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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 Chișinău and Comrat (3-5 April 2018)

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¹ Document declassified by the Monitoring Committee at its meeting on 27 June 2018.

I. Introduction

1. We visited the Republic of Moldova from 3-5 April 2018. This was our first visit as co-rapporteurs since our appointment by the Monitoring Committee, respectively in April and November 2017. Our visit focused on the political developments since the last rapporteurs' visit² and the election of the President of the Republic on 13 November 2016. We also looked at the preparation of the 2018 parliamentary elections to be held this autumn.

2. In Chișinău, we met the President of the Republic, the Deputy Prime Minister and Minister for Reintegration, the Speaker of Parliament, the leaders of parliamentary and extra-parliamentary political forces, the Minister of Internal Affairs, the State Secretary of the Ministry of Justice, the President of the Constitutional Court, the General Prosecutor, the head of the Central Election Commission and the head of the National Anti-Corruption Centre. We also travelled to Comrat, in the Autonomous Territorial Unit of Gagauz-Yeri (ATUG), where met the Deputy Governor of the Autonomous Territorial Unit of Gagauz-Yeri, the head of Gagauzia's People's Assembly and local civil society representatives. The programme is appended (Appendix I). At the end of our visit, we issued a statement (see Appendix II).

3. We would like to thank Mr Marian Lupu, Head of the Moldovan delegation to the PACE and the Secretariat of the parliament for the excellent organisation of our visit. We appreciated the assistance of Ms Gutjahr, acting Head of the Council of Europe office, to organise the meetings with NGO and media representatives. Finally, we would like to thank H.E. Pascal Le Deunff, Ambassador of France in Chișinău, for the hospitality extended.

II. Recent political developments and international context

4. Since the last visit of the PACE co-rapporteurs, the country has, compared to previous years, enjoyed governmental stability: the consolidated parliamentary majority secured by the Democratic Party in January 2016³ has since then allowed the Prime minister Pavel Filip to launch a series of reforms in the field of economy, energy security, social measures (in particular increase of wages and social benefits), as well as a "comprehensive reform agenda" agreed with external partners with the objective to improve fight against corruption, public administration reform, political parties' funding, media, justice, gender equality, bank reform, etc.⁴ In the field of economy, we noted signs of recovery, in particular encouraging job creations, thanks to the support of international partners.

5. This positive trend however sharply contrasted with the climate depicted by many of interlocutors from the opposition and the civil society, who referred to "pressures" of different kinds, deterioration of fundamental freedoms, lack of trust in public institutions, as well as control of media and public institutions by two main political parties connected to oligarchs who, they felt, have "captured" the state.

6. One of the reasons for dissatisfaction relates to the management of the bank fraud scandal, which, in 2014, resulted in the disappearance of 1 billion dollars from the bank system. This case was described in previous information notes. At the time of our visit, the Kroll Company, which had been entrusted to investigate the case, had published, in December 2017 a detailed summary of the investigation report, describing the money laundering mechanisms used, and the destination of the fraudulent funds. The summary mentions the name of Ilan Shor as one of the facilitators and beneficiaries of the fraud, but no other names or the suspected final beneficiary. The full report, however, was not disclosed. We asked the authorities about its publication, which would be of utmost interest for the general public – which is today bearing the financial burden of the fraud, since the state had offered its financial guarantee to the banks involved. The Deputy Prime minister indicated that the authorities were considering publication. The authorities also informed us that 20 cases had been brought to court following the investigations launched.

7. The relationship with the European Union, which has remained supportive of the reform process of the country, has also evolved. In July 2016, the Association Agreement and the Deep Free Trade Agreement entered into force. The European Union has however paid *"particular attention to the need for the country to deliver on key reforms, especially in the justice area, the financial sector, the energy sector, public administration and on prevention and fight against corruption, sound implementation of the IMF agreement,*

² The previous PACE rapporteurs Ms Valentina LESKAJ, Albania, Socialist Group, and Mr Ögmundur JÓNASSON, Iceland, Group of the United European Left, had issued an information note following their last visit, see [AS/Mon\(2016\)27](#).

³ This was achieved under conditions that the co-rapporteurs had then described as "dubious". See [AS/Mon\(2016\)27](#), para. 68.

⁴ "Two years of PDM in Government", April 2018, document provided by the Democratic Party.

as well as “respect of effective democratic mechanisms, rule of law and human rights in Moldova.” In view of the critical stance taken by the European Union (based on the Venice Commission’s recommendations) regarding the introduction of the mixed electoral system (see below), the European parliament and the European Council agreed that the disbursement of the three tranches of a 100 million Euros macro-financial assistance programme would be “strictly conditioned by the respect of effective democratic mechanisms, including a parliamentary system and the rule of law.”⁵

8. We discussed the issue of Russian influence during our meetings, since the geopolitical dimension continues to play an important role in domestic politics. We noted that there were different views about the extent and impact of this influence. The leaders of the Democratic Party notably stressed that the country remained very affected by Russian influence, its propaganda, interference in electoral processes and funding of political parties and recalled the impact of its economic embargo imposed by Russia. Others were less assertive about the role played by Russia, arguing that this topic was instrumentalised to shy away from issues impacting people’s daily’s life, such as poverty, unemployment, corruption, and frauds. All these issues have triggered disenchantment about the European integration process, and a massive brain-drain from the country. The Party of the Socialists, which has vowed to develop strategic relationship with Russia (President Dodon had paid a number of visits to Moscow since his election) also tried to downplay the geopolitical stakes. However, it is clear that the influence exerted by Russian soft power and economic ties, but also the long-lasting presence of Operative Group of Russian Forces (a reminiscent of the 14th Army) in the nearby Transnistrian region of the Republic of Moldova, have had an influence on domestic politics. We were told that the geopolitical dimension would again play an important role in the upcoming parliamentary elections.

