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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 the Republic of Moldova

Information note by the co-rapporteurs on their fact-finding visit to Chisinau and Comrat (13 – 16 May 2015)

Co-rapporteurs: Ms Lise CHRISTOFFERSEN, Norway, Socialist group, and Mr Piotr WACH, Poland, Group of the European People's Party

I. Introduction

1. We paid a fact-finding visit to Chisinau and Comrat from 13 to 16 May 2015. It was the first visit after the parliamentary elections of 30 November 2014. For this visit, we chose to address some of the most pressing issues with the newly formed government, such as the fight against corruption, the reform of the prosecution office, the revision of the constitution and, more generally, the implementation of [Resolution 1955 \(2013\)](#) on the Honouring of obligations and commitments by the Republic of Moldova.

2. This visit gave us the opportunity to meet the newly elected members of the parliament, including its new Speaker Mr Candu, and the members of the minority government which was formed in February 2015. We had the pleasure of meeting the Prime Minister Mr Gaburici, the Ministers of Justice and the Interior and the Deputy Minister of Foreign affairs. We travelled to Comrat to meet the newly elected Governor (Bashkan) of the Autonomous Territorial Unit of Gagauzia-Yeri (ATUG), Ms Vlah, and the President of the ATUG Assembly, Mr Constantinov.

3. Our visit occurred while the Moldovan authorities were struggling with a major bank scandal (one billion dollars had disappeared from three major banks) which raised serious questions about the functioning of democratic institutions and independent agencies and the responsibility of those involved in this malpractice. This was discussed at length with the President of the Constitutional Court, the General Prosecutor, the Director of the Anti-corruption Agency and the leaders of all political groups represented in the parliament. We also sought information about developments in the fight against discrimination and minority rights, which we addressed in particular with the Chairperson of the Anti-discrimination council.

4. Given the geopolitical context, we discussed the Transnistrian conflict with the Vice Prime Minister for Reintegration, and the international community. We are grateful to the Head of the EU Delegation, the Russian Deputy Ambassador, the Polish Ambassador and the OSCE Military Officer for sharing their views with our Delegation.

5. We would like to thank Ms Palihovici, Head of the Moldovan Delegation, the members and Secretariat of the delegation for the excellent preparation and conduct of our visit and all the facilities provided to ensure good working conditions. We would also like to extend our warmest thanks to Jose-Luis Herrero, Head of the Council of Europe Office in Chisinau, and his team, for arranging the meetings with media and NGO representatives, which were highly appreciated in order to understand the current context.

6. The Republic of Moldova remains at the crossroad between East and West, as already described at length in our previous information note of November 2014². The government remains committed to

¹ Document declassified by the Monitoring Committee at its meeting on 23 June 2015.

² AS/Mon(2014)21rev.

European integration. It is now expected to implement the National Action Plan for the Association Agreement.³ At the Eastern Partnership Summit held in Riga on 21-22 May 2015, participants reconfirmed the great importance they attach to the Eastern Partnership and to implementation of the Association Agreement.⁴ However, no substantial progress and no further steps towards EU integration had been made, despite the high expectations expressed by the Moldovan authorities when we met them.

7. Concerning the relationship with Russia, while the Socialist Party of Mr Dodon won 25 seats at the 2014 parliamentary elections, and a pro-Russian Bashkan was elected in Comrat in March 2015, we noted some loosening of the economic tensions with Russia. The Russian Federal Consumer Rights Protection and Human Health Control Service (*Rosspotrebnadzor*) decided, on an ad hoc basis, to cancel the embargo imposed on two meat enterprises (11 May 2015), on two Moldovan wine companies (2 June 2015)⁵, and announced recently that Moldova should be able to resume export of fruits to Russia, following inspections carried out in May 2015. This is a positive move, which is vital for the agricultural sector.

II. Functioning of democratic institutions

a. Output of the 30 November 2014 parliamentary elections and follow-up

8. The results of the parliamentary elections showed that the voters remained divided about the option that the country should take. While the Socialist Party, which is pro-Russian, won 25 seats, the Party of the Communists, which is not against European integration but requires adjustments of the Association Agreement signed with the European Union in June 2014, has now 21 seats in parliament. The pro-European parties, ie the Liberal Democratic Party of Moldova (PLDM, 23 seats), the Democratic Party (PD, 19 seats) and the Liberal Party (LP, 13 seats) have together 55 seats out of 101. However, following the split with the Liberal Party during the last mandate, the pro-European parties were not in a position to form a government together.

9. In this context, the support of the Communists was instrumental in the election of Andrian Candu as Speaker of the parliament on 23 January 2015, and the appointment of Chiril Gaburici, a pro-European 38 year-old businessman on 18 February 2015. The Communists announced that they would support the minority government formed by Mr Gaburici (on condition that no pro-European leaders involved in “scandals and cases” be included in the government) and the Liberal Democrats and the Democrats on a case-by-case basis, and vote on merit, and not against European laws. This situation has made the decision-making process more difficult and could slow down the pace of the reforms expected, in particular the adjustment of the legal framework to implement the Association Agreement. Ms Ivanov, Chair of the PCRM faction, indicated however that in the current context, the Communists managed to pass 10 out of 30 bills proposed.

10. Despite this complicated political environment, the parliament continued to function thanks to the pragmatic approach of the parties. The minority government has to reach case-by-case political compromises with the Party of the Communists or the Liberal Party to pass legislation. However, we found it unfortunate and disputable that the government decided to “assume responsibility before the parliament”⁶ for the adoption of the draft laws concerning fiscal policy, the 2015 state budget, the state social insurance budget and mandatory health insurance funds. Debating and voting the budget is an essential prerogative of the parliament, and the opposition parties we met deplored that no debate was organised to express views on this essential issue. We were told that the current coalition should be enlarged after the second round of the local elections (28 June 2015) to form a majority government. Negotiations with the Liberal Party were already launched by the Democratic Party and the Liberal-Democratic Party right after the first round of the local elections.

³ Pm, the Association Agreement, including a Deep and Comprehensive Free Trade Area (AA/DCFTA), with the European Union was ratified by the Republic of Moldova on 2 July 2014. The major parts of the AA/DCFTA took effect provisionally on 1 September 2014, pending ratification by all EU Member States. Starting from 28 April 2014, around 360 000 Moldovan citizens were able to travel to the Schengen area visa-free in 2014, in implementation of the European Neighborhood Policy in the Republic of Moldova, Progress in 2014 and recommendations for actions, [SWD\(2015\) 69 final](#), 25 March 2015, p.2.

