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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 Tiraspol (23 – 26 September 2014)**

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

#### **I. Introduction**

1. On 2 October 2013 the Assembly adopted Resolution 1955 (2013) on the honouring of obligations and commitments by the Republic of Moldova. While the Assembly stressed that the Republic of Moldova had carried out further reforms in order to honour its obligations and commitments towards the Council of Europe (ratification of 81 Council of Europe conventions, adoption of Action Plans on improving the judiciary and reinforcing human rights, etc.), a number of issues still needed to be addressed, such as the reform of the Prosecutor's Office, the separation of powers and de-politicisation of judicial institutions, the fight against corruption and the effectiveness and independence of the National Anti-Corruption Center, freedom of the media, the fight against discrimination, etc.

2. We visited Chisinau and Tiraspol from 26 to 29 September 2014. We decided to focus discussions on implementation of Resolution 1955 (2013), implementation of the "Action Plan on the honouring of Moldova's commitments towards the Council of Europe", the current political situation and institutional developments before the parliamentary elections, and the state of play and future prospects for the settlement of the Transnistrian conflict. The visit was dominated by the international context following the Ukrainian crisis and the upcoming preparation of the parliamentary elections of 30 November 2014, which will be addressed in the second and third section of this note. We also reviewed the implementation of Resolution 1955 (2013) and updated our information on the latest developments, as reflected in section IV of this note. Finally, this note will review (section V) the situation of the Transnistrian region of the Republic of Moldova that we visited.

3. We would like to thank the Moldovan delegation to the Parliamentary Assembly, chaired by Ms Palihovici, for the excellent co-operation and the authorities for their support in preparing and organising our visit. We are particularly grateful for the report provided by the Moldovan authorities on the state of implementation of the "Action Plan on the honouring of the Republic of Moldova's commitments towards the Council of Europe" (adopted in July 2013) for the period July 2013 - July 2014. We would like to extend our thanks to Mr Barba, Deputy Head of the Council of Europe Office in Chisinau and his team, for their invaluable assistance and advice.

4. We were pleased to learn that co-operation with the Council of Europe is proceeding well. An action plan to support democratic reforms in the Republic of Moldova (2013-2016) was adopted by the Committee of Ministers in November 2013<sup>1</sup>. The Republic of Moldova recently ratified the Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health ([CETS No. 211](#)), and Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental

\* Document declassified by the Monitoring Committee at its meeting on 14 November 2014.

<sup>1</sup> ODGProg/Inf(2013)17 final.

Freedoms ([CETS No. 213](#)). The Moldovan authorities have also requested several opinions from the Venice Commission since 2013 (see below).

## II. International developments

### a. Pursuing the integration process towards the European Union

5. After the adoption of Resolution 1955 (2013), the pro-European coalition in power since 2010 pursued its co-operation with the European Union, in line with the political programme of the ruling coalition: the visa regime was liberalised in April 2014. The Association Agreement (AA) was signed in Brussels on 27 June 2014 and ratified by the Moldovan parliament in July 2014 (without the votes of the communists). The AA includes a Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU, which entered into force (with some delay) in September 2014.

6. The European Union has reinforced its financial support to the Republic of Moldova. Four agreements were signed on 12 June 2014 to implement the Agreement on Free Movement in the EU (€21 million), develop rural regions (€14 million), fight corruption, money laundering and economic crime (€2 million), ensure the pluralism and freedom of the mass media (€0.54 millions)<sup>2</sup> or support the energy sector.

7. The crisis in neighbouring Ukraine erupted in 2013 as the Ukrainian government decided not to sign an association agreement with the EU that had been negotiated at length. The Moldovan pro-European coalition expressed support for the prospect of the European integration of Ukraine and supported the installation of the acting government in Kiev and the territorial integrity of the country, while avoiding making statements and taking steps that could antagonise Russia.

8. The law on ratification of the AA was challenged by the Party of the Communists. On 9 October 2014, the Constitutional Court indicated that this law was not unconstitutional. The Constitutional Court found that “within the meaning of the Declaration of Independence of the Republic of Moldova and of Article 1 of the Constitution, orientation towards the European area of democratic values is an element of constitutional identity of the Republic of Moldova. The Court has thus recognised the Association Agreement, and implicitly, the Ratification Law constitutional”.<sup>3</sup>

### b. The impact of the consequences of the Ukrainian crisis on the Republic of Moldova<sup>4</sup>

9. Already in September 2013, as the Republic of Moldova was negotiating the association agreement (AA), Russia imposed a ban on the export of Moldovan wines to Russia.<sup>5</sup> This ban was extended to several agricultural products in 2014. Most of our interlocutors considered that the Russian sanctions on the Moldovan economy were efficient, as agriculture constitutes 30 to 40% of the GDP, and 2/3 of the population live in rural areas. Russia represents 18% of Moldova’s exports, while Moldova counts for 0.2% of Russian imports.

10. The media reported on the Russian authorities’ evoking the instauration of economic protection mechanisms by the Customs Union if a CIS member state created a free trade area with a third country; or the possible annulment of the preferential regime for Moldovan migrants if Moldova should sign the Association Agreement with the EU<sup>6</sup>. Russia later requested the Republic of Moldova to postpone the implementation of the AA.