9. The “unionism movement”, which is advocating reunification with Romania, has remained active. The discussions were revigorated after the Romanian parliament adopted a declaration, on 27 March 2018, on the occasion of the 100th anniversary of the union of Bessarabia with Romania.⁶ Few weeks before our visit, this celebration had gathered 10 000 to 15 000 people supporting the union with Romania, while over 140 local public authorities of the Republic of Moldova (district councils, local councils, etc.) had signed symbolic statements on the reunification with Romania. A newly formed political party, the National Unity Party, is striving for reunification with Romania. President Dodon saw the Romanian declaration as a move against the statehood of the Republic of Moldova. In his view, unionism is aimed at destroying Moldova and would lead to a civil war (since the regions of Transnistrian and Gagauzia would fully oppose it). We were told, from different sources, that about 20% of the population declared supporting the idea of unionism. However, in practice, it was also estimated that fewer Moldovans would indeed be ready to reunite with their neighbours.

10. We were also updated on progress made in the Transnistrian settlement process. In January 2018, the PACE Sub-Committee on conflicts between member states, meeting in Paris with presence of high level representatives of the 5+2 Format⁷, was informed about the protocols signed in Vienna⁸ (so-called “package of eight”) agreed on 27-28 November 2017 related to the apostilisation of educational documents issued in the Transnistrian region, the functioning of left-bank Latin script schools, the restoration of Moldovan farmers’ access to their land in the Dubasari district and the reopening of the Gura Bicului-Bychok bridge in November 2017. At the time of our visit, an agreement on a mechanism to allow vehicles from Transnistria to participate in international road traffic was still under discussion. This agreement was signed on 24 April 2018.⁹ In the latest round of 5+2 negotiations held in Roma (29-30 May 2018), Chișinău and Tiraspol undertook to work on the restoration of telephone communication between the two banks of the Nistru/Dniester while other issues (such as the issue of criminal cases initiated in Chișinău against some *de facto* Transnistrian authorities, and the freedom of movement) remain open. At this stage, we welcome the significant progress achieved in the past months, first under German, then Austrian, and then under Italian Chairmanship of the OSCE, which has been based on a successful “result-oriented approach” to the negotiations. We were also informed that on 22 June 2018, with the support of 64 States,¹⁰ the General Assembly of the United Nations approved a resolution submitted by the Republic of Moldova on “The

⁵ See [EU-Moldova relations, Factsheet](#) (2 May 2018) and the most recent [Council conclusions on Moldova, 26 February 2018](#).

⁶ See <https://www.agerpres.ro/english/2018/03/27/centenarulmariuniri-bucharest-parliament-endorses-declaration-for-anniversary-of-bessarabia-and-mother-land-romania-s-union--80973>.

⁷ [PACE Press release](#) “Chair welcomes constructive attitude of all participants in PACE round table on the Transdniestrian settlement process”, 17 January 2018.

⁸ [Protocol](#) of the official meeting of the Permanent Conference for political questions in the framework of the negotiating process on the Transdniestrian settlement, 27-28 November 2017, Vienna. This Protocol followed the [Protocol](#) signed in Berlin on 2-3 June 2016.

⁹ <https://www.osce.org/chairmanship/378679>.

¹⁰ 14 States voted against the Resolution, and 78 abstained.

complete and unconditional withdrawal of foreign military forces from the territory of the Republic of Moldova"¹¹

III. Democracy

a. *Developments in the parliament since the formation of a consolidated parliamentary majority (January 2016)*

11. Our predecessors had described, in their previous information note, the formation of a consolidated parliamentary majority early 2016, after the shifting of political affiliation of about a quarter of the Moldovan parliamentarians within a few weeks. This had put an end to a series of political crises which culminated with the collapse of the so-called pro-European coalition established in 2009 by the Democratic Party (DP), the Liberal Party, and the Liberal-Democratic Party (PDLM).¹² In the meantime, the Democratic Party has formed a group of 43 MPs (compared to 19 MPs elected for the DP in November 2014); a new political group, the European People's Party, was formed with 10 MP and the former Prime Minister Iurie Leancă as a chair. The Party of the Communists was left with 6 seats (compared to 21 after the 2014 elections), and 11 seats for the Liberal party.

b. *Change of the presidential election system, and election of the President of the Republic (13 November 2016)*

12. In March 2016, the Constitutional Court, by declaring the constitutional amendment adopted in the year 2000 unconstitutional, re-introduced the direct popular election of the President in March 2016, thus avoiding the risk of a repeated political crisis, should the parliament have failed to elect the President with the required 3/5 majority. The presidential elections were organized on 13 November 2016 and observed by the Parliamentary Assembly¹³ which concluded that fundamental freedoms were respected, but polarized media coverage and harsh rhetoric had detracted from process. Igor Dodon, candidate of the Party of the Socialist, won the elections with 52,29% of the votes, with a turnout of 53%.

