also calls on the Moldovan authorities to:

11.1. ensure that dismissal and recruitment procedures in public administrations and institutions be based on clear and open criteria so as to increase the transparency and accountability of the state institutions;

11.2. review the functioning of the National Institute for Justice and ensure that initial and onward training aims at strengthening the capacity of future judges and prosecutors, so that they act in an independent way.

12. The Assembly stresses the need to strengthen the judiciary system, as its weaknesses have allowed money-laundering schemes (so-called 'laundromats') to develop. The Assembly recalls its [Resolution 2279](#) (2019) "Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering" and reiterates its call on the Moldovan authorities to repeal pieces of legislation such as "fiscal amnesties" or "golden visa" schemes which have facilitated money-laundering, and to introduce provisions preventing persons charged or convicted of serious offences, including corruption and money-laundering, from taking or exercising public office.

13. The Assembly recalls that corruption remains a prevalent phenomenon in the Republic of Moldova. The Assembly welcomes the publication, on 24 July 2019, of the 2018 compliance report of the Group of States against Corruption (GRECO), which took stock of measures aimed at preventing corruption amongst judges, prosecutors and members of parliament. It urges the Moldovan authorities to take resolute action to eradicate corruption and to implement the 2016 and 2018 recommendations of GRECO. In particular, the Assembly calls on the Moldovan Parliament to adopt its Code of ethics, code of conduct and Code on the rules of procedures, in line with the 2016 recommendations issued by GRECO.

14. Following the change of the electoral legislation and the abolishment of the mixed electoral system in August 2019, in line with the recommendations of the Venice Commission, the Assembly welcomes the steps taken to increase the transparency in the financing of election campaigns, decrease the electoral thresholds, and increase the possibility for the diaspora to cast its vote. It invites the Moldovan authorities to implement the recommendations made by the PACE election observation ad hoc committee in 2018 and the opinions of the Venice Commission related to the funding of political parties and campaigns (2017) and the electoral system (2017).

15. The Assembly is convinced that the reform of the judiciary system and the prosecution office in compliance with Council of Europe standards will be key to achieving the restoration of the rule of law and will put an end to the selective justice system which has hitherto prevailed. Such reform will also secure the legal protection of people's fundamental human rights, including women's rights. In this context, the Assembly encourages the Moldovan authorities to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No.210, "Istanbul Convention"), which was signed by the country in 2017. In this respect, the Assembly welcomes the support expressed by the President of the Republic for this ratification.

16. The Assembly welcomes the willingness of the Moldovan authorities to continue the 5+2 discussions, which involve the Republic of Moldova, the *de facto* Transnistrian authorities, the OSCE, the Russian Federation and Ukraine to achieve a peaceful resolution of the Transnistrian conflict. The Assembly also reiterates its full support for the territorial integrity of the Republic of Moldova and its call on the Russian Federation to withdraw its troops and equipment from the Moldovan territory, in line with [Resolution 1896 \(2012\)](#) on the honouring of obligations and commitments by the Russian Federation. In this context, the Assembly welcomes any initiative that could result, as a first step, in the liquidation of the ammunition stock in the Transnistrian region of the Republic of Moldova.

17. The Assembly encourages the Moldovan authorities to pursue their co-operation with the Council of Europe, in particular the Venice Commission, and make use of its expertise, in particular for the reform of the judiciary, the prosecution office and the anti-corruption legislation. It resolves to follow the on-going developments in the framework of its monitoring procedure.

B. Explanatory memorandum by Mr Egidijus Vareikis and Ms Maryvonne Blondin, co-rapporteurs

1. Introduction

1. Following the parliamentary elections of 24 February 2019, a hung parliament was elected in the Republic of Moldova. As a result of the decisions of the Constitutional Court on 7,8 and 9 June 2019 – deemed contrary to the Council of Europe standards by the Venice Commission – stating that the coalition formed by the ACUM Bloc and the Party of the Socialists and its subsequent decisions were illegal, the country faced a political and constitutional crisis. The political crisis eventually ended with a change in political leadership on 20 June 2019. Major changes aiming at “de-oligarchising” the country were initiated by the new majority in the following weeks and impacted the structures and functioning of democratic institutions and state administrations.

2. On 22 June 2019, the Monitoring Committee organised an exchange of views on the recent developments in the Republic of Moldova and entrusted the co-rapporteurs to prepare a report on the “Functioning of democratic institutions in the Republic of Moldova”. In order to prepare this report, we paid a visit to Chisinau from 22-23 July 2019. We met the Speaker of the Parliament, the President of the Republic, the leaders of the political factions in parliament, the Prime minister, the Ministers of the interior, and reintegration, the State Secretary of justice, the acting General Prosecutor, members of the Superior Councils of Prosecutors and Magistrates, the acting President of the Constitutional Court, members of the National Anticorruption Centre, the Presidents of the Central Electoral Commission and the Court of Accounts, as well as representatives of NGOs and the international community. We issued a statement after our visit.³

3. This visit happened at a time when most of the personal of state institutions (Constitutional Court, Central Election Commission, General Prosecutor, etc) had either resigned, or had been dismissed. Still, we had an opportunity to discuss the developments with the (acting) responsible officials. We would like to thank the Moldovan delegation to the Parliamentary Assembly and the authorities of the country for facilitating our visit. We would also like to extend our thanks to the French Ambassador H.E. Mr Le Deunff for hosting a meeting with the international community, and to the Council of Europe office in Chisinau for the invaluable assistance provided to our delegation.

4. This report intends to recall the main events that happened in early June 2019 and plunged the country into a political and constitutional crisis. It will also highlight issues which have, in previous information notes and report, already been tackled, such as prevalent corruption or the weakness and vulnerabilities of state institutions. This report will mainly focus on the issue of the reform of the judiciary and the fight against corruption, which have been in the spotlight during this crisis. However, we would like to stress that human rights issues should not be overlooked. In our previous information note⁴, we have described human rights issues which will need to be addressed by the authorities, in particular prison conditions and media freedom. A sound and independent justice system is however key to ensure the protection of the people’s fundamental rights.

2. The political and constitutional crisis of June 2019

2.1. Parliamentary elections of 24 February 2019

5. On 24 February 2019, parliamentary elections took place in the Republic Moldova which were held under a new mixed electoral system which had been approved by the Democratic Party and the Party of the Socialists in 2018. This new system resulted in the elections of 50 MPs on a proportional list, and 51 MPs on an uninominal voting system. This electoral system had been analysed and criticised by the Venice Commission in 2017 and 2018. The Venice Commission had regretted the lack of consensus on the change towards a mixed electoral system and feared in particular that “independent majoritarian candidates may develop links with or be unduly influenced by businesspeople or other actors who follow their own separate interests. As such, while recognising the sovereign decision of the Moldovan lawmakers with regard to the electoral system, it was recommended not to change the electoral system in the present Moldovan context.”⁵

3. 'De-oligarchising' the Republic of Moldova should aim at consolidating state institutions, [Statement](#) by the PACE co-rapporteurs of 26 July 2019.

4. See [AS/Mon \(2018\) 08 REV](#)

5. Joint Opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament) adopted by the Council for Democratic Elections at its 61st meeting (Venice, 15 March 2018) and the Venice Commission Plenary at its 114th meeting (Venice, 16-17 March 2018), [CDL-AD\(2018\)008](#)

6. In February 2019, the PACE election observation ad hoc committee had concluded that “the new electoral system unfortunately confirmed certain concerns expressed by the Venice Commission, particularly the fact that electoral players and, in particular, voters in single-member constituencies were reportedly subject to undue pressure or manipulation from wealthy local business people. In the end, deputies from four political groupings were elected to parliament through the first-past-the-post component of the election”. The PACE delegation was also convinced that “frequent changes to election law, including fundamental aspects of the law such as the electoral system or the seat allocation method, combined with significant “political turnarounds” brought about by members of parliament during a legislative session led to a drastic change in the parliamentary majority after elections, when citizens have already expressed their wishes. These factors do not contribute to democratic stability and can undermine citizens’ trust in the institutions of their country and the values of the rule of law.”⁶

7. Under this mixed electoral system, a hung parliament was elected. The Party of the Socialists (PSRM) won 35 seats, the Democratic Party (DP) 30 seats, the ACUM Bloc won 26 (14 for Maia Sandu’s Action and Solidarity Platform (PAS), and 12 seats for Andrei Năstase’s Party of the Dignity and Truth Platform). The Shor Party won 7 seats, and 3 MPs were non-affiliated.

