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

Honouring of obligations and commitments by Moldova¹

Information note by the co-rapporteurs on their fact-finding visit to Chisinau (7-9 September 2008)

Co-rapporteurs: Mrs Josette DURRIEU, France, Socialist Group, and Mr Egidijus VAREIKIS, Lithuania, Group of the European People's Party

¹ This information note has been made public by decision of the Monitoring Committee dated 19 November 2008.

I. Introduction

1. We travelled to Moldova on 7-9 September 2008 to take stock of the progress made in the implementation of Assembly Resolution 1572 (2007), especially in the context of the preparation of the parliamentary election to be held in spring 2009.
2. Due to important commitments relating to the Lithuanian electoral campaign, Mr Vareikis attended the meetings of 7 and 8 September only. The meetings planned for 9 September were attended by Mrs Durrieu alone.
3. We are grateful to our colleagues from Moldova's parliamentary delegation for the excellent organisation of all official meetings. We would also like to thank the Special Representative of the Secretary General of the Council of Europe, Mr Vladimir Ristovski, and his team for having assisted us in the organisation of meetings with NGOs and the representatives of the international and diplomatic community, as well as for organising our visit to Transnistria.
4. Our discussion focused mainly on three principal issues: the functioning of democratic institutions and the preparation of the spring 2009 parliamentary elections, the rule of law and the settlement of the Transnistrian conflict. We shall address the implementation of other recommendations contained in Resolution 1572 (2007) in our forthcoming visits to Chisinau, with a view to preparing a fully-fledged monitoring report in 2009.

II. Functioning of democratic institutions and preparation of the 2009 parliamentary elections

5. The preparation of the 2009 parliamentary elections was the key issue addressed in all our meetings. During the meetings with the Prime Minister and the Speaker of the Parliament, we reiterated our disapproval of the recent changes to the Electoral Code: the raising of the threshold for party lists to 6% and the prohibition of the establishment of coalitions of political parties. These changes made the electoral arrangements more restrictive again, after the initial lowering of the electoral threshold to 4% for single parties and to 8% for electoral coalitions in 2007.
6. While noting that the member states are free to decide on their electoral arrangements themselves, we refer to our previous report (Doc. 11374) in which we stressed that the previously existing restrictive electoral arrangements favoured the largest parties in the 2005 elections. According to the statistics from the 2005 election, the share of votes cast for contestants who failed to clear the thresholds amounted to 16.4%, which is a very high figure.
7. Of course, we cannot speculate on the possible effects of the new electoral arrangements, provided they are maintained, before they are tested in practice in 2009. In this respect, we called upon the Moldovan authorities to fully co-operate with the Venice Commission in appraising the electoral legislation. We received assurances at the highest political level that the authorities would continue this co-operation.
8. At the same time, we stressed that the adoption of new legislation was part of the process of building a strong parliamentary democracy. More importantly, this legislation has to be implemented properly. In particular, we called on the authorities to create an environment which would be conducive to the holding of a democratic free and fair election and ensure that all electoral contestants be given equal rights and opportunities in the electoral process. This concerns in particular the registration of (new) political parties (as a result of the merger of the existing political parties which alone would not pass the new electoral threshold), the registration of party lists and access to media. Particular attention should be paid to the activities of law enforcement agencies, in order to prevent any abusive use of the police forces in order to exercise pressure on candidates, as was the case in previous elections.
9. The Speaker of the Parliament and the Prime Minister assured us that the authorities were working hard to eliminate all problems which had been detected in the electoral process in the 2005 parliamentary and 2007 local elections. The Speaker of the Parliament also informed us that the Parliamentary Assembly would be invited in due course to observe the elections. In this respect, we would like to ask all our colleagues from different political groups of the Assembly to actively participate in the election observation in Moldova, when the time comes. The 2009 parliamentary elections will be an essential test for Moldova's democracy. Therefore, it is our duty as members of the Assembly to provide all necessary support to our Moldovan colleagues, while being vigilant and critical of all shortcomings.

10. Besides, all domestic and international experts we met agree that the opposition parties are experiencing real difficulties in showing a capacity to offer an alternative and organise their activities for this purpose. We have to be objective observers of the present balance of political forces and of its evolution.

III. Relations with the European Union

11. We noted that the authorities continue to move forward resolutely along the path of European integration, and that the political commitment to joining the EU has strengthened at the highest political level. In this respect, we expressed our support for Moldova's actions in this direction and encouraged the authorities to negotiate a special Association Agreement with the European Union, which should give Moldova a privileged position in comparison with countries covered by the European Neighbourhood Policy. We stressed that the implementation of the European Union's *acquis* can only be achieved when all Council of Europe commitments and obligations with respect to democracy, rule of law and human rights have been fulfilled. The full implementation of Assembly recommendations is therefore of the utmost importance.