13. During our meeting, the President of the Republic stressed his high legitimacy resulting from his direct election - in contrast, he said, to the legal, but "illegitimate" parliamentary majority following the political migration of MPs. He regretted that his powers remained limited. President Dodon was thus pushing for a change of the constitution and the switch to a (semi) presidential system.¹⁴ The President attempted in 2017 to initiate a constitutional referendum and expand the competencies of the President, including the possibility to dissolve the parliament - which, in a parliamentary system, was assessed negatively by the Venice Commission.¹⁵ This attempt was turned down by the Constitutional Court. The President, who is the most popular politician in the Republic of Moldova according to polls, was confident about the victory of his party in the upcoming parliamentary elections. He vowed to keep all agreements signed with the European Union valid, while maintaining good relationship with Russia which is an important economic partner for the Republic of Moldova. He slammed the poor record of the pro-European parties and their policies which, in his opinion, explained the sharp decrease of the support for EU integration from 70% before 2009 to 40% now.¹⁶

14. In the meantime, the direct election of the President has also triggered some tensions between the parliament and the President. According to article 93.2 of the constitution "the President of the Republic of Moldova is entitled, whenever he has certain objections regarding a law, to submit it within two weeks at the most to the Parliament for reconsideration. Should the Parliament abide by its previously adopted decision, the President promulgates the law".¹⁷ On several occasions though, President Dodon objected to the laws and refused to sign them. As President Dodon was refusing to appoint Mr Eugen Sturza as Minister of

¹¹ Resolution on the "Complete and unconditional withdrawal of foreign military forces from the territory of the Republic of Moldova" adopted by the UN General Assembly on 22 June 2018 at its 72nd session, document [A/72/L.58](#). This refers to the presence of 1500 to 1700 members of the Russian Operational Group (GOTR) stationed in the Transnistrian region of the Republic of Moldova and looking after the 21,000 tons of ammunition stored in Cobasna warehouses.

¹² See Information note by the co-rapporteurs on their fact-finding visit to Chișinău (22-23 February 2016) [AS/Mon\(2016\)07](#), para. 14-26.

¹³ See [Doc. 14202](#).

¹⁴ The leader of the Democratic party, Mr Plahotniuc, indicated to us that he was opposed to a presidential system.

¹⁵ Opinion on the proposal by the President of the Republic to expand the President's powers to dissolve Parliament, adopted by the Venice Commission at its 111th Plenary Session (Venice, 16-17 June 2017) [CDL-AD\(2017\)014-e](#).

¹⁶ [Recent polls](#) show that the share of the population supporting the EU integration is slightly on the rise (43% end of March 2018).

¹⁷ <http://www.presidente.md/titlul3#5>.

Defence, the Constitutional court was seized on the interpretation of Article 98.6 of the Constitution¹⁸ and the failure of the President to carry out constitutional duties. On 17 October 2017, the Constitutional Court ruled that "the deliberate refusal of the President of the country to fulfil the constitutional duty to appoint the person repeatedly proposed by the Prime Minister represents a serious violation of his constitutional obligations and of the oath, a circumstance that justifies the initiation by the Parliament of the procedures to suspend the President, according to Article 89 of the Constitution". *In concreto*, the Speaker of the parliament is entrusted, as an interim President for some hours, to promulgate these laws. The President of the Constitutional Court mentioned that this possibility has been used three times.

15. The President of the Constitutional Court stressed that the Republic of Moldova was a parliamentary system despite the direct election of the President. The competences of the President could not be interpreted extensively unless the constitution was amended. The President of the Republic, for his part, underscored that the parliamentary majority had failed to reach a compromise on the returned acts, did not dissolve or impeach the President, which it should do if it considered that the President had violated the constitution. He considered that the parliament had instrumentalised the Constitutional Court to bypass the veto of the President, and suspend him temporarily. We noted that the decision of the Constitutional Court was a creative solution to avoid an institutional deadlock. However, since this modus operandi was used on several occasions, clarification of procedures would be welcome in case the President refuses to comply with his constitutional obligation to promulgate laws adopted by the parliament.¹⁹

c. *Change of the parliamentary election system (December 2017) and upcoming parliamentary elections*

16. A major part of our discussions focused on the preparation of the parliamentary elections scheduled this autumn. The Republic of Moldova has recently adopted a new electoral legislation, which will introduce a new, mixed electoral system. The draft law had been agreed by the Democratic Party and the Party of the Socialists, approved in first reading on 5 May 2017 with a large majority (74 out of 82 MPs present) and submitted to the Venice Commission for opinion.

17. In its opinion of December 2017 on the draft law²⁰, the Venice Commission was quite critical. It cited the lack of consensus in this polarized society, the risks to increase business influence over politicians at local level ("independent majoritarian candidates may develop links with or be influenced by businesspeople or other actors who follow their own separate interests"), the responsibility vested with the CEC to establish single-mandate constituencies for the majoritarian component being based on vague criteria; the absence of detailed and comprehensive criteria for the establishment of constituencies for the Transnistrian region of the Republic of Moldova and for citizens abroad; the thresholds for parliamentary representation in the proportional component which remained high; and the lack of special measures that could enhance the representation of women in the parliament. The Venice Commission concluded that "such a fundamental change [of electoral system], while a sovereign prerogative of the country, [was] not advisable at that time".

18. This opinion did not satisfy the Moldovan authorities, which considered that the opinion of the Venice Commission was partly of political nature. This draft bill triggered significant demonstrations in Chișinău and other cities, for and against the mixed system. Those in favour argue that the mixed system would bring the members of parliament closer to their citizens. The Speaker of the Parliament Mr Candu pledged to implement the recommendations of the Venice Commission, but nevertheless announced to go ahead with the adoption of this mixed electoral system.

19. In the light of these open questions, and upon our suggestion, the Monitoring Committee requested an opinion on the adopted amendments, which was issued in March 2018 : the Venice Commission concluded that some recommendation had been implemented, notably the establishment of an independent commission on constituency delimitation (the appointment of its members by the government, with large discretion, could however jeopardise its independence); specific measures were taken to encourage parties

¹⁸ Article 98 (6) of the constitution reads : "In the event of the governmental reshuffle or vacancy of office, the President of the Republic of Moldova shall revoke and appoint, upon the proposal of the Prime-Minister, some members of the Government".