8. The official results were proclaimed on 9 March 2019. The Constitution provides, in its article 85, for a period of 3 months to form a parliamentary majority (once this deadline is exceeded the President of the Republic of Moldova, following consultations with parliamentary fractions, may dissolve the Parliament). The formation of a coalition proved to be difficult: the ACUM Bloc had, from the beginning, dismissed any possibility of forming a coalition with either of the two other main parties; it demanded, as a prerequisite, the adoption of “de-oligarchisation” laws and the posts of Speaker of the Parliament and Prime minister. Meetings and negotiations between the Democratic Party and the Party of the Socialists have proved to be inconclusive, despite meetings held on possible agreements between Mr Plahotniuc, leader of the Democratic Party, and Mr Dodon, leader of the Party of the Socialists.

2.2. Post-election developments

9. In the first week of June 2019, there was intense diplomatic activity in Chisinau while the three main political parties were seeking a political agreement. Deputy Prime Minister of the Russian Federation Mr Kozak, EU Commissioner Mr Hahn and representatives of the US State Department visited the Republic of Moldova on that week.

10. On 7 June 2019, however, the Constitutional Court ruled that the deadline to form a government was 90 days and announced that the deadline would be 7 June midnight. This decision came as a surprise. Article 85 of the constitution provides that “In the event of impossibility to form the government or in case of blocking up the procedure of adopting the laws for a period of 3 *months*, the President of the Republic of Moldova, following consultations with parliamentary fractions, *may* dissolve the Parliament.” (emphasis added).

11. On 8 June 2019, a “temporary political agreement for the de-oligarchisation of Moldova”⁷ was reached between the Party of the Socialists and the ACUM Bloc, ending in the formation of a parliamentary majority. Ms Zinaida Greceanii from the Party of the Socialists was elected Speaker of the Parliament, while President Dodon proposed that the post of Prime minister be given to Maia Sandu. The government was vested with 61 votes. Ms Sandu was designated as Prime minister, Mr Năstase Vice-Prime Minister and two positions (Minister of Defense and Minister for Reintegration) allocated to the Party of the Socialists. The parliament adopted a declaration on the Republic of Moldova being a “captured state” and dismissed the head of the Information Service and Anti-corruption Center.

12. On 8 and 9 June 2019, however, the Constitutional Court ruled that these decisions were unconstitutional. It called on the President of the Republic to dissolve the parliament and call early elections. As President Dodon refused to comply, the Constitutional Court, following an *ad hoc* practice established since 2017, suspended the President of the Republic and appointed the Prime Minister Mr Filip as acting President. The latter signed the dissolution decree and announced that early elections would be organised on 6 September 2019.

6. [Doc. 14859](#), Observation of the parliamentary elections in the Republic of Moldova (24 February 2019), Election observation report Ad hoc Committee of the Bureau (Rapporteur: Mr Claude Kern, France, ALDE), 8 April 2019.

7. President Dodon would later call for a “temporary moratorium on ideological and geopolitical subjects that divide society”.

13. As a result, on 8 June 2019, the Secretary General of the Council of Europe seized the Venice Commission to assess the decisions of the Constitutional Court, which he deemed “difficult to understand” as they seemed “to be arbitrary in the light of the text of the Constitution and of international rule of law standards”.⁸

14. For our part, we issued a statement regretting that the country had been plunged into a state of legal and political confusion after the decisions taken by Constitutional Court. We urged all political forces to show restraint and to respect democratic principles and the will of the people.⁹ At that time, the country was experiencing a duality of power, with two Cabinets holding sessions at the same time and the President of the Republic being suspended.

15. The situation in the country was tense. Law enforcement forces remained loyal to the incumbent government, preventing the new Minister of Interior, Mr Năstase, from reaching his ministerial offices. High polarisation and allegations of illegal funding of the Party of the Socialists following the release of video footage fuelled public discussion. Additionally, there were many discussions regarding plans for the federalisation of the country, with a view to reintegrating the region of Transnistria. Following reports by media outlets and non-governmental organisations concerning several members of (investigative) media being affected and obstructed in a number of different incidents between 7 and 9 June 2019, the OSCE Media Freedom Representative urged the Moldovan authorities to ensure the safety of journalists.¹⁰

16. On 10 and 11 June, many countries called for calm and restraint, including Romania, Ukraine, Russia, Switzerland, Turkey, as well as the European Union, NATO and the OSCE. On 10 June, France, Germany, Poland, Sweden and the United Kingdom issued a joint statement¹¹ expressing their support for the parliament. The countries signalled that they would support the new government, while probably refrained from supporting the “old” one.

17. On 14 June, following a short meeting between Mr Plahotniuc and the US Ambassador, the Democratic Party announced that the party would join the parliamentary opposition; the (incumbent) government thus ceased to exist. The following day, Mr Plahotniuc resigned from his position of Chair of Party and left the country for an unknown destination, explaining that he needed to ensure his family’s security, while remaining an MP until his resignation on 30 July 2019. The whole leadership of the Democratic Party then resigned. The newly formed government could then take office. The Democratic Party convened an extraordinary party congress on 27 July 2019 to elect its new leadership, which was later postponed to September 2019. On 30 July 2019, Mr Plahotniuc resigned from his position of deputy, stating that he was no longer able to exercise a mandate, and had decided to give up his parliamentary immunity so as to cease the “abuse and pressure” made on the judiciary to have his immunity lifted.¹²

18. On 15 June 2019, in the light of the transfer of power that had taken place, the Constitutional Court decided to revise and repeal the decisions taken on 7-9 June. The marches that were planned to take place in Chisinau on 16 June at the initiative of the ACUM Bloc and the Party of the Socialists, were called off.

19. During the lapse of time from the formation of a new coalition (8 June) and the resignation of Mr Filip as Prime minister (14 June), allegations were made by the Party of the Socialists that evidence was destroyed and huge amounts of money were transferred abroad. President Dodon claimed that US\$50 million had been removed from the country.

20. The President of the Constitutional Court resigned on 20 June.

21. On 21 June 2019, the Venice Commission issued an opinion¹³ ruling that the decisions taken by the Constitutional Court from 7 to 9 June did not meet the conditions required for the dissolution of the parliament. It concluded that:

- “In connection to the Constitutional Court decisions on 8 and 9 June, the Venice Commission finds that the procedural rights of both the President and of parliament had been severely affected by the number and the high speed (one day or two days during a weekend) with which the Court decided on very

8. [Statement](#) by the Secretary General on the situation in the Republic of Moldova and the Venice Commission, 9 June 2019.

9. [Statement](#) by the co-rapporteurs of the monitoring of the Republic of Moldova, 11 June 2019.

10. “OSCE Media Freedom Representative calls on Moldovan authorities to ensure journalists’ safety and prevent intimidation of media”, Press release of 12 June 2019, [FOM.PR/61/19](#).

11. [Statement](#) on recent events in the Republic of Moldova, 10 June 2019.

12. <https://www.moldpres.md/en/news/2019/07/30/19005940>

sensitive cases with significant repercussions on state institutions. Neither the President nor the parliament were represented. Nor did they seem to have had the chance of submitting their arguments to the Court.

- With regard to the Court’s manner of calculating the three-month time limit for the formation of a government – as of 7 June 2019 –, the Venice Commission considers that it is unprecedented. According to the accepted calculation of the three months limit foreseen in the Civil Code, which was previously applied by the Constitutional Court, the time frame for forming a new government expired on 9 June, three calendar months after the confirmation of the election results. With 9 June being a Sunday, the applicable deadline was possibly 10 June. Therefore, the Commission says, Maia Sandu’s investiture on 8 June met the legal deadline.
- The Moldovan Constitution establishes that, in particular situations, the President may dissolve parliament as a measure of last resort in the interest of the country, for example if it is impossible to form a government within the legal deadline. However, it stresses that if parties representing a majority have come to an agreement of forming a government – which was the case in the Republic of Moldova –, dissolving parliament could be considered a violation of the constitutional duties of the President as a neutral actor.”
- The opinion points out that there are strong reasons to conclude that the Constitutional Court’s decision of temporarily suspending the President, alongside the appointment of the Prime Minister as an interim President, was not grounded on the Moldovan Constitution.¹⁴

22. The Venice Commission also underlined the exceptional nature of this opinion, as the Venice Commission does not normally comment on decisions of Constitutional courts.