11. The Moldovan parliament adopted, under urgent procedure in September 2014, a law to compensate the loss of income of farmers. The EU already tried to reduce the impact of the Russian bans by doubling the export quotas on plums, apples, grapes and tomatoes grown in Moldova.

12. During our visit, many interlocutors referred to the impact of the Russian embargo on the Moldovan economy and to how it would impact the Moldovans’ everyday life. This could possibly influence the results of the parliamentary elections of 30 November 2014.

<sup>2</sup> <http://www.ipn.md/en/societate/62460>.

<sup>3</sup> <http://www.constcourt.md/libview.php?l=en&idc=7&id=583&t=/Overview/Press-Service/News/The-Association-Agreement-between-the-Republic-of-Moldova-and-the-European-Union-constitutional>.

<sup>4</sup> See also <http://eastbook.eu/en/2014/06/country-en/moldova-en/the-ukraine-crisis-has-complicated-moldovas-political-situation-ahead-of-signing-an-association-agreement-with-the-eu/>.

<sup>5</sup> The Russian Deputy Prime Minister, Dmitry Rogozin, admitted after the visit of May 2014 to Moldova that the ban imposed on the import of Moldovan wine was political in character, aimed at discouraging the European integration.

<sup>6</sup> <http://www.allmoldova.com/en/moldova-news/1249058295.html>.

13. The on-going Ukrainian crisis also caused concern among the political leadership and the population. Opposition leaders pointed out that this crisis would complicate the interethnic relationships in the country.

14. Finally, there were questions about the economic and financial stability of the country. The financial sector shows weaknesses and vulnerabilities that could be played upon during the elections. Allegations of corruption, money laundering, transfers from abroad with fraud allegations, as well as the dubious privatisation of the Moldovan Bank of Economy were also mentioned as additional threats to the financial stability of the country. A law on the security of the bank sector was adopted under urgent procedure in September 2014. While the liberalisation of the visa regime opened some perspectives, however the expectations of the people concerning the rise of salaries and pensions remained high, and the Moldovan authorities acknowledged that little could be achieved on this issue in the short term.

### III. Political landscape and preparation of the parliamentary elections of 30 November 2014: state of play

#### a. Recent developments in the political landscape

15. The pro-European, ruling coalition set up in 2010 was composed of three political parties: the Democratic Party, the Liberal Party and the Liberal Democratic Party. The coalition survived a major political crisis early in 2013 after the so-called “hunting accident”<sup>7</sup>, which highlighted the distribution of posts in law enforcement agencies among those parties. After the resignation of Prime Minister Mr Filat (from the PLDM) in March 2013 and the accession of Mr Leanca as Prime Minister, the three parties managed to find a *modus operandi* to secure the continuation of the EU integration process and not to call early elections. The ruling coalition enjoyed a tight majority (53 votes out of 101), which was weakened after some MPs left the ruling coalition (see below). In July and September 2014, the parliament adopted or intended to adopt a number of laws by urgent procedure<sup>8</sup>, without much debate, or finally decided to postpone the discussion and adoption in second reading of a number of important pieces of legislation, such as the law on funding of political activities, the law on gender quota or the anti-tobacco law. While some laws required urgent action to stabilise the bank system or grant compensation to farmers, we think that the “assumption or responsibility” should remain an exceptional recourse by the government to pass laws.

16. At the time of our visit, the three parties indicated that they would campaign separately for the elections, under the understanding that they would observe a “non-aggression agreement”.

17. However, following internal disputes and dissent within the political parties, the political landscape has evolved in recent months:

1) After the major crisis of 2013, the Liberal Democratic Party was subject to new internal tensions that could jeopardize the position of its current leader (and former Prime Minister) Mr Filat.<sup>9</sup>

2) Seven members (out of 12) of the Liberal Party faction left the group in 2013 and remained in the coalition under the name ‘Liberal Reformist Party’, while the historical Liberal Party of Mr Ghimpu joined the opposition.

3) Some prominent members of the Party of the Communists left the party (Mark Tkaciuk, who was in charge of the party electoral campaigns, resigned from the parliament on 23 May 2014) or were side-lined from the executive bodies of the party after a group of MPs decided to create a movement called “Antifa” (aiming at combating fascist demonstrations) using the Saint George Ribbon – a Russian symbol of the Victory over Nazi fascism and called for Moldova to join the Eurasian custom unions. After supporting the accession to this union, the Party of the Communists recently opted for a more pragmatic approach, advocating for a “third way” that would maintain a strategic partnership both with the European Union and

<sup>7</sup> See our 2013 report.

<sup>8</sup> Article 106N<sup>e</sup> of the constitution relates to the “assumption of responsibility by the Government”, whereby “the Government may assume responsibility before the Parliament upon a programme of activity, a general policy statement, or a draft law. [It] 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 in terms under Article 106. (3) In the event, the Government has not been dismissed pursuant to paragraph (2), the lodged draft law shall be considered adopted, and the programme or the general policy statement shall become mandatory upon the Government” [Constitution of the Republic of Moldova](#), article 106N<sup>o</sup>.