⁴ See the joint declaration <http://www.consilium.europa.eu/en/meetings/international-summit/2015/05/21-22/>.

⁵ An embargo on Moldovan wines was decided in September 2013, allegedly for reasons of non-compliance with the quality requirements. Rosspotrebnadzor pointed out however that, between January and May 2015, 4.8 million litres, had been delivered from southern Gagauzia and Transdnistria to Russia. Until now, only a few wineries in Gagauzia and Transdnistria can be exported to Russia. *MOLDPRES*, 2 June 2015.

⁶ Article 106a of the [Moldovan Constitution](#). In such case, “the Government shall be dismissed if a motion of censure, tabled within 3 days following the date of submission of the programme, general policy statement, or the draft law, has been passed” – otherwise the draft law is adopted without further debate.

b. *Preparation of the local elections*

11. As the local elections of 14 and 28 June 2015 were approaching, the political landscape continued to evolve⁷. New political parties or movements emerged: former Prime Minister Mr Leanca resigned from the PLDM and created his own party (the “European People’s Party of Moldova”, which was not yet registered when we met him). This party encompassed the “Democratic Action” Party” (led by Mihai Godea), the Liberal Reformist Party (led by Ion Hadarca), and the Party “Democracy at Home” (led by Vasile Costiuc) to form an electoral bloc called “European People’s Platform of Moldova – Iurie Leanca” for the local elections. We had a chance to meet Mr Leanca and get his views on the past and current developments.

12. These local elections were a national test for all political parties. The first round was observed by the Congress of Local and regional authorities, which concluded that the elections were efficiently administered and offered voters diverse choice, within a context of political turmoil.⁸ According to the results presented by the Central Election Commission on 29 June 2015 after all votes were counted, most mayors had been elected from the Democratic Party (140), followed by the Liberal Democratic Party (104), the Party of Communists (46), the Liberal Party (39), and the Party of Socialists (29). 22.3% of the mayors elected in the second round were women.

13. In Chisinau, which was a highly disputed electoral unit, the incumbent Liberal Mayor Dorin Chirtoaca was re-elected in the second round with 53.44%, thus defeating the former Communist, now Socialist candidate Zinaida Greceanii (46.46%). However, following the complaint lodged by the Socialists and the decision of the District Court of Chisinau Center of 1 July 2015, the votes will be recounted. Renato Usatii, the pro-Russian businessman and leader of the party Patria, was elected Mayor of the second-largest city, Balti, in the first round, as was Ilan Shor, the businessman involved in the bank scandal (see below) in the eastern town of Orhei.

14. Changes were recently made to the electoral framework: on 19 March 2015, the Parliament adopted the law on political party financing, regulating the state funds allocated to parties⁹, limiting the donations made by private individuals and legal entities with certain conditions. The law will take effect six months after its adoption, whereas the provisions concerning financing from the state budget will enter into force on 1 January 2016.

15. The Republic of Moldova continues to struggle with foreign interference in domestic politics and tries to contain it through different means, and notably the follows:

15.1. About 100 procedures were initiated to ban access to the Moldovan territory to Russian citizens and experts suspected of making propaganda. The Minister of the Interior later confirmed that 32 Russian citizens were labeled *persona non grata* in 2015.

15.2. Similarly, a Romanian citizen, member of “Action 2012”, which seeks reunification with Romanian and the liquidation of the Moldovan State, was expelled from the country while we were there.

15.3. On 9 April 2015, the parliament adopted, with the support of the Democratic, Communist and Liberal MPs, a law that bans the involvement of foreigners in election campaigns. This was a reaction to the massive input of Russian resources and expertise during Ms Vlah’s election campaign, as alleged by the Minister of Interior and political leaders in Chisinau. This law prohibits the organisation of concerts and other cultural-artistic events involving foreign singers by election runners – which was an issue during the 2014 parliamentary electoral campaign. The Socialists criticised this law, saying it was added to the agenda as a matter of urgency and did not go through all the required procedures.¹⁰

15.4. There was an attempt to ban Russian propaganda in the media by amending the Code of Television and Radio Broadcasting.¹¹ This stirred concerns from the OSCE Representative on Freedom of the Media

⁷ The years 2013 and 2014 were marked by the creation of the Liberal Reformers (who did not pass the electoral threshold in November 2014), the split in the Party of the Communists with the creation of the Socialist Party in 2012, the rise of Mr Usaty, a pro-Russian Moldovan businessman, at the head of the Patria Party and the creation of the party “Our Home - Patria” chaired by Mr Petrenco. This party was renamed in 2015 the “Red Bloc”, it is based on Marxist philosophy and the struggle against the current regime that it considered as “antinational” (IPN, 11 May 2015).

⁸ See the Congress press release, Press release - [CG025\(2015\)](#).

⁹ 50% of financing will be provided to the parties proportionally to their score in the parliamentary elections, and 50% proportionally to their score in the local general elections.

¹⁰ IPN, 10 April 2015

¹¹ Two amendments had been tabled, aiming at either limiting the transmission of news, information and political-analytical programs – to the television channels of only those countries, which have ratified the European Convention on

Dunja Mijatović, for whom the proposed provisions were excessive despite legitimate concerns including state security, state sovereignty and the protection of human rights”.¹² The Liberals also opposed these amendments, compelling the government to reconsider the draft.

c. *Political impact of the bank scandal*

16. In our previous information note, we mentioned the questions raised about the economic and financial stability of the country, the weaknesses shown by the financial sector, allegations of corruption, money laundering, transfers from abroad with fraud allegations, as well as the dubious privatisation of the Moldovan Bank of Economy, which had been mentioned to us as additional threats to the financial stability of the country.¹³ No new agreement was concluded with the IMF after the end of the previous IMF programme in April 2014, as the Moldovan Government had some objections to IMF requirements for sound fiscal policies.¹⁴

17. These fears were confirmed in 2015. At the end of 2014, the National Bank of Moldova placed three major commercial banks (Banca de Economii and Banca Sociala, followed by a similar decision on Unibank) representing about 30% of total banking assets, under special administration. In 2015 it became public that 1 billion dollars – which represents 12% of the national GDP - had been transferred before the parliamentary elections of 30 November 2014 from the three major banks to offshore accounts, the owner of which could not be identified. This money was not paid back, and literally vanished from the Moldovan financial circuit. The General Prosecutor explained to us at length the pyramidal mechanism put in place by a businessman, Mr Shor, who acquired in 2012 and 2013 shares in the three already indebted banks. In addition, the company Avia Invest, whose Chairman of the Board is Mr Shor, was granted the airport concession for 49 years in 2013. When he entered the market in 2015, Mr Shor's banks had accumulated 7 billion lei in debts. He played legally on the market, collecting 10 million lei deposits from the people through attractive rates and granting 4 billion lei credit to his own companies – while the government refrained from intervening to avoid a major crisis.