23. This marked the conclusion of the political and constitutional crisis. The coalition created to govern the country was composed of two antagonistic political components (i.e. the Party of the Socialists and the ACUM Bloc made of two different parties) both of whom shared a common objective (overthrowing the ruling party), but who nevertheless had diverging views on future orientation of the country. While the ACUM Bloc is Western oriented and supported by the European Union, the Party of the Socialists has vowed to develop balanced relationship between East and West and enjoys the support of the Russian Federation. President Dodon has paid numerous official visits to Russia, and the Speaker of the Parliament Ms Greceanii addressed the Russian Duma on 27 June, while Prime Minister Sandu enjoys the support of the European Union and has visited Brussels and Western European leaders on many occasions.

24. On 24 June, the ACUM Bloc and the Party of the Socialists agreed on their programme of activity which was, initially, limited in scope and duration “for the desoligarisation and restoration of the Republic of Moldova in the Constitution”. This programme affirms the government’s intention to “resume the European integration path of the Republic of Moldova (...) and work for the real implementation of the Association Agreement between the Republic of Moldova – European Union”. The programme includes three priorities (“Releasing the state from captivity and strengthening the independence of the institutions, especially in the field of justice”; “Removing the country from isolation and urgently re-launching the economy”; “Creating the conditions for real welfare and for improving the quality of life”) and an action plan listing concrete measures to be adopted¹⁵.

25. President Dodon confirmed that under the current coalition, the country would continue the implementation of the Association Agreement, seek a balanced foreign policy and remain neutral. Russian troops would be expected to leave the Transnistrian region but should not be replaced by other military forces. The President added that the country would pursue its technical cooperation with NATO but ruled out the construction of foreign military basis.

13. Press release “Venice Commission: the dissolution of parliament in the Republic of Moldova did not meet the required conditions” and Opinion on the constitutional situation with particular reference to the possibility of dissolving parliament, adopted by the Venice Commission at its 119th Plenary Session (Venice, 21-22 June 2019), [CDL-AD\(2019\)012](#)

14. In our previous information note, we had raised the issue of the practice put in place by the Constitutional Court, which allowed the Constitutional Court to temporary suspend the President of the Republic who would refuse to promulgate laws adopted by the parliament after a second reading. We had invited the authorities to consider amending the constitution to clarify this issue.

15. <https://gov.md/en/advanced-page-type/government-activity-program>

26. The Prime Minister stressed the need to rid Moldova of corruption and money laundering schemes and to ensure that the state institutions function in the best interest of people.¹⁶ The Prime Minister also emphasised that the government's task was to rebuild the state and to restore the trust of Moldovan citizens and strategic partners of Moldova. This coalition managed to resume dialogue with the international partners in order to reinstate international financial support:

- The European Commission resumed budget support assistance to the Republic of Moldova on 24 July by disbursing €14.54 million. The purpose of these funds was to support the implementation of the EU-Moldova free trade agreement, to finance vocational education trainings and to assist the implementation of the visa liberalisation action plan. The EU macro-financial aid had been suspended after the invalidation of the election of the Mayor of Chisinau in October 2018. On 25 July 2019, Prime Minister Maia Sandu and Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn signed three financing agreements, under which the EU would provide financial support totalling over €40m for strengthening the rule of law, fighting corruption and offering economic support.
- Following a visit of the International Monetary Fund in July 2019, a secretariat-level agreement was reached to allocate US\$46.5 million to the Republic of Moldova. A pre-condition for the funding was that the country completes its banking sector reforms, reinvigorate efforts to recover assets from the 2014 banking fraud, and addresses vulnerabilities in the non-bank financial sector.¹⁷ The IMF had suspended its programs with the Republic of Moldova after the parliament approved a tax amnesty and adopted a package of laws on tax reforms in 2018.
- On 8 July, the Prime Minister Ms Sandu signed two agreements with USAID for a total budget of US \$29 million to contribute to the democratic governance and economic growth of the Republic of Moldova.
- President Dodon sought to re-establish a strategic partnership with Russia. On 27 June, Russia extended the duty-free trade regime for Moldovan exporters to five main categories of Moldovan agricultural products (fruits, vegetables, canned food, wine and wine products). President Dodon is now seeking a cut gas prices for the period 1 September – 1 January based on Moldova's observer status to the Eurasian Economic Union.

3. Action undertaken by the newly established authorities in the field of rule of law, democracy and human rights

27. In its [Resolution 1955 \(2013\)](#) on the Honouring of obligations and commitments by the Republic of Moldova, the Assembly had pinpointed the serious dysfunctions of the Prosecutor's Office and other law-enforcement institutions. The resolution highlighted the need to de-politicise State institutions and ensure a better separation of powers. The Assembly then expected "all political parties to draw lessons from this political crisis. It [called] 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."

28. Following our previous visit to the country in April 2018, we had concluded that tangible progress in the field of the rule of law and human rights needed to be achieved in order to have a significant impact on people's trust in public institutions and to ensure that the centres of decision lay within these institutions. At that time, the country was described by many interlocutors, including the Council of Europe Secretary General Mr Jagland in 2015¹⁸ and the EU institutions, as being a "captured state", in which public power is exercised for private gain and interests.¹⁹

16. <https://www.moldpres.md/en/news/2019/07/17/19005526>

17. https://en.publika.md/moldova-will-receive-465-million-usd-from-imf-our-country-achieved-a-remarkable-success-in-the-banking-system-rehabilitation_2659098.html#ixzz5tGwN8Oj

18. https://www.nytimes.com/2015/08/11/opinion/bring-moldova-back-from-the-brink.html?_r=0, 10 August 2015.

19. The concept of "captured state" was used as of 2000 by the World Bank. See: http://web.worldbank.org/archive/website00818/WEB/PDF/SEIZE_-2.PDF

29. As mentioned above, the ruling coalition, also described as an “unholy alliance” between the ACUM and the Party of the Socialists, agreed on a political agenda deemed to “de-oligarchise” the country. Quick decisions have been made to set aside officials appointed under the previous administration and who were suspected of having served private interest in their capacity as public officials.

30. On 17 June, the Prime minister announced that she intended to establish a “Bureau for anticorruption policies and justice reform.” The bureau is composed of national and international experts, who should provide guidance on the speeding up of judicial reforms and the reforms needed to build strong and professional institutions capable of combating corruption.

31. The Cabinet dismissed a number of high-ranking civil servants and officials. On 5 July 2019, the parliament adopted a law changing the status of the position of the Secretaries of State and the Secretary General of the ministries. The new government feared that activities of ministries could be blocked or undermined by general secretaries of state and state secretaries who had been political appointees. State secretaries should now be recruited based on professional merits and can be dismissed by the government upon proposal of the minister concerned. The law also stipulates that general secretaries of state, and state secretaries who were involved in political activities during working hours, or who participated in the election campaign, working for the ruling Democratic Party, should be dismissed. Those who did not violate the law and proved to be impartial professionals, will remain in their posts, and those who served the regime, and not citizens, will leave.²⁰

3.1. Functioning of the parliament

32. Following the parliamentary elections of 24 February 2019, four political factions are operating in the parliament. On 8 June 2019, Ms Zinaida Greceanii from the Party of the Socialists was elected Speaker of the Parliament.

33. On 18 July 2019, the former Prime minister Pavel Filip resigned as the Head of the Democratic Party faction. The honorary chair of the Democratic Party Dumitru Diacov was elected chairman of the party's parliamentary faction. The ACUM/DA group will be headed by Alexandru Slusari, who is also Deputy Speaker.

34. In addition to its standing committees, the parliament has also established several inquiry commissions. On 18 June, a parliamentary ad hoc commission was established and was mandated to “investigate into the circumstances of a *coup d'Etat* attempted to undermine the fundamentals of the constitutional system in the Republic of Moldova”. This commission was tasked with analysing the rulings of the Constitutional Court of 7-9 June and verifying whether requests had been made to prosecutors to arrest 60 MPs and whether such arrest warrants had been prepared by the relevant courts. Other inquiry commissions will deal with the bank fraud scandal or the privatisations since 2013 (see below).

35. The credentials of a new parliamentary delegation were submitted to the Parliamentary Assembly for the June 2019 part-session, with Deputy Prime Minister heading the delegation. On 22 June, the Monitoring Committee organised a hearing on the recent developments in the Republic of Moldova. On 8 July 2019, in line with the electoral legislation which requires ministers to resign from the parliament within 30 days from their appointment as members of government, the Prime minister Ms Sandu, the Deputy Prime minister Mr Năstase and the Minister of Education, Culture and Research Ms Nicolaescu-Onofrei gave up their parliamentary mandates. According to the electoral code, by-elections should be organised within three months to replace Ms Sandu and Mr Năstase (who were elected in uninominal districts), while Ms Nicolaescu-Onofrei had been elected on a party list.