<sup>9</sup> The Head of the Economic Committee Mr Ionescu (PDLM) accused former Prime Minister Filat, Head of the PDLM party, of allegedly accepting bribes in the privatization of the Banka Economica.

Russia. Mr Voronin, President of the PCRM, presented to us the manifesto drawn up by the PCRM for the electoral campaign, focusing on the fight against corruption, education and the promotion of a multicultural society.

4) In 2012, some communist MPs had left the party. Mr Dodon founded the Socialist Party, which is openly promoting pro-Russian, pro-East and anti-AA policies, and calling for a referendum for Moldova to join the Eurasian custom union.

5) A new political figure also emerged on the political scene. While we were in Chisinau, Renato Usatyi organised large rallies and concerts to attract people. While his newly created party was not registered by the Ministry of Justice which claimed that a number of signatures used for the registration were forged, Mr Usatyi joined the Patria (Motherland) party to run in the elections. He confirmed the rising role that some businessmen may play in Moldovan politics.<sup>10</sup>

18. In the end, the elections were seen by the pro-European coalition as a complex exercise, given the combined effect of a difficult economic situation aggravated by the Russian ban on Moldovan products, the influence exerted by foreign countries on the country and the polarisation of society.

*b. Preparation of the parliamentary elections of 30 November 2014*

19. During our visit, political parties were preparing for the parliamentary elections of 30 November 2014. These are regular elections, while the previous parliamentary elections in 2009 and 2010 had been anticipated elections.

20. We welcomed the CoE pre-electoral assistance programme with Moldova provided by the Council of Europe, which focused on capacity-building and training of judges of the Central Electoral Commission (CEC), study visits for the staff of Broadcasting Council (CCA), training of domestic observers, promotion of women in the electoral process, especially women belonging to minority communities and actions to raise voters' awareness to electoral procedures.

21. We met the President of the Central Electoral Commission, who presented to us the state of progress of the preparation of the elections, including the finalisation of the much-awaited electronic voters' lists. He indicated that citizens holding Soviet passports would no longer be able to vote. An information campaign had been carried out with the local authorities to inform voters. The issuing of a first ID card was free of charge. In September 2014, it was estimated that 32 000 (20% of those registered in Transnistria) still had Soviet passports, compared to 250 000 in April 2014.

22. We also addressed the issue of voting possibilities offered to the 700 000 Moldovans working and living abroad. At the time of our visit, the Ministry of Foreign Affairs was still identifying the places where polling stations would be open abroad. About a hundred polling stations were said to be open. We reminded the authorities that this issue must be addressed in a transparent and open manner. In particular, the insufficient number of polling stations in Russia considering the number of Moldovans working there was raised by some interlocutors, while the authorities pointed out the logistical and security reasons which might limit the opening of polling stations in this country.

23. The role of the media in the electoral campaign raised a lot of concern. On the one hand, transparency of media ownership remains a problem and cast a shadow on the ability of the media to provide balanced information. The opposition, for example, complained about the concentration of public and private media in the hands of parties from the ruling coalition. On the other hand, the broadcasting of one-sided information – especially on the Ukrainian crisis- by the Russian media in the Republic of Moldova was tantamount to propaganda, and the authorities were considering restricting the broadcasting of news programmes from Russia. We stressed that the authorities should take the necessary measures to ensure that the public has access to objective and unbiased information. We have been informed that a law on the transparency of media ownership was in preparation.

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<sup>10</sup> Interestingly, the Venice Commission raised this risk in its opinion on the draft opinion on a proposed revision of the electoral system. It stated that “the proposed mixed electoral system, in which 51 Members of Parliament (MPs) out of the 101 shall be elected by a proportional closed-list system in one single nationwide constituency and 50 MPs shall be elected in as many single-member constituencies is a fundamental reform. *In the present Moldovan context, the proposed reform could potentially have a negative effect at the local level, where independent majoritarian candidates may develop links with or be influenced by local businesspeople or other actors who follow their own separate interests.*” (our emphasis) (See [CDL-AD \(2014\)003](#)).

24. We regret that the parliament failed to adopt in due time a draft law approved in July 2013 by the government on the amendments to the legislation on financing of political parties and electoral campaigns, aimed at harmonising the legislation with GRECO standards.<sup>11</sup> This leaves a number of issues unaddressed, in particular the question of the donation of gifts (including food<sup>12</sup>) given by political parties to the people and the effective control of political parties' income and expenditure. The interpretation and implementation of the provisions in the penal code regulating these issues raise some questions.

25. The Democratic Party decided to launch primaries on 28 September 2014 to nominate the 103 members of its electoral list. This was the first time that a party had organised such selection procedures, and some of our interlocutors raised questions about the modalities, the possible use of administrative resources, and the protection of personal data collected during this process.

26. All our interlocutors agreed that this election campaign would not be a classical one, as the debate is about the direction the country wants to take. On 5-6 November 2014, we participated, in our capacity of rapporteurs, in the pre-electoral delegation that visited the country. Our delegation concluded as well that the key issue of the election campaign is the European integration vs. the closer relations with the Customs' Union<sup>13</sup>. We shall return to the Republic of Moldova to observe the elections on 30 November 2014 with the observation mission of the Parliamentary Assembly.

