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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

Revised information note following the co-rapporteurs' visit to the Republic of Moldova

(12-15 October 2021)

Co-rapporteurs: Mr Pierre-Alain Fridez, Switzerland, Socialists, Democrats and Greens Group and Ms Inese Lībiņa-Egnere, Latvia, Group of the European People's Party

¹ Document declassified by the Monitoring Committee at its meeting on 1st February 2022.

1. Introduction

1. We paid a visit to the Republic of Moldova from 12-15 October 2021. This was our first official visit as rapporteurs since the July 2021 early parliamentary elections. The programme and the statement we issued after the visit are appended.

2. Prior to this visit, we had submitted, on 19 May 2021, a memorandum to the Monitoring Committee on the political developments that had taken place between the November 2020 presidential election and the dissolution of parliament in April 2021.² We described in detail the power struggle between the newly elected President of the Republic and a parliamentary majority belonging to different political parties. This led to a political and constitutional crisis in a highly polarised climate, to the dissolution of the parliament and eventually the organisation of early parliamentary elections on 11 July 2021. We also had had several bilateral meetings with the Moldovan delegation to the PACE during the part-sessions of the Assembly and with Ms Stamate, then Advisor to the President of the Republic when the President Maia Sandu addressed the Parliamentary Assembly in April 2021 in Strasbourg.

3. This visit aimed at taking stock of the reforms and plans of the new authorities, especially in the field of the judiciary and the fight against corruption, which had been defined as two priority reform areas. In light of the work plan approved by the Sub-Committee on conflicts between Council of Europe member states, we also decided to discuss the Transnistrian settlement process and related human rights issues and have meetings in Tiraspol, in the Transnistrian region of the Republic of Moldova. We would like to thank the Moldovan authorities for the excellent co-operation and preparation of this visit. We also extend our thanks to the Council of Europe Office in Chisinau which has provided us with full assistance as well as to the representatives of the international organisations and diplomatic community of Chisinau for our fruitful exchanges.

2. The political and institutional framework after the July 2021 elections

4. On 11 July 2021, early parliamentary elections, based on the proportional system, were organised. We observed these elections as ex-officio members of the ad hoc election observation commission, which stated that these elections were competitive and well run despite the inadequate handling of election disputes and campaign finance issues.³

5. These elections brought a new political landscape in the country: for the first time in the history of the Republic of Moldova, a single party, the Action and Solidarity Party (PAS) which won 52,8% of the votes, has a large majority in parliament (63 seats out of 101). The opposition comprises 32 MPs from the Electoral Bloc of Communists and Socialists (BCS) and 6 MPs from the Şor's Party.

6. The newly elected parliament held its first session on 26 July 2021 and elected Igor Grosu, interim leader of PAS, as President of Parliament. Natalia Gavrilița was appointed as Prime Minister-designate the following day and her cabinet of 13 ministers was sworn into office on 6 August with the support of 61 votes, all from PAS.

7. At the time of our visit, the authorities had major concerns about the sanitary situation due to the Covid-19 pandemic. The country has been provided with sufficient vaccines from various sources, including donations and procurements by the state, however the population remained reluctant to be vaccinated, with a vaccination rate ranging from 25% to 35%.⁴ This situation continued to put the health system under great pressure and the country has declared a state of emergency in the public health sector, which was extended, on 26 November, until 15 January 2022. Seven thousand people died of Covid since 2020, including many doctors due to the lack of protective equipment at the beginning of the pandemic.

8. The price of the gas was another major issue of concern, in the global context of hiking energy prices⁵ and the re-negotiation of the contract of gas supply with Gazprom. These hiking prices were likely to have

² [AS/Mon \(2021\) 08 rev](#)

³ See the [joint statement](#) issued by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) and [Doc 15356](#), Observation of the early parliamentary elections in the Republic of Moldova (11 July 2021), rapporteur : Stefan Schennach, Austria, SOC.

⁴ The Minister of Health indicated that 24% of the population was vaccinated, based on the 2014 census. As many people left the country since then, the vaccination rate could be higher.

⁵ The purchase price for natural gas in 2021 increased from \$ 126.7 per 1 thousand cubic meters in the first quarter to \$ 800.62 per 1,000 cubic meters. <https://infomarket.md/en/pwengineering/274530>

huge and tangible impact on the social situation of people – practically annihilating the recent increase of pensions to a minimum of 100 Euros per month. On 22 October 2021, the parliament approved with 55 votes the Government Decision declaring a state of emergency for 30 days, allowing the Commission for Emergency Situations of the Republic of Moldova to purchase natural gas from alternative sources. On 28 October, the Moldovan government and Gazprom announced a new price formula in a framework of a five-year agreement. The parliament however had to amend unexpectedly the law on the state budget on 26 November 2021 to pay off the debt generated by the hike in the gas price (ie over 74 million dollars) for supplies of October and November 2021 and avoid gas supply disruptions by Gazprom. In January 2022, the Moldovan authorities faced a new energy crisis, after Gazprom requested an advance payment and rejected a request to postpone the deadline (as Moldogaz had only collected US\$38 million out of US\$63 million required). As a result, the Moldovan parliament voted again, on 20 January 2022, a state of emergency for 60 days so as to allow the Moldovan state to cover the remaining amount.

9. The results of the presidential election (November 2020) and the early parliamentary elections (11 July 2021) both indicated a clear choice expressed by the voters in favour of eradicating corruption and building efficient and transparent state institutions capable of functioning for the benefit of all. A series of actions and reforms were swiftly launched by the newly elected authorities to “cleanse” the system from its corrupt elements and put an end to the “capture state”. As a result, a number of heads of governmental agencies (such as the Land Relations and Cadastre Agency, the Interethnic Relations Agency, the State Agency on Intellectual Property institutions, the Public Property Agency or the National Health Insurances Company) and 22 secretaries of states were dismissed on 9 August. The heads of the General Inspectorate of police and the National agency for electronic communication and information technologies were dismissed on 10 August, and the Head of the General Staff of the National Army on 8 September.

10. On 30 September, the parliament adopted a law enabling it to evaluate the performance of state institutions under parliamentary control (such as the Competition Council, the National Agency for Energy Regulation, the Audiovisual Council, the National Agency for Solving Complaints and the National Commission of the Financial Market). The law also provided that their managers could be dismissed if they were considered as under-performing. The Minister of justice Mr Litvinenco declared at that time that the functional autonomy of these institutions did not preclude their heads to be held accountable for inefficiency of incompetence.

11. The speed of these reforms and changes raised some questions. The President of the Republic explained that these swift reforms were necessary, as the attempts to have these institutions “self-cleaned” had failed in 2019, when Ms Sandu was Prime Minister (from June to November 2019). The Prime Minister Ms Gavrilița indicated that over 350 civil servants had resigned from ministries, agencies and state enterprises since the formation of the new government, 100 days earlier, and that financial schemes of hundreds of millions [lei] had been stopped in procurements at state agencies.⁶ During our visit, we were notably informed about financial schemes involving the leadership of the telecommunication company Moldtelekom. undue fees were charged for issuing visas and paid into private bank accounts.

12. The appointment of new officials in state and judicial institutions was also questioned. Some interlocutors deplored that these positions had been allocated to members of the extended family of the new authorities, which could undermine the credibility of the government. We were informed that this is a long-standing issue in the Republic of Moldova, given the traditions and personal allegiances (“cumatristm”) prevailing in the country.⁷ Appointment procedures were also challenged by the parliamentary opposition: the Bloc of Communists and Socialists decried the nomination of “loyal persons” in the judiciary as well as the appointment of the new Ombudsperson Ms Moloșag, a former lawyer of Ms Sandu, on 23 September 2021.⁸

13. The Șor Party, for its part, challenged the fact that it been given only a substitute seat in the Moldovan delegation to the PACE.⁹ It also claimed that the parliament had not considered the appointment of candidates to the Central Electoral Commission (CEC) submitted by the opposition on 16 September 2021,

⁶ <https://www.moldpres.md/en/news/2021/11/11/21008572>.

⁷ <http://www.infotag.md/politics-en/295455/>.

⁸ Ms Moloșag, resigned from her position on 2 December 2021 after being seen several times in public, including at official events organized by the Office of the Ombudswoman, with a citizen whom she had previously defended in court and who was sentenced for pimping in 2017. <https://www.zdg.md/en/?p=8814>

⁹ The Șor party considered that it is entitled to have a full member in the delegation. We note however that the credentials of the delegation were ratified by the Parliamentary Assembly on 27 September 2021 without any challenge. The Șor faction in parliament comprises 6 members, including its leader Ilhan Șor, who was sentenced in 2017 to seven-and-a-half years in jail in the bank fraud case, appealed the decision and fled the country. In July 2019, an arrest warrant was issued against him. He was re-elected as an MP in 2021.

while 6 CEC members proposed by the PAS faction were elected by the parliament. In the meantime, the CEC started to work and elected its leadership (early local elections being organised on 21 November 2021). The parliament appointed on 28 September the two candidates submitted by the Bloc of the Communists and the Socialists. On 3 December, the parliament appointed, with the support of PAS and the BCS, another candidate submitted by the BCS, ie Teodora Vanghelii, advisor to head of the BCS faction Ms Greaceanyi, as the 9th member of the CEC, thus depriving the Sor Party party from being represented in the CEC.¹⁰ The authorities indicated that the designation, by parliament, of the 9 members sitting on the CEC is done in proportion to the political forces represented in parliament. From this point of view, the authorities consider that the Sor party faction, which has only 6 seats out of 101 (including that of its fugitive leader), was not entitled to a seat.