36. On 9 July 2019, the Shor Party published an open letter regarding the “abuses committed by the parliamentary coalition PSRM-ACUM (PAS and DA). The party listed a series of complaints and concerns, including the fact that their member Marina Tauber was denied the right to chair the Committee for human rights and inter-ethnic relations. The party further complained that it was deprived of the possibility of appointing members to the Moldovan delegation to the Parliamentary Assembly and to other international parliamentary delegations, friendship groups and in the newly established inquiry committees. The party also took issue with the fact that they did not have the right to reply during parliamentary sessions. The party also objected to the demand made by MPs from the majority that prosecutors lift the immunity of the Shor Party's

20. <http://infomarket.md/en/analytics/>

[The Parliament of Moldova approved in the second reading a law changing the status of the position of the Secretary of State and the establishment of the position of the Secretary General of the Ministry](#)

MPs solely based on the Kroll 2 report, despite the fact that there was no court decision on that matter. Finally, the party expressed its deep concern about the anti-democratic, non-transparent and anti-Semitic slippages from the parliamentary coalition.

37. We discussed these issues with various stakeholders. We were assured that positions were offered to the Shor Party in the standing committees and friendship groups (based on a voluntary membership). However, the ruling majority appeared much reserved on the allocation of the chairmanship of the Committee for human rights and the seats in the inquiry commission on the bank fraud, since 5 out of 7 Shor Party MPs were listed in the Kroll 2 report. At the time of our visit, there was, to our knowledge, no investigation launched against these MPs, with the notable exception of Ilhan Shor, who has been sentenced to 7,5 years and released under judicial control (which he eventually violated). We drew the attention of our interlocutors to ensure that the right of the opposition be guaranteed. At the same time, we understood that the ruling coalition raised a moral, albeit non-legal, argument to justify the side-lining of the opposition. We strongly encouraged our Moldovan colleagues to adopt, without further delay, their code of ethics, code of conduct and code of rules of procedures, which could help resolve such crisis situations and facilitate decisions which are legally well-grounded.

38. We also hope that the adoption of such codes, which is also required by GRECO to prevent corruption among MPs, could help prevent the phenomenon of “political turnarounds.” It could also help resolve the defection of approximately 40% of Moldovan members of parliament between the two elections, which is itself part of a wider context in which powerful interests connected with private companies attempt to exert their influence on political parties. At that time, due to lack of formal complaints, no investigation was carried out. However, this political opportunism, as described by the PACE ad hoc election observation committee, has fuelled the loss of public trust in the political class and the values of the rule of law.

3.2. Constitutional Court

39. The role of the Constitutional Court has been heavily criticized during the crisis and did not act in accordance with legal and constitutional provisions, as documented by the Venice Commission in its opinion of 21 June.

40. The Constitutional Court had been previously perceived as a political tool of the former ruling majority. On 17 December 2018, a consortium of NGOs had expressed its concerns following the unexpected resignation of three members of the Constitutional Court and the appointment of three new members²¹: Raisa Apolschii, Parliament deputy from the Democratic Party and chair of the parliamentary Legal Committee for Appointments and immunities; Artur Reșetnicov, former head of the intelligence service (2007-2009), former deputy of the Party of Communists who later joined the Democratic Party; and Corneliu Gurin, former General Prosecutor (2013-2016). Considering that parliamentary elections were announced for 24 February 2019, the NGOs deplored the non-transparent and “extremely hasty appointment of half of the judges of the Constitutional Court” which raised “strong concerns about the excessive politicisation of the Constitutional Court and its possible use in political struggles”.²²

41. On 18 June, the Minister of the interior Mr Năstase filed a complaint to the General Prosecutor’s office, asking the temporary suspension of the newly appointed judges and called for the investigation of the judges of the Constitutional Court for attempted usurpation of power.

42. On 20 June 2019, Mihai Poalelungi resigned both as a judge and President of the Constitutional Court. His resignation was followed by the resignation *in corpore* of all judges of the Constitutional Court on 26 June 2019. The appointment of the members of the Constitutional Court is currently being dealt with by the parliament. In the meantime, on 26 June 2019, the Plenum of the Constitutional Court empowered Mr. Veaceslav Zaporojan, former Judge of the Constitutional Court, to exercise the administrative competences of the President of the Court until the appointment of the new panel of judges and the election of the new President of the Constitutional Court, which should take place in accordance with the relevant legal provisions.

43. Mr Zaporojan accepted to meet our delegation. He explained, from his perspective, why the Constitutional Court had come to the decisions of 7 and 8 June. There were, however, a number of inconsistent pieces of information provided. Mr Zaporojan did not question the merit of the decisions taken by

21. https://crjm.org/wp-content/uploads/2018/12/EN-2018-12-17-Declar-Constitut-judges_fin.pdf

22. Ibid.

the Constitution Court, but he cast doubts about the opinion issued by the Venice Committee. There were also concerns expressed about pressure being exerted on the judiciary to launch an investigation for “usurpation of power” against the members of the Constitutional Court.

44. Contests were launched to replace the six members of the Constitutional Court (two being appointed by the parliament, two by the government, and two by the Superior Council of Magistrates). On 24 July 2019, following a public contest, the parliament appointed State Secretary of Justice Nicoale Esanu and former Minister of Justice Vladimir Grosu as judges of the Constitutional Court. The former was a member of the Venice Commission and the latter was a substitute member of the Venice Commission. On 30 July 2019, after receiving 19 applications for the vacancies in question, the Superior Council of Magistrates appointed Serghei Turcan and Eduard Ababei as judges to the Constitutional Court. The government, for its part, has yet to appoint its two members (out of 23 applications received). The new judges will have to restore the discredited reputation of the Constitutional Court and ensure that it remains an independent Court, which will resist political influence. We were also informed that the selection procedure of judges had been criticised and challenged.²³

3.3. Electoral framework and administration

45. One of the first measures taken by the parliament was to amend the electoral system. On 11 June, the parliament adopted, in its first reading, a draft law to abolish the mixed electoral system. *Pro memoria*, this system had been criticized by the Venice Commission in June 2017 and March 2018. The Commission was particularly critical of the lack of consensus on changing the parliamentary electoral system to a mixed electoral system. The Commission further highlighted the risk that independent majoritarian candidates may develop links with, or be unduly influenced by, businesspeople or other actors who follow their own separate interests.²⁴

46. On 18 July 2019, the government approved a draft law modifying the election legal framework, which was adopted by the parliament on 15 August. The changes include the abolishment of the mixed electoral system and the return to the proportional electoral system, based on party lists (in line with the recommendation of the Venice Commission); the possibility for the Central Election Commission (CEC) to set the number of polling stations abroad; more transparent funding of parties and electoral campaigns and a decrease in the ceilings for donations for electoral campaigns; exclusion of the integrity certificates; exclusion of the electoral agitation on the election day, and the right given to the diaspora to vote based on passports with expired validity term and valid identity cards.²⁵ The parliament also decided to decrease the election threshold to 5% for political parties, 7% for electoral blocs and 2% for independent candidates.²⁶

47. Concerning the functioning of the Central Election Commission (composed of one member appointed by the President, and 8 members appointed by the parliament), on 18 June, the parliament adopted an amendment to the Electoral Code allowing for the dismissal of the CEC members without the prior decision of the Supreme Court of Justice, as was the case before. This law prompted Iurie Ciocan, member and former President of the CEC, to resign. The law, however, was not promulgated by the President and was sent back to the parliament. It is obvious that the promulgation of this law would have seriously undermined the independence of the Central Election Commission.

48. Alina Russu, Head of the CEC, resigned on 2 July, explaining that “the implementation of the latest initiatives to modify the normative framework in electoral matters could raise suspicions about the freedom of decision of the superior electoral authority” since CEC members could be dismissed without court orders. The Vice-President of the CEC Rodica Ciubotaru also resigned.

49. On 16 July, the parliament appointed 3 new members of the CEC: Dumitru Pavel, a lawyer (and former lawyer of Mr Năstase) who was proposed by the “DA” platform; Dorin Chimil, a doctor in law proposed by the party “Action and Solidarity”, and Maxim Lebedinsky, presidential adviser on legal issues, who was proposed by the Party of the Socialists. The Democratic Party denounced a violation of the Electoral Code, since candidates to the CEC should be submitted by both the majority and the opposition.