¹⁹ Such mechanism is included in the [Georgian constitution](#) (see article 68. (4) (If Parliament rejects the President's comments, the initial version of the draft law shall be put to a vote. A draft law shall be deemed adopted if it is supported by a majority of the full list of MPs. A draft organic law shall be deemed adopted if it is supported by a majority of the total number of MPs. A constitutional draft law shall be deemed adopted if it is supported by at least three fourths of the total number of MPs) and 68.5 (If President fails to promulgate a law within the specified timeframe, the Chairperson of Parliament shall sign and promulgate it).

²⁰ Joint opinion on the draft laws on amending and completing certain legislative acts (electoral system for the election of the Parliament), adopted by the Venice Commission at its 111th Plenary Session (Venice, 16-17 June 2017), [CDL-AD\(2017\)012](#).

to nominate women as candidates in single member constituencies (in particular financial incentives, but there was no requirement about women's positions on candidate lists); and the decrease of the limit of campaign finance donations to 25% of the previous amount. The Venice Commission still recommended lowering the threshold for entering Parliament, adopting further measures to ensure independence of the boundary commission, periodic review of constituency boundaries, and distinguish proceedings against decisions of election commissions from proceedings against candidates.²¹ It also reiterated its recommendations concerning the lack of consensus, which was needed "to have the acceptance, legitimacy and stability of the governing system". On that issue, the ruling parties explained that consensus had been reached within parliament, but was hard to achieve in society, due its polarization.

20. The Law N° 154 adopted on 20 July 2017 provides for a mixed electoral system with one national constituency electing 50 Members of the Parliament by proportional representation from closed party lists, together with 51 MPs elected from 51 new single-member constituencies on a first-past the-post majority basis, no majority of the votes being required in a single member constituency

21. We have stressed that it is the sovereign choice of a country to choose its political system. At the same time, in view of the critical opinion of the Venice Commission, we paid great attention to the implementation of this law and discussed it with the authorities and the political stakeholders. The Party of the Socialists had expected greater representation of voters from the Transnistrian region and from ethnic minorities in parliament, but had supported this reform at the end. We understood that the Ilan Shor party did not object the new system. Other opposition and extra-parliamentary political parties (Party Platform Dignity and Truth, Action and Solidarity Party, "Our Party") however had a number of concerns concerning this new electoral system. They feared that this system was designed to ensure that the Democratic Party (which has limited support among voters nationwide, according to polls) stays in power, could encourage bribery of politicians at local level, and would keep small parties out of parliament, given the current electoral thresholds. They also had serious concerns about their access to funding and media during the election campaign. They also thought that the "first past the post" system, with no second round, could result in the election of candidates who have had limited support of voters, what could have a distortive effect on voters' representation in parliament.

22. We met the Chair of the Central Election Commission and shared our concerns about the conditions of implementation of the new system, the situation of media (and media ownership concentration), the regulation and oversight of the funding of political parties or the allegations of pressure exerted against the opposition. We found that the conditions in place may not be conducive to fair and sound election campaign. We encouraged the authorities to take all measures necessary to ensure competitive elections, with necessary safeguards.

d. *Visit to the Autonomous Territorial Unit of Gagauz-Yeri (ATUG)*

23. During our stay in the Republic of Moldova, we paid a visit to Comrat and the Autonomous Territorial Unit of Gagauz-Yeri (ATUG). Our predecessors had already welcomed the dialog established between Chișinău and Comrat in 2016 by the working group entrusted with harmonising the Moldovan legislation with the ATUG Statute. The working group had proposed three laws; two of them had been substantially amended by the parliament. As a consequence, President Dodon refused to promulgate them, and sent them back to the parliament where they await consideration.

24. The Deputy Governor of the ATUG and his team presented their expectations with respect to the competences of the ATUG institutions. They requested that the regional (permanent) election commission – which is responsible for the organisation of elections for the regional assembly and for the Governor (Bashkan) in the ATUG - be enshrined in the Moldovan legislation.²² The ATUG authorities also complained that the pieces of legislation passed in Comrat were challenged by the national authorities to the Constitutional Court (such as the law passed by the ATUG parliament to unify the Gagauz electoral code). This also raised issues related to the funding of the ATUG and their dependence on financial support of donors. The question of an independent judicial branch was also raised.²³ We were informed of, and

²¹ Joint opinion on the law for amending and completing certain legislative acts (Electoral system for the election of Parliament) adopted by the Venice Commission Plenary at its 114th meeting, Venice, 16-17 March 2018, [CDL-AD\(2018\)008](#).

²² The Moldovan State Election Commission remains responsible for the organisation of local, parliamentary and presidential elections.

²³ Though special provisions had been introduced for the appointment of prosecutors in the ATUC, the Moldovan authorities in Chișinău clearly indicated that they could not agree to set up a separate branch of the judicial system in the ATUG.

welcomed, initiatives undertaken to improve the knowledge of the State language and to provide education in three languages in kindergartens.

25. The Deputy Governor of the ATUG as well as the President of the ATUG regional assembly questioned the new election law, which provided only two MPs for 135 000 voters (they compared this figure with the 2 mandates allocated to the district of Bălți which has 100 000 voters). They challenged the way the election constituencies were set up after the adoption of the new election law. The President of the ATUG regional assembly, for his part, supported the single mandate system, since he felt that this system would make parliamentarians accountable to their voters, and less dependent on their political party.