18. The parliament set up an investigation committee that organised hearings with the state institutions involved. It commissioned a US audit company, Kroll, to prepare a report on the case. This report was debated in parliament on 7 May, and declassified further to the decision of the Speaker of the Parliament. It confirmed the figures given by the National Bank, that amounted the loss to 13.7 billion lei (app. 1 billion dollars), without naming the persons responsible.¹⁵

19. While it is difficult for us to assess this case, given its complexity and possible money-laundering dimension, it is however symptomatic in relation to the functioning of institutions. From the discussions we had, it seems that many interlocutors knew about the problem since 2012, had suspicions and gave warnings. The Liberals questioned the responsibility of previous governments which had ignored the warnings, and even gave their financial guarantee to a 500 million euros loan in November 2014, a few days before the elections, to avoid default of payment and an economic crisis – before the money was transferred to offshore accounts. The presidential press service confirmed that this question had been raised repeatedly in the Supreme Security Council over the last three years, and letters were sent to the government notifying it about instances when the financial and banking spheres have not operated correctly¹⁶. The Anti-corruption centre (responsible for the fight against money laundering), the National Commission for Financial Markets or the oversight bodies of the National Bank – which are all subordinated to the parliament - did send

Transfrontier Television, as well as to European Union member countries and the United States [Russia has signed, but not ratified the European Convention on Transfrontier Television], or at imposing a daily minimum of 8 hours of own-production programs, of which three-quarters in prime time, by 2016 by local television channels <http://www.infotag.md/politics-en/204101/>; <http://www.infotag.md/politics-en/203949/>

¹² The expertise is available here <http://www.osce.org/fom/152301>.

¹³ AS/Mon(2014)21rev, para.14.

¹⁴ [SWD\(2015\) 69 final](#).

¹⁵ The Kroll report noted that a concerted effort appears to have been made to concentrate Shor group loan exposure at Banca di Economii within four companies (...) with a combined exposure of MDL 13 billion. For unexplained reasons, loan exposure was reversed out of BEM and the existing balances held on deposit between BEM and Russian banks cleared down. A complex series of transactions eventually resulted in new loans to the value of MDL 13.7 billion being issued by Banca Sociale to five Moldovan entities, who transferred the funds on to UK registered Limited partnerships with accounts at Privatbank in Latvia. The loans were sold to a UK registered shell company (...) to be paid in annual installments by November 2019. The loan documentation related to the suspicious transactions with entities deemed part of the Shor Group was later collected in a vehicle which was later stolen and found burned out. Kroll concluded that there was a “co-ordinated effort involving all three banks working together to extract as much loan finance as possible from the banks without any obvious business rationale for the increased exposure”. Kroll report, p.12

¹⁶ Infotag, 10 June 2015.

warnings, but failed to detect and redress these illegal activities and take the required measures over the past years to avoid this bank scandal.

20. This case appears as a major collective failure of several state institutions, which is undermining both the people's trust in their institutions, and the international credibility of the country. We also noticed that this case has had a devastating effect on the reputation of the pro-European coalition, provoked a drop in the confidence of people in the EU integration process and more generally a high level of frustration and disappointment of people we met. Therefore, it is of the utmost importance to establish the responsibility of those involved in these accumulated failures of the system, and to redress the shortcomings in order to stabilise the financial situation of the Republic of Moldova.

21. We were informed that cases had been opened against 8 persons, including the former presidents of Banca de Economii (BEM) and Banca Sociala and three members of the boards of the two banks. On 6 May, a court placed Ilan Shor under house arrest for 30 days. He was later released, and competed in the local elections on 14 June, where he was elected Mayor of Orhei, in the first round, with over 60% of the vote.

22. Early in June 2015, the Prime Minister Mr Gaburici requested the dismissal of the heads of the Prosecutor General's Office, the National Bank and the National Commission for Financial Markets, - which is a competence of the parliament. He published an open letter addressed to the Speaker Mr Candu – who dismissed the move as “unconstitutional and unlawful”¹⁷ - and to the President of the Republic Mr Timofti, adding that if the dismissals are not carried out within a month, then the PM would tender his resignation. He also pushed for the liquidation of the three banks – this is one of the conditions set by the IMF to reach an agreement which could be crucial to avoid the Republic of Moldova being faced with default.¹⁸

23. At the same time, the Prime Minister was put under pressure because of allegations about his curriculum vitae, including a forged school diploma, and a criminal investigation was opened by the Ministry of the Interior. Summoned by the General Prosecutor to testify on charges of forged school diplomas on 8 June 2015, the Prime Minister decided to resign on 12 June 2015 to allow for an “objective and transparent investigation”. He declared however on that occasion that “in the system created in Moldova now, a manager has no power and free hand in the office of prime minister”.

24. Because of this bank scandal, we felt that people had become insecure about a state that may, in a few months, no longer be in a position to pay out pensions, for example, even though we were told that part of the stolen money had already been recovered. But society has been reacting to this situation. Street demonstrations were organised by a “Civic Platform “Dignity and Truth” which groups 20 NGOs, but also representatives of the civil society (lawyers, academicians, economists, etc.). A seemingly spontaneous demonstration gathering 40 000 people was organised on 3 May 2015. On 7 June, the Civic Platform staged a protest against corruption and sought the resignation of the Prosecutor General, the Director of the National Anticorruption Centre, the Governor of the National Bank, and the Head of Parliament and former Minister of the Economy, but also a number of political leaders.