3. The reform of the justice system and the prosecution office: state of play

14. The judicial system has long-standing issues¹¹ which has been a matter of concern for the Assembly for many years.¹² The International Commission of Jurists had even depicted the judicial system in 2019 as “only an empty shell”, meaning endemic corruption, political control, selective justice, lack of judicial integrity and improper application of the law. This was also reflected in the low level of trust in the judiciary: according to a Public Opinion Barometer of June 2021, over 65% of the Moldovan population did not trust the judiciary.¹³

15. The Assembly also highlighted, in January 2021, its concerns with respect to the independence of the judiciary. In its Resolution 2359 (2021), it noted that “several attempts to reform the judiciary have not been successful and that corruption, including within the circles of the judiciary, remains a widespread phenomenon in this country”. It called on the Moldovan authorities to “continue the reform of the judiciary, the Superior Council of Magistracy and the prosecution service in line with the recommendations of Council of Europe organs and bodies” and “take the necessary steps to implement the new strategy for reform of the judiciary”. It called on the Moldovan authorities to “prioritise the issue of the evaluation of judges and prosecutors and make full use of the procedures already available for ensuring the integrity of the judiciary” and to “significantly step up their efforts to combat corruption among judges and prosecutors” by implementing the GRECO recommendations.¹⁴

3.1 Amendments to the Law on the Prosecution Service (August 2021)

3.1.1 The context

16. The newly elected authorities have undertaken swift and substantial action to reform the judiciary. On 24 August 2021, the parliament amended - prior to the adoption of the constitutional amendments on the judiciary - the legal provisions regulating the election and appointment of members of the Superior Council of Magistracy (SCM) and amended the Law on the Prosecution Service, which impacted the organisation of the Superior Council of Prosecutors (SCP), introduced mechanisms of accountability of the Prosecutor General and the possibility to conduct an *ad hoc* performance evaluations of the Prosecutor General, once a year, by a specially created Evaluation Commission. The law also provides for the mandatory retirement of lay members of the SCP who reached the age of 65.

17. The appointment of the Prosecutor General has always been a sensitive issue, and the appointment procedure was not immune from political interference (it seems that none of the Prosecutors General ever

¹⁰ This appointment occurred at a time when the CEC had asked a court to remove Marina Tauber, member of the Sor faction, from the second round of the municipal elections in Balti. Ms Tauber had gathered 47% of the vote in the first round of the local elections. The Balti District Court and later the Court of Appeal of Balti found that the CEC's campaign expenditure limit had been exceeded. The Supreme Court of Justice rejected Ms Tauber's appeal on 5 December, thus excluding her from the electoral race. The second round of local elections in Balti scheduled for 5 December was cancelled on the same day and postponed to 19 December 2021. https://www.ipn.md/en/marina-tauber-my-exclusion-is-a-direct-order-of-maia-7965_1086237.html#ixzz7DzZgAili and <http://www.infotag.md/politics-en/295853/>

¹¹ In a study on “Role of civil society in advancing the rule of law and justice sector reform” (2018-2021) carried out by the NGO Invento, 39% of respondents, when asked what criteria the current authorities are guided by when making personnel changes, said that appointments are based on *cumatrism*, ie kinship with government officials. Another 24% believe that appointments are based on political criteria (depending on membership in the ruling Party of Action and Solidarity (PAS) or whether the candidate represents the interests of this party). Only 22% believe that appointments are based on professional merit. This study was carried out in partnership with Freedom House, within a project implemented with support from the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs. https://www.ipn.md/en/political-instability-and-corruption-negatively-affected-justice-sector-reform-s-7967_1084515.html

¹² See PACE recent [Resolution 2359 \(2021\)](#) Judges in Poland and in the Republic of Moldova must remain independent

¹³ [Public Opinion Barometer | Republic of Moldova](#)
 [Public Opinion Barometer \(ipp.md\)](#)

¹⁴ [Resolution 2359 \(2021\)](#), para. 10.1-10.3.

managed to complete their mandate). In November 2019, Ms Stamate, the then Minister of Justice, stated the selection process of the Prosecutor General by the SCP had been sabotaged through disproportional biased scoring. The results of the preselection were subsequently canceled on 6 November 2019¹⁵ and a commission of the Ministry of Justice was set up to pre-select four candidates that would be submitted to the President. In the meantime however, the Party of the Socialists and the Democratic Party joined forces and voted a no-confidence motion, eventually leading to the fall of the Government of Ms Sandu (then Prime Minister). Alexander Stoianoglu was subsequently appointed as Prosecutor General on 29 November 2019 by President Dodon, on the proposal of the Superior Prosecutorial Council.¹⁶

18. The newly elected authorities questioned the work of the Prosecutor General and his action – or lack of action – in investigating and prosecuting several prominent major fraud and money laundering cases, such as “the Global laundromat”¹⁷ and the “bank scandal”¹⁸. During our visit, we heard that several recent decisions taken by the General Prosecutor had raised questions. For example, the Prosecutor General had declared the conviction of the business Veaceslav Platon as “illegal” and ordered his release after he was acquitted in the bank fraud case in June 2021 – while the appeal to his conviction to 18 years in prison for fraud and money laundering was still pending. This enabled Mr Platon to flee the country. The lack of results of the investigation related to the 2014 bank fraud was another source of concern and raised questions about impunity enjoyed by those responsible for the disappearance of one billion dollars from the bank system. Other cases mentioned to us related to the extradition of seven Turkish teachers with alleged ties to the Gülen Movement (for which the Republic of Moldova was condemned by the ECtHR¹⁹) and the alleged cases of political corruption (see below), which remained unaddressed.

19. The members of the Superior Council of Prosecutors and the acting General Prosecutor whom we met, expressed their strong resistance to the adopted amendments, the new composition of the SPC and the evaluation performed by a commission and not by the SCP itself. The parliamentary opposition and the Prosecutor General's Office considered that the adoption of these amendments violated the legal procedure and had not been reviewed by the Venice Commission. On 3 and 21 September 2021, Mr Stoianoglu, in his capacity of Prosecutor General, challenged the constitutionality of the amendments. The Bloc of Communists and Socialists, for its part, claimed that “unsuitable” members of the SCP had been dismissed, referring to the early retirement of SCP member Mr Pulbere by President Sandu on 6 September. On 30 September 2021, the Constitutional Court ruled that it did not find that the process of adoption of the amendments had violated any explicit constitutional requirements.²⁰ NGOs also complained about the speed of adoption of these amendments, which did not allow proper consultation. On 23 September 2021, the Prosecutor General and the President of the Superior Council of Prosecutors of the Republic of Moldova, Mr Alexandr Stoianoglu and Ms Angela Motuzoc respectively, requested an opinion of the Venice Commission on the compatibility of the recent legislative amendments to the Law on the Prosecution Service with international standards.

20. In December 2021, the Venice Commission issued its opinion²¹ on the amendments to the Law on the Prosecution Service. The Venice Commission depicted a situation of “acute political conflict” in which these amendments had been adopted “in a rushed manner”, citing, on the one hand, the will of the authorities to restore public trust in the prosecution service which suffered from lack of integrity, independence and professionalism, and the long-standing confrontation between Mr Stoianoglu (who vigorously denied the allegations of incompetence or lack of integrity) on one side, and the current parliamentary majority and the

¹⁵ https://www.ipn.md/en/alexandr-stoianoglu-wins-contest-to-become-prosecutor-general-7967_1069932.html#ixzz7DFqvA1yW

¹⁶ At that time, the Prosecutor General decided to drop charges in 9 out of 38 criminal cases that had presumably been started based on political reason, including the case of the Petrenco group, for which the Republic of Moldova was eventually condemned on 14 September 2021: the Court ruled that the rights of former PACE member Grigore Petrenco and others had been violated in 2015 when he was arrested and detained for his peaceful protests. See *Petrenco and others vs Republic of Moldova* [ruling](#) (Applications nos. [6345/16](#), [52055/16](#), [52063/16](#), [52133/16](#), [52171/16](#), [52179/16](#) and [52189/16](#)):

¹⁷ See [PACE Resolution 2279 \(2019\)](#) on Laundromats: responding to new challenges in the international fight against organised crime, corruption and money laundering: the “Global Laundromat” enabled the illegal transfer of at least US\$21 billion, and perhaps as much as US\$80 billion, from the Russian Federation to recipients around the world, and “typically depended upon corruption in the Moldovan judicial and banking systems”.

¹⁸ One billion dollars disappeared from the bank system in 2014.

¹⁹ See *Ozdil and others vs. the Republic of Moldova* [ruling](#) (Application no. [42305/18](#)), 11 September 2019. In September 2018, in a joint operation of the Moldovan and Turkish secret services, seven Turkish teachers working in private high schools were illegally detained and handed over to the Turkish authorities without being charged with committing any crimes in Moldova, and despite the fact that they had applied for asylum in the Republic of Moldova. The ECtHR found a violation of article 5.1 and 8 of the Convention.