23. Ex-judge Manole complained that she did not receive any explanation as to why she had been excluded from the contest. There were also issues raised about the integrity of some of the candidates.

24. Joint Opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament), CDL-AD(2018)008, op.cit.

25. <https://www.moldpres.md/en/news/2019/07/18/19005597>

26. These thresholds were previously 6% for political parties and 8% for electoral blocs.

50. On 19 July, PAS candidate Dorin Cimil was elected head of the CEC and Maxim Lebedinsky was appointed as Secretary. During our meeting, we were informed about the preparation of the local elections, which should take place on 20 October 2019. The election campaign will start on 20 August 2019. The by-elections to replace Ms Sandu, Mr Năstase and Mr Melnic (elected in uninominal districts) were expected to take place on that day as well. We were also informed that the parliament would abolish the required “integrity certificates” which had been required for the last parliamentary elections. In the case of the local elections, the National Integrity Authority would have had to issue about 130 000 of these certificates.

3.4. Reform of the justice system

3.4.1. Judicial system

51. The independence of the judiciary system is a long-standing issue, which has been addressed by the Venice Commission, GRECO and by the Parliamentary Assembly. In 2019, the international Commission of Jurists concluded that achieving judicial independence in the Republic of Moldova required “a change of attitude towards the judiciary from the executive and other sources of State and private power, but most importantly from the judiciary itself”.²⁷

52. On 16 July 2019, the President of the Superior Council of Magistrates (who had been appointed in January 2018 for a four-year mandate), Victor Micu, was dismissed by a vote of nine out of ten members. The proposal was made by a member of the Superior Council of Magistrate, Petru Moraru, who argued that Micu went on vacation in a difficult period for the judiciary, which “was a wrong thing to do.”²⁸

53. In interviews published in the press, former and current judges say they were told to pass illegal judgements and were subject to intimidation.²⁹ One of the cases concerns judge Domnica Manole, who was removed from the judicial system after she annulled, on 14 April 2016, the Central Election Commission’s decision of 30 March 2016 to ban the holding of the referendum requested by the Dignity and Truth Platform. Shortly thereafter, Eduard Harunjen, then interim prosecutor, obtained the agreement of the Superior Council of Magistrates to initiate the criminal prosecution of the magistrate. On 8 July 2019, Ms Manole was acquitted after the prosecutor decided to drop the criminal charges.³⁰

3.4.2. Prosecution office

54. In the context of dismantling the “captured state”, the role played by the General Prosecutor was highly questionable. In our previous information notes, we had already raised questions about the selective justice system.

55. On 2 July 2019, the Bar association issued a statement requiring the dismissal of the General Prosecutor, Mr Eduard Harunjen, for his “lack of objectivity and equity in criminal proceedings”, his “failure to ensure the protection of human rights.” The bar association also criticised his disrespect for the principle of equality of arms and his prosecutions “based on evidence obtained illegally”.

56. On 5 July 2019, the Prime minister Ms Sandu addressed the 660 prosecutors of the Republic of Moldova, deploring that the General Prosecutor Mr Harunjen and the deputy chief prosecutor of the Anticorruption Prosecutor’s office, Adriana Betisor, had failed to investigate the bank fraud, and urging prosecutors not to fulfill their “illegal instructions” and to act independently.³¹

57. In this context, the arrest, and release, of Renato Usatfii on 16 June 2019 had raised questions about the independence of the prosecution office. This followed the annulment of the arrest warrant issued against him by the prosecutors in 2016, despite the fact that the criminal case against him was not dropped.

27. “Only an Empty Shell” – The Undelivered Promise of an independent Judiciary in Moldova – A Mission Report, International Commission of Jurists, 2019

28. https://www.ipn.md/en/victor-micu-dismissed-as-president-of-judicial-self-governing-body-7967_1066839.html#ixzz5tqyTBeL4

29. https://www.ipn.md/en/former-and-current-judges-say-they-were-told-to-pass-7967_1066754.html#ixzz5tSCc1Fya

30. <http://protv.md/actualitate/ex-magistrata-domnica-manole-achitata-de-judecatoria-chisinau-in-dosarul-referendumului-zd-g-md---2498170.html>

31. Prime Minister’s addressing to prosecutors of Moldova, 5 July 2019, <https://gov.md/en/content/prime-ministers-addressing-prosecutors-moldova>

58. President Dodon demanded the resignation of Mr Harunjen. As newly elected President of the Republic, he had questioned his appointment as General Prosecutor and vowed to annul the decree signed by the then acting President Mr Timofti in December 2016.³²

59. As Mr Harunjen did not intend to resign, the parliament ruled on 8 July that his appointment as the country's prosecutor general in 2016 was illegal. The parliament argued that Mr Harunjen had been elected to the post of Prosecutor General, while being a member of the Superior Council of Prosecutors in his quality of acting General Prosecutor at that time, which is prohibited by law. This decision disregarded the ruling which the Constitutional Court had issued on 19 December 2016, which had confirmed Mr Harunjen's appointment. Parliament considered that Mr Harunjen had not attended its sessions, and the competition for the positions of Prosecutor General was legal.³³

60. The parliament thus requested President Dodon to dismiss the General Prosecutor, notwithstanding the requirement of Article 25 of the Constitution, which provides that the prosecutor general can be dismissed by a presidential decree "at the proposal of the Superior Council of Prosecutors". A meeting was convened on the following day. In the meantime, Mr Harunjen (who had been hospitalized), resigned. The Superior Council of Prosecutors was requested to open an investigation against Mr Harunjen for "usurpation of power". It considered that this was beyond the scope of its powers and requested the prosecution office to take charge of the matter.

61. In the current context, the resignation of the General Prosecutor was probably a necessary step towards restoring trust in the prosecution office. The most important priority was then to outline the conditions in which a new General Prosecutor will be designated. Maia Sandu had, on several occasions, waved the possibility to appoint a foreigner as General Prosecutor, while President Dodon opposed such an option.

62. The Law No.3/2016 on the Prosecution office was amended, and the number of the members of the Superior Council of the Prosecutors was increased from 12 to 19 with a stronger proportion of civil society representatives. The members of the Superior Council of Prosecutors would also be entitled to appoint an acting General Prosecutor.

63. The President of the Superior Council of Prosecutors dismissed the demand of the Minister of the interior to convene a special session of the body, in contravention of the separation of powers.³⁴

64. On 5 July 2019, there were several reports in the media about a letter addressed by GRECO to the Moldovan authorities³⁵, expressing its concerns about transparency of parliamentary procedures. The letter allegedly called on the authorities to take urgent actions in order to rapidly and fully complete GRECO's recommendations and to authorise the publication of the second compliance report adopted by GRECO in December 2018. This was eventually done on 24 July 2019³⁶.

65. On 16 July 2019 and 19 July, the parliament passed, in the first and second readings, a draft law allowing the President of the Republic, acting on a proposal by the Superior Council of Prosecutors, to nominate an acting prosecutor general until the organisation of the contest and his/her appointment under presidential decree. This Law allows the president to turn down the candidacy put forward by the Superior Council of Prosecutors, if there is incontestable evidence of the candidate's incompatibility with the concerned position. Should the candidacy be rejected, or should the Superior Council of Prosecutors be unable to put forward a candidacy, the acting prosecutor general will be nominated by presidential decree on a proposal by the parliament, with the Council's approval.³⁷

32. <http://a-tv.md/index.php?newsid=26871>

33. See *Decision of the Constitutional Court* issued on 19.12.2016 regarding the constitutionality control of the President's Decree of the Republic of Moldova no 2495 of December 8, 2016 on the appointment of Mr Harunjen as General Prosecutor. http://infomarket.md/en/politicalreview/The_Parliament_of_Moldova_stated_that_the_conditions_for_appointment_to_the_post_of_Prosecutor_General_of_Eduard_Harunjen_were_not_observed_and_recommended_the_president_to_dismiss_him

34. https://en.publika.md/superior-council-of-the-prosecutors-to-nastase-the-minister-has-no-right-to-convene-a-session-and-his-actions-can-be-understood-as-a-pressure_2659084.html

35. https://en.publika.md/group-of-states-against-corruption-criticize-acum-psrms-actions-about-prosecution_2659078.html#ixzz5tAtf7kjO

36. Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Compliance report, adopted by GRECO at its 81st Plenary Meeting (Strasbourg, 3-7 December 2018). *GrecoRC4(2018)10*,

37. <https://www.moldpres.md/en/news/2019/07/19/19005638>

66. On 26 July 2019, the Superior Council of Prosecutors had a meeting to select a candidate for the position of acting General Prosecutor but failed to reach a decision due to the lack of a quorum. In accordance with the newly adopted provision of the Law on the prosecution office, and following the request of the President, the parliament launched a call for applications. Nine candidates applied. On 30 July, the parliament designated Dumitu Robu. This candidate was approved by the Superior Council of Prosecutors on 31 July, enabling the President of the Republic to sign the presidential decree appointing Mr Robu as acting General Prosecutor. On 9 August, the Superior Council of Prosecutors took the decision to announce the contest for the General Prosecutor, while the Minister of justice called for its postponement, since the election procedure of the General Prosecutor was being reviewed.