III. The Autonomous Territorial Unit of Gagauzia-Yeri (ATUG): latest developments

25. We visited the Autonomous Territorial Unit of Gagauzia-Yeri (ATUG). This followed on from a previous visit made to Comrat in 2011, the elections we observed there in 2014, and the latest developments, which were marked last year, in February 2014, by the organisation of an illegal referendum on foreign policy orientation. At that time, to ease tension, the Moldovan authorities had committed to addressing the structural problems in the relationship between the central authorities and the ATUG caused by the unclear legal and constitutional framework¹⁹, which has been a long-lasting concern of the Assembly.

26. The election of the ATUG governor (Bashkan) and partial elections of the Popular Assembly of the Autonomous Territorial Unit of Gagauzia, Republic of Moldova, took place on 22 March 2015. The elections were observed by the Congress of Local and Regional Authorities, which noted that the elections were held in an overall calm and peaceful atmosphere, technically well prepared and without major incidents, except some individual complaints. Some problematic issues were noted in relation to the electoral law and management.²⁰ Irina Vlah, a former PCRM deputy but running as an independent candidate, was elected

¹⁷ Infotag, 10 June 2015.

¹⁸ Op-end from *Alex Kremer, World Bank Country Manager in Moldova, “Moldovans deserve a clean economy”*.

¹⁹ See (AS/Mon 2014)21rev.

²⁰ This related to the inconsistency between the Republic of Moldova and the Gagauz region with regard to electoral provisions, the considerably high number of voters on supplementary lists throughout the region and the question of campaign financing of candidates.

Bashkan in the first round, during the campaign openly supported by high-ranking Russian officials, so said the Congress. She was sworn in on 15 April 2015.

27. We discussed the relationship between the ATUG and the Moldovan authorities both in Comrat and Chisinau, in particular with the Speaker of the parliament Mr Candu. We very much welcomed the renewed communication between the Moldovan Parliament and the newly-elected Bashkan, expecting that consolidated dialogue between the central and regional authorities would finally enable both sides to ensure that legislation promulgated by the Moldovan Parliament is compatible with the statute granted in 1994 to the region, which should be fully implemented. Another sign of the renewed relationship with the ATUG was the visit of President Timofti to the region on 29 May 2015 – the first visit of the President since his election on 16 March 2012 – who stressed the importance of studying both the State and Gagauz languages in the region²¹ and participated in the launch of the construction of a kindergarten funded by Turkmenistan.

28. Our open and constructive discussions in Comrat with Ms Vlah and Mr Constantinov, President of the ATUG People's Assembly also convinced us that the new ATUG leadership could bring some hope. The issue of the harmonisation of the Moldovan legislation, and its full respect of the ATUG Statute was the priority subject raised by Ms Vlah. They also complained that the opinions of the Venice Commission in relation to Gagauzia²² had been disregarded.

29. We hope, and urge again the Moldovan central authorities and the Gagauz representatives to find a format to set up, without delay, a working group to address all pending legal issues related to the harmonization of the Moldovan legislation with the ATUG Statute. We are convinced that such an initiative would substantially contribute to lifting all legal hurdles that have hampered the relationship between the two sides. This process should be fully backed by the Council of Europe, which can provide the necessary expertise. We understand that this group could be soon created.

IV. Other recent developments pertaining to the rule of law, democracy and human rights

a. Reform of the Constitution

30. We called on the parliament to start work, without further delay, on the revision of the Constitution that is needed to avoid a new political deadlock for the election of the President of the Republic, scheduled for spring 2016. However, in the current context, with a minority government to be soon reshuffled, no concrete steps have been reported in that direction. Mr Filat, former Prime Minister and Chair of the PDLM faction in the parliament, indicated that his party would launch an initiative after the local elections to propose the election of the President in three rounds, with decreasing majorities required (61, 57 and 51 in the third round). The Party of the Communists would like to keep the *status quo* (election of the President with a 61 vote majority), while the Liberal Party and the Socialist Party are in favour of the direct election of the President. Mr Lupu, President of the Democratic Party, indicated that his party is preparing a draft constitutional amendment with the PDLM.

31. We also took note of the decentralisation process, which is continuing as planned. We were informed that the Law on decentralisation has now been implemented in the whole region. We stressed that it is important to allocate sufficient financial resources to local authorities. This is crucial to the success of this reform, but may prove more difficult in the current economic context, marked by the bank scandal.

b. Reform of the prosecution office

32. We were told that the much-anticipated reform of the prosecutor's office was moving forward. The Venice Commission adopted an opinion on the Law on the Prosecution Office in December 2014.²³ The draft law was approved by the Government on 8 May 2015, and takes into consideration most of the recommendations of the Venice Commission. The Ministry of Justice and prosecution office have been

²¹ Out of those 30 lyceums, 26 lyceums teach in Russian, the other two Moldovan-Turkish lyceums use the English, and another two Romanian. The President said that there was no Gagauz-language school in Gagauzia. MOLDPRES, 29 May 2015.

²² The Venice Commission adopted two opinions related to the Statute of Gagauzia: an opinion on the Law on Modification and Addition in the Constitution of the Republic of Moldova in Particular Concerning the Status of Gagauzia adopted by the Venice Commission at its 50th Plenary Session (Venice, 8-9 March 2002, [CDL-AD\(2002\)020](#)), and an Opinion on the Law of the Gagauz Autonomous Territorial Unit on the Election of the Governor of Gagauzia (Moldova) adopted by the Venice Commission at its 72nd plenary session (Venice, 19-20 October 2007, [CDL-AD\(2007\)033](#)).

²³ [CDL-AD\(2015\)005-e](#) Joint Opinion on the draft Law on the Law on the Prosecution Service of the Republic of Moldova, adopted by the Venice Commission at its 102nd Plenary Session (Venice, 20-21 March 2015).

organising public debates to discuss it. The new system lays down the new modalities of election of the General Prosecutor, which should be proposed by the Council of Prosecutors and appointed by the President of the Republic. The implementation of this provision would however require a change of the Constitution. The General Prosecutor would be appointed for a single, seven-year mandate²⁴. The prosecution system would include the Prosecutor General's Office, two specialised prosecutor offices, (on the fight against corruption and for special cases) and territorial prosecutors. The salaries of the prosecutors should also be increased.