#### IV. Recent domestic developments

##### *In the field of the functioning of democratic institutions*

###### *a. Reform of the Constitution*

27. In this context, Resolution 1955 (2013) called on the Moldovan authorities to amend the Constitution, in particular Article 78, to avoid repeated political deadlock concerning the election of the President of the Republic (which needs a 3/5 majority).

28. In September 2014, there was an unexpected attempt by the Liberal Democratic Party of the ruling coalition to propose a referendum on the direct election and direct dismissal of the President of the Republic on the same day as the parliamentary elections on 30 November 2014. This proposal, however, was struck down by the Constitutional Court on 12 September 2014: Mr Tanase, President of the Constitutional Court, explained that this proposal was not in line with the constitutional provisions time wise.<sup>14</sup> The Constitutional Court also considered as problematic the fact that the proposed referendum would address two issues at the same time (the election and the dismissal of the President) which were not automatically interrelated.

29. Mr Tanase informed us however that the Constitutional Court had decided in mid-September to set up a working group and start to work on a multidimensional change of the Constitution. This is a process that we will follow.

30. We reiterate our appeal to the authorities to amend the Constitution to avoid a new deadlock for the election of the President of the Republic, and we expect the newly elected parliament to start, without delay, broad consultation involving all political parties to draft constitutional amendment(s) related to the election of the President.

31. Finally, we should also note that on 5 December 2013, the Constitutional Court (CC) with regard to the interpretation of Article 13 of the Constitution, which refers to the official language, decided that the text of the Declaration of Independence prevails over the text of the Constitution, which provides that the official language is Moldovan, based on the Latin script.

<sup>11</sup> See the third round evaluation prepared by Greco in 2013.

<sup>12</sup> Media reports recalled that in the period before the 2010 elections, the Moldovans received bags with rice, pasta and other products with the symbols of the parliamentary parties, but the financial reports of these parties did not indicate the financial resources for such expenses. See: <http://www.ipn.md/en/politica/64480>.

<sup>13</sup> See the [Statement by pre-electoral delegation](#) visiting the Republic of Moldova of 7 November 2014.

<sup>14</sup> Article 143 of the Constitution provides that "Parliament shall be entitled to pass a law on the amendment of the Constitution *following at least 6 months from the date of the corresponding initiative launch*. The law shall be adopted by a vote of two-thirds of the Parliament members" (our emphasis). See <http://www.presedinte.md/titul6#sthash.pTKrA1xu.dpuf>.

b. *Decentralisation process*

32. During our stay in the Republic of Moldova, we visited the municipalities of Budesti and Vadul lui Voda, which belong to the City of Chisinau, where the fiscal decentralisation law adopted in August 2013 was first implemented, before being extended to the whole territory after 1 January 2015. We were impressed by the energy deployed by these local authorities to collect funds, find financial resources and deliver public services at local level. In Budesti, a creative approach to fund raising had enabled the Mayor to renovate a number of public buildings and the sewage system. In Vadul lui Voda, the new law changed the funding of schools and kindergartens, which are now funded by the State, but insufficiently, prompting the local authorities to fund new arrangements, merge classes and find ways to fund the extra-curriculum activities previously covered by the local councils.

33. The implementation of the fiscal decentralisation reform in pilot cities was being assessed by the government and could lead to some adjustment of the law, which should be applied to all Moldovan municipalities in 2015. The Congress of the Local authorities of Moldova (CALM) that we met on 5 November feared a delay in the entry into force of the decentralisation reform. They strongly underlined the importance of this reform in building democracy bottom-up. The fiscal decentralisation law should ensure that the financial autonomy of local authorities be enhanced, while an administrative territorial reform remains to be designed to further consolidate the financial capacities of local authorities.

c. *The Autonomous Territorial Unit of Gagauzia-Yeri*

34. In its Resolution 1955 (2013), the Assembly called on the Moldovan authorities to revise the statute and legislation of the Autonomous Territorial Unit of Gagauz-Yeri and to bring it into line with national legislation so that it meets international standards.

35. On 2 February 2014, the Autonomous Unit of Gagauzia-Yeri held an unconstitutional referendum in which a large majority of the voters expressed their will to join Russia's Customs Union.<sup>15</sup> More than 98% of the participants voted for Moldova's integration into the Customs Union which would, it was argued, lift the ban on the Gagauz winemakers and possibly lift the restrictions on the export of fruit and vegetables also for the Gagauz producers<sup>16</sup>, which eventually became reality. Several interlocutors in Chisinau feared that the region of Gagauzia could easily be influenced by Russia, and that this could influence the parliamentary elections.

36. After the referendum of 2 February 2014, a committee composed of Gagauz lawmakers and Moldovan MPs was set up to assess the degree of implementation of the constitutional provisions on the special status of autonomy, and examine the compatibility of the law on the special legal status of Gagauzia with the Moldovan Constitution. The working group, chaired by MP Dumitru Diacov, met on several occasions to discuss the inconsistencies between Moldovan legislation and the *Law on the Special Status of the Autonomous Territorial Unit of Gagauzia*; the ways to bring the state legislation into line with the special status law; issues with the representation of Gagauzians in the parliament; and other problems regarding the implementation of the special status law. A package of 20 laws was prepared and submitted to the parliament. The Prime Minister acknowledged that more attention should be paid to the peculiarities of the region.