26. We hope that the authorities in Chișinău and Comrat will revitalize this institutional dialog and resume the adoption of the pending laws after the parliamentary elections.

e. *Local democracy and early local elections (20 May 2018 and 3 June 2018)*

27. Our attention was raised during our visit to the situation of local authorities. Allegations of intimidation and pressure exerted, especially at local level, against politicians who did not belong to the ruling party were mentioned by most of our interlocutors from the opposition or civil society. These allegations were however denied by the judicial authorities. The General Prosecutor indicated that no complaint had been lodged and that such allegations were not substantiated. Others explained that by the fact that these mayors probably would be afraid to testimony.

28. As a matter of fact, a large number of mayors joined the Democratic Party in recent times. We were told that there are now 600 out of 900 Mayors belonging to the Democratic Party. The DP explained that ruling parties attract, since they have greater possibility to fund local authorities and projects – which, in our view, would then reflect a dysfunctional funding of local authorities based on party affiliation rather than on fixed principles that should govern local self-government financing. Though we found it difficult to substantiate the allegations made, this situation, as depicted by many interlocutors, seemed to echo the deterioration of the situation of local democracy described in the last report of the Congress of local and regional authorities²⁴ which will continue to monitor the situation of local democracy.

29. The organisation of early mayoral elections in Chișinău, Bălți and six other villages were seen as a political test before the parliamentary elections. The elections were observed by the Congress of local and regional authorities, which concluded that the local elections were technically well prepared, but there had been concerns about misuse of administrative resources, low turnout (only 35% of participation in Chișinău and Bălți in the first round), lack of trust in state institutions and reports about pressure brought to bear on local elected representatives through court proceedings and threats, particularly to members of the opposition, resulting them to change sides, which had influenced the campaign environment.²⁵

29.1 In Chișinău, the elections were organised to replace the former Mayor Mr Dorin Chirtoaca (at that time the Vice-President of the Liberal Party). Mr Chirtoaca had been arrested in May 2017 on suspicion of influence peddling and corruption, placed under house arrest during the investigation until the autumn 2017 and temporarily suspended from his position of mayor by the court. On 6 November 2017, Silvia Radu was appointed as interim mayor of Chișinău. A referendum initiated to dismiss Dorin Chirtoaca failed due to a low turnout (18% instead of 33% of voters) and the boycott of several political parties (including the DP, the PAS and the PDLM). The Congress of local and regional authorities found this procedure in violation of article 3.2, 7.1 and 8.3 the European Charter of Local Self-Government.²⁶ Dorin Chirtoaca eventually resigned on 16 February 2018 as a sign of protest. The acting Mayor Silvia Radu, who competed as an independent candidate, obtained 17% of the votes in the first round. In the second round, Andrei Năstase, President of the Platform Dignity and Truth, won by 52.57% against Ion Ceban from the Party of the Socialists with a turnout of 39,12%. The elections were observed by the Congress of local and regional authorities, which had found them, on the whole, to be in line with democratic standards.²⁷ These results were, however, invalidated

²⁴ Report on the situation of local elected representatives in the Republic of Moldova, following the fact-finding mission carried out in Chișinău on 13 December 2017 by co-rapporteurs Marc COOLS, Belgium (L, ILDG) and Gunn Marit HELGESEN, Norway (R, EPP/CCE), March 2018, [CG34\(2018\)09prov](#).

²⁵ [Press release](#) of 21 May 2018 of the Congress delegation on the 20 May 2018 early local elections in the Republic of Moldova.

²⁶ See [Resolution 420 \(2017\)](#) of the Congress of the Local and Regional Authorities of the Council of Europe “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the Mayor of Chișinău”, adopted on 18 October 2017.

²⁷ [Statement](#) made on 21 May 2018 by the Congress delegation on the 20 May early local elections in the Republic of Moldova, “Technically well prepared but concerns about misuse of administrative resources, low turnout and lack of trust in state institutions”.

by the District Court of Chișinău (which was called to validate the results): on 19 June 2018, elaborating on a court ruling of 12 June 2018,²⁸ the Court ruled that both Andrei Năstase and Ion Cheban had led an illegal election campaign by inciting the voters, via social media, to go to vote on the day of the 2nd round of elections, which, according to the Court, affected the outcome of the elections. It concluded that the two rounds of elections had to be invalidated. This decision was confirmed by the Court of Appeal on 21 June 2018 and by the Supreme Court on 25 June 2018. Mr Năstase, backed by the Dignity and Truth Party, the Action and Solidarity Party (PAS), and the Liberal Democratic Party (PDLM), has denounced a politically motivated decision made by the judges and called for protests. For the President of the Congress of local and regional authorities, Ms Mosler-Törnström, the non-validation of the result of the mayoral run-off came “as a surprise and raised questions with regard to transparency and proportionality”.²⁹ As a consequence, since no elections can be organised less than a year before the next elections, Chișinău will be headed by an interim mayor, ie former Deputy Mayor Ruslan Codreanu (EPP), until next year's regular local elections. The invalidation of the election of the Mayor of Chișinău is, under these circumstances, a dubious development in view of the upcoming parliamentary elections, likely to further undermine the people's trust in their justice system.

29.2 Early mayoral elections were also held in Bălți, following the resignation of the Our Party leader Renato Usaiiti, who had fled to Russia after the opening of a criminal case for the alleged assassination attempt of a Russian banker German Gorbunsov in 2012, and 5 other villages. In Bălți, the candidate from Our Party won the elections in the first round with 61%. In Jora de Miljoc, Martina Tauber, Vice-Chair of Ilan Shor's party, won with 61%. All other villages were won by the Democratic Party.³⁰

IV. Human Rights

30. We continued to monitor the situation of Moldovan media. The 2018 World Press Freedom Index placed Moldova on the 81th place, a decline of five places compared with 2016.³¹ Despite the government's efforts to de-monopolize and de-concentrate the media market, many raised concerns about de facto monopoly of media and their control by the two main parties (ie DP and PRSM) – concerns expressed by several leaders of opposition parties to have access to media, especially during election campaigns.