33. The parliament approved this draft on first reading on 29 May 2015, but did not adopt it so far, as the work of the parliament was suspended due to the local elections. We were told that this Law should be adopted by the parliament during this summer session. The law will enter into force on 1 January 2016, except for the provisions referring to the appointment of the prosecutor general by the president, which should enter into force once the Constitution is amended. The President of the Constitutional Court considered however that it might not be necessary to change the constitution to appoint a new prosecutor, and a number of interlocutors stressed the fact that appointing of a prosecutor in line with these new rules would be essential to rebuild the institution.

34. One specific difficulty was raised with regard to the prosecution service in the Autonomous Territorial Unit of Gagauzia (ATUG), which claims that the ATUG prosecutor should be appointed by the ATUG People's Assembly. This is an important and highly disputed issue. We trust that the authorities, both in Chisinau and Comrat, will find the necessary legal solution to overcome this problem which, once again, relates to the relationship between the legislation of the Republic of Moldova and the specific provisions deriving from the 1994 Statute requiring clarification.

35. We hope that the parliament will manage to pass the Law on the Reform of the Prosecution Office which is in line with Council of Europe standards and Venice Commission recommendations. The amendment of the Constitution should also be addressed as a priority to modify the selection method for the General Prosecutor and contribute to de-politicise this institution, which has been under criticism on many occasions and undermines the trust of the people in this very essential institution to render justice and protect the general interest.

c. *Justice reform*

36. The new Minister of Justice, Mr Grosu, explained that the Moldovan authorities are now implementing the Strategy for the reform of the justice system, which was adopted unanimously in 2011. This implementation includes random allocation of cases; supervision of the proceedings by the Superior Council of Magistrates; and audio recording of all court proceedings. A law on the discipline of judges was adopted by decree in July 2014.²⁵ Draft laws related to the creation of a national integrity commission, declaration of assets and conflicts of interests were in preparation.

37. The Law on professional integrity testing, which was much debated last year, remains contentious. On 16 April 2015, the Constitutional Court issued a decision on the constitutionality of the Law on professional integrity testing, further to the Amicus Curiae Brief requested from the Venice Commission.²⁶ While the Venice Commission challenged some provisions of a law to be applied to *judges*, the Constitutional Court invalidated the law as it would be applied to *any public civil servant*.²⁷

38. As for the transfer of pre-trial detention from the Ministry of the Interior to the Ministry of Justice, which is a long-lasting request from the Assembly, Mr Grosu considered that it would be unrealistic for the time being. He referred to the expected construction of a new penitentiary, which should be completed in 4 years. This should solve the human rights issues related to detention.

²⁴ The candidate should be selected by the Superior Council of Prosecutors by competition. The person who gets the highest score will be proposed by the Council to the President to be appointed to the post of prosecutor general. The Head of State will be able to reject the proposed candidacy only once.

²⁵ [SWD\(2015\) 69 final](#), p.6.

²⁶ [CDL-AD\(2014\)039-e](#) Amicus Curiae Brief for the Constitutional Court of Moldova on certain provisions of the law on professional integrity testing, adopted by the Venice Commission at its 101st plenary session (Venice, 12-13 December 2014).

²⁷ *Transparency international Moldova* incriminated a bad translation of the Amicus Curiae Brief and a "manipulation" by the Constitutional Court to dismiss the law. See its "[Public call](#)" on the existence of indications of lack of objectivity of the Constitutional Court in examining the complaint regarding the constitutionality of certain provisions from Law no.325 of 23.12.2013 on professional integrity testing".

d. *Fight against corruption*

39. Corruption, including high level cases of corruption, remains a serious issue in Moldova. Transparency International ranked Moldova 103th out of 175 countries on its 2014 Corruption Perception Index (in 2013 Moldova ranked 102nd out of 177 countries). The situation seems to have worsened for private firms, which consider corruption as their number 2 problem after political instability.²⁸ According to the European Commission, corruption still remains a major cause of concern, with the sectors most vulnerable to corruption including the judiciary, customs, public procurement, health, the social sphere and education. Moldova continued to implement its 2011-15 national anticorruption strategy. In May 2014, after a delay of more than five months, parliament approved the 2014-15 action plan to implement the national anticorruption strategy.

40. The functioning of the anti-corruption bodies does not yet meet expectations: the National Anti-Corruption Centre is not as independent as required. Low penalties and in some cases impunity, lack of autonomy, capacity and independent decision-making shown by the anticorruption unit of the General Prosecutor's Office, which is responsible for prosecuting corruption cases following investigation by the National Anti-Corruption Centre, are seen as additional hampering factors. The professional integrity testing law came into force in August 2014, but the parliament has failed since then to adopt the legislative package required to implement this law.²⁹

41. Mr Chetaru, head of the National Anti-Corruption Center (NAC), explained that the postponement of the NAC reform, and the transfer of NAC oversight back to the government in 2014, was explained by the political crisis that followed the "hunting accident" of December 2013. He deplored the lack of uniform application of the law by courts, and the low number of convictions: while the NAC submitted 500 cases to courts each year, only 26 persons were sent to prison recently to serve their sentence³⁰. Mr Chetaru however welcomed the new law on judges, which enabled the immunity of those suspected of corruption to be lifted. Eight cases were sent to courts. Four judges were sentenced (two of them with suspensive effect). The Head of the NAC also stressed the need to reform the prosecution office – and ensure that the prosecutor is in a position to launch prosecutions, draft indictments and sent people, also at high level, to court, to send out the right signals to the population.

42. It is to be feared that the bank scandal appears to be yet another malfunctioning of the entities in charge of fighting corruption and money laundering.

43. On 7 May 2015, the Prime Minister Mr Gaburici announced several anti-corruption initiatives, including boosting reform of the institutions of law enforcement – the Prosecutor General, the National Integrity Commission, the National Anticorruption Centre; the creation of an anti-corruption council to assess the activity of the law enforcement bodies once a month. On 8 June 2015, the government announced the creation of a new specialised unit within the National Anti-Corruption Center to deal with high-level cases of corruption, including goods or assets obtained illegally by public officials. It remains to be seen whether these new reforms will be carried out after the reshuffling of the government.

e. *Freedom of the media*

44. The situation of the media remains difficult. In 2014, attempts to restrict several television channels' access to the audiovisual landscape reinforced the perceived lack of independence of the Audiovisual Coordination Council. The draft Audiovisual Code, drawn up in 2011 with support from the Council of Europe, the EU and civil society, has yet to be adopted by the Moldovan Government and Parliament.³¹

45. Transparency of media ownership remains an issue. The Minister of Justice informed us that the parliament adopted the Law on media ownership in 2015 in a first reading, noting that the amendment put forward by the Liberals to prohibit offshore ownership was rejected.