37. Mr Formuzal, the then Governor of the region, regretted for his part that the Gagauz parliament had not been consulted on these draft laws. He deplored a massive campaign in the media portraying Gagauzians as "separatists" or "terrorists". He required a bigger representation of the Gagauz population in the governmental structure and the parliament, where the Gagauz representatives have to follow party discipline, while the election of independent MPs from Gagauzia who could protect the interests of the region is impossible due to the 2% threshold.<sup>17</sup> Mr Formuzal stressed however that Gagauzia had no intention of leaving the Republic of Moldova.

38. We welcome the decision of the government to engage in a dialogue with the representatives of the Gagauz authorities to harmonise the national legislation with the status of this territorial unit. We hope that this process will continue to be based on dialogue and real consultation of the Gagauz representatives. We expect the parliament to make use of the expertise of the Venice Commission to align its legislation. We also

<sup>15</sup> <http://www.aljazeera.com/indepth/features/2014/04/moldova-eu-integration-mother-russia-20144296179687342.html>.

<sup>16</sup> Veaceslav Craciun, for IPN, 09 October 2014.

<sup>17</sup> For the time being, the Gagauz population represents 4% of the total population. It has 5 members of parliament from the Gagauz region, out of 101 members.

hope that the conditions will be met to pursue the dialogue after the parliamentary elections of 30 November and regional elections in Gagauzia (for the election of the Bashkan (Governor) and the People's Assembly).

### ***In the field of the rule of law***

#### *a. Reform of the prosecution office*

39. During our visit, we reiterate the Assembly's appeal to the Moldovan authorities to reform the prosecution office as a matter of priority. The Minister of Justice informed us about the steps taken in that field, in particular the adoption of the Regulation of Public Prosecutors' Professional Performance Evaluation by the Supreme Council of Public Prosecutors covering the efficiency and quality of the activity, the integrity of prosecutors and mandatory continuous professional development.

40. Following the work of an inter-institutional working group established in 2013, the parliament adopted on 3 July 2014 a "concept of reforming the system of public prosecution authorities". This is a positive step, however, this process needs to be fully completed and finalised. The reform of the prosecution office, which has been on the agenda for almost 20 years, is a serious shortcoming that needs to be addressed. This opinion is also shared by the European Union which decided to deprive the Republic of Moldova of 12% of EU funds dedicated to the justice reform as the Moldovan authorities did not achieved the expected progress in that field.

#### *b. Reform of the judiciary*

41. In 2013, parliament adopted a number of bills to implement the justice sector reform strategy. They refer mainly to the payment of judges, testing of their professional integrity and toughening up of penalties for corruption-related offences.

42. The Venice Commission adopted in March 2014 two opinions related to the Republic of Moldova: on the draft law on amending and supplementing certain legislative acts, promoted by the intelligence and security service of the Republic of Moldova and a joint opinion on the draft law on disciplinary liability of judges of the Republic of Moldova.<sup>18</sup>

43. In July 2014 the government assumed responsibility for the Law on disciplinary liability of judges, intended to strengthen the anti-corruption efforts within the judicial system. The list of disciplinary infractions has been extended and now also covers non declaration of incomes and assets; non-observance, for reasons obviously imputable to the judge, of procedural terms; excessive interference in authorities, institutions or civil servants for resolving some requests; request or acceptance of resolving the personal, members of the family or relatives' interests and any other form of abuse of the judge's position in order to gain undue advantages.

#### *c. Fight against corruption*

44. In the field of the fight against corruption, which remains widespread in – and tolerated by - society, we recall that the 2013 reform of the Anti-corruption Center put again the NAC under the control of the government, which raised some questions about the possibilities to fully investigate members of the government. There were also contradictory positions about whether to start fighting corruption in politics, or in the judiciary – while the Mr Leanca, Prime Minister, considered that they should both be addressed simultaneously. Some raised the question of the influence of tycoons, who relied on a corrupt system to prosper – and would seek to hamper any progress in that area.

45. Some positive steps however were taken recently:

- A commission of integrity was created, though, it remains to be seen whether the findings made by this new body, in particular the inconsistencies found in asset declarations, will be duly investigated.
- Law no. 325 on professional integrity testing was adopted in December 2013. The regulations apply to the National Anti-Corruption (NAC) employees and the representatives from the justice sector, but also to

<sup>18</sup> Joint Opinion of the Venice Commission and the Directorate General of Human Rights (DHR) and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on amending and supplementing certain legislative acts, promoted by the intelligence and security service of the Republic of Moldova [CDL-AD\(2014\)009](#) and joint opinion [CDL-AD\(2014\)006](#) adopted by the Venice Commission at its 98th Plenary Session (Venice, 21-22 March 2014).

authorities, institutions and organisations (public entities) which carry out activities of public interest, and to public employees exposed to the corruption risks or to vulnerability in performing their professional activities. This law entered into force in August 2014. 40 cases of “inappropriate behaviour” or “attempts to bribe” have been signalled to the authorities. These tests, if positive, might lead to disciplinary sanctions, but not criminal investigation. NAC staff member are in addition subject to polygraph tests.

