



# **[Elections in Moldova]** *essential reading*

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## Helping Moldova stay on the EU course Proposals for a real 'more for more' approach

*Cristian Ghinea, Amanda Paul and Victor Chirila*

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### BACKGROUND

At the Vilnius Eastern Partnership (EaP) Summit in November, Moldova initialled its Association Agreement including a Deep and Comprehensive Free Trade Area (DCFTA) with the EU, and became the first EaP country to meet all the requirements of their Visa Liberalisation Action Plan. It marked an important milestone in Moldova's integration process, after some three and a half years of negotiations, reflecting the serious reform efforts the country has made. In the words of German Chancellor, Angela Merkel, in the Bundestag on 18 November, "in spite of some domestic turmoil, the Republic of Moldova has perhaps demonstrated the greatest political will of all the Eastern partners to adopt and implement reforms".

Not surprisingly, Moldova's success story is welcomed by the European Union (EU). With the decision of Armenia and subsequently Ukraine to abort their Association Agreements following significant political and economic pressure from Moscow, the EU faces the prospect of losing credibility as an influential actor in the East if it cannot deliver a success story. Moldova, (as well as Georgia) offers the EU a light at the end of the tunnel. Moldova clearly has advantages over Armenia (less dependent on Russia, particularly in relation to security) and Ukraine (smaller share of exports towards Russia; an overtly pro-EU oriented government). But it also has a number of weak points. Instability is endemic due to political crises, caused by back-biting and feuding in the governing coalition, rank corruption within the dysfunctional political and legal systems and institutions, and a popular anti-EU Communist Party. The unresolved Transnistria issue, with Russia backing the authorities in Tiraspol, remains a huge challenge, impacting on Moldova's EU journey.

### STATE OF PLAY

The road ahead to the actual signing of the AA/DCFTA in autumn 2014 will not be easy. Moldova's coalition government remains fragile and susceptible to both internal and external pressure: it could fall from one month to the next. With every step Moldova takes towards the EU, political and economic pressure from Russia increases. As Russian Deputy Prime Minister, Dmitry Rogozin, recently warned, "Each country can of course develop relations with the EU – but without forgetting the implications".

Moldova is fully aware of the implications. In the run up to Vilnius, Russia gave Chisinau an early taster of what could be on the menu if Moldova continues down the EU road: Moldovan wine was embargoed, imports of fruit were selectively blocked and threats were made to cut gas deliveries during winter, along with menacing comments related to Moldovan workers in Russia and the Transnistrian frozen conflict. Such threats are nothing new. Moldova faced Russian hostility over its membership of the European Energy Community as it requires the adoption of the Third Energy Package,



something Moscow strongly opposes as it bars gas suppliers from controlling the transport infrastructure used to deliver their gas. Moldovans were forced to postpone adoption until 2020 due to Russian coercion. Ultimately, Russia's leadership wants Moldova to re-assess its European trajectory and consider Eurasian integration instead.

### **AA-DCFTA – not the only game in town**

The period following Vilnius should be a soul-searching time for the EU. Of the three pillars (AA, DCFTA, visa regime) of the Eastern Partnership, two are now being openly challenged by Russia. While EaP was not designed for such a competition, it now has to step up to the bar if it wants to remain attractive compared to Moscow's Euro-Asian Customs Union and its influence in the region.

The EU and Russia have different styles in engaging with partner countries. The EU mainly works with governments and is engaged in projects with long-term systemic benefits (such as institution-building). Therefore, ordinary citizens only feel the effects indirectly. Take competition policies, for example: effective anti-monopoly agencies and regulated state aid may bring prices down and generate better quality for citizens, but this does not happen immediately and the link with EU conditionality is not always visible. The same applies to almost every EU intervention: food and agriculture standards, justice and police reform, anti-discrimination laws. Russia, for its part, promises concrete short-term gains such as cheap gas, while also engaging in fictional tales about EU initiatives, over which the EU is reluctant to openly tackle Russia. The EU Delegation in Chisinau, for example, was for some time prohibited to officially dismiss the Communist's Party claim that Moldova could have a DCFTA while also being part of the Customs Union, while Russian officials openly depicted the anti-discrimination law as an attack on Moldova's fundamental values. Russian diplomacy has also been mobilised for the past few months in discrediting the EU and the packages it has offered to Moldova. To this, the EU's diplomatic system as a whole has not found appropriate credible responses, making its communication strategy uncompetitive.