IV. Strengthening of the rule of law

12. We discussed at length the implementation of our October 2007 recommendations with respect to the reform of the judiciary, of the Prosecutor General's Office and the fight against corruption with the Minister of Justice and the Minister of the Interior. We welcomed the progress made in the preparation of new legislation on the General Prosecutor's Office and appealed to the authorities to co-operate fully in this respect with the Venice Commission. The Venice Commission recently adopted an opinion on the new draft law, which we shall carefully study in the further stages of the monitoring process (CDL-AD(2000)19).

13. We are grateful to the Ministry of Justice and to the Prosecutor General's Office for having provided us with detailed written information and statistics about the work of the prosecutors' offices. We also take note of the written information provided to us by the Ministry of the Interior with respect to the fight against corruption and fight against trafficking in human beings and organs. We shall also use all this information in our future fully-fledged report.

V. Settlement of the Transnistrian conflict

14. We were to visit Transnistria on 8 September, where we had asked to meet the leader of the Transnistrian de facto authorities, Mr Smirnov, "the Speaker of the Supreme Soviet", Mr Shevchuk, and a number of local NGO representatives. Despite several official letters, as well as unofficial contacts through the OSCE office in Tiraspol, neither Mr Shevchuk nor Mr Smirnov was able to receive us. The official explanation we received was that both were unavailable due to other commitments.

15. Nevertheless, we went to Tiraspol, as planned, for a meeting with local NGO representatives, arranged by the Office of the Special Representative of the Secretary General in Chisinau.

16. The Transnistrian police officers complicated our access to the Transnistrian region. A "Deputy Minister of Foreign Affairs" facilitated our access and invited us for a meeting in Tiraspol.

17. At the "Ministry of Foreign Affairs" we were received by two "Deputy Ministers of Foreign Affairs", Mr Malyarchuk and Mr Simonenko. The Transnistrian representatives stressed the fact that the "Transnistrian Republic" was under severe economic blockade from the Moldovan side. The fact that Transnistrian enterprises were obliged to register in Chisinau to export and import goods would result in economic losses, as the companies in question were obliged to pay VAT twice.

18. However, this information was not confirmed to us by the Minister for Re-integration of the Republic of Moldova, Mr Vasile Sova, who clearly stated that the companies importing goods from abroad to Transnistria through the territory of Moldova were exempt from paying Moldovan VAT. It is also well known that temporary registration in Chisinau allows Transnistrian companies to benefit from preferential treatment granted to Moldovan companies by the EU, which has substantially strengthened the position of these companies on European markets. The arguments put forward by the "Deputy Ministers of Foreign Affairs" therefore appeared less than credible to us.

19. In response to a question about the negotiations concerning the settlement of the Transnistrian conflict, we were told that the Transnistrian side was insisting on the equal status of all parties in the negotiations and expected "recognised independence" as the outcome of the negotiations. This was the first time ever that the issue of independence was openly put on the table.

20. On the day of our visit to Tiraspol, the mediators and observers were holding discussions in Vienna about the future prospects of the negotiations on the Transnistrian conflict (the so-called "3+2" format meeting). Therefore, the negotiation process appears to be continuing. Moreover, a couple of days before our visit, an agreement about direct talks was reached between President Voronin and the leader of the Transnistrian de facto authorities, Mr Smirnov, with the support and mediation of the President of the Russian Federation, Mr Medvedev. We felt that, in the current situation, all participants in the negotiations (probably, with the exception of the Transnistrian side, which benefits from the unsettled "status quo" situation) were interested in moving forward to broker a political deal between the parties. The Transnistrian de facto authorities might therefore have felt uneasy talking to us and giving answers to direct questions. This might also explain the reason why our official meetings in Tiraspol at the highest level could not be organised. We shall closely follow developments with respect to the negotiations in the further stages of the monitoring process.

21. On the following day, in Chisinau, during our subsequent meeting with the Minister for Re-integration, Mr Sova, we spoke about the negotiation dynamics which appear to be emerging and insisted on the need to maintain close co-operation with the Venice Commission on any legal solutions to be found in the settlement process. We also stressed that the negotiation process should be conducted thoroughly and in a sustainable fashion, and not hastily pursued because of some immediate and short-term political imperatives such as the electoral agenda.

VI. Regrettable incident with the press conference

22. Our last meeting with the Chairman of the Co-ordination Council of the Audio-visual (CCA) and Director of the Public Service Broadcaster Tele-Radio Moldova was marked by a regrettable incident: a large group of journalists was invited to attend our meeting, as if it was a press conference. Our interlocutors could not give us a clear answer as to how the journalists were invited to a working meeting which, according to our well-known rules, must be held behind closed doors. Nevertheless, out of courtesy, we decided to make a statement to the press at the beginning of the meeting and asked the press to leave the room afterwards. The press was invited to join us later at the premises of the Council of Europe Office in Chisinau, where a press conference was organised. The journalists accepted our invitation and the press conference was held in good conditions.

23. This incident confirms that some officials are still applying old methods, while one could have expected a certain evolution of attitudes and practices. This highlights the need to organise strict observation of the forthcoming parliamentary elections, including thorough media monitoring. Moreover, we should closely follow the pre-election campaign in order to be able to react in due course to all possible situations.