31. The Moldovan parliament amended on 7 December 2017 the Broadcasting Code, preventing content which have not been produced in the EU, USA, Canada and countries that have not ratified the European Convention on Transfrontier Television ([ETS No.132](#)) (Russia being one of them). President Dodon refused to promulgate the law; and was temporarily suspended to allow the enactment of the law, which entered into force in February 2018. The Chair of the BCC indicated that one sanction had been so far applied.

32. A new audiovisual code is in preparation, in co-operation with the Council of Europe and other international partners. For the Chair of the Broadcasting Council, this code should bring greater clarity in media ownership, establish a clearer definition of political advertisement and avoid monopolization of media. We welcomed the co-operation established with the Council of Europe, and encouraged the Moldovan authorities to ensure that it will be in line with European standards. We understood that the draft audiovisual code, as adopted in the first reading, did not contain any anti-Russian propaganda provisions, but that it would be likely to be introduced in the second reading.

33. Concerning the issue of deprivation of liberty, we discussed in particular the issue of the extensive use of pre-trial detention. The Republic of Moldova is a leading country in this in Europe. The State secretary of justice indicated that an overwhelming number of requests made by the prosecutors were agreed by judges.

²⁸ On 12 June 2018, following the complaint lodged by the Party of the Socialists, the Chișinău Court of Appeal found that Andrei Năstase had conducted illegal campaigning on 3 June 2018 via 4 videos placed on his Facebook account, calling the voters to go to vote. This judgment was upheld by the Supreme Court on 15 June 2018.

²⁹ [Statement](#) by the Congress of local and regional authorities, “Congress President expresses concern after the invalidation of the elections in Chișinău”, 21 June 2018. On 27 June 2018, the EU High Representative, Federica Mogherini and Commissioner Johannes Hahn, called on the Moldovan authorities to guarantee judicial independence, and “to take appropriate measures to ensure that the results of the Chișinău mayoral elections, as recognised also by national and international observers and reflecting the will of the voters, are respected” (see [Joint statement 180627_5](#)). On 28 June 2018, the Congress Monitoring Committee adopted a [declaration](#) on the invalidation of the elections, which it described as “a direct threat to the proper functioning of Moldovan local democracy”, “an unprecedented step by the judiciary to intervene in the democratic process” and “a very worrying decision for the future of the Moldovan local democracy”.

³⁰ The results of the Democratic Party in the first round of the early mayor elections were as follows: Leuseni: 90,79%, Nemteni 82,58%, Volovita 79,36% and Pirlita 85,61%. All elected mayors would stay in office until the holding of the next ordinary local elections in 2019. <http://www.cec.md/index.php?l=en>.

³¹ <https://rsf.org/en/moldova>.

These figures were also confirmed by the General Prosecutor: in 2017, while about one third of the apprehended individuals were released, in 2430 out of 2843 cases (ie 85%) judges complied with prosecutors' request for preliminary detention or house arrest. The General Prosecutor – as well as the State secretary of justice - agreed that this issue needed to be addressed by the authorities, notably by greater use of alternatives to pre-trial detention. Despite the duration of pre-trial detention period being limited to one year, conditions of detentions still failed to comply with international standards. Some of the human rights activists considered that pre-trial detention was used as a tool to intimidate or neutralize individuals.

34. We evoked also the Braguta case, a mentally ill person detained, who died in pre-trial detention. This case had been raised by the Commissioner for Human Rights, who stressed that "the death of Andrei Braguta [had] exposed major systemic failures in the justice system".³² The Minister of interior acknowledged that there had been irregularities. The minister also encouraged people to report about misconduct of law enforcement officers, notably in case of undue intimidation of local politicians.

35. Concerns related to the administration of justice, persisting reports of prosecutorial bias in judicial proceedings, and of cases of intimidation and harassment of lawyers were also echoed during the last visit of the Commissioner for Human Rights Nils Muižnieks to the Republic of Moldova in October 2017.³³ On a positive note, we were informed about recent initiatives taken to combat domestic violence, including the introduction of restriction orders on perpetrators of violence and awareness-raising activities. This is an encouraging development that could lead towards the ratification of the Istanbul Convention to prevent and combat violence against women and domestic violence.

V. Rule of law

36. Concerning the judiciary, we discussed with the authorities issues which remain problematic, such as the reform of the court network to reduce the number of courts, the lack of independence of the judiciary and prosecution service, the need to ensure fair trials, the high rate of pre-trial detentions and the need to improve prison conditions. The constitution should also be amended to ensure independence and accountability of judges.

37. We have also been informed about the latest developments related to the "Petrenco Group". While former PACE member Grigore Petrenco was granted asylum in Germany, two colleagues from the Party Our Home were sentenced to 3 and 4,5 years respectively (with suspension) after demonstrations held in front of the Prosecution Office building (and Mr Plahotniuc's private house) in September 2015. They have been released under judicial control after spending 5 months in pre-trial detention. They complained about the long-lasting judicial procedure: the first verdict was issued in July 2017 and their appeal hearing had been postponed for 10 months. We also discussed the situation of Ana Ursachi, the lawyer of former PACE member Grigore Petrenco and NGO activist, who is now self-exiled. At the time of our visit, we had been informed that an Interpol red notice had allegedly been issued against her. The General Prosecutor did not confirm whether such a red notice had indeed been released, but said that Ms Ursachi had just been invited to clarify some issues. We recalled that the allegations concerned a crime that had allegedly been committed 20 years ago. The General Prosecution explained that the statute limitation could be applied to Ms Ursachi, provided she would testify and accept the limitation of statute, which left us perplex.