While EU funding amounts to some 5% of GDP or €40 per capita, this is not visible to the population as, since 2009, the money mainly went on institution building. The latest trend in EU funding – direct budgetary support – is not helping either as Moldovans cannot distinguish between EU money and means coming from the national budget. Meanwhile, the Russians are making their financial contribution very visible. In Transnistria, for example, Moscow is spending €43 per capita on food supplies and pension supplements alone, branding it as a gift from 'mother Russia'. Add to that the cheap gas Transnistrian households receive, compared to the high prices paid by the rest of Moldova's population, and we see a battle for hearts and minds, in which the EU is a reluctant player.

## **PROSPECTS**

While the EU should not engage in a populist competition with Russia, it does need to adapt its actions to the realities on the ground. This means greater visibility, better public diplomacy and delivering tangible benefits to the Moldovan population as rapidly as possible. Not only will this help counter Russian activities, it will also help shore up support for pro-EU reformers in the country.

The European Commission's proposal of 15 November for visa liberalisation should be adopted by the EU Council and the European Parliament before the May 2014 European elections. This would help the current government keep the Communist Party at bay in Moldova's November 2014 parliamentary elections.

Given Moldova's size, its proximity to the EU and Romania's citizenship policies, visa procedures are rather futile as an instrument for controlling migration. But they increase frustration as Moldovans view them as humiliating. It would not be an undeserved reward, but late recognition of efforts made by the Moldovan government, with Chisinau way ahead of other EaP countries. Reaching this point has not been easy. The Visa Liberalisation Action Plan (VLAP) was the most coherent element of the EU-Moldova relations of the last few years. It had clear demands, regular monitoring missions and visible rewards (passing from Phase I to Phase II and final recommendations). It included difficult reforms and an institution-building process, which prepared Moldova for wider European integration, beyond the narrow visa issue. It even led Moldovan governments to assume serious political risks. The anti-discrimination law resulted in harsh criticism from the powerful Orthodox Church which claimed it would mean an unbridled "Islamisation and homosexualisation" of Moldova. Furthermore, the migration check points on the administrative lines with Transnistria made the government vulnerable to criticism from the opposition for enforcing an internal border Moldova does not recognise, while also providing Tiraspol with victimisation arguments. However, under the terms of the VLAP, Moldova is obliged to control the circulation of people on its territory, yet is unable to control its border with Ukraine as it borders Transnistria, making this a necessary step. These challenges notwithstanding, the VLAP proved to be a successful instrument thanks to its 'clear conditions – clear rewards' model. The AA and DCFTA should follow this model.

The DCFTA is more than a technical free trade agreement. It was originally created for Ukraine after the Orange Revolution to enhance economic integration, as an important step towards deeper EU integration. Therefore, the DCFTA should be communicated as the first step on the long path of EU integration. While the *ex-ante* assessment of the impact of the DCFTA on Moldova infers an estimated 5.4% increase of GDP, a 4.8% increase in wages and a 1.3% drop in prices, public debate has been dominated by saber-rattling and nightmare scenarios from the anti-EU camp. While it is never easy to communicate technical details, the fact that the EU only began to seriously promote the DCFTA in September shows there is a need to up its game.

Moldova negotiated five- to ten-year exemption periods for most economic sectors, which means that, for the same goods, Moldovan producers will export to the EU custom tax-free while EU producers will export to Moldova with the current tariffs. Previous economic integration, before the 2004-2007 enlargement wave, showed that states have a tendency to ask for such exemptions (given that EU rules allows it) but to ignore using this advantage in practice, losing the opportunity to prop up the economy for the lifting of tariffs. Moldova and the EU should learn from this experience and make the best of these periods. A serious five-year strategy for DCFTA implementation will be necessary after Vilnius. In the short term, the EU should consider a pre-emptive unilateral lifting of quotas for the products where Russia enforces embargos, as it already did with wine. Transnistrian companies should be able to export to the EU under the current conditions until 2015 and the EU should avoid raising this issue on the agenda, at least until AA/DCFTA is signed.