²⁸ The percentage of a Government contract's value spent on bribes rose from 8% to 11% during 2008-13. The percentage of firms saying that bribes were at least moderately important in getting business went up from 12% to 53% during 2005-13 – a staggering increase. The percentage of firms saying they had to pay a bribe to get a construction permit rose from 23% to 43% during 2008-13; it went up from 7% to 22% to get an operating license, in Op-end, op. cit.

²⁹ [SWD\(2015\) 69 final](#), p.6/7.

³⁰ According to Mr Chetaru, no one was sent to prison from 2012 to 2015: While the judge declared that 90% of the those indicted were guilty, 80% of them pleaded guilty, 60% of the sentences had suspensive effect and all other cases ended with administrative fines.

³¹ This new code should improve ownership transparency, editorial freedom, media plurality and independence of the Audiovisual Coordination Council [SWD\(2015\) 69 final](#), p.5-7.

46. Access to economic information has also been limited. Investigative journalists complained about limits in accessing data from companies and the risk of being sued for defamation if they publish sensitive data.

f. Fight against discrimination

47. We continued to pay attention to the fight against discrimination. We met Ms Gummenaia, Chairperson of the anti-discrimination Council, which was officially registered in July 2014 once its 5 members were finally appointed, in line with the anti-discrimination law. The Council dealt with 21 petitions in 2013 and 151 in 2014, which ended in 121 rulings made by the Council. In 76% of the cases, there was a violation of the law - in 80% of them, it involved the state institutions.³² The Council however can only issue advisory decisions, which are not compulsory. The Council managed to prompt the drafting of amendments to the penal code and administrative code in relation to hate speech (which had not been a crime in itself before). In the light of the information provided by Ms Gummenaia, it seems that this institution should be strengthened and to ensure that the administration provides all the documents required. The competences of the Council might also need to be better defined and reinforced, so as to enable it to provide expertise to courts or to impose fines and sanctions; an amendment to the 2012 Anti-discrimination Law was drafted in 2014, but is still pending in parliament.

48. We also enquired about the protection of the rights of lesbian, gay, bisexual and transgender (LGBT) people, which was a bone of contention when adopting the Anti-Discrimination Law (this law only covers LGBT rights in respect to labour rights). While no further legislative step was taken to strengthen this law, we congratulated the Minister of the Interior for the protection provided to the demonstrators of the Parade for the (LGBT) Community in Chişinău in May 2015.

g. Protection of minorities

49. Steps were taken to promote the integration of national minorities into society. In line with the government's action plan, the Bureau for Inter-ethnic Relations formed a working group to draft a 'Strategy on the integration of national minorities' with support from the OSCE High Commissioner on National Minorities. The drafting of the strategy was suspended in October 2014, due to the parliamentary electoral campaign.

50. In 2014, the Ministry of Education reformed the Educational Code, which now requires Moldovans to study up to the age of 18 (instead of 16) and strengthens Romanian as the State language: studying the Romanian language is compulsory in all educational institutions at all levels (Art. 10.3). The State "guarantees the development of communication competence in the Romanian language, the languages of national minorities, where appropriate"³³, and in at least two international languages" (Art. 9.7), while the State "shall ensure the training and development (...) of 'communication competences' in English, French and Russian in all public institutions of general education".³⁴ The new code came into force in October 2014. The European Commission noted that it raised some concern among some minorities.³⁵

51. In the current context, and despite the geopolitical challenges, we believe that the ratification of the Council of Europe's European Charter for Regional or Minority Languages³⁶ (which was signed by Moldova in 2002) would be a positive sign and a hand offered to national minorities to make them feel part of society. In particular we believe that a significant part of the Russian speaking part of the population, which is cross-party, is attached to the Republic of Moldova, and should feel more comfortable with the use of their

³² 25% were related to disabilities, 14 to gender, 5% to access to justice based on the language.

³³ Art. 10.2 says: "in areas traditionally inhabited by substantial numbers of persons belonging to national minorities, if there is a sufficient demand, the State shall ensure, within the limit of what is possible in the education system, that the people of these minorities benefit from appropriate conditions to learn their minority language or to receive education in that language at the level of compulsory education."

³⁴ [Law n°152](#) adopted on 7 July 2014 (unofficial translation)

³⁵ [SWD\(2015\) 69 final](#), p.8.

³⁶ [ETS No. 148](#). See the [website](#) of the Charter : "The Charter aims at protecting and promote regional and minority languages as a threatened aspect of Europe's cultural heritage and on the other hand to enable speakers of a regional or minority language to use it in private and public life. Its overriding purpose is cultural. (...) The Charter is based on an approach that fully respects national sovereignty and territorial integrity. *It does not conceive the relationship between official languages and regional or minority languages in terms of competition or antagonism. Development of the latter must not obstruct knowledge and promotion of the former.* A deliberate decision was taken to adopt an intercultural and multilingual approach in the Charter, with each category of language taking its rightful place. In each state the cultural and social reality must be taken into account." (italics added).

language, which could contribute to the stability of the country. These citizens are a component of Moldovan society.

52. We have been informed that a Strategy for the Integration of National Minorities and an Action Plan to support Moldova's Roma population for 2016-2020 are under preparation and should be ready by mid-July 2015. The Prime Minister Mr Gaburici stated on 2 June that these documents should respond to the need "to adopt policies to promote national unity and integration into society. In the absence of such policies, there is a danger that certain ethnic groups will become isolated from the rest of the society. Moldova is very diverse in terms of ethnicity. Therefore, we must create conditions for strengthening civic affiliation and the integration of national minorities, while at the same time protecting their culture, traditions and language".³⁷ Such intentions should be supported, and we trust that the next government will take the steps necessary for improving social cohesion in Moldova.

V. The Transnistrian Region of the Republic of Moldova

53. After our interesting visit to Tiraspol last year, we looked into the progress made in the settlement process. The economic situation in Transnistria remains very difficult, as the region is indirectly affected by the economic crisis in Russia, which is reducing its subsidies to Tiraspol. Commercial ties with the Republic of Moldova and the EU are therefore crucial. In this respect, a new economic agreement should be negotiated, as the transitional measures (autonomous trade preferences) currently in vigor will expire at the end of 2015. The Deep Free Trade Agreement could too be extended. Transnistria exports 52% of its goods to Moldova and the EU. In addition, 70 000 Transnistrians applied for a Moldovan biometric passport in 2014 (after the entry into force of the liberalised visa regime).