²⁰ Opinion on the amendments of 24 August 2021 to the law on the prosecution service, adopted by the Venice Commission at its 129th Plenary Session (Venice and online, 10-11 December 2021), [CDL-AD\(2021\)047-e](#), para. 30.

²¹ [CDL-AD\(2021\)047-e](#)

President of the Republic on the other side.²² In addition, the Venice Commission noted that the adoption of these amendments happened during a holiday period, without a public discussion and with limited participation of the civil society, stakeholders and experts in parliament; it concluded that “a more thorough and transparent process would certainly have been more preferable, given the importance of the proper functioning of the prosecution service”.²³

3.1.2 Reform of the composition of the Superior Council of Magistracy and Superior Council of Prosecutors (August 2021)

21. The amendments adopted in August 2021 have changed the election and appointment of members of the Superior Council of Magistracy (SCM and the Superior Council of Prosecutors (SCP).

22. Concerning the Superior Council of Magistracy, the amendments provide that the General Assembly of Judges will elect six judges to be members of the SCM (four from first-tier courts, one from an appellate court and another one from the Supreme Court of Justice). Candidates for the position of judge-members are now required to have at least three years’ experience on the bench and no disciplinary sanction in the last three years. The SCM will also comprise three lay members appointed by the Parliament, and three *ex-officio* members (ie the Ministry of justice, the Prosecutor General and the President of the Supreme Court of Justice) despite a negative opinion of the SCM, which had recommended to exclude the Prosecutor General and the Ministry of Justice from *ex-officio* position to ensure the depoliticisation and independence of the judiciary.

23. The composition of the Superior Council of Prosecutors had already been modified in 2019 and the number of members had then been increased from 12 to 15. The amendments adopted in August 2021 again reduced the number of SCP members to 12²⁴, excluding the former three *ex-officio* members (ie the Prosecutor General, the Chief Prosecutor of the ATU Gagauzia Prosecutor’s office and the President of the Bar Association), while the Minister of Justice, the President of the Superior Council of Magistracy and the Ombudsman remains *ex-officio* members, and providing a new balance between prosecutorial and lay members in the SCP.

23.1. The Venice Commission pointed out that the SCP composition has been changed twice since 2019. It warned that “such frequent changes may give the impression that each respective parliamentary majority tried to change the balance of power in the SCP in its favour” and thus suggested regulating this issue in the Constitution “to reduce the risk of such arbitrary changes”, and to require “a qualified majority of votes for such important changes in the rules on the SCP”.²⁵ Likewise, the amendments providing for a new retirement age of 65, have, as a matter of fact, enabled the early termination of the mandate of one SCP member [Mr Pulbere] who had been appointed by the previous President and under the previously existing rules. The Venice Commission considered that the issue of early termination of the mandate of SCP members should also be regulated by the Constitution and “the legitimate expectation of the members to finish their mandate should not be perturbed without very serious reasons”.²⁶

23.2. The Venice Commission invited the authorities of the Republic of Moldova to consider returning the Prosecutor General to the SCP as an *ex officio* member (with a corresponding adjustment of the composition of the SCP, if necessary) and, concerning the exclusion of the Chief Prosecutor from Gagauzia from the SCP, suggested that the law might provide that one of the prosecutors elected by their peers should come from Gagauzia. The Venice Commission noted however that the prosecutors elected by their peers (namely 5 out of 12) remains a “substantive part” of the SCP (in line with Venice Commission recommendations), and the new composition of the SCP remains pluralistic enough “to ensure that neither of the three groups (prosecutors, lay members, or *ex officio* members) can govern alone”.²⁷

23.3. The participation of the Minister of justice in the SCP as *ex-officio* member contradicts the recommendations issued by GRECO in 2020 which had recommended abolishing the *ex-officio*

²² [CDL-AD\(2021\)047-e](#), para. 6-10 and 101.

²³ [CDL-AD\(2021\)047-e](#), para. 102.

²⁴ The SCP is now composed of 5 prosecutors elected by the General Assembly of Prosecutors, 4 members among civil society organisations, appointed by respectively the President, the Government, the Parliament and the Science Academy and the three *ex-officio* members (President of the Superior Council of Magistracy, Minister of justice and the Ombudsman).

²⁵ [CDL-AD\(2021\)047-e](#), para. 103.

²⁶ [CDL-AD\(2021\)047-e](#), para. 60 and 105.

²⁷ [CDL-AD\(2021\)047-e](#), para. 104.

participation of the Minister of Justice and the President of the Superior Council of Magistracy to provide appropriate guarantees of objectivity, impartiality and transparency.²⁸ The Venice Commission has adopted a more nuanced position, and found that “the participation of the [Prosecutor General] PG in the SCP is not objectionable if the PG has no voting rights or if the prosecutorial members in the reformed SCP remain in the minority, even together with the PG”.²⁹

3.1.3. Introduction of a performance evaluation and dismissal mechanisms of the Prosecutor General

24. The amendments to the Law on the Prosecution Service adopted on 24 August 2021 provide for the possibility to conduct an *ad hoc* “performance evaluation” of the Prosecutor General once a year performed by a specially created Evaluation Commission (which is “quite uncommon in Europe”, notes the Venice Commission³⁰) and to dismiss the Prosecutor General as a result of the proceedings conducted by a Disciplinary Commission. The evaluation procedure may be initiated upon notification of the President or at least three members of the Superior Council of Prosecutors (CSP) and carried out by Evaluation Commission composed of 5 members.³¹ Later, the commission’s report is transmitted to the Superior Council of Prosecutors; if the Prosecutor’s activity is assessed as “failed”, the Superior Council of Prosecutors will suggest that the President should dismiss the General Prosecutor.³²

25. Since then, the Superior Council of Prosecutors approved, on 22 November 2021, by a majority vote, the Regulation on the procedure of evaluation of the performances of the prosecutor general and detailed the criteria which will be used to assess the work of the prosecutor general (ie the quality of planning the activity of the Prosecutor’s Office; efficiency of the institutional control; efficiency of the risks’ management, internal and external communication)

26. At the request of President Sandu, an Evaluation Commission was set up to evaluate the performance of [suspended] Prosecutor General Alexandr Stoianoglo. The evaluation commission will notably comprise a former prosecutor from the National Anticorruption Directorate (DNA) of Romania, Mariana Alexandru (nominated by SCP), an international expert, Drago Kos (from Slovenia, Chair of the OECD Working Group on Bribery and former President of GRECO, nominated by the Moldovan Presidency) and lawyer Angela Popil (nominated by the Ministry of justice).

27. The Venice Commission however criticized the “performance evaluation” mechanism of the Prosecutor General established in August 2021 and called for a significant revision of it, including the introduction of clearer assessment criteria. It considered that “from the rule of law perspective, entrusting the SCP with a virtually unlimited power to define the material conditions in the which the Prosecutor General can be dismissed is a highly contestable approach” and “to give the SCP a *carte blanche* in devising such rules seems to be excessive”³³. The Evaluation Commission should not be able to function without prosecutorial members and the law should clearly stipulate that the recommendations of the Evaluation Commission do not bind the Supreme Council of Prosecutors. The suspension of the Prosecutor General should not automatically terminate the mandates of his or her Deputies. And additional safeguards could be put in place to exclude any influence of the suspended or dismissed Prosecutor General on the criminal or other proceedings against him or her. The SCP should also have the power to decide whether the suspension of the PG in connection with a criminal case brought against him or her is justified.³⁴

3.1.4. Arrest of the Prosecutor General Alexander Stoianoglu (October 2021)

28. In parallel to the evaluation procedure launched by the parliament, a criminal investigation was launched by the Prosecutor’s office against the Prosecutor General following the statements of PAS MP Lilian Carp, President of the Committee on National Security, Defence and Public Order. The latter alleged, among other things, that Mr Stoianoglo, while being an MP for the Party of the Socialist ten years earlier, had promoted legislation that facilitated the Moldovan involvement in the Russian (Global) Laundromat. On 5 October 2021, few hours after the launch of criminal proceedings, the Prosecutor General was arrested on

²⁸ [GrecoRC4\(2020\)9](#), para. 70, Second Compliance Report of the Fourth Evaluation Round on Prevention of corruption in respect of members of parliament, judges and prosecutors, 13 October 2020.

²⁹ [CDL-AD\(2021\)047-e](#), para. 51.

³⁰ [CDL-AD\(2021\)047-e](#), para. 63

³¹ The 5 members are appointed by respectively the President, the Minister of Justice, the Superior Council of Magistracy, the Superior Council of Prosecutors and the General Prosecutor.

³² https://www.ipn.md/en/prosecutor-general-evaluation-amendment-passes-final-vote-7967_1083963.html#ixzz74Xrs2eHp

³³ [CDL-AD\(2021\)047-e](#), para. 66.

³⁴ [CDL-AD\(2021\)047-e](#), para. 14-16 and 105.

abuse of office, bribery, perjury and facilitation of an organized criminal group while he was about to give a press conference. He was detained in the remand prison of the Chisinau Police Division and sent to house arrest for 30 days on 8 October 2021³⁵. On 9 December 2021, he was released from house arrest and has been under judicial control since then.