3.4.3. Future developments in the justice system

67. During our visit, we met representatives from the justice system to understand how the judicial and prosecutorial bodies were currently functioning – and how these institutions would address the criticisms regarding their alleged lack of independence, and whether they have the capacity and the will to redress the judiciary system. Following the meetings we had with the representatives of the prosecution office (i.e. the acting General Prosecutor Mr Popa), members of the Superior Council of Prosecutors and members of the Superior Council of Magistrates, we were not convinced that the system, if unchanged, would be able to clean itself. On the contrary, it resulted from our discussions that there was no will or capacity of the incumbent representatives to challenge their past work, question their modus operandi or express their openness to changing their working methods and gain more independence. Calls to launch investigations after the change of government remained, in most of the cases unaddressed – or proposals were dismissed – by the interim general prosecutor. This prompted the President to propose a new law modifying the appointment of an interim prosecutor (see above).

68. We can understand that the current situation might require temporary, derogating measures. However, these measures should be exceptional, and be reversed once the judiciary system is capable of operating on clear, de-politicised criteria. It is indeed necessary to consolidate the judicial and prosecutorial regulatory bodies, which should remain responsible for the initial selection procedure of candidates. This is especially necessary in light of the consistent recommendations issued by GRECO about the procedures for appointment and dismissal of Chief Public Prosecutors and other public prosecutors, which should ensure:

- that any decisions in those procedures are reasoned, based on clear and objective criteria and can be appealed to a court;
- that appointment decisions are based on mandatory, transparent selection procedures and;
- that recall/dismissal is possible only in the context of disciplinary proceedings. This is necessary in order to take into account the diversity of the set-up of public prosecution services across Council of Europe member States.

69. On 27 August 2019, the Head of State President Dodon, the Speaker of the Parliament Ms Greceanîi, the Prime Minister Ms Sandu and the Minister of the interior Mr Năstase, presented, in a joint press conference, their plans for a major justice reform agreed by the three parties of the ruling coalition. The changes would affect the election of the General Prosecutor, the composition of the Supreme Court of justice, the Superior Council of Magistrates and the Superior Council of Prosecutors, and the evaluation of judges and prosecutors. Prime Minister Sandu explained that this reform was made necessary due to the great resistance faced and the lack of will in the court system and in the prosecutor's office for change.³⁸ As this information came at a late stage, we were not able to examine in detail the proposed changes. However, given the importance of these pieces of legislation, we expect the Moldovan authorities to closely work with the Council of Europe bodies, including the Venice Commission and seek their expertise to ensure that these changes will strengthen the independence and impartiality of the judicial and prosecutorial regulatory bodies and establish open, transparent and merit-based recruitment systems. We further hope that the changes proposed are sustainable and comply with Council of Europe standards.

70. During our visit, we also discussed the training system of judges and prosecutors, which is within the remit of the National Institute for justice. It appeared that profound reforms were needed to upgrade the training, review the curricula and ensure that a new generation of judges and prosecutors would be trained with a proper understanding of professional independence. On 29 July, Prime minister Sandu called for the

38. https://www.ipn.md/en/a-new-concept-of-justice-reform-is-put-forward-7965_1067743.html

resignation of the board of the National Institute for Justice. She also requested an increase in the number of new judges and prosecutors (currently respectively 20 and 20) to reach a “critical mass of persons willing to clean up the system”.³⁹

71. Finally, while we noted a great determination of the authorities to reform and de-politicise the system in depth, we also noted that a number of opposition members criticised the appointment procedures undertaken by the parliament to select the members of the Constitutional Court, the Head of the National Anti-Corruption Center and the acting General Prosecutor, as reflected in a letter sent by the President of the Liberal Party and former Mayor of Chisinau, Dorin Chirtoaca.⁴⁰

3.5. Intelligence service

72. On 18 June 2019, the parliament adopted two laws in their first reading. The President of the Republic would now be entitled to co-ordinate the work of the Intelligence and Security Service (SIS) and of the State Protection and Guard Service. The Head of the Intelligence and Security Service would be appointed by the parliament, upon a proposal by the President of the Republic, for a five-year mandate. He could be dismissed by the parliament upon request of the President, or one-third of the MPs.

73. On 5 July, the parliament adopted in its final reading of the amendments to the State Security Law. These amendments will compel any central public authorities, authorities under the control of the government or public legal entities to provide, upon request, any information about national security, defence and public order, including data which are considered as state, commercial or bank secret.

74. In a report published by the investigative team RISE Moldova, there were also allegations of mass surveillance and illegal wiretapping of 52 politicians (including Mr Năstase), representatives of civil society and journalists by the Minister of the interior. It is quite puzzling that the number of interception of conversations authorised by courts rose from 2 800 in 2013 to 12 100 in 2018.⁴¹

75. On 26 July 2019, the Deputy Prime Minister and Minister of the interior Mr Năstase signed the order to liquidate the Special Operation Direction of the National Inspectorate of investigation. Mr Năstase claimed that the direction had acted as a political police force and had conducted illegal interception of conversations of political activists, journalists, civil society representatives and businessmen.

3.6. Fight against corruption and money laundering

76. The director of the National Anticorruption Center (NAC), Bogdan Zumbreanu, was dismissed by the parliament on 8 June with the vote of the new parliamentary majority. Later, he returned to his former post of head of the NAC Criminal Investigation Division. He resigned on 8 July.⁴² A competition was launched on 27 June to select a new Head of the NAC. Ten candidates applied, and three more after the deadline was extended. Ruslan Flocea, an adviser to President Dodon and former member of the NAC, was designated by the parliament, with a large majority, as the new Head of the NAC on 31 July 2019.

77. On 5 July, the Moldovan Parliament approved, in its first reading, a law providing for the introduction of a mandatory external audit of state and municipal enterprises. To this very day, the administration of state-owned enterprises has still not provided the requested information, referring to the need to protect trade secrets. The authors of the draft law point out that ensuring the transparency of state and municipal enterprises is one of the issues included in the reform agenda, which is necessary for the Republic of Moldova in order to obtain the EU macro-financial assistance totalling €100 million.⁴³

39. https://www.ipn.md/en/prime-minister-asks-national-institute-of-justice-board-to-resign-7965_1067114.html#ixzz5v4IIeag

40. Mr Chirtoaca, then Mayor of Chisinau, was arrested in 2017 by Mr Robu, who was a prosecutor at the time, for alleged abuse of office linked to the distribution of parking contracts in the capital.

41. <https://www.rise.md/articol/ministerul-interceptarilor/>

42. <https://www.trm.md/en/social/fostul-sef-al-cna-a-plecat-definitiv-din-cadrul-institutiei-din-proprie-initiativa>

43. <http://infomarket.md/en/analitics/>

[Moldovan Parliament approved in the first reading a law providing for the introduction of a mandatory external audit of state and municipal enterprises](#)

78. As reflected in the Assembly's last report on "laundromats", the Republic of Moldova was involved in major money laundering schemes, involving corrupt judges. According to some estimates, US\$84 billion was syphoned from Russia into the country.⁴⁴ In its [Resolution 2279](#) (2019) "Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering", the Assembly asked the authorities to:

"7.2.1. pursue its investigation of the Global Laundromat fully and effectively and prosecute and punish all those who have committed related offences;

7.2.2. introduce provisions preventing persons charged or convicted of serious offences, including corruption and money laundering, from taking or exercising public office;

7.2.3. pursue investigations and prosecutions of candidates for public office and public officials, including elected officials, expeditiously, whilst scrupulously avoiding unequal treatment on political grounds;

7.2.4. consider repealing the "fiscal amnesty" introduced in July 2018, as it risks facilitating money laundering;

7.2.5. ensure that its "golden visa" programme is strictly regulated, as this too risks facilitating money laundering, especially when taken together with the "fiscal amnesty"."