The EU's present approach to funding is inconsistent. In some cases, such as the Visa Action Plan, the EU has given clear benchmarks in order to receive finance, but this is frequently not the case. For example, new institutions created in Moldova to implement EU demands (Competition Council, National Agency for Food Safety, National Integrity Commission, and Anti-discrimination Council) lack proper resources, while old institutions, despite having criticised them for poor performances, continue to receive substantial funding.

The coordination of EU affairs within the Moldovan government remains problematic and is expected to further deteriorate after the AA/DCFTA is signed. The Foreign Affairs and European Integration Ministry employs only three people in its policy monitoring and evaluation section. The MFA should coordinate line ministries, but lacks the leverage. For the DCFTA alone, Moldova will have to adopt 95% of the EU's economic *acquis*, yet the Centre for Legal Harmonisation is understaffed and misplaced (under the Justice Ministry). There is no strategy to support them through EU funds, although some EU members (Finland, Sweden, Romania) try to address this problem through bilateral donations and administrative support. It would be beneficial to coordinate efforts into a coherent programme to link funding with EU demands.

Another challenge is state capture by rich businessmen who are politically active, including in the ruling coalition, using their position to block enforcement of new legislation, such as competition and anticorruption laws, that may affect their interests. The EU may be better placed to empower the technocrats in the Moldovan institutions who are genuinely interested in pursuing the EU trajectory. The EU reaction to Moldova's numerous political crises has been mediation amongst local politicians. Political dealings should not be able to undermine institutions and key reforms and the EU should use its influence with a more preemptive approach, making it clear to politicians what is acceptable and what is not (preferably before it happens). There are several examples of when the EU could have been bolder in its support for real reforms. For example, the reform of the Anticorruption National Centre (ANC) was hijacked by political interests. The reform, supported by the EU high level adviser's mission (a group of high-level policy advisers deployed to Moldova's main public institutions to assist and support the authorities in implementing and monitoring relevant policies), missed the opportunity to make the institution powerful by giving it clear competences and bringing it under the same umbrella with Anticorruption Prosecutors. Instead, the reform focused the debate on who appoints the head of ANC – Prime Minister or Parliament – starting scandal on this dilemma. Reform of the General Prosecutor's Office was similarly hijacked. The institution was openly integrated in 2010 in the Coalition Agreement (as belonging to the Democrat Party). Such an obvious disregard of good governance rules should not be allowed by the EU. Again, the focus of the debate was on who appoints the person instead of meaningful reforms. The EU provided €60 million on justice reform in Moldova, of which €58 million went on budget support and increasing the judges' salaries. The assumption was that the corrupt judges would stop taking bribes. However, public money will never be able to compete with the money paid as bribes, nor should it try. These institutions should firstly be reformed and afterwards rewarded.

Indeed, one of the key challenges facing Moldova is restructuring the dysfunctional political and legal institutions. Until now, the EU has focused too much attention on legislative reforms and not ascribed enough importance to structural challenges such as the public administration and judiciary, which are crucial for the country's effective functioning and transformation.

Following threats to cut off Moldova's gas, it would be helpful if the EU could rapidly invest in follow-up projects to the Iasi-Ungheni gas pipeline. The pipeline, financed by Romania and the EU, will ease the pressure on Moldova, providing

an alternative solution to Russian gas in case of emergency. However, in order to be commercially viable, the construction of a compression station is necessary, along with extending the pipeline from the Ungheni-Chisinau pipeline. These are costly investments. One possible method of financing could be to use a mix of assistance and loans from the European Bank for Reconstruction and Development (EBRD). Romania views the Iasi-Ungheni project as part of the EU common energy market integration process (similar pipelines with Hungary and Bulgaria are under way). The EU should consider adopting this approach given that Moldova will be part of the future common energy market.

Although it receives considerable attention, Transnistria has played a rather marginal role in the negotiations with the EU due to the Tiraspol authorities rejecting EU offers to be part of the process. The current 5 + 2 Chisinau-Tiraspol negotiations format is based on a step-by-step confidence-building approach, assuming that by working together on small problems, mutual trust will increase which may bring about a political settlement. Unfortunately, this assumption has not yet borne fruit and after several years, while many important confidence measures have been achieved, a political deal is still no closer and tensions are increasing. The mainstream view that it is impossible for Moldova to ever have an EU perspective until the Transnistrian problem is solved is not helping but rather increasing the leverage of Tiraspol. Given that Chisinau considers EU integration a national project, conditioning the offer of an EU perspective (although that is not yet on the table) on conflict settlement means, in practice, putting Tiraspol in the driver's seat. Moldova needs time and a European perspective to deal with the conflict. Having such a perspective and moving closer to the EU will change the region's dynamics. EU integration is the key to solving the Transnistria conflict, not the other way around. Ultimately, if all else fails, the EU may have to contemplate letting Transnistria go.