38. In addition, despite an important reform undertaken, the prosecution office is still perceived by many interlocutors as a political tool in the hand of the ruling party. There were claims that the justice system remains selective. A case which was seen as shocking for many was Ilan Shor's situation: Mr Shor was sentenced to seven and a half years in prison in "the billion-dollar theft". He was released from house arrest, resumed working as the mayor of Orhei in July 2017, awaiting a final verdict from the Court of Appeals. He had also signaled that he would run the upcoming parliamentary elections.

39. Fight against corruption and undue business influence was also discussed. It remains a serious problem. In Transparency International's Corruption Perceptions Index, the Republic of Moldova was ranked 122 out of 175 countries.³⁴ We met the newly appointed Director of the National Anti-corruption center, who had been in office for two months. The NACC is responsible for preventing, combatting corruption and investigating corruption and corruption-related crimes. The Director denied the allegations that the investigations carried out by the NACC were politically motivated; the political affiliation of mayors prosecuted corresponded to the political representation of their parties in parliament.

³² See the [press release](#) of the Commissioner for Human Rights of 13 October 2017: "Republic of Moldova: important advances on addressing domestic violence, but more progress needed in justice reform".

³³ Ibid.

³⁴ https://www.transparency.org/news/feature/corruption_perceptions_index_2017.

40. There were some positive developments recently, with the adoption, in 2017, of National Strategy of Integrity and Anticorruption for 2017–2020, a Law on Integrity (providing for the implementation of a system for the verification of assets and introducing mandatory competitions for all public positions, except elective and political positions), and a new Law on Preventing and Fighting Money Laundering and Financing of Terrorism.

41. This progress was acknowledged by the European Commission in its last report, but the Commission also stressed that “further efforts are still needed to address high level corruption, recover the misappropriated funds from the one billion dollar banking fraud, bring to justice those responsible for the fraud, and launch “a thorough reform of the judicial system”.³⁵ The respect for rule of law is also essential to secure a sound economic environment. This is particularly important if the country wants to ensure better living standards, increase predictability in the country and stop the drain of human capacity which is damaging Moldova’s economy and society.

VI. Concluding remarks

42. This fact-finding visit enabled us to measure the political and legal developments since 2016, which were marked by governmental stability, profound changes in electoral systems, and the degradation of the overall climate for NGOs and media. Moldovan society remains polarised; geopolitical issues indeed continue to divide the society, which however seems focused on more pragmatic issues which impact their daily life. We also observed that the Republic of Moldova is a multicultural society. All authorities and people we met expressed their attachment to the Council of Europe membership and core values.

43. We encourage the Republic of Moldova to make further progress and reforms to avoid being a “captured state”. Tangible progress in the field of rule of law and human rights could have a significant impact on people’s trust in public institutions and to ensure that the centers of decision lay within these institutions. Implementation of adopted laws remains a priority. We also urged the authorities to continue their reforms and to create conditions conducive to free and fair elections in the autumn 2018, and to implement the revised legislation in good faith for the good functioning of democratic institutions in the Republic of Moldova, as underscored by the Venice Commission.

³⁵ See a [joint report](#), released on 5 April 2018 by the European External Action Service and the European Commission. http://europa.eu/rapid/press-release_IP-18-2781_en.htm, 5 April 2018

Appendix 1: Programme of the fact-finding visit to Chișinău and Comrat

Monday, 2 April 2018

20:00 Working dinner with Ms Eva GUTJAHR, acting Head of the Council of Europe Office (*)

Tuesday, 3 April 2018

09:00 Meeting with NGO representatives (*)

10:20 Meeting with representatives of the media (*)

11:30 Meeting with Mr Andrei NĂSTASE, President of the Party Platform Dignity and Truth (*)

12:00 Meeting with Ms Maia SANDU, President of the Action and Solidarity Party (*)

12:30 Meeting with Mr Ilian CASU, Deputy Head of “Our Party” (*)

12:50 Meeting with Ms Marina TAUBER, Deputy Head of “Shor Party” (*)

14:00-14:45 Meeting with H.E. Mr Andrian CANDU, Speaker of the Parliament

15:00-15:30 Meeting with Mr Marian LUPU, Head of the Parliamentary Delegation to the PACE, Chairperson of the faction of the Democratic Party

15:45-16:15 Meeting with Mr Tudor DELIU, Chairperson of the faction of the Liberal Democratic Party

16:30-17:00 Meeting with Mr Mihai GHIMPU, Chairperson of the faction of the Liberal Party

17:15-17:45 Meeting with Ms Inna ȘUPAC, Chairperson of the faction of the Party of Communists

18:00-18:30 Meeting with Ms Zinaida GRECIANÎI, Chairperson of the faction of the Party of Socialists

18:40-19:10 Meeting with Mr Dragos VICOL, Chairman of the Audiovisual Coordinating Council

20:00 Working dinner with the diplomatic community (*), hosted by H.E. Pascal LE DEUNFF, Ambassador of France to the Republic of Moldova, with the participation of:

- H.E. Mr Rimantas LATAKAS, Ambassador of Lithuania
- H.E. Ms Julia MONAR, Ambassador of Germany
- H.E. M. Daniel IONITA, Ambassador of Romania
- H.E. Ms Lucy JOYCE, Ambassador of the United Kingdom
- H.E. Mr Michael SCANLAN, Head of the OSCE Mission
- Ms Eva GUTJAHR, acting Head of the Council of Europe Office