- A law was adopted in December 2013 to remove the immunity of judges, increase penalties and expand the scope of investigations. Since then, 9 criminal investigations were launched against members of the judiciary. Two judges were convicted to 7 and 8 years of prison, which was assessed as “unprecedented results” by the authorities.
- The salary of the judges, as well as of the NAC staff, was increased.
- The mandate of the NAC was extended to cover prevention of corruption.
- Integrity plans were developed in the health and education sectors, which remain among the most corrupted areas.

46. Mr Gurin was appointed General Prosecutor in 2013 and confirmed in his position by the Constitutional Court after the parliament tried to dismiss him two weeks after appointing him. He therefore felt to be less prone to political pressure, and willing to deal with corruption cases. The Prosecutor can now launch investigations into magistrates in cases of active or passive corruption or in case of traffic of influence without prior notification to the Supreme Council of Magistrates.

47. The prosecution of high level cases and the results of the anti-corruption policies remain disappointing. Corruption still needs to be addressed in a systematic way. We therefore encourage the Moldovan authorities to strengthen the measures taken. We welcome to that end the assistance project launched by the Moldovan authorities and the Council of Europe to address this issue.

### ***In the field of democracy***

#### *a. Fight against discrimination*

48. On 3 April, 2014, the Parliament of the Republic of Moldova passed the Law on the Ombudsman, which entered into force on 9 May, 2014. According to the new law, the people’s advocate will be elected for a mandate of seven years and must have at least ten years’ experience in the field of human rights. The law includes one separate chapter devoted to the National Preventive Mechanism.

49. We deplored the violent attack on the office of the Genderdoc organisation, an NGO promoting the rights of LGBT people, in Chisinau on 20 September 2014 by a group of extremists. We appreciated the commitments by both the Ministry of the Interior and the Prosecutor General to conduct a proper investigation and prosecution. We want to stress that those extremist groups, which on several occasion targeted the LGBT community, seek to destabilise the country and put the whole of Moldovan society at risk. Unequivocal measures should be taken to root out these organisations and put an end to repeated homophobic acts. This is also why we encouraged the authorities to strengthen the 2012 anti-discrimination law and we welcome the introduction of the incrimination of hate speech in the Penal Code.

50. The Republic of Moldova is a multi-ethnic society where all communities should be able to express their identities. We recalled that the ratification of the European Charter of Regional and Minority Languages, to which the Republic of Moldova has committed itself, would be a positive step, but it did not seem to be on the agenda. The Prime Minister however suggested that a strategy for the integration of national minorities would be needed to better integrate national minorities and promote the learning of the State language.

#### *b. Gender quota*

51. We were informed that the parliament is considering introducing a quota to promote the participation of the under-represented sex, which is a very welcome move. At the time of our visit, two draft bills were being discussed to introduce a temporary quota to promote the participation of the under-represented sex in public life, including on electoral lists, one submitted by the government (with a 40% quota) and the other one by Ms Palihovici (with a 30% quota). The parliament was unfortunately unable to fully carry out the process in due time to apply a gender quota for the parliamentary elections. The parliament finally declined to adopt this under urgent procedure. We urge the newly elected parliament to address again this issue and ensure that a gender quota is applied for the 2015 local elections. At present, women represent slightly over

18% of the members of parliament, and 21% of the local elected representatives. We take good note that some political parties already apply voluntary quotas. However, these quotas should include a “zip system” to ensure that women have real opportunities to be elected.

## V. The situation in the Transnistrian region of the Republic of Moldova

### a. State of play of the settlement process

52. Concerning the settlement of the Transnistrian conflict, little progress could be observed at political level. The Transnistrian settlement talks in the 5+2 format (ie Republic of Moldova, Transnistria, the OSCE, the Russian Federation, Ukraine, the US and the EU) were held in Vienna on 6 June 2014, and focused on practical issues like freedom of movement of people, goods and services, the situation of the farmers in the Dubassary region, intensification of co-operation between law-enforcement structures, the situation regarding the Moldova-administered Latin-script schools in Transnistria or the dismantling the Rybnitsa-Rezina cable car.<sup>19</sup>

53. On 10-11 June 2014, representatives of all sides, mediators and observers, as well as the participants at the expert working groups, took part in the Conference on Confidence-Building Measures in the Transnistrian settlement in Germany, focusing on concrete confidence building measures that can help the working groups to better address practical issues related to people’s daily lives on both banks of the Dniester/Nistru River. The Council of Europe also has developed confidence-building measures in the field of media, civil society, etc.

54. The next round of the 5+2 negotiations was scheduled to take place in Vienna on 17-18 July 2014 but was postponed and did not resume since then. The 5+2 process has halted since then, due to the events in the region. In March 2014, the *de facto* Parliament of Transnistria formally asked the Russian government to incorporate it into the Russian Federation.<sup>20</sup>

### b. Domestic developments

55. For the first time, we have been able to discuss with the *de facto* authorities in Transnistria, in particular the deputy speaker of the *de facto* parliament. During the discussions, we raised the issues of human rights, people with disabilities, excessive lengths of detention, domestic violence, abuse of children, the situation of orphans and the identity documents of the inhabitants of Transnistria.