Despite often tricky and fragile domestic politics, pressure from Russia and no clear European perspective, Moldova continues to focus on a European future and is prepared to remain on the "train" in the hope that, one day, a destination will appear on its ticket.

2014 may prove to be a make or break year for Moldova, with Chisinau facing a number of serious challenges. From the EU's point of view, it could also prove to be a make or break year for the Eastern Partnership. As things stand, without Moldova there is little to show for the past ten years of EU engagement in the region. Yet, as we are witnessing on the streets of Kyiv, the EU remains attractive, offering the Union a unique opportunity to help transform the lives of millions of people. Therefore, despite the EU's internal problems and forthcoming changes in leadership, the Union needs to shake up and strengthen its Eastern Partnership policy if it is going to succeed in meeting the growing challenges in a region, which its leadership claims to be priority. Greater solidarity, engagement and flexibility with a more proactive and generous approach to partners – such as Moldova – which deliver, with greater efforts made to deepen ties with societies and grass root actors, would be a good start.

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## Transnistria – Where to?

*Paul Ivan*

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At the Vilnius summit of the Eastern Partnership in November 2013, Moldova initialled its Association Agreement (AA) with the EU, including a Deep and Comprehensive Free Trade Area (DCFTA) agreement, and is expected to sign the documents before the end of August 2014. Meanwhile, Russia has increased its presence and pressure in the region, as a consequence of which Armenia declined the AA and DCFTA with the EU, and Ukraine, after months of protests and political paralysis, now has part of its territory occupied by Russia. Moldova is no exception to Russian pressure. As the country gets closer to upgrading relations with the EU, Russia has increased its activities in Moldova, including in the autonomous region of Gagauzia and in the breakaway region of Transnistria. With encouragement from Moscow, on 2 February 2014, voters in Gagauzia (4,4% of Moldova's population) overwhelmingly voted in favour of closer ties with the Russia-led Customs Union in a referendum deemed illegal by the Chisinau authorities.

In late 2013, Dmitry Rogozin, Deputy Prime Minister of Russia and president Putin's special representative on Transnistria, threatened Chisinau that it would lose Transnistria if it continues moving towards the EU. Russia has also imposed an embargo on Moldovan wine, but not Transnistrian wine. At the same time, even though the "5+2" negotiations (Moldova, Transnistria as conflict parties, Russia, Ukraine and the OSCE as mediators and the EU and the US as observers) for the settlement of the Transnistria conflict continue, the number of incidents in and around this region have increased. The window of opportunity created by the involvement of Germany in the settlement of the conflict and the restart of the "5+2" negotiations in late 2011 seems to have closed. Given the recent events in the region and in Moldova/Transnistria, including the potential impact of DCFTA and visa liberalisation, Chisinau finds it increasingly difficult to manage the juggling act between its EU commitment and dialogue with Tiraspol. Thus, the Transnistria conflict is likely to continue to undermine Moldova's development and European aspirations and to remain an irritant in EU-Russia relations.

## BACKGROUND

### A story of talks and tensions

The June 2010 *Meseberg Memorandum*, signed by German Chancellor Angela Merkel and then Russian President Dmitri Medvedev, proposed the establishment of a EU-Russia Political and Security Committee on ministerial level, while also stating that the EU and Russia would cooperate towards a resolution of the Transnistrian conflict. After a six-year break, negotiations in the "5+2" format restarted in late 2011. In April 2012 the parties agreed in Vienna on the negotiating principles, procedures and agenda, the latter divided into three baskets: 1) socio-economic issues, 2) general legal and humanitarian issues and human rights, and 3) a comprehensive settlement, including institutional, political and security issues. Ten official meetings were held in 2012-2013 and one so far in 2014. Besides the "5+2" talks, the two parties in conflict have also continued direct bilateral negotiations. These negotiations have led to some achievements, including resuming the rail freight traffic, or other agreements on environment, social security and justice. However, while dialogue was maintained, no negotiations have taken place on the third basket concerning the political status of Transnistria. Moreover, periodic incidents and tensions have weakened trust between the involved parties and undermined further progress.