24. After the visit, Mrs Durrieu addressed a letter to Mr Gheorghe Gorincioi, Chair of the CCA, and Mr Valentin Todercan, Director of TV Moldova 1, expressing strong disapproval of the incident. In order to avoid similar and more serious situations, a firm message needs to be sent to the Moldovan authorities: in an established democratic society there should be no place for old administrative practices aimed at regrettable manipulations. The authorities should step up efforts to ensure that the principles of democratic pluralism and good practices are respected during the forthcoming 2009 parliamentary elections, which will be thoroughly monitored by vigilant observers.

VII. Final remarks and next steps

25. We gained the impression from our meetings that the Moldovan authorities were seriously engaged in the implementation of our recommendations contained in Resolution 1572 (2008). Some progress is being made, notwithstanding some regrettable steps backward such as the recent revision of the election legislation.

26. The 2009 parliamentary elections will be an ultimate test for Moldova's democracy. On previous occasions, we noted repeatedly that the Moldovan electoral practices did not always comply with the European standards for free and fair elections. The 2009 elections are an opportunity for the authorities to eliminate all shortcomings and organise a free and fair election, in the spirit of democratic pluralism.

27. For this purpose, we call upon the authorities to fully co-operate with the Council of Europe and with the Venice Commission, in particular, within the framework of the pre-electoral assistance programme. We also call upon our Assembly to organise in due course a fully-fledged observation of the election, in co-operation with all our international election observation partners and OSCE/ODIHR, in particular. The monitoring of the pre-electoral environment and of the election campaign will be of crucial importance. We

therefore recommend that our colleagues from OSCE / ODIHR should dispatch in due course a fully-fledged long-term election observation mission to Moldova.

28. The organisation of free and fair elections in 2009 is just another stage in the democratic process. As we mentioned several times in our previous Resolutions, the adoption of good legislation should be followed up with effective implementation in good faith of new provisions. Only the establishment of a new political and democratic culture can pave the way for the prompt and desirable closing of the monitoring procedure and the opening of the post-monitoring dialogue.

29. We believe that Moldova is moving in a positive direction and will soon be able to fulfil the requirements necessary for the closing of the monitoring procedure. Pending this, our Assembly should continue to support the authorities' reform initiatives, through its monitoring process, by welcoming and encouraging positive steps, identifying concrete shortcomings and suggesting practical solutions.

APPENDIX

Programme of the fact-finding visit to Chisinau (7-9 September 2008)

Mrs Josette DURRIEU, Senator
Mr Egidijus VAREIKIS, Member of Parliament
Mr Artemy KARPENKO, Co-secretary of the Monitoring Committee

Sunday, 7 September 2008

20.00 Working dinner with the representatives of diplomatic corps accredited in the Republic of Moldova

Monday, 8 September 2008

- 08.00-08.30 Working breakfast with the representatives of NGOs
- 10.00-10.45 Meeting with H.E. Mr Marian LUPU, Chairman of the Moldovan Parliament
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Ms Ana BEŞLIU
- 11.00-12.00 Joint meeting with Mr Valentin MEJINSCHI, Minister of Home Affairs and Mr Sergiu PUŞCUŢA, Director of the Centre for Combating Economic Crimes and Corruption
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Ms Ana BEŞLIU
- 12.30-13.30 Lunch hosted by Mrs Maria POSTOICO, Deputy Chairperson of the Moldovan Parliament, Head of the Moldovan Parliamentary Delegation to the PACE
Attended by: delegation of the French Senate Friendship Group; Mr Pierre ANDRIEU, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Mrs Olga ORLOV, Ms Veronica VRABIE, Ms Ana BEŞLIU
- 14.00 Departure to Tiraspol
- 16.30-17.30 Meeting with Mr MALYARCHUK and Mr SIMONENKO, Deputy Ministers of Foreign Affairs of the self-proclaimed "Moldovan Transnistrian Republic"
- 17.30-18.30 Meeting with local NGOs
- 19.30 Return to Chisinau
- 20.00 Dinner hosted by H.E. Mr Marian LUPU, Chairman of the Moldovan Parliament
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU

Tuesday, 9 September 2008

- 09.00-09.45 Meeting with H.E. Mrs. Zinaida GRECEANŪI, Moldovan Prime Minister
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Ms Ana BEŞLIU
- 10.00-10.45 Meeting with Mr Andrei STRATAN, Deputy Prime Minister, Minister of Foreign Affairs and European Integration
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Ms Ana BEŞLIU
- 11.00-11.45 Meeting with Mr Vasile ŞOVA, Minister of Reintegration
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Ms Ana BEŞLIU
- 12.00-13.00 Joint meeting with Mr. Vitalie PÎRLOG, Minister of Justice, and Mr Valeriu GURBULEA, Prosecutor General
Attended by: Mrs Maria POSTOICO, Mr Vladimir RISTOVSKI, Mrs Rodica IOVU, Ms Ana BEŞLIU
- 15.00-16.00 Joint meeting with the representatives of the Broadcasting Coordinating Council and the representatives of the Teleradio-Moldova Company