56. Transnistria is facing serious economic problems because of the drastic reduction in its exports and the restriction on the number of working days. The Deep and Comprehensive Free Trade Agreement (DCFTA) signed in June 2014 by the Republic of Moldova and the EU will require from the *de facto* authorities in Transnistria to clarify their economic position.<sup>21</sup> The *de facto* authorities emphasised the need to strengthen the economy as a pre-requisite to developing human rights. According to the Moldovan authorities, the trade volume of Transnistrian companies with the Republic of Moldova is increasing and Transnistrian citizens have a positive attitude towards visa liberalisation. They hoped that the modernisation process of the Republic of Moldova would make the country more attractive for the population living in Transnistria.

57. We organised a meeting with local NGOs from Transnistria. They expressed their concerns about their working conditions, the non-integration of disabled persons, long lasting detentions, the issue of trafficking, domestic violence and abused children and the situation of orphans. They also raised the problems faced by the people in Transnistria to obtain the necessary documentation for Moldovan citizenship. Young people originating from Transnistria and living alone in Moldova feared to face military service if they would go back to Transnistria.

58. We noticed that the report presented by former Commissioner for Human Rights Thomas Hammarberg had been well received. A decree of the *de facto* President of Transnistria instructed the law enforcement agencies to implement Mr Hammarberg’s recommendations.

<sup>19</sup> <http://en.interlic.md/2014-06-06/transdnestrian-settlement-talks-sending-positive-signal-says-osce-special-representative-35244.html>.

<sup>20</sup> See <http://www.euronews.com/2014/04/23/transnistria-territorially-tempting-to-russia/>

<sup>21</sup> 30% of Tiraspol exports are directed to Moldova, while another 40 %are directed to EU countries, leaving only a small percentage directed to Russia. <http://eastbook.eu/en/2014/06/country-en/moldova-en/the-ukraine-crisis-has-complicated-moldovas-political-situation-ahead-of-signing-an-association-agreement-with-the-eu/>

c. *Latin script schools*

59. In Transnistria, we discussed with the representatives of the *de facto* authorities. We expressed our worries about the situation of Latin-Script schools which are subject to difficult working conditions. Attendance had fallen from 10 000 to 1 000 in a few years according to the staff of the schools. Pressure was exerted on teachers; from the point of view of the *de facto* authorities, the employment of the teachers in the Latin script schools since 1994 did not entitle them to pensions. They were not able to import books, which they had to hide in their vehicles.

60. The obstacles faced by schools teaching in Latin script in Transnistria and the continuous pressure exerted on parents, children and teachers, reflect a determination to root out these schools. The ECtHR judgment in *Catan and Others v. the Republic of Moldova and Russia*<sup>22</sup> had not been implemented by the Russian authorities or the *de facto* authorities in Transnistria. We reminded the Transnistrian *de facto* authorities of this obligation, as required by the Assembly its Resolution 1555 (2013).

## VI. Conclusions

61. The Moldovan authorities continued to demonstrate the political will to fulfil their obligations and commitments. We see the recent measures introduced to fight corruption in the judiciary and the police as positive signals. Considering the challenges that remain to be addressed in the coming months, we reiterated the availability of the Council of Europe and the Venice Commission to provide the necessary expertise and assist the Moldovan authorities in meeting European standards. The Republic of Moldova needs a sound political system to build confidence in society.

62. However, we note that the Moldovan authorities did not deliver on some crucial issues. We still expect the much needed reform of the prosecution service. That is a pre-condition to launching effective and unselective investigations. We regret that the law on the financing of political parties and the law on gender quota could not be thoroughly discussed by the parliament and adopted in time for the upcoming parliamentary elections. While media freedom seems to have improved, the law on media ownership should bring more transparency into the media landscape and prevent undue political influence.

63. We hope that the Moldovan authorities will continue the reform process and ensure the effective implementation of the laws after the parliamentary elections. The Council of Europe remains at their disposal to provide the assistance needed.

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<sup>22</sup> On October 19, 2012 the Grand Chamber of the European Court of Human Rights in Strasbourg delivered its final judgement in the case *Catan and others vs Moldova and Russia*. It found the violation of the right to education (art 2 of protocol 1) of 170 applicants by Russia. On 4-6 June 2014, the Committee of Ministers, in charge of monitoring the execution of the judgments, firmly called upon the Russian authorities to take all possible measures to put an end to the violation of the applicants' right to education and to transmit within one month, information on how they intend to guarantee that the Latin script schools continue to function for the school year 2014/2015; and as soon as possible, and at the latest by 1 September 2014, a global action plan or action report responding fully to the Court's judgment, which had no follow-up. See the [decision of the Committee of Ministers](https://www.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2475031&SecMo de=1&DocId=2114800&Usage=2) of 6 June 2014.