54. We were glad that steps have been taken by the Speaker of the Moldovan parliament to facilitate a "rapprochement": Andrian Candu, and Mikhail Burla, President of the *de facto* Supreme Council of the Transnistrian region of the Republic of Moldova, met on 18 May 2015 - the first visit of its kind in 13 years - and had planned to celebrate jointly the International Day for Protection of Children in Chisinau on 1 June 2015, a meeting which, finally, did not take place.

55. We discussed the settlement process with Mr Osipov, new Deputy Prime Minister in charge of the reintegration of Transnistria, as the 5 + 2 talks are currently stalled because of the geopolitical context. New "1+1" initiatives were launched by Chisinau and Tiraspol, stimulated by the new (minority) government of Moldova and the Speaker of the Parliament, Mr Candu. The latter emphasised his commitment to developing parliamentary diplomacy, referring to an initiative launched (unsuccessfully at the time) by PACE President Mr Mignon during his visit to Moldova in 2012.

56. Mr Osipov conceded that more could be done to protect human rights in Transnistria and to encourage the *de facto* authorities to respect European standards, in order to avoid increasing numbers of domestic cases pending at the European Court of Human Rights. He expressed in particular concerns about the health conditions of a Transnistrian journalist, Sergei Ilchenko, detained since March 2015 on charges of "extremism"³⁸. We recalled that the deputy Speaker of the *de facto* Soviet Supreme told us last year "give us access to markets, we will give you democracy", Mr Osipov indicated that the integration of Transnistria into a joint economic space, i.e. the extension of the 2014 EU Deep Free trade agreement to Transnistria, is one of the objectives of the Moldovan authorities with regard to this region.

57. Mr Osipov explained that, in the absence of a legal basis, it might prove difficult to interact with a *de facto* parliament. He also raised the issue of enforcement of criminal cases opened in Moldova against Transnistrians (the Moldovan authorities having the obligation to open such cases and investigate), and cases opened by the "non-constitutional, *de facto* authorities" of Transnistria against Moldovan citizens; these criminal cases are hampering the discussions on the settlement process. Leaders of Transnistria under investigation fear being arrested if they travel to Chisinau for discussions. Mr Osipov concluded by requesting the expertise of the European institutions, and in particular the Council of Europe, on this subject. He also declared himself available to address the relevant instances of the Parliamentary Assembly to discuss this topic.

58. The diplomats we met, and Mr Tapiola, Head of the EU delegation in particular, confirmed that the international community was reflecting on possible technical support that could be provided for the drafting of the legal framework envisaged by Minister Osipov. The scheme could draw inspiration from other settlement

³⁷ MOLDPRES, 2 June 2015.

³⁸ <https://www.cpi.org/2015/03/journalist-jailed-on-extremism-charges-in-moldovas.php>.

experiences (the case of Northern Ireland was mentioned). The EU Ambassador stressed that conditions to settle the conflict include the withdrawal of Russian troops from TN, an agreement on the special status of TN and limited participation of Transnistria, once reintegrated, in Moldovan foreign policy. The Russian deputy ambassador, for his part, emphasised the importance of the neutrality of the country, in line with the constitutional requirement, the need to grant a special status to the region of Transnistria in Moldova, and to change mentalities to foster reconciliation between Transnistria with Moldova. He stated that Russian support to Transnistria was limited to economic and social - and not to political support. The representative of the OSCE confirmed the important change of attitude in Transnistria and the opening of the new Moldovan government in place that allows a new dynamic of negotiation.

59. The Minister for Reintegration, Mr Osipov, is considered to be very committed to contributing to the settlement of the conflict and addressing the problems encountered by the people, and to refraining from politicising the discussions. While the parliamentary dialogue gains fresh impetus, the discussions remain more challenging with the *de facto* executive authorities in Transnistria. The process thus remains fragile, progress is not immune to the negative impact of external factors, but it ought to be fully supported by our Organisation.

60. The geopolitical environment could still impact the settlement process: on 21 May 2015, the Ukrainian Verkhovna Rada [parliament] renounced 5 military agreements with the Russian Federation, including one on Russian military personnel and cargo transit via Ukrainian territory. Russia reacted and pledged to “build an air bridge to Transnistria” to provide the Russian army and peacekeeping forces with everything necessary. Some media reported that representatives of 66 public organisations of Transnistria decided on 25 May 2015 to prepare “an appeal to Russian President Vladimir Putin asking him to protect the people of Transnistria if any external threat emerged”, and there are growing complaints that the “embargo” imposed by Moldova and Ukraine is further suffocating the Transnistrian economy.

61. We do hope for a friendly settlement of the Transnistrian conflict, primarily in the interest of the people, and in full respect of Moldovan territorial integrity. We wish to encourage the recent initiatives by the Speaker of the Moldovan Parliament, which, we believe, show that parliamentary diplomacy can and must play a positive role in the reintegration process, as recommended by the Parliamentary Assembly in the past, and in line with the commitment made to Council of Europe.

VI. Conclusions and proposed follow-up

62. The Republic of Moldova is facing difficult times, and confronted with a new crisis (the bank scandal) and an upcoming change of government. On-going politicisation of state institutions, foreign interference in domestic politics and business interests are still prevalent and could put the democratic functioning of the country in jeopardy. Despite this unfavorable context, we feel that the Moldovan people continue to strive for democratic standards. We hope that the authorities and the parliamentarians will listen to this message from the population and give a new impulse to the much-needed reform process in order to bring national legislation closer to European standards, in the interest of the population and the country. We trust that the Republic of Moldova will overcome this period of uncertainty and find the majority needed in parliament to move forwards.

63. The bank scandal, which raised a number of questions about the functioning of the state institutions, their supervision, and the chain of responsibilities in the disappearance of one billion dollars, has had a detrimental effect on people’s trust in their institutions and on the climate for investors. The authorities should heed and act on the disillusion of the population caused by successive cases (the hunting incident, the bank scandal) and their political consequences. Prompt action and thorough investigation are expected to shed light on this case and bring those responsible to justice. This shows, once again, that the fight against corruption and money laundering should be strengthened; more should be done with high level cases to send out the right signals to the population. More significant steps should be made to guarantee separation of powers, the independent, depoliticised functioning of State institutions and transparency in public life, including in media ownership and the funding of political parties. The adoption of the Law on political party financing in March 2015 is a step in the right direction.