29. Several other interlocutors expressed their concerns and questions about the respect of procedural guarantees and the transparency of the procedures:

29.1. 23 prominent NGOs of Moldova's National Platform of the Eastern Partnership Civil Society Forum issued a statement, calling on prosecutors to bring out relevant facts which could convince the general public that the criminal proceedings against Alexandr Stoianoglo [were] not unfounded, expressed their concern over "reports of influence exerted on the prosecutor assigned to the case" and were surprised by "the swiftness with which the criminal case against Mr. Stoianoglo [had] been started, his arrest has been warranted and conducted".³⁶

29.2. On 8 October, President Sandu asked the Prosecutor's Office to "inform the company in full and in time about the procedures applied in the case of Alexandr Stoianoglo, about the reasons for requesting the arrest for 30 days, as well as about other measures required by the case prosecutor, in strict compliance with the law. In this case, as in all others, maximum transparency is needed. The concealment of any information and the commission of any abuses is inadmissible".³⁷

29.3. On 9 October, the Ombudsperson Natalia Molosag called "unacceptable" the reasoning of the prosecutor assigned to Alexandr Stoianoglo's case that "clearly led to the violation of the full enjoyment of the right to defense" by the suspended Prosecutor General.³⁸

30. The arrest of the Prosecutor General Mr Stoianoglu was a prominent topic of discussion during our visit. The Bloc of the Communist and the Socialists claimed that all measures had been taken to remove the General Prosecutor few minutes before he was expected to disclose new facts about abuses of the government and the former representatives of the [oligarch] "Plahotniuc regime" at a press conference. We met Mr Stoianoglu's lawyer, who dismissed all allegations and provided us with extensive material and denied any wrongdoing. He stated that he had had the possibility to shortly see his client, at a distance.

31. Due to the on-going investigation, and in line with the law, all deputy Prosecutors General had been suspended. The Superior Council of Magistrates therefore appointed on 6 October Dumitru Robu, whom we met, as acting Prosecutor General. Mr Robu was not allowed to comment the current investigation, however he admitted that the arrest of a Prosecutor General in function was an exceptional case.

32. We are not in a position to assess this case on its merit, but the arrest of Mr Stoianoglu was a significant event which impacted the prosecution office as a whole and led to the resignation of several deputy general prosecutors and the prosecution of others: the deputy prosecutor general Ruslan Popov was investigated on charges of illicit enrichment after prosecutors examined investigative journalism reports and other evidence.³⁹ Suspended deputy prosecutor general Iurie Perevoznic resigned on 7 October⁴⁰, as well as Ion Caracuian, head of the Prosecutor's Office for Organized Crime and Special Cases (PCCOCS), invoking personal reasons. Adrian Bordianu was dismissed from the post of acting chief of the Anticorruption Prosecutor's Office by order of the caretaker prosecutor general. The prosecutor of the Ciocana sector of the capital, Igor Popa, was detained on 9 November on suspicion of illicit enrichment.⁴¹

³⁵ https://www.ipn.md/public/index.php/en/jurists-and-political-commentators-about-alexandr-stoianoglos-arrest-7967_1084860.html

³⁶ https://www.ipn.md/public/index.php/en/national-platform-demands-transparency-and-fairness-in-stoianoglo-investigation-7967_1084941.html

³⁷ Moldovan president requests more clarity in processes taking place within General Prosecutor's Office, <https://www.moldpres.md/en/news/2021/10/08/21007484>

³⁸ [People's Advocate calls for fair investigation in Stoianoglo case | IPN](#)

³⁹ [Ipn Press Agency](#) (09.10.2021): Mr Popov argued that the National Integrity Authority had carried out an inspection and decided to drop the case on 30 September 2021. ³⁹ [Ipn Press Agency](#) (20.10.2021): He was arrested on 9 October and placed under house arrest.

⁴⁰ https://www.ipn.md/en/iurie-perevoznic-quits-as-deputy-prosecutor-general-7967_1084967.html#ixzz78zVvKD8Q

⁴¹ <http://www.infotag.md/incidents-en/295245/>

3.2 Adoption of constitutional amendments aiming at de-politicising the judiciary (September 2021)

33. The parliament completed the drafting and adoption of the constitutional amendments on the judiciary, which had been prepared since 2018. These amendments were adopted in their final reading on 23 September 2021 by a large majority (86 MPs were in favor, the Sor MPs abstaining) after several consultations with the Venice Commission.⁴² We welcomed this constitutional revision based on a large consensus and agreed by the major political parties.

34. The amendments aim at de-politicising the judiciary and deal with the appointment of judges and the composition and selection of the Superior Council of Magistrates (SCM): the initial appointment period of five years in the case of judges was abrogated; the President can reject the candidates proposed by the SCM only once. Judges will no longer enjoy general immunity, but only functional immunity and the judges of the Supreme Court of Justice will be named in the same way as the judges of common law and appeals courts, by the President, upon a proposal from SCM. The General Prosecutor and the Minister of Justice are excluded from the composition of SCM, that will consist of six members from among judges and six lay members, selected by the Parliament.

35. There are some pending issues, as pointed by the Venice Commission during a recent exchange in our Committee. The constitutional amendments were adopted *after* the law regulating the composition of the Superior Council of Magistracy and Prosecutors and will enter into force in April 2022. The mandate of some members of the Superior Council of Magistracy will however have expired by then. It remains to be seen how this situation will be solved.

3.3 Upcoming Law on the Selection of Candidates for Administrative Positions in Bodies of Self-Administration of Judges and Prosecutors : the issue of the external evaluation of judges and prosecutors

36. One of the sensitive topics related to the reform of the judiciary concerned the creation of an *external* evaluation mechanism to check the integrity of judges and prosecutors and ensure that those failing the test be removed from the system. The evaluation, promotion and dismissal of judges and prosecutors is normally performed by the self-governing judicial bodies (ie the Superior Councils of Magistrates and Prosecutors). It was quite clear, from our meetings with President Sandu and other representatives of the majority, that an evaluation performed by external stakeholders was of paramount importance. This also explains why President Sandu had declined to promulgate the Strategy for Ensuring the Independence and Integrity of the Justice Sector 2021-2024 approved by the Parliament in November 2020 (which had been drafted in co-operation with the Council of Europe). The President had sent it back to the parliament, with a view to revising the assessment procedure of judges and prosecutors.

37. During the visit of the Council of Europe Secretary General Ms Pejčinović Burić on 22-23 November 2021 to Chisinau, President Sandu explained again that this [external] evaluation of judges and prosecutors was of “extraordinary nature” but was justified by the extraordinary circumstances in which the Moldovan governance worked. This evaluation would start in 2022 to “clean the system of people with integrity problems and unjustified wealth” and should “hit the deep interests of the corrupt groups, which have been rooted and consolidated in corruption schemes during years”.⁴³

38. This proposed external evaluation was rejected by the members of the Superior Council of Prosecutors, and the acting General Prosecutor. While acknowledging the legitimacy of an evaluation procedure, they dismissed the idea that it could be done with external input. At the same time, we were explained that the “traditions” and family ties prevailing in a small country did not allow efficient evaluation or disciplinary mechanisms: the acting Head of the Superior Council of Magistracy explained that he had participated in 38 hearings. Only one judge had been sentenced for illegal enrichment. Either no sanction was issued in other cases, or the charges against judges were dropped, or evidence disappeared. He concluded that an external intervention was necessary to cleanse the system.

⁴² The Venice Commission adopted opinions on these draft amendments in March 2018 ([CDL-AD\(2018\)003](#)), in March 2020 ([CDL-AD\(2020\)001](#)), in June 2020 ([CDL-AD\(2020\)007](#)) and issued in December 2020 an urgent joint Amicus Curiae Brief requested by the Moldovan Constitutional Court on three legal questions concerning the mandate of members of constitutional bodies ([CDL-AD\(2020\)033](#)).

⁴³ <https://www.moldpres.md/en/news/2021/11/22/21008939>.

39. The Minister of Justice was considering different options at the time we met, including the external evaluation of the members of the top judicial bodies, who would then be able to proceed to an internal evaluation of the judges and prosecutors. This issue was also raised during the visit of the Council of Europe high-level working group on justice reform on 19-20 October 2021. While the first judicial reforms had been adopted swiftly (which raised criticism), we noted with satisfaction that the authorities indicated their readiness to conduct consultations on this issue, including with the Council of Europe, before drafting new regulations on the external evaluation of judges and prosecutors.

40. During our visit, we stressed that, however urgent and necessary these reforms are, the authorities should respect the principles of the rule of law. We notably emphasized that opposition parties and representatives of civil society must be involved and consulted to ensure quality legislation.

41. The Minister of Justice Mr Sergiu Litvinenko, requested, on 17 November 2021, an opinion of the Venice Commission on the draft law on “some Measures related to the Selection of Candidates for Administrative Positions in Bodies of Self-Administration of Judges and Prosecutors and the Amendment of some Normative Acts”. This draft law aimed at establishing an ad-hoc evaluation committee which will be responsible for checking the integrity of the candidates for administrative positions in the Superior Council of Magistracy (SCM), the Superior Council of Prosecutors (SCP) and their specialised bodies.