## Incidents in the Security Zone

Created at the end of the 1992 Transnistria war, the Security Zone is a 12-20 km wide buffer zone that generally follows the outline of the Dniester river, managed by a Joint Control Commission (Moldova, Transnistria, Russia and Ukraine) and monitored by a peacekeeping force. The peacekeeping force is in practice controlled by Russia and Transnistria which field two thirds of the approximately 1,200 military personnel of the force, with the rest formed by Moldovan troops and 10 military observers from Ukraine. Besides its peacekeeping contingent and despite its international commitments, Russia continues to station an additional 1,100 troops in Transnistria.

Inside the Security Zone, on the right bank of the Dniester and just across the river from Tiraspol (the self-proclaimed capital of Transnistria), lies the city of Bender, legally under the authority of the Joint Control Commission but *de facto* under administrative control of Transnistria. The lack of detailed rules and overlap of jurisdictions in Bender is mitigated by unwritten agreements between the two sides but not without periodic tensions. Both Chisinau and Tiraspol have law enforcement units in Bender but, on several occasions, Transnistria tried to change the *status quo* and gain full control over this strategically important bridgehead in the right-bank Moldova. In April 2013 the Transnistrian local authorities passed legislation to ban Moldovan policemen from Bender from wearing their uniforms and also cut the water, electricity and food supplies to two Moldovan penitentiaries situated in the city. A month later, Yevgeny Shevchuk, the 'president' of Transnistria, unsuccessfully attempted to move the Transnistrian 'parliament' from Tiraspol to Bender. While this can be viewed as a manifestation of the conflict between the president and the parliament, from Chisinau it was viewed as yet another attempt of strengthening Transnistria's hold over Bender. In 2013 the authorities in Tiraspol tried to enlarge the borders of the break-away republic by issuing a decree on the 'state border' of the 'country', including into its territory a number of Moldovan-controlled villages. This move raised tensions, with the Moldovan parliament condemning the actions taken by Tiraspol. As a reaction, Transnistrian security forces temporarily denied entry into Bender to Moldovan policemen who work there.

## Conflict over alphabets

For the past twenty years, a major contention has been the use of Latin-script in Moldovan-administered schools in Transnistria. The schools are also one of the levers used by Tiraspol to signal its displeasure and to occasionally spoil the negotiations process. In 1989, the Moldovan authorities renounced the Cyrillic script when writing in the Romanian language and reintroduced the Latin one. Rejected by Tiraspol, after the 1992 war, the schools that chose to use the Latin alphabet were pressured by the Transnistrian authorities to return to Cyrillic or risk their funding cut. In Transnistria, Romanian (sometimes called Moldovan in Moldova) and the Latin-script were associated with support for unity in Moldova (or worse, union with Romania) while Russian and the Cyrillic script were associated with separatist goals. Eight Latin-script schools managed however to remain under the administration of Moldovan authorities, six in Transnistrian-controlled territory. Since then, Latin-script schools have been under repeated pressure from the Transnistrian authorities. In 2004, four schools were closed by Tiraspol. After strong international condemnation, including EU sanctions, the schools were again allowed to function, but the pressure continued. Following a complaint put forward by 170 Moldovan parents and teachers the European Court of Human Rights ruled in 2012 that Russia violated the right to education of the complainants and ordered it to pay over one million euros to the victims. The Court found that Russia exercised effective control over the Transnistrian authorities by virtue of its continued military, economic and political support that it provides to them. Moscow, however, rejected the ECHR ruling and refused to pay the damages stated in the ruling. In early 2014, the Transnistrian authorities froze the bank accounts of a Latin-script high school from Tiraspol and temporarily detained the director and two of his colleagues, as well as six Moldovan peacekeepers who intervened during the incident. The European Commission and European Parliament condemned the increased pressure against these schools, while the Russian foreign ministry in turn criticised the EU's position.