64. In this context, we believe that the reform of the prosecution service, in line with the recommendations of the Venice Commission, as well as the creation of a national integrity commission and the reform of the national anti-corruption center should be addressed as a matter of urgency.

65. The Assembly should closely follow, and possibly support the moves undertaken by the Moldovan and Gagauz authorities to set up a working group and sort out the legal questions that are still pending with a

view to harmonising Moldovan legislation with the Statute of the ATUG. The Parliamentary Assembly stands ready to provide assistance. We also suggest that an exchange of views be organized with the Bashkan Ms Vlah in the Monitoring Committee at one of its 2015 meetings.

66. We still hope that the existing settlement mechanisms ("5+2 format") will be able to solve the Transnistrian conflict while being aware that this process remains fragile and could be undermined by external factors and surrounding conflicts. On the other hand, we wish to praise the bilateral moves that have been undertaken by the Speaker of the parliament Mr Candu and the Speaker of the *de facto* Supreme Soviet of Transnistria to resume dialogue at parliamentary level, in the interest of the citizens. This is a positive move that should be strongly supported and encouraged by the Council of Europe. We recommend that our ad hoc Sub-Committee on Conflicts between member states looks into this initiative in depth at one of its next meetings.

APPENDIX**Programme of the fact-finding visit to Chisinau and Comrat (13-16 May 2015)**

Ms Lise CHRISTOFFERSEN (Norway, Socialist Group)
Mr Piotr WACH (Poland, Group of the European People's Party)

Wednesday, 13 May 2015

- 16:30–17:15 Meeting with Mr Mihail COTOROBAI, Ombudsman for Human Rights
- 17:20–18:20 Meeting with Mr Jose Luis HERRERO, Head of the Council of Europe Office in Chisinau (*)
- 18:30 Working dinner with NGO representatives (*)
- Mr Vlad GRIBINCEA - Legal Resource Centre
 - Mme Galina BOSTAN - Centre for Preventing Corruption
 - Mme Ana FURTUNA - Anti-discrimination Coalition
 - M. Pavel POSTICA – Promo Lex
 - M. Liubomir CHIRIAC – IDIS Viitoru

Thursday, 14 May 2015

- 08:00-08:45 Meeting with H.E. Mr Andrian CANDU, Chairman of the Parliament of the Republic of Moldova
- 09:00-10:15 Meeting with media representatives (*)
- Ms Alina RADU, Ziarul de Garda
 - Mr Roman MINOVSKI, Director of Accent TV
 - Ms Marina SHUPAC, Newsmaker
 - Ms Irina ASTAHOVA, "Kishiniovskiy obozrevatel"
 - Mr Dmitrii VIUBASENKO, Editor in chief of NOI Moldova
- 11:30-12:15 Meeting with H.E. Mr Chiril GABURICI, Prime Minister of the Republic of Moldova
- 12:30-14:00 Working lunch with the members of the Moldovan parliamentary delegation to PACE with the participation of Ms PALIHOVICI, Head of delegation, Mr GHILETCHI, Ms BULIGA, Ms IVANOV, Mr NEGUTA, member, and Ms IOVU, Secretary of the delegation
- 14:15-15:00 Meeting with Mr Vlad FILAT, Chairman of the LDPM faction (Liberal Democratic Party of Moldova)
- 15:15-16:00 Meeting with Mr Andrei GALBUR, Deputy Minister of Foreign Affairs and European Integration
- 16:15-17:00 Meeting with Mr Antalo CHALAN, Vice-Chairman of the Liberal Party of Moldova
- 17:15-18:00 Meeting with Ms Violeta IVANOV, Chairwoman of faction of the Party of Communists of the Republic of Moldova
- 18:15-19:00 Meeting with Ms Oxana GUMENNAIA, Chairwoman of the Anti-discrimination Council
- 20:00 Working dinner with the diplomatic community and/or representatives of international institutions (*)
- H.E Artur MICHALSKI, Ambassador of Poland
 - H.E Ambassador Pirkka TAPIOLA, Head of the EU Delegation
 - Mr FILIP, Deputy to the Ambassador of the Russian Federation
 - Mr Stephen YOUNG, Politico-military Officer, OSCE Mission

Friday, 15 May 2015

- 08:00-08:45 Meeting with Mr Andrei NEGUTA, Deputy Chairman of the faction of the Party of Socialists of the Republic of Moldova
- 10:00-10:45 Meeting with Mr Marian LUPU, Chairman of the DPM faction (Democratic Party of Moldova)
- 11:00-11:45 Meeting with Mr Viorel CHETRARU, Director of the National Anticorruption Center
- 12:00-12:45 Meeting with Mr Victor OSIPOV, Deputy Prime Minister for Reintegration
- 13:00-13:45 Meeting with Mr Iuri LEANCA, President of the "European People's Party"
- 14:15-15:00 Meeting with Mr Vladimir GROSU, Minister of Justice
- 15:15-16:00 Meeting with Mr Alexandru TANASE, President of the Constitutional Court
- 16:15-17:00 Meeting with Mr Corneliu GURIN, General Prosecutor of the Republic of Moldova
- 17:15-18:00 Meeting with Mr Oleg BALAN, Minister of Internal Affairs
- 18:15–18:45 Press briefing

Saturday, 16 May 2015

- 07:30–09:00 *Departure of the delegation to Comrat*
- 09:00–11:00 Meetings in the representatives of the Autonomous Territorial Unit of Gagauzia (ATUG) (*)
- Ms Irina VLAH, Governor of ATUG
 - Mr Dumitru CONSTANTINOV, Chairman of the People's Assembly of ATUG
- And members of the ATUG Assembly
- 11:00-11:45 Meeting with representatives of the civil society
- Mihail Sirkeli, NGO Pilgrim Demo
 - Elena Mina from Pro Europa
- 11:45-12:30 Meeting with representatives of the media
- Ekaterina Jecova and Ana Harlamenco, Gagauz Media
 - Alexey Kartashilov, Gagauzinfo
 - Stepan Piron, Teleradio Gagauzia

(*) Meetings organised by the Council of Europe Office in Chisinau