Wednesday, 4 April 2018

08:30-09:15 Meeting with Mr Nicola EŞANU, State Secretary, Ministry of Justice

09:30-10:15 Meeting with Mr Bogdan ZUMBREANU, Director of the National Anticorruption Centre

10:30-11:00 Meeting with Ms Ana GUȚU, First Vice-President of the National Unity Party

13:30 *Arrival in Comrat, Autonomous Unit of Gagauz-Yeri (ATUG)*

14:00 Meeting with NGO representatives and university students (*)

14:45 Meeting with a Gagauz journalist (*)

15:30 Meeting with Mr Olesea TANASOGLO, Deputy Governor of the ATU Gagauzia-Yeri (*)

- 16:30 Meeting with Mr Vladimir KISSA, Chairperson of the People's Assembly of ATU Gagauzia-Yeri (*)
- 20:00 Dinner hosted by Mr Marian LUPU, Head of the Parliamentary delegation to the PACE, with the participation of Mr Valeriu GHILEȚCHI, member of the delegation, and Ms Rodica IOVU, Head of the International Department of the parliament

Thursday, 5 April 2018

- 08:40-09:10 Meeting with members of the "Petrenco Group" (*)
- 09:30-10:15 Meeting with H.E. Mr Igor DODON, President of the Republic of Moldova
- 10:30-11:15 Meeting with Ms Cristina LESNIC, Deputy Prime Minister and Minister for Reintegration
- 11:30-12:15 Meeting with Mr Vlad PLAHOTNIUC, Chairperson of the Democratic Party
- 12:40-13:25 Meeting with Mr Alexandru JIZDAN, Minister of Internal Affairs
- 13:35-15:00 Working lunch with Mr Valeriu GHILEȚCHI, Deputy Chairperson of the Parliament of the Republic of Moldova (for the European people's party), Member of the Parliamentary Delegation to the PACE, and Ms Valentina ROTARU, member of parliament, Democratic Party
- 15:15-16:00 Meeting with Mr Mihai POALELUNGI, President of the Constitutional Court
- 16:15-17:00 Meeting with Mr Eduard HARUNJEN, General Prosecutor
- 17:15-18:00 Meeting with Ms Alina RUSSU, Chairperson of the Central Electoral Commission
- 19:30 Dinner with H. E. Peter MICHALKO, Head of the Delegation of the European Union to the Republic of Moldova

(*) Meetings organised by the Council of Europe

Appendix 2: Statement by the co-rapporteurs issued on 9 April 2018

Moldova: ensuring conditions conducive to free and fair elections

Concluding a visit to the Republic of Moldova from 3 to 5 April 2018, PACE's co-rapporteurs for the monitoring of the country, Egidijus Vareikis (Lithuania, EPP/CD) and Maryvonne Blondin (France, SOC), have welcomed Moldova's continuing commitment to European values, but urged the authorities to continue reforms and create conditions conducive to free and fair elections.

"During our visit, we observed that Moldova's multicultural society remains divided on several issues, especially geopolitical ones. At the same time, there is a strong consensus about membership of the Council of Europe and its core values which can unify society. The Moldovan people should have their fundamental rights fully guaranteed and protected. Respect for the rule of law is also essential to secure a sound economic environment, amplify the country's efforts over the two last years to stabilise the economy and create jobs, ensure better living standards and eventually curb the drain of human capacity, thousands of people leaving the country which is damaging today's society and tomorrow's future.

This autumn, Moldovan voters will elect their new parliament under a new, mixed electoral system which, despite some improvements made, does not yet meet all Venice Commission requirements. Most of our interlocutors, coming from different sides, raised concerns about the concentration of media ownership, intimidation and pressure exerted on politicians, in particular at local level, and the lack of independence of the judiciary and the prosecution service, which are seen to apply selective justice. In this context, current conditions may not be conducive to fair and sound election campaigns. The funding of political parties is yet another issue that the authorities urgently need to look into, in light of the recommendations issued by the Venice Commission.

Moldovan politicians should act in the best interests of their people and carry out much-needed reforms - including by amending the constitution on the judiciary - to ensure, among other things, the independence and accountability of judges, fair trials, pre-trial detention only when strictly necessary, improved prison conditions, the fight against corruption and undue business influence, the adoption of a new audiovisual code, as well as practices and effective implementation of laws that are in line with European standards.

We travelled to the Autonomous Unit of Gagauz Yeri to discuss current issues, and the progress made on the harmonisation of Moldovan legislation with the 1994 Status of the Autonomous Unit of Gagauz Yeri. We hope that the Moldovan and Gagauzian authorities will revitalise the institutional dialogue established in 2016 - and that the parliament will eventually adopt the pieces of legislation expected to provide a sound legal framework which meets the expectations of both sides.

Finally, we note with satisfaction recent initiatives taken to combat domestic violence, including the introduction of restriction orders on perpetrators of violence and awareness-raising activities which are encouraging steps to prevent and combat violence against women and domestic violence", the rapporteurs declared.

In Chișinău, the co-rapporteurs met with the President of the Republic, the Deputy Prime Minister and Minister for Reintegration, the Speaker of Parliament, the Minister of Internal Affairs, the State Secretary of the Ministry of Justice, the President of the Constitutional Court, the General Prosecutor, the head of the Central Election Commission and the head of the National Anti-Corruption Centre. They are also met the leaders of different political groupings in the parliament, as well as NGO and media representatives.

In Comrat, the co-rapporteurs met the Deputy Governor of the Autonomous Territorial Unit of Gagauzia Yeri, the head of Gagauzia's People's Assembly and local civil society representatives.