42. In its opinion of December 2021⁴⁴, the Venice Commission found that, in general, the integrity checks targeted at the position of SCM, SCP and specialised bodies envisaged in the revised draft law represented “a filtering process, and not a judicial vetting process” which could be considered as “striking a balance between the benefits of the measures and its possible negative effects” if implemented properly. The Venice Commission stated that “it falls ultimately within the competence of the Moldovan authorities to decide whether the prevailing situation in the Moldovan judiciary creates sufficient basis for subjecting all judges and prosecutors, as well as members of the SCM and SCP, to extraordinary integrity assessments”. It recommended however that the law should provide adequate guarantees for the protection of the right to private and family life of judges, prosecutors and third persons involved in the procedure, allow candidates to appear before the Evaluation Committee and to participate in the procedure before it if they so wish, clarify the notion of “development partners” and their criteria of selection of the members of the evaluation commission, and make a clear indication of the duration mandate of this commission.

43. On 18 January 2022, the Government approved the draft law, which foresees the creation of an evaluation commission composed by six members (three to be appointed at the proposal by the parliamentary factions, according to the principle of proportionality and three put forward by the “development partners” and approved with three fifths of the elected MPs). The commission should assess the integrity of the candidates and analyse their wealth and the wealth of their families extended research and information provided by all public bodies and authorities, public registers, as well as all private people, including the banks. The commission would submit the information to the relevant law-enforcement bodies, should it find discrepancies between the information declared by the candidate and the real situation. The decisions of the commission could be appealed at the Supreme Court of Justice (CSJ) and examined by a special panel of judges, whose members will be nominated by Superior Council of Magistracy and confirmed by Moldova’s President under decree. The draft law would be limited in time and be in effect until the end of 2022.⁴⁵

44. In addition, we were informed that the Moldovan parliament adopted, on 21 January 2022, additional amendments to the Law on Prosecutor’s Office which will regulate the selection and appointment procedure of the General Prosecutor and heads of specialized prosecutor’s offices. The law provides for the establishment of an independent commission, composed of five members (one nominated by the Justice Ministry, one by the Moldovan President, and three by the SCP). The special commission will organize interviews, will verify the integrity of candidates and submit the full list of candidates and their results to the SCP, which has the right to make its own assessment of the files and has the right to select any candidate admitted to the contest, even if he/she was not nominated winner of the contest by the special commission.⁴⁶

⁴⁴ Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on some measures related to the selection of candidates for administrative positions in bodies of self-administration of judges and prosecutors and the amendment of some normative acts, adopted by the Venice Commission at its 129th plenary Session (10-11 December 2021), [CDL-AD\(2021\)046-e](#)

⁴⁵ <https://www.moldpres.md/en/news/2022/01/19/22000386>

⁴⁶ <https://www.moldpres.md/en/news/2022/01/21/22000457>

4. Fight against corruption

4.1 Legislative changes

45. The fight against corruption is another priority for the government. Within few weeks, the parliament adopted a number of important pieces of legislation. The Law on the National Anticorruption Centre (NAC) was amended: its Director will now be appointed for a single 5-year mandate by a majority of MPs, upon the proposal of at least 20 MPs and the approval of the Legal Committee.

46. Amendments to the Law on the National Integrity Authority (NIA) and the Law on the declaration of wealth and personal interests were adopted on 7 October. These amendments should improve the legislative framework on the work of NIA and prevent conflicts of interests and of incompatibility among people who hold public offices. The legislation now provides for the suspension from office of persons once it was established that their wealth was unjustified, or that they were in a breach of the legal regime of conflicts of interest, incompatibilities, restrictions and limitations. It also provides for the verification of the income acquired during the exercise of the mandate or function, related to the situation of assets held, but also of the expenses incurred. It extends the control of wealth and personal interests to family members.

47. The PAS party also drafted a bill to supplement Article 70 on incompatibilities and immunities of the Constitution, with a provision stipulating that no Parliament's consent is required for the detention, arrest, search or criminal prosecution of deputies in case of their committing violations related to passive or active corruption, trading in influence, excess of powers, illicit enrichment or money laundering. On 26 October, the Constitutional Court ruled that the draft constitutional amendments meet the norms of a Constitution revision. The Parliament will be entitled to adopt a law on amending the Constitution not earlier than in 6 months from the date of the submission of the bill.⁴⁷

48. On 28 October, the legislative initiative aimed at cancelling the "offshore secret" was adopted by 74 deputies. The main provisions of the document refer to the obligation of the Public Services Agency to ensure public access to information from the State Register regarding the actual beneficiaries in the existing resources and platforms for publishing open data about companies.⁴⁸

4.2 Assessment of the anti-corruption bodies and mechanisms

49. We visited the National Anti-corruption Center and were informed about its activities in preventing and combating small and medium size corruption (high-level cases being dealt with by the Anti-Corruption Prosecution office). The Director of the NAC stressed that there were high expectations from the one-party majority to amend the laws and fight corruption. There had been so far a lack of political will to counter the corruption schemes, and prosecutors were the only authorities entitled to initiate criminal cases based on the evidence gathered by the NAC. Prosecutors should therefore have a better understanding of the mechanisms leading to corruption schemes.

50. Since then, the National Anti-corruption Center was subject to an evaluation procedure by a special parliamentary commission (composed of members of National Security, Defense, and Public Order Commission and the Legal, Appointments, and Immunities Commission), which analysed the activity of the Center during the period 2016-2021. On 17 November, the parliament declared the NAC activities as unsatisfactory and ineffective. The commission's report noted, among other things, that during this period, "no persons in leadership positions who coordinated corruption schemes were brought to justice", there was "a lack of interest on the part of the NAC in high-profile cases, and in some cases, the NAC obstructs the clarification of the truth and sabotages the work of prosecutors"; the NAC was "not independent in its actions and the leadership of the body did not ensure effective implementation of anti-corruption legislation." As a result, Ruslan Flocea, NIA Director, was dismissed. He refuted the evaluation report on the NIA prepared by the parliament as "a deliberate distortion of reality, a gross manipulation of information and a total lack of understanding of the processes".⁴⁹

51. As a result of the evaluation process carried by the parliament, the Minister of Justice announced that he planned to merge the Anti-Corruption Prosecutor's Office with the National Anti-Corruption Center into a single institution (to be formed by mid-2022) that will deal exclusively with corruption on a particularly large scale.⁵⁰

⁴⁷ <https://www.infotag.md/politics-en/294923/>

⁴⁸ <https://www.moldpres.md/en/news/2021/10/28/21008122>

⁴⁹ <https://www.zdg.md/en/?p=8684>

⁵⁰ <http://www.infotag.md/politics-en/295511/> and <http://www.infotag.md/populis-en/294844>

52. The parliament also undertook to review the investigation of the bank scandal. On 20 August, the Parliament adopted a Decision declaring as “unsatisfactory” the activity of the criminal investigation body in investigating the banking fraud and noted “the lack of measurable action and progress in investigating the theft of the billion”. The Prosecutor General Mr Stoianoglu did not appear at hearings in the Parliament but sent a four-page report on the institution’s actions in the case. The Decision stipulated that the criminal investigation body should create an instrument and an action plan on recovering the stolen money within 30 days. The adoption of this recovery strategy was also crucial for the release of the next trench of the EU macro-financial assistance.⁵¹

4.3 Transparency of political party funding

53. During our visit, we discussed the roots and impact of the political migration (or “political tourism”), resulting from MPs switching political factions for reasons other than ideological. We stressed that this had been a chronic source of political instability in recent years and has had a nefarious impact on the functioning of the parliament and the trust in electoral processes.

54. We underlined the need to use the momentum of a stable majority in parliament to improve transparency in public life, in particular to improve transparency in the financing of political parties. We recall in this respect the recommendations issued by GRECO on the Prevention of corruption in respect of members of parliament, judges and prosecutors: GRECO noted a clearly insufficient progress concerning members of parliament “Still too many laws are adopted without adequate consultation and at accelerated speed. A code of conduct for MPs remains to be adopted, including rules for various situations of conflicts of interest. Clear and objective criteria on lifting parliamentary immunity are still not in place.”⁵² The implementation of these recommendations could contribute to greater transparency in political life.

55. At the same time, the President, the Prime Minister and the Speaker of the parliament stressed that the main problem was the implementation of the existing legislation. There was hope that the Central Electoral Commission, which has been renewed in September, and other law enforcement and fiscal bodies would exert a better control over the funding of political parties. The prosecution office was expected to carry proper investigation and the judges to deliver sentences. The acting Prosecutor General acknowledged that the prosecutors had abstained from investigating allegations of political corruption in order “not to interfere into politics”. He indicated that allegations of political corruption would now need to be investigated in order to establish the facts – or dismiss them.⁵³

5. Other recent developments

5.1 Gender equality and fight against violence against women

56. The early parliamentary elections of July 2021 led to significant progress in the field of women's participation in public life: there is now a better representation of women in parliament (with 39,6% of female MPs⁵⁴). Ms Maia Sandu was the first woman elected President of the Republic, and Natalia Gavriilița the first woman appointed Prime Minister. The government comprises 4 women (Interior, Health, Environment, and the Bashkan of Gagauzia) out of 16 members. This progress is unprecedented in the history of the Republic of Moldova and should inspire other countries in Europe.