79. The country is still recovering from the infamous "bank fraud scandal": in 2014, allegedly US\$1 billion disappeared from the banking system from three major national banks (Banca de Economii, Banca Socială, and Unibank).⁴⁵ The state institutions were either unwilling or unable to take action to prevent this move.

80. During our visit in April 2018, we had urged the authorities to release the second investigative report (so-called "Kroll 2 report") prepared by the American audit company Kroll and to establish liability for the bank fraud. At that time, only a summary had been made available (in December 2017), describing that out of the total amount of loans granted (US\$2,9 billion), some of the loans, worth approximately US\$2 billion, had been channelled back to the origin banks, the net loss of the three banks between 2012 and 26 November 2014 being estimated at US\$600 million.⁴⁶

81. On 11 June 2019, the National Security Council convened by President Dodon required the National Bank and the Prosecutor's Office to publish the Kroll 2 report.⁴⁷ However, it appeared that the specific beneficiaries were not named in this report but had been disclosed to the prosecutor's office only. The report mentioned again the names of several MPs from the Shor faction: Ilan Shor, Marina Tauber and Regina Apostolova, as well as one of the independent deputies elected in the Transnistrian district, Viorel Melnik who resigned from parliament on 17 July (he argued that the role of an independent MP was reduced to zero in the current parliament).⁴⁸

82. There is still a lot of confusion about the (full) Kroll 2 report. The acting General Prosecutor explained to us that there was no appendix to the report. Renato Usatîi, for his part, claimed that he had received a copy of the full report and claimed that the name of the husband of the Speaker of the Parliament, Ms Greceanîi, appeared in the appendix to the Kroll 2 report. Whether the report shown by Mr Usatîi was authentic or not was still a matter of debate.

83. Ilhan Shor, leader of the Shor Party elected deputy in February, left the country (reportedly for Israel) on 15 June, allegedly crossing the border illegally.⁴⁹ An investigation was opened by the prosecution office. Staff members of the Chisinau airport were heard. A court hearing planned for 25 June was postponed due to the illness of a judge. On 19 July, according to media report, the Anti-corruption prosecution indicated that the deputy had left the country without crossing any customs and border controls and issued an arrest warrant.⁵⁰

44. [Doc 14847](#), Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering (Rapporteur: Mr Mart van de Ven, Netherlands, ALDE)

45. PACE co-rapporteurs Ms Christoffersen and Mr Wach in 2015 (AS/Mon(2015)20 rev) and Ms Leskaj and Mr Jonasson in 2016 (AS/Mon(2016) 27) had dealt with the bank scandal in their respective information notes.

46. <https://www.moldova.org/en/kroll-2-report-summary-reactions/>

47. A copied version of the Kroll 2 report was released on internet, with names erased.

48. <https://www.moldpres.md/en/news/2019/07/17/19005549>

49. Ilhan Shor had been convicted to 7 years of prison, appealed the sentence and was conditionally released, with a travel ban.

50. https://en.publika.md/court-hearing-over-ilan-sors-case-put-off-prosecutor-to-issue-arrest-warrant-_2659247.html#ixzz5u85Fo0jd

84. The parliament, for its part, established on 10 June 2019 an inquiry commission to investigate the bank fraud. This committee is chaired by Alexandru Slusari from the DA Platform party. The inquiry commission is expected to produce a report within 90 days. On 5 July, the parliamentary majority refused to include the deputies from the Democratic Party Mr Candu (former Speaker of the Parliament) and Mr Cebotari (former Minister of justice). Following the hearing conducted on 25 July, the inquiry committee asked the prosecution office to initiate criminal proceedings and investigate the actions / inaction of several persons in leadership positions at that time and inquire about their involvement and possible negligence when state guarantees were provided to the banks Banca de Economii, Unibank and Banca Socială. given the serious consequences for the banking system of Moldova.⁵¹

85. On 1st July, the Minister of the interior initiated legal proceedings against judges and prosecutors involved in illegal activities. This included the deputy chief prosecutor of the Anticorruption Prosecutor's office, Adriana Betisor, who resigned on 3 July from this position, but who would continue to work as a prosecutor on anticorruption cases.

86. The Minister of Economy, for his part, indicated on 9 July that "a group of people incorporated criminal schemes into the government structure and turned the whole country into their own businesses." The minister claimed that no less than 400 million lei (app. €20 million) were collected through these schemes every month.

87. The National Security Council officially requested the international community to initiative an international investigation and asset recovery effort, in respect of the financial crimes involving the Republic of Moldova. On 16 July, the General Prosecutor's office decided to reinforce the Criminal Investigative Task Force of the prosecution office working on the bank fraud case and supplemented it with officers from the Ministry of the Interior, the Security and Intelligence Service, judicial experts, and accountants from the National Bank and the National Securities Market Commission. A joint investigation team will be set up in cooperation with EU's Eurojust to collect documents and other evidence about those involved in the fraud. The relevant authorities in Austria, Cyprus, the Czech Republic, Estonia, France, Italy, Latvia, Liechtenstein, Monaco, Russia, Switzerland and the United States have been requested to co-operate in collecting evidence of bank transactions and hearing of witnesses.⁵²

88. The parliament also established an inquiry commission, which should analyse the privatisation of public properties that has been underway since 2013, including the privatisation of the Banca de Economii. On 19 July, the parliament approved a moratorium on privatisation, granting concession, and the signing of public-private partnerships on public assets, until the parliament approves the findings of the inquiry commission.

89. The Kroll 2 report mentions several properties registered with Finpar Invest Ltd., a core company in Vladimir Plahotniuc's real estate. An investigative media-outlet, RISE Moldova, identified some of the properties seized by the Crime Recovery Agency on 26 June 2019, including the Nobil luxury hotel and the studios where TV stations operate: Prime, Publika, Canal 2 and Canal 3 in the framework of the bank fraud investigation.⁵³ During our visit, the National Anti-corruption Center refrained from commenting on or confirming this information, due to the on-going investigation.

90. The parliament has also established a special commission to look into the implementation of the project on the construction of the "Chişinău-Arena." The commission will examine the conditions in which the contest was organised, taking due account of what President Dodon described as the "many suspect decisions and non-transparency".⁵⁴

91. The authorities should also tackle allegations of political corruption: during the crisis, there were allegations, based on video footage released by the Democratic Party, that President Dodon had acknowledged that his party had received funds from Russia of up to US\$1 million per month until April 2019.

51. <http://infomarket.md/en/banks/>

[A_special_parliamentary_commission_to_investigate_the_theft_of_a_billion_urged_the_Prosecutor_General_to_institute_criminal_proceedings_against_lurie_Leanca_Dorin_Dragutanu_Andrian_Candu_and_Anatolie_Arapu](#)

52. https://www.ipn.md/en/task-force-investigating-bank-fraud-to-be-extended-7967_1066833.html#ixzz5tpgp9Fc0. The Prosecutor General's Office plans to recover 13.34 billion lei, the equivalent of the bailout loans issued to the now defunct Banca de Economii, Banca Sociala and Unibank. Some 2.2 billion lei has been recovered so far, including 1.2 billion lei from the sale of the defunct bank's assets

53. <https://www.moldova.org/en/igor-dodon-reveals-last-week-5000000-left-moldova/>. In 2015, the investigative team RISE Moldova had already brought to light the ties between Mr Plahotniuc and the FinInvest company. Mr Plahotniuc had denied being a media owner at that time. See <https://www.occrp.org/en/component/content/article?id=3973:rise-moldova-investigation-traces-politician-s-ties-to-businesses>

54. <https://www.moldpres.md/en/news/2019/07/18/19005583>

The legislation in place proscribes the funding of political parties by foreign countries. Following these allegations, the Democratic Party had requested the establishment of an inquiry commission to clarify the circumstances of possible attacks on national security and the undermining of the country's sovereignty by foreign funding of some political parties. This proposal was rejected by the ruling coalition.

92. On 24 July 2019, the compliance report of GRECO (adopted in December 2018) was made public. It concluded that Moldova needs to make significant progress to achieve an acceptable level of compliance and should step up efforts to combat the corruption of MPs, judges and prosecutors. So far, Moldova has fully complied with four out of 18 recommendations, whilst it has partly implemented nine and has not implemented five.⁵⁵

93. In this context, we were also informed of the changes which affected the law enforcement agencies. In the police and prison administration, a number of resignations were registered. This included the resignations of the head of the Border Police Fredolin Lekari on 10 July, the Deputy Chief of the police of Chisinau Silviu Musuc, the Head of the National Patrol Inspectorate (INP) Marin Maxian on 12 July. There were allegations that a black list established by the Minister of the interior had been drafted, including a list of chiefs of territorial police inspectorate who were expected to resign. The appointment of Gheorg Balan as Head of the Police General Inspectorate had raised questions, since Mr Balan is the godson of the Minister of the interior Andrei Năstase. The government decided to appoint him as acting Head, until a new Head could be appointed.