## APPENDIX 1

**Programme of the fact-finding visit to Chisinau and Tiraspol (23-26 September 2014)**

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

Secretariat: Ms Sylvie AFFHOLDER, Secretary, Monitoring Committee

**Tuesday, 23 September 2014**

- 09:00 Working breakfast and briefing by Mr Ghenadie BARBA, Deputy Head of the Council of Europe Office in Chisinau
- 10:30-11:15 Meeting with media representatives representatives
- Mr Dumitru CIUBASENCO, Panorama Newspaper
- 11:30-12:15 Meeting with of representatives of NGOs
- Ms Ina GREJDEANU, Independent Journalism Centre
  - Mr Petru BOGATU, Union of Journalists of Moldova
  - Mrs Daniela TIMOFTI, Young Journalists Centre
- 12:30 -13:45 Working lunch with NGO representatives working in the field of democracy, justice and human rights
- Mrs Lilia CARASCIUC, Transparency International
  - Mrs Ana FURTUNA, Antidiscrimination Coalition
  - Mr Nicolae PAFIL, Coalition for Free and Fair Elections
  - Mr Sorin MEREACRE, East European Foundation
  - Mr Pavel CRETU, Legal Resource Centre
- 14:00-14:45 Meeting with H.E. Mr Igor CORMAN, Chairman of the Parliament of the Republic of Moldova
- 15:00-15:45 Meeting with Mr Valeriu STRELET, Chairman of the parliamentary faction of Liberal Democratic Party (LDPM)
- 16:00-16:45 Meeting with Mr Vladimir VORONIN, Chairman of the parliamentary faction of Party of the Communists (PCRM)
- 16:55-17:35 Meeting with Mr Marian LUPU, Chairman of the parliamentary faction of Democratic Party (DPM)
- 17:40-18:25 Meeting with Mr Mihai GHIMPU, Chairman of the parliamentary faction of Liberal Party (LP)
- 20:00 Working dinner with the representatives of international institutions in Chisinau: Mr Lyndon ALLIN, OSCE Mission to Moldova, Mr Claude CAHN, Human Rights Advisor, UNDP and Mr Wicher SLAGTER, Deputy Head of the European Union Delegation.

**Wednesday, 24 September 2014**

- 08:30-10:00 Visit of the commune of Budesti (municipality of Chisinau)
- Meeting with Ms Nina COSTIU, Mayor, and representatives of the political groups of the municipal council
- 10:30-12:00 Visit of the commune of Vadul lui Voda (municipality of Chisinau)
- Meeting with the Vice-President and members of the municipal council
- 12:30-13:50 Working lunch hosted by Ms Liliana PALIHOVICI, Head of the Moldovan delegation to the PACE, and the members of the delegation

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- 14:00-14:45 Meeting with Iurie CIOCAN, President of the Central Election Commission
- 15:00-15:45 Meeting with Mr Alexandru TĂNASE, President of the Constitutional Court of the Republic of Moldova
- 15:50-16:35 Meeting with Mr Vitalie VEREBCEANU, Chair of the General Department on Corruption Prevention
- 16:45-17:30 Meeting with Mr Mihail FORMUZAL, Governor of the Autonomous Territorial Unit of Gagauzia-Jeri
- 17:35-18:20 Meeting with Mr Iurie LEANCĂ, Prime Minister of the Republic of Moldova
- 18:30-19:15 Meeting with Mr Sergiu PALIHOVICI, Deputy Secretary General of the Government
- 20:00 Working dinner with Ambassadors of Council of Europe member states: H.E. Artur MICHALSKI, Ambassador of Poland, H.E. Marius LAZURCA, Ambassador of Romania, H.E. Serhii PYROZHKOVA, Ambassador of Ukraine, Mr FILIP, representative of the Ambassador of the Russian Federation, Mr Ilham AGAIEVA, Deputy Ambassador of Azerbaijan

#### **Thursday, 25 September 2014**

- 08:30-09:15 Meeting with representatives of NGOs dealing with the Transnistrian region
- 09:30-10:15 Meeting with Mr Marian POCAZNOI, President of the Broadcasting Coordination Council
- 10:20-11:05 Meeting with Mr Eugen CARPOV, Deputy Prime Minister responsible for reintegration
- 11:15-12:00 Meeting with Mr Corneliu GURIN, General Prosecutor

#### ***Meetings in Tiraspol***

- 14:00-15:00 Mr Serghei CEBAN, Vice-Speaker of the "Supreme Council" and chairman of the Commission on international relations and the members of the "Supreme Council";  
Mr Victor GUZUN, Head of the commission on small entrepreneurship;  
Mr Grigorii DIACENCO, Head of the commission on mandates, appointments and ethics;  
Mr Dirun Anatolii DIRUN, Head of the Commission on education, science and sports.
- 15:30-16:30 Meeting with representatives of the Lucian Blaga Lyceum in Tiraspol the Alexandru cel Bun Lyceum of Bender
- 16:30-17:30 Meeting with NGOs active in the field of human rights, women's rights and disabled children

#### **Friday, 26 September 2014**

#### ***Meetings in Chisinau***

- 08:15-08:45 Working breakfast with H.E. Ingrid TERSMAN, Ambassador of Sweden
- 09:00-09:45 Meeting with Mr Dorin RECEAN, Minister of Internal Affairs
- 10:00-10:45 Meeting with Mr Oleg EFRIM, Minister of Justice
- 12:00-12:40 Press conference