57. We also congratulated the Republic of Moldova on the ratification of the Istanbul Convention on preventing and combating violence against women and domestic violence⁵⁵ and the adoption of the ratification law during our visit. As of January 2022, the Istanbul Convention counts 34 ratifications and 11 signatures.⁵⁶ Among the Eastern Partnership countries, only Georgia (2017) and the Republic of Moldova (2021) have ratified the Istanbul Convention.

⁵¹ The EU eventually disbursed, on 11 October, €50 million in macro-financial assistance (ie loans at favorable rates), as part of the €3 billion emergency Macro-financial assistance package for ten enlargement and neighborhood countries to help them respond to the economic impact of the COVID-19 pandemic.

⁵² Second Compliance Report to the Fourth evaluation round, [GrecoRC4\(2020\)9](#) (13 October 2020), para. 109.

⁵³ On 25 October, the Prosecutor General's office announced that it would retry the criminal case opened following the display of a video in which the former leader of the Democratic Party, the oligarch Vladimir Plahotniuc, allegedly gave a black bag, allegedly with money, to the (then) president of Moldova Igor Dodon during a meeting allegedly held in 2019. <https://www.zdg.md/en/?p=8485>

⁵⁴ https://data.ipu.org/content/republic-moldova?chamber_id=13501.

⁵⁵ [PACE rapporteurs congratulate the Parliament of the Republic of Moldova for adopting the ratification law on the Istanbul convention \(coe.int\)](#)

⁵⁶ <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=210>.

58. The ratification law was however challenged by the Socialists. The Constitutional Court has subsequently requested an *Amicus Curiae Brief* and asked the Venice Commission to assess “the constitutional implications of Articles 3 (c) [gender], 14 [education], 28 [reporting by professionals] and 42 [Unacceptable justifications for crimes, including crimes committed in the name of so called “honour”] of the Istanbul Convention on the right of the parents to educate their children according to their own religious beliefs and on the concept of the family”. In its *Amicus Curiae Brief* of December 2021⁵⁷, the Venice Commission recalled that the Istanbul Convention did not seek to impose a certain lifestyle or interfere with the personal organisation of private life; instead, it sought only to prevent violence against women and domestic violence. In addition, “the Convention does not seek to regulate family life and/or family structures: it neither contains a definition of ‘family’ nor does it promote a particular type of family setting”.⁵⁸ The Venice Commission concluded that it had found no incompatibility of the above-mentioned provisions of the Istanbul Convention with the Moldovan constitution. On 17 January 2022, the Constitutional Court thus declared the application as inadmissible. Ms Manole, President of the Constitutional Court, notably stated that “the Istanbul Convention does not oblige the states to legalize same-sex marriages. Consequently, the Istanbul Convention does not contradict the national constitutions that define marriage as a union between a woman and a man”.⁵⁹

5.2 Latest developments in the field of media

59. The situation of media has been raised in previous monitoring reports and information notes. As election observers, we had expressed our concern about “the bias of major media outlets due to their party affiliation” and underlined that “democracy can only flourish with a comprehensive media reform that provides clear rules on transparent media ownership and forms the basis for balanced and informative journalism.”⁶⁰ There were some important developments that should be mentioned here.

60. The Audiovisual Council (BCC) was subject to a parliamentary evaluation. The parliament rejected the BCC activity report, and all members of the Council were dismissed by the parliament on 11 November 2021 and the new members were appointed on 3 December 2021. The BCC comprises seven members, nominated for a six-year mandate: three ones are put up by the parliamentary factions (in this case, two were proposed by PAS, and one by the BCS), two candidates by the civil society organizations, one by the Presidency and one by the Government.

61. An amendment to the Code of Audiovisual Media Services adopted on 4 November 2021 has also restored the parliamentary control over the public broadcaster Teleradio-Moldova which was described as a “tool of propaganda, serving the interests of the successive oligarchs on power and instead of working in the interest of the people”. This is an important development which will need to be closely monitored.

62. Due to lack of time, we did not have a chance to look into the situation of the media this time, which should be a focus during our next visit.

5.3 Situation in prisons

63. During our visit, we paid attention to the situation in prisons. In September 2020, The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted with regret that, although tangible progress had been achieved in several areas, several of its long-standing recommendations had remained unaddressed. This concerned in particular “the persistence of a prison sub-culture that fosters inter-prisoner violence and impairs the living conditions of those prisoners who are deemed by the informal prison hierarchy to be “humiliated”, as well as the regime offered to both remand and sentenced prisoners and the low staffing levels in prisons.”⁶¹

64. NGO representatives reported about the lack of structural investment, the poor prison conditions, and, above all, the poor access to medical services in the penitentiary systems, especially in times of pandemic.

⁵⁷ *Amicus curiae Brief for the Constitutional Court on the constitutional Implications of the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)*, adopted by the Venice Commission at its 129th Plenary Session (Venice online, 10-11 décembre 2021) [CDL-AD\(2021\)044-e](#)

⁵⁸ [CDL-AD\(2021\)044-e](#), para. 19, citing a 2018 [press release](#) of the Council of Europe “Ending misconceptions about the Convention on Preventing and Combating Violence against Women and Domestic Violence

⁵⁹ https://www.ipn.md/en/constitutional-court-rejects-application-concerning-istanbul-convention-7967_1087218.html

⁶⁰ [Doc 15356](#), para. 77.

⁶¹ Report to the Government of the Republic of Moldova on the visit to the Republic of Moldova carried out by the CPOT from 28 January to 7 February 2020, published on 15 September 2020, [CPT/Inf \(2020\)27](#) and [press release](#)

The incarceration rate remained high (9 out of 10 requests for arrest were granted almost automatically). The situation of prison 13 in Chisinau was especially alarming, due to its overpopulation and inhuman treatments that leads to condemnations by the Strasbourg Court.

65. The Minister of justice was well aware of this situation. He informed us that a new prison should be built with the support of the Council of Europe Development Bank. This project is actually in preparation for many years, but never materialized due to unsuccessful tenders and negotiations.⁶² The Minister mentioned that a compensation mechanism for detention conditions had been recently approved to compensate inhuman detention conditions, which should decrease the number of applications lodged to the Strasbourg Court.⁶³

5.4 The Autonomous Territorial Unit of Gagauzia

66. During our visit, we had a meeting with Irina Vlah, the Governor (Bashkan) of the Autonomous Territorial Unit of Gagauzia-Yeri (ATUG), who was re-elected, in the first round, for a second 4-year mandate in July 2019. The Bashkan is an ex-officio member of the Government.

67. The Bashkan emphasised the need to improve the socio-economic conditions of the Moldovan people in the firsts place, to fight early drop out from school, increase job opportunities, improve access to and command of the Romanian language, and build economic partnerships to prevent young, educated people from leaving the country. She regretted the lack of dialog with the new Moldovan leadership, and her exclusion from the National Security Council, from the inaugural ceremony of the President, and the abrogation of the ex-officio membership of the General Prosecutor from Gagauzia from the Superior Council of Prosecutors. She also informed us about the protection of national minorities and the use of the three official languages in ATUG (Romanian, Russian and Gagauz), a subject that we will consider during our next visit. We agreed to pay a visit to Comrat on that occasion.

68. Since then, we have been informed that a meeting took place on 25 November between President Ms Sandu and Bashkan Ms Vlah. The President urged the ATUG representatives to support the reforms in the country, especially in the field of justice and the fight against corruption, and not to restrict the democratic freedoms of citizens. The President announced that she would visit Gagauzia as soon as the process of setting up the working bodies of the newly elected People's Assembly was completed⁶⁴, following the regional elections held on 19 September 2021.

6. Transnistrian conflict settlement: state of play and current issues of concerns

69. During our visit, we discussed the Transnistrian settlement process and updated our interlocutors about the activities of the Sub-Committee on Conflicts between Council of Europe Member States and the plan to organise a seminar on "the protection of human rights in the Transnistrian region of the Republic of Moldova and the role of the Councill of Europe". This activity had been proposed during a previous seminar on the political dimension of the conflict settlement process which had been organised by the Sub-Committee on 18 January 2018 in Paris, with the participation of the two Chief Negotiators, but had to be postponed due to various elections and the current sanitary situation.

70. Our visit took place a week after the visit of the OSCE Chairperson-in-Office, Swedish Minister for Foreign Affairs Ann Linde, to the Republic of Moldova. She underlined the importance of achieving the full and continuous implementation of the 'Berlin-plus' package and to develop joint proposals on further confidence-building measures. The Swedish OSCE Chairpersonship had intended to call a '5+2' meeting in Stockholm on 2-3 November, but this meeting was postponed at the request of the Republic of Moldova.⁶⁵ The Head of the OSCE Mission Claus Neukirch also updated us on the latest developments and facilitated the preparation of our trip to Tiraspol; we would like to thank him for his assistance.

⁶² The Moldovan authorities provided details in their [Response](#) to the CPT report (14 April 2021), p.11.

⁶³ A compensation mechanism existed. Over 10 000 complaints were filed from 2019 to 2021. See the [Response](#) to the CPT report (14 April 2021), p.14.

