

Resolution 2308 (2019)¹

The functioning of democratic institutions in the Republic of Moldova

Parliamentary Assembly

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 European Commission for Democracy through Law (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 to be unconstitutional, and decided, on 9 June 2019, to temporarily suspend the President of the Republic of Moldova, 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 the 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 itself. The Assembly calls on the newly elected members of the Constitutional Court to restore confidence in the institution.

4. Given the polarised 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 votes, have clearly expressed their wish for political alternation and their expectations for genuine changes. The political forces, namely the Party of the Socialists and the ACUM Bloc, which formed a ruling coalition, represent a broad 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 from state institutions all aspects that are characteristic of “State capture”. 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 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.

1. *Assembly debate* on 3 October 2019 (34th Sitting) (see [Doc. 14963](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Ms Maryvonne Blondin and Mr Egidijus Vareikis). *Text adopted by the Assembly* on 3 October 2019 (34th Sitting).



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 wrongdoing 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”, in which massive illegal transfers of money were made from the banking system in 2014, resulted in a major financial burden for 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 attention 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 system to trace and recover the stolen money.

8. The Assembly notes that the authorities are determined to overhaul and clean up the system. While there is a strong 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, 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 that were deemed necessary to overcome the deadlock.

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 to 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 is concerned that the recent appointment of judges to the Constitutional Court was not fully transparent. The Assembly is also concerned that the recent proposed amendments by the Moldovan Government do not fully comply with recommendations of the Council of Europe. Therefore, 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 are 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 continuous training aims at strengthening the capacity of future judges and prosecutors, so that they act in an independent manner;

11.3. do everything possible to terminate all existing politically motivated criminal cases against political activists and their lawyers, which were initiated by the previous regime as the result of political interference in the judiciary and law enforcement, as mentioned in the report by the Committee on Legal Affairs and Human Rights ([Doc. 14405](#)).

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 that provide for “fiscal amnesties” or “golden visa” schemes, which have facilitated money laundering, and to introduce provisions preventing persons charged with 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 among judges, prosecutors and members of parliament. It urges the Moldovan authorities to take resolute action to eradicate corruption and to implement GRECO's 2016 and 2018 recommendations. In particular, the Assembly calls on the Moldovan Parliament to adopt a Code of Ethics, a Code of Conduct and a Code on the Rules of Procedures, in line with the 2016 recommendations issued by GRECO.

14. Following the changes to 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 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 Parliamentary Assembly's 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 calls on the Moldovan authorities to ensure that the reforms to the judicial system and prosecution office are implemented in full compliance with Council of Europe standards so as to achieve the restoration of the rule of law and put an end to the selective justice system which has hitherto prevailed. Such reforms will also secure the legal protection of 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 of Moldova 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 Organization for Security and Co-operation in Europe, the Russian Federation and Ukraine in working towards 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 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 anti-corruption legislation. It resolves to follow the ongoing developments in the framework of its monitoring procedure.

18. In the context of local and parliamentary elections to be held on 20 October 2019, the Assembly calls on the Moldovan authorities to ensure that elections are organised in compliance with the best practices and standards of the Council of Europe.