Besides bilateral tensions, Moldova's progress in its association with the EU also raises important challenges and opportunities for relations between the two banks of the Dniester. The DCFTA, AA and visa liberalisation will have side effects on the status quo and are already influencing the relationship between Chisinau and Tiraspol.

# STATE OF PLAY

## Impact of the DCFTA: What trade regime for Transnistria?

As a part of Moldova, Transnistria currently benefits from an EU Autonomous Trade Preferences (ATP) regime that offers favourable access to the EU market. In order to benefit from this regime Transnistrian companies have to obtain a certificate of origin from Moldova, which most of them have obtained by registering with the Moldovan authorities. This favourable trade regime benefits the export-oriented Transnistrian economy with 30-50 per cent of exports now going to the EU market (in mainly textiles, metal products, energy and footwear).

However, the DCFTA regime will replace Moldova's ATP trade regime and this poses the problem of what trade regime will apply to Transnistria. Despite repeated calls from Brussels and Chisinau, Transnistria has refused to actively participate in the DCFTA negotiations. For Transnistrian companies, adapting to the DCFTA regime would involve more than just registering with the Moldovan authorities. The new trade regime would imply, *inter alia*, adopting significant pieces of EU/Moldovan legislation, abolishing/reducing tariffs, reforming competition policy and guaranteeing intellectual property rights. If Transnistria fully implements the DCFTA it is estimated<sup>1</sup> that its GDP could grow by 3.6 per cent. Moreover, now that Ukraine is expected to sign its DCFTA with the EU, the pressure on Transnistria will grow as it will be surrounded by territories having FTAs with the EU. However, DCFTA implementation would require a higher level of control and enforcement of rules by Moldovan authorities and this is politically objectionable for Tiraspol.

Transnistrian companies (many owned by Russians) would benefit from exporting to the EU under the DCFTA, however the region's political leadership and its budget depend on Russia's support. Transnistrian officials have claimed that the DCFTA would be harmful to the region's economy and would be against its policy of legal approximation with Russia. In December 2013, 'president' Shevchuk, keen to strengthen his Russia-credentials and partially as a reaction to the initialling of the EU-Moldova deal, submitted a bill to change the Transnistrian constitution in order to introduce Russian legislation and even to give it priority over Transnistrian legislation.

While Transnistria seems to have made up its mind, the EU has nevertheless agreed to allow Transnistrian companies to trade under the ATP regime until 2015 but after such date, a continuation of that regime would not be possible as the Union will not be able to apply for a longer period two different trade regimes (DCFTA and ATP) for the same country. If the DCFTA will not be applied in Transnistria, the EU might decide not to accept goods from this region at preferential conditions and apply instead a non-preferential regime. This would mean an important increase in EU import tariffs and an estimated 5.2 per cent decrease in the GDP of Transnistria<sup>2</sup>. This would not be in the interest of Transnistria or Brussels, as the EU does not want to lose the leverage it has achieved through its increased trade with Transnistria. While Moscow opposes Moldova's association with the EU, it is also not interested to significantly damage Transnistria's trade with the EU as it would be the one obliged to foot the bill of an economic downturn in Transnistria. Russia already massively supports the Transnistrian economy and budget through the (almost) free delivery of natural gas and social programmes. Transnistria's budget frequently registers high deficits and is only balanced through the non-payment of Russian gas and the revenues received from the sale of that gas and the electric energy produced with it.

### **Managing internal borders**

Given Moldova's internal fracture, its visa liberalisation process with the EU offers opportunities but also poses some challenges for relations with Transnistria. Besides obvious benefits for its citizens living in right-bank Moldova, the EU visa-free regime the country will benefit from in the next few months is also seen as a strong incentive for Transnistrians to ask for Moldovan passports and at least partially integrate in Moldova. However, managing borders in a divided country is not easy. In 2013, as part of the Moldova-EU Action Plan for Visa Liberalisation, the Moldovan authorities opened six territorial migration offices along the Dniester river in order to control migration coming through Transnistria whilst proving to the EU that it can have proper migration controls. At the same time, in order to make this more acceptable to Transnistrians, Moldova also changed its legislation to no longer fine residents of Transnistria holding a foreign passport (about 180,000 Transnistrians hold Russian passports and about 100,000 Ukrainian passports, with some carrying both) for what would legally be considered as overstaying on the territory of Moldova. In January 2014, against the background of Moldova's initialisation of its AA with the EU, the Transnistrian KGB used the installation of these migration offices as one of the reasons to demand Chisinau the removal of all its public administration institutions from Bender. Around the same time, using a different motivation, the Transnistrian KGB announced that it will curb access to the region to staff working for the OSCE Mission to Moldova.