⁶⁴ <https://presedinte.md/rom/comunicate-de-presa/presedinta-maia-sandu-a-avut-o-sedinta-de-lucru-cu-conducerea-autonomiei-gagauze>.

⁶⁵ Later the Minister of foreign affairs Mr Popescu reiterated his support to the resumption of the 5+2 talks, pending the nomination of a new Deputy Prime Minister for Reintegration, following the resignation of Mr Kulminski early November 2021.

71. We first met, in Chisinau, Mr Vlad Kulminski, then Deputy Prime Minister for Reintegration⁶⁶, who informed us about the latest developments, in particular the co-operation established with Tiraspol in times of pandemics. The Deputy Prime Minister referred to the current case-law of the European Court of Human right. In 2012, the ECtHR ruled, in the *Catan vs. Moldova and the Russian Federation* ruling, confirmed in subsequent rulings⁶⁷, that the rights of children, parents and staff members of Latin-script schools 2002-2004 had been violated. The Strasbourg Court established “the effective control” of Russia over the [“Moldavian Republic of Transdnistria”]: “by virtue of its continued military, economic and political support for the “MRT”, which could not otherwise survive, the Russian Federation incurred responsibility under the Convention for the violation of the applicants’ rights.” The implementation of the Catan ruling is supervised by the Committee of Ministers, which is expecting the Russian Federation to present an action plan setting out the concrete measures taken (or envisaged) to implement the judgments. The Russian Federation however underlined that the European Court’s attribution to Russia of responsibility for violations which took place on the territory of another State created serious problems of implementation and proposed to the Committee of Ministers, in December 2020, to engage experts to conduct an independent assessment of the situation in Transnistria.⁶⁸ The Moldovan authorities have expressed deep concern over the execution of ECtHR judgments arising from the Transnistrian region of the Republic of Moldova, including the case-law of the European Court of Human Rights.

72. We were also informed that the Moldovan parliament may set up a working group comprising members of the Moldovan parliament and members of the de facto “Supreme Council”. We will follow this initiative with great interest.

73. In Tiraspol, our discussion focused on the current sanitary situation, and the protection of human rights. The *de facto* Transnistrian authorities expressed their availability to participate in the follow-up seminar envisaged by the Sub-Committee. We also discussed the situation in prisons and inquired about the follow-up given to the recommendations issued in 2018 by Thomas Hammarberg, the then Senior UN Human Rights Expert in the Transnistrian region after his previous engagement in 2012.⁶⁹ The *de facto* “ombudsman” claimed that the situation had improved dramatically in prisons (we did not, however, have the possibility to visit a prison). We remain concerned about a number of political prisoners in Transnistrian prisons and individuals who have been prosecuted under the so-called “2020-2026 Strategy for Combating Extremism”, as it was the case for Ghennadi Ciorba⁷⁰, sentenced to three years and three months in prison on 19 July 2021 on extremism charges and for insulting the *de facto* “President” Vadim Krasnoselsky following a closed trial. There were also concerns concerning the detention conditions of Oleg Horjan, leader of the Transnistrian Communist Party: in 2018, the then member of the *de facto* “Supreme Council” was sentenced to 4,5 years for use of violence against a representative of authority.⁷¹ NGO representatives met in Tiraspol also reported about the restrictions to freedom of assembly and expression of dissenting opinions, and the climate of intimidation prevailing in the area.

74. But the key issue of concern expressed by all interlocutors in Tiraspol concerned the free circulation of commercial vehicles. The issuance of neutral licence-plates had been achieved within the 5+2 negotiations (“Berlin Plus package”) and allowed citizens from the Transnistrian region to register their private car in the Vehicle Registration Points set up in Rîbnița and Tiraspol; they are then provided with a neutral license plate, allowing them to have access to international roads. As from 1st of September 2021, the Republic of Moldova and Ukraine agreed that “access to the international road traffic will be granted only to the means of transport from the Transnistrian region that will have the license plates of the Republic of Moldova and neutral plates, including the “MD” sticker”.⁷² As a result, companies from the Transnistrian region performing a commercial activity (notably passengers buses and ambulances) can no longer cross the Ukrainian border, which is an important issue. Up to date, no agreement was found to ease the situation.

75. We also paid attention to the situation of Latin script schools. There are currently 8 schools with teaching in Romanian on the Transnistrian territory (5 high schools, 2 secondary schools and a boarding

⁶⁶ Mr Kulminski resigned in November 2021, citing personal reasons. Oleg Serebran, former Ambassador to Germany and France, and former member of parliament, was appointed to this position on 18 January 2022.

⁶⁷ Moldova during the years 2002-2004 (*Catan and Others, Bobeico and Others*) and 2013-2014 (*Iovcev and Others*)

⁶⁸ <https://hudoc.exec.coe.int/eng#%7B%22fulltext%22:%5B%22catan%22%2C%22EXECCollection%22:%5B%22CEC%22%2C%22EXECCollection%22:%5B%22004-5%22%5D%7D>

⁶⁹ <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/UN-Human-Rights-in-Moldova.aspx>

⁷⁰ Mr Ciorba he was arrested on 3 July 2020 after he participated in a peaceful protest against movement restrictions imposed by Transnistrian de facto authorities. After serving ten days under administrative arrest for “organizing an illegal protest,” he was remanded to prison on “extremism” charges and languished for almost a year before his closed trial was held.

⁷¹ <http://www.infotag.md/rebellion-en/276205/>

⁷² <https://gov.md/en/content/starting-1-september-2021-only-cars-neutral-license-plates-will-have-access-international>

school)⁷³ which have been facing numerous challenges to operate. The question of the premises of these schools are now the main concern of the Moldovan authorities: some schools were re-located, 5 schools are located in unsuitable buildings. We met the Director of the Grigoriopol Latin-script school, which in fact is relocated in Dorotcaia (26 km away) in the security zone, thus obliging the pupils and the teachers to pendle every day and to use the school buildings in shifts. The Director had been in the educational for the past 20 years. She explained that the situation had improved, however the pupils did not enjoy normal educational conditions and did not have a school building in Grigoriopol. We commended the efforts made by the educational community to ensure the pupils' education despite the difficult circumstances.

7. Concluding remarks

76. This first visit to the Republic of Moldova was highly informative. The election of President Sandu in November 2020, and then of a new parliament with a one-party, stable majority – which is unprecedented in Moldovan history - has raised hope for changes in the country. There are also high expectations towards the new authorities which have promised to fight corruption and restore the independence of the justice system. They will need to carry out the reforms expected to ensure the good functioning of democratic institutions, promote good governance, greater transparency and provide the people with better living conditions.

77. We welcomed the determination of the authorities to strengthen the independence of the judicial system, fight corruption and search for new socio-economic opportunities. We have noted that the parliament, by means of amendments to the current legislation, has taken an active role in assessing the work of the independent or judicial bodies, and dismiss its members and officials. While this might pursue legitimate objectives, especially in times of transition (ie ensuring an effective parliament oversight and the proper functioning of state institutions), it might however raise the question of checks and balances, and could be perceived as a possible political interference in the independence of these state institutions. That will deserve to be scrutinized.

78. We welcome the adoption of the constitutional amendments on the judiciary, which is a first step. We noted that the legislation pertaining to the judiciary have introduced profound changes (such as the evaluation of the work of the Prosecutor General by a commission), which are being challenged within the system. We will closely follow these developments. In this respect we welcome the continued co-operation with the Council of Europe, especially the Venice Commission and the High-level working group of the Council of Europe to reform the justice system and encourage the Moldovan authorities to implement these recommendations. We also expect that a thorough and transparent investigation following the suspension of the Prosecutor General Mr Stoianoglu.

79. Restoring the proper and transparent functioning of democratic institutions, “de-oligarchise” the state institutions and address the roots of the "state capture" that has prevailed in the country so far remains an immense challenge, for which there is no ready-made solution. These changes trigger resistance within the system – while the authorities stress that quick changes are needed to cleanse the institutions. However urgent and necessary the reforms might be, the authorities will have nevertheless to ensure that the reforms respect the rule of law and Council of Europe norms, are based on the involvement of the parliamentary opposition and the civil society to ensure good quality laws and lead to sustainable changes.

80. We welcome the close co-operation established with the Venice Commission. We strongly encourage the Moldovan authorities to take duly into account the recommendations issued by the Venice Commission in December 2021 when adopting the law on Selection of Candidates for Administrative Positions in Bodies of Self-Administration of Judges and Prosecutors, and when amending the Law on the Prosecutor service. We also hope for the swift deposit of the instrument of ratification of the Istanbul Convention after the recent ruling of the Constitutional Court.

81. In order to complete our work and to examine other issues relevant to the monitoring of the Republic of Moldova, we intend to pay a new fact-finding to the country before the summer 2022 with a view to preparing a new monitoring report.

⁷³ [Moldova.org](https://moldova.org) (4 September 2021).