3.7. Other institutional and political issues

94. Following the last parliamentary elections, we noted that the presence of women had increased in parliament (26%) and in the government (55%). This is a welcome development. In the field of gender equality, we also welcomed the support expressed by the President of the Republic Mr Dodon for the initiatives that the parliament could take in order to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No.210, "Istanbul Convention"), which was signed by the country in 2017. This ratification would be a meaningful step towards upgrading the protection of the rights of women and the Assembly would stand ready to assist the Moldovan Parliament in its ratification process.

95. Concerning the resolution of the Transnistria settlement conflict, this question had been part of the political negotiations for the formation of the new government (see above). At that time allegations, supported by video footage, were raised against the President of the Republic and leader of the Party of Socialists concerning the federalization of the Moldovan State in the wake of the 2003 Kozak Memorandum. The new Deputy Prime minister for Reintegration, Mr Șova, confirmed the readiness of the authorities to continue the implementation of the Berlin packages and to set up a new working group to continue the discussions. However, there were no major plans foreseen for the near future. When asked about the possible federalisation of the country, Mr Șova declared that the country was considering putting in place a "decentralized autonomy" for the Transnistrian region.

96. On 12 July 2019, President Dodon indicated that the three priorities presented to the 5+2 partners were human rights and democratisation of the Transnistrian region, ensuring free movement of people, goods and services throughout Moldova; restoring a single trade – economic area and creating premises for resumption of negotiations in 2020. The 5+2 partners remained committed to further supporting the implementation of the confidence building measures outlined in the Protocol of Berlin, in 2016.⁵⁶

97. Concerning the reintegration process of the Transnistrian region, the Prime minister seeks the termination of the ban on the departure to the left bank for all citizens of Moldova and the prolongation of the EU Border Assistance Mission to Moldova and Ukraine (EUBAM). She expects that the format 5+2 of the Transnistrian settlement should become a platform to help fight corruption and smuggling as a matter of priority and ensure that "both state institutions and government officials will no longer be involved in corruption and smuggling schemes with Tiraspol, as happened in the past" which prevents real progress in identifying a political solution.⁵⁷ In Luxembourg, the OSCE Parliamentary Assembly reiterated its support for a comprehensive, peaceful and sustainable settlement of the conflict in the Republic of Moldova, based on sovereignty and territorial integrity within its internationally recognised borders. The OSCE PA reiterated the need for a complete withdrawal of the armed forces and ammunition stockpiles of the Russian Federation

55. [GrecoRC4\(2018\)10](#),

56. <https://www.moldpres.md/en/news/2019/07/12/19005403>

57. <https://www.moldpres.md/en/news/2019/07/13/19005438>

from the territory of Moldova, and the need to transform the current peacekeeping operation into an international civilian mission.⁵⁸ A fact-finding visit of the 5+2 representatives was also organised on 12 July 2019 and confirmed the commitment of the Moldovan authorities to continue the 1+1 and 5+2 discussions.⁵⁹ On the occasion of his visit to the Republic of Moldova, the Russian Defence Minister evoked the possibility for the Russian Federation, to initiate, within the 5+2 format, the process of liquidation of ammunition stored near Cobasna village, in the Transnistrian region of the Republic of Moldova.⁶⁰

4. Concluding remarks

98. We commend the Moldovan people for overcoming, in a peaceful way, the political and constitutional crisis of June 2019. The current coalition, which seemed so unlikely a few months ago, reflects the will expressed by a large spectrum of citizens. This pragmatic agreement, based on the definition of common political objectives, is offering an opportunity to overcome, for the time being, traditional gaps in society and to restore the confidence of international partners and investors in the framework of a “balanced foreign policy”. Prime Minister Ms Sandu has engaged in a courageous and politically risky policy to normalise the situation and free state institutions from undue interference. We are supportive of the efforts undertaken to restore the rule of law and the proper functioning of democratic institutions and to consolidate the state institutions. We also hope that this policy will succeed in improving the people’s living standards. In this context, we welcome the resumption of international assistance to the Moldovan people and the increased confidence of international partners. This will be much needed to improve the citizens’ living conditions and provides them with strong incentives to contribute to the development of their country, considering that one million people have left the country over the last few decades and that one out of four Moldovans lives abroad.⁶¹

99. The peaceful change of powers has further brought to light practices which were not in line with Council of Europe standards, and have put the functioning of democratic institutions at risk. It prompted the newly appointed authorities to undertake a purge in the state system. There is nowadays a legitimate demand of the new authorities, based on the will expressed by the voters, to remove those actively involved in these illegal and anti-democratic activities which had deep ramifications for institutions and businesses, and dramatic consequences for society. Eliminating the elements that characterize the “captured state system” should contribute to restoring the rule of law and trust in the public institutions. Efforts to de-politicise the state institutions and remove private-driven interests are sorely needed to ensure that functioning of democratic institutions is in line with Council of Europe standards. Democratic institutions should not be instrumentalised in a hasty – and short-sighted – legislative move. In the long-run, there is a high risk that such speedy actions will undermine the independence and good-functioning of democratic institutions or independent bodies. While certain pieces of legislation have been adopted to unblock some situations, the authorities should now consider repealing those pieces of legislative that allow for derogation from the ordinary state of affairs.

100. We praise the resilience and restraint of the Moldovan people during this crisis. We also note that people have great expectations that the new coalition will change the functioning of democratic institutions. There is a pressing temptation from the authorities to swiftly remove state officials who were allegedly receptive to external influence and pressure and who could now prove reluctant to “clean the system” from the inside and take the expected steps to restore rule of law. At the same time, we urge the authorities to bear in mind that the legal steps taken today to “de-oligarchise” the country will have long-term effects and should therefore ultimately contribute to consolidating state institutions, strengthening their independence and ensuring that new legislation and its implementation comply with Council of Europe standards.

101. The reform of the judiciary system and the prosecution office will be key to achieving the restoration of the rule of law and to ensuring that fundamental human rights will be protected by the judicial system and that citizens will no longer be subject to selective justice. Dismissal and recruitment procedures in the judiciary and the prosecution office, as well as in other law enforcement bodies, should be based on clear and transparent criteria. Resolute action also needs to be taken to eradicate corruption, which was identified as a priority for

58. Luxembourg Declaration adopted by the OSCE Parliamentary Assembly on 4-8 July 2019, AS (19) D E, para. 12 and 13.

59. See [Joint Statement](#) by the mediators and the observers in the Permanent Conference on Political Issues in the Framework of the Negotiation Process on the Transdnistrian Settlement in the 5+2 format following their 12 July 2019 visit to Chisinau and Tiraspol

60. https://www.ipn.md/en/russia-proposes-to-initiate-process-of-liquidation-of-ammunition-stored-7965_1067697.html#ixzz5xiNcl35M

61. On 1st January 2019, there were 2,681 million residents in the Republic of Moldova <http://statistica.gov.md/newsview.php?l=en&idc=168&id=6416>

the new government. The latest report published by the Council of Europe's anti-corruption body [GRECO](#) on 24 July 2019 provides useful and clear recommendations about steps expected to be taken to increase the transparency and accountability of the state institutions, including parliament.

102. Changing officials and staff members might be relevant if duly justified. It is, however, all the more important to ensure that legal changes are implemented with a view to consolidating institutions and independent bodies: reversing legal systems should not be done at the detriment of due respect of predictable procedures, based on clear and objective criteria and should not lead to a "witch hunt", a concern that was raised during our visit. We will therefore closely follow these developments in the coming months.

103. In the current uncertain political context based on a technical coalition, we are determined to follow this situation carefully and to ensure that proper procedures are followed and comply with Council of Europe standards. For the time being, the country is expected to organise free and fair local elections on 20 October 2019 and to ensure that the will of the voters will be respected at a local level. We also hope to see an end to allegations of pressure and politically-motivated intimidation of local elected representatives, as was witnessed in the past. We strongly encourage the Moldovan authorities to further co-operate with the Council of Europe and seek the Organisation's expertise and good practices in order to overcome the political crisis and lay sound foundations for the future.