APPENDIX 1**Programme of the fact-finding visit to the Republic of Moldova****Tuesday, 12 October 2021**

19:30 Working dinner with Mr William MASSOLIN, Head of the Council of Europe Office in Chisinau (*)

Wednesday, 13 October 2021

08:30 – 09:30 Working breakfast with NGO representatives (*)

- Mr Vadim Vieru, Promolex
- Mr Nicolae Chirtoaca, Legal Resource Centre

10:00 – 10:45 H.E. Mr Igor GROSU, Speaker of the Parliament of the Republic of Moldova

11:00 – 11:45 H.E. Ms Maia SANDU, President of the Republic of Moldova

11:55-12:30 Mr Vlad BATRÎNCEA, Member of the Bloc of Communists and Socialists and the members of the faction

12:35-13:10 Mr Jardan PETRU, Vice-President, and Ms Marina TAUBER, member of the parliamentary faction of the Șor Political Party

13:25-15:00 Working lunch hosted by Mr Ion GROZA, Head of the Moldovan delegation to PACE and the members of the delegation

15:05 Ms Olesea STAMATE, Chair of the Committee on legal affairs, appointments and immunities

16:15-17:00 Mr Dumitru ROBU, Acting Prosecutor General of the Republic of Moldova

17:10 – 18:00 Ms Angela MOTUZOC, President and members of the Superior Council of Prosecutors

18:20-19:05 Ms Ala NEMERENCO, Minister of Health of the Republic of Moldova

19:30 Working dinner with Mr Claus NEUKIRCH, Head of the OSCE Mission in Chisinau (*)

Thursday, 14 October 2021

08:00-08:45 Mr Dragos TUDORACHE, rapporteur for the Republic of Moldova of the Committee on Foreign Affairs of the European Parliament and Ambassador Jānis MAŽEIKS, Head of the EU Mission in Chisinau

9:00 – 09:30 Mr Victor MUNTEANU, lawyer of Mr Stoianoglu, suspended General Prosecutor

10:00– 10:40 Mr Mihail POPȘOI, Chair of the parliamentary faction of the Action and Solidarity Party and the members of the faction

10:50 – 11:30 H.E. Ms Natalia GAVRILIȚA, Prime Minister of the Republic of Moldova

11:40-12:30 Mr Vlad KULMINSKI, Deputy Prime Minister for Reintegration of the Republic of Moldova

12:45 – 14:00	Working lunch hosted by Mr Doina GHERMAN, Chair of the Committee on Foreign Policy and European Integration
14:15 – 15:00	Mr Vladimir CUC, State Secretary, Ministry of Foreign Affairs and European Integration of the Republic of Moldova
15:15 – 16:00	Mr Dorel MUSTEATA, acting President of the Superior Council of Magistrates
16:30-17:15	Mr Ruslan FLOCEA, President of the National Anticorruption Centre
17:30 – 18:15	Mr Sergiu LITVINENCO, Minister of Justice of the Republic of Moldova
19:30	Dinner with the representatives of the diplomatic community (*) <ul style="list-style-type: none">• H.E. Sándor Szabó, Ambassador of Hungary• H.E. Uldis Mikuts, Ambassador of Latvia• H.E. Daniel Ionita, Ambassador of Romania• H.E. Katarina Fried, Ambassador of Sweden• Mr Ullrich Kinne, Deputy Ambassador of Germany• Ms Caroline Tissot, Head of the Swiss Cooperation Office• Mr William Massolin, Head of the Council of Europe Office

Friday 15 October 2021

10:00-10:45	Mr Vitaly IGNATIEV, political representative in the 5+2 format (Chief Negotiator), Tiraspol
11 :15-12:00	Mr Alexander KORSHUNOV, <i>de facto</i> President, and Mr Sergei CHEBA and Mr Oleg PETRIK, members of the “Supreme Council”, Tiraspol
12:30-14:00	Working lunch with NGO and media representatives from Tiraspol
14:30 -15h15	Mr Veaceslav KOSINSKY, <i>de facto</i> “Ombudsman”, Tiraspol
16:30-18:00	Ms Eleonora CERVAVSCHI, Director of Latin Script school of Grigoriopol located in the village of Dorotcaia (in a Moldovan-controlled territory)
19:30	Dinner hosted by Mr Mihail POPȘOI, Deputy Speaker of the Parliament of the Republic of Moldova

Saturday 16 October 2021

8:30-09:30	Ms Irina VLAH, Governor (Bashkan) of the Autonomous Territorial Unit of Gagauzia-Yeri
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(*) = Meetings organised by the Secretariat of the Council of Europe

APPENDIX 2

Statement issued by the rapporteurs on 20 October 2021

PACE rapporteurs welcome the determined action of the Moldovan authorities to reform the judicial system and fight corruption, while calling for compliance with European standards

At the end of their fact-finding visit to the Republic of Moldova from 12 to 15 October 2021 PACE monitoring co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) Inese Lībiņa-Egnere (Latvia, EPP/CD) and Pierre-Alain Fridez (Switzerland, SOC) welcomed the determination of the Moldovan authorities to reform the judiciary and to fight corruption as a priority: "In the July 2021 early parliamentary elections, voters expressed a clear choice in favour of eradicating corruption and building efficient and transparent state institutions capable of functioning for the benefit of all. There is a momentum for change; the authorities show a strong and determined will to address the outstanding concerns and high expectations of the population. Their efforts to ensure greater democracy, rule of law and human rights need to be fully supported given the considerable challenges facing the authorities, including the restoration of the independence of the judiciary, and which need to be addressed in the context of the fight against the pandemic and the socio-economic concerns that affect the standard of living of the population."

The rapporteurs acknowledged the important steps that have been taken in the field of justice: "We welcome the long-awaited adoption of the constitutional amendments that had been agreed upon by all major political parties in recent months in order to depoliticise the judiciary. We have noted that the adoption of amendments to the Law on the Prosecution Service - which are currently being reviewed by the Venice Commission - concerning disciplinary procedures, the evaluation of the Prosecutor General and changes in the composition of the Superior Council of Prosecutors has, within the system, triggered objections and even resistance."

"These changes are aimed at restoring confidence in the state bodies and should build sustainable institutions based on European standards," the rapporteurs added. "We therefore call on the Moldovan authorities to ensure that the reforms undertaken - however urgent and necessary - respect the principles of the rule of law; opposition parties and representatives of civil society must be involved and consulted to ensure quality legislation. We have also noted that there have been rapid changes in state institutions in recent weeks, including the appointment of new heads of independent state agencies. In addition, significant developments have taken place in the judicial institutions with the dismissal or resignation of senior prosecution officials: the arrest of Prosecutor General Mr Stoianoglu, now under house arrest, however, raised questions among some of our interlocutors about the respect of procedural guarantees."

"Reforming the judiciary and the prosecution office to strengthen their independence and, more generally, to address the roots of the "state capture" that has prevailed in the country so far is a huge challenge, for which there is no ready-made solution. We therefore warmly welcome the renewed commitment of the authorities to work in close cooperation with the Council of Europe and its ad hoc high-level working group on justice reform to address crucial issues, including the evaluation of judges and prosecutors, to cleanse the system of its corrupt elements."

Ms Lībiņa-Egnere and Mr Fridez stressed that good governance implies transparency in public life: "The ruling party has a large majority in parliament and therefore has a great responsibility to improve transparency in the financing of political parties; in parliament this should help prevent members of parliament from "migrating" from one faction to another in the future other than for ideological reasons. This phenomenon has been a chronic source of political instability in recent years. The implementation of the recommendations issued by GRECO in this respect would contribute to greater transparency in political life."

The rapporteurs also [welcomed](#) the progress made in the field of women's rights and congratulated the Republic of Moldova on the ratification of the Istanbul Convention: "Accession to this landmark Council of Europe convention means better protection of women against violence, and respect for their fundamental rights in all areas of life. This confirms the remarkable progress made by the country in recent months, with almost 40% of women in parliament and women holding the highest offices of the state, including those of President and Prime Minister. This progress is unprecedented in the history of the Republic of Moldova and should inspire other countries in Europe."

Lastly, the rapporteurs visited Tiraspol, where they discussed the settlement process with the Chief Negotiator and requested information on the protection of human rights, in particular in prisons, including with NGO representatives. The rapporteurs noted the readiness of the *de facto* authorities to engage in a dialogue with the PACE Monitoring Committee's Sub-Committee on Conflicts between Council of Europe Member States on the protection of human rights in the context of the Transnistrian settlement process. The

rapporteurs also visited the Latin script school in Grigoriopol, relocated to Dorotcaia, and commended the efforts made by the educational community to ensure the pupils' education despite the difficult circumstances.

PACE co-rapporteurs on the Honouring of obligations and commitments by the Republic of Moldova Inese Lîbiņa-Egnere (Latvia, EPP/CD) and Pierre-Alain Fridez (Switzerland, SOC) met in Chisinau with the President of the Republic, the Prime Minister, the Speaker of the Parliament, the Deputy Prime Minister for Reintegration, the Ministers of Justice and Health, the State Secretary of the Ministry of Foreign Affairs and European Integration and the Governor (Bashkan) of the Autonomous Territorial Unit of Gagauzia. The rapporteurs also met with the Moldovan delegation to PACE, as well as with leaders and members of the political factions of the parliament, the Chairperson of the parliamentary Committee on Legal Affairs, Appointments and Immunities, representatives of the judicial authorities, the acting Prosecutor General, the Director of the National Anti-Corruption Centre, lawyers, as well as representatives of the diplomatic community and civil society.

The rapporteurs also visited Tiraspol, where they held discussions with the *de facto* authorities and representatives of civil society.