## **PROSPECTS**

Given the current state of relations between the two banks of the Dniester, a settlement of the conflict seems unlikely during 2014 as the two sides do not agree on key issues regarding the final status of Transnistria and the divisions of power in a common state.

Yevgeny Shevchuk has managed to consolidate power since his election in December 2011, often at the expense of political liberties. However, without a majority in the Transnistrian parliament some of his bills remain rejected. Given that Transnistria is highly dependent on Russia and given that he personally was not Moscow's favourite in the 2011 elections which he ultimately won, Shevchuk often tries to convince Moscow of his loyalty. The fact that the opposition Renewal Party, the main party in the parliament sometimes attacks him from even more pro-Russian positions further

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1 Berlin Economics, *The Impact of the EU-Moldova DCFTA on the Transnistrian Economy: Quantitative Assessment under Three Scenarios*, June 2013.

2 Ibid.

reinforces his pro-Russian stance. While Transnistrian leaders declare their allegiance to Russia, Moscow is more interested in prolonging the *status quo*, as the conflict provides a lever on Moldova, although a decreasingly influential one. Opposing Moldova's European integration, Moscow will most likely attempt to outbid EU confidence-building projects by channelling substantial funds through various government organised NGOs promoting Eurasian integration. While Transnistria has committed itself to Eurasian integration and seems less and less interested in reaching a final settlement to the conflict, Chisinau is interested to maintain the dialogue with Tiraspol, while trying to manage any provocations and continue on its European integration path. However, the pro-European coalition in Moldova will face a challenging year as it gears up for parliamentary elections this November. The opposition Party of Communists remains dominant (scoring above 34 per cent in opinion polls) and, even though when in power it supported the European integration of the country, it has now switched to support Eurasian integration.

The Transnistrian conflict has never been just a conflict between Tiraspol and Chisinau. Even the 1992 ceasefire agreement that ended the violent phase of the conflict was signed by the Moldovan President Mircea Snegur and Russian President Boris Yeltsin. A peaceful settlement of the conflict in a united Moldova will inevitably involve at least some sort of grand-bargain between Russia and the West. This is unlikely to happen soon, especially now, after Russia's offensive in Ukraine. On the contrary, Moscow's increasing assertiveness in the region and increased tensions between Russia and the West are likely to lead to a growing number of incidents and heightened rhetoric. With a Ukraine that looks towards electing a pro-European leadership, Russia will cling to its outpost on the Dniester. In the context of its military occupation of Crimea, Russia also put on high alert its armed forces based in Transnistria, while Deputy Prime Minister Rogozin has threatened that any attempt to curtail communication of Transnistria will be considered a direct threat to the security of Russian citizens living there. Save a toning down of tensions between Russia and the West, the Moldovan authorities could also expect in the coming months increased attempts to change the status quo in Bender or other antagonisms such as the blocking of the railroad to Ukraine, blocking of access to Moldovan-owned agricultural fields situated in areas controlled by the separatists, arbitrary arrests, or pressures on the Latin-script schools.

Given Russia's recent behaviour, the EU should make clear to Moscow that it will not allow further escalation in the region and the trampling of international norms. The EU is very close to offering Moldova a visa-free regime. It should do this fast and should step up its presence and visibility in the country. Though Moldova is among the highest recipients of EU funds per capita among the ENP countries, the EU is not very visible on the ground, partially because it channels its funds through international institutions such as UNDP. Moreover, EU Member States should go beyond their 'constructive ambiguity' formulas and offer a clear European perspective for both Moldova and Ukraine. Such a perspective could potentially change the dynamic of the Transnistrian conflict and offer a clear goal to the citizens and the political leaders of this region. The EU should also look into preparing working solutions for solving the issue of the trade regime that will apply to Transnistria in order to allow local companies retain the favourable conditions they enjoy now. One avenue would be to continue to use a system of certificates of origin that differentiates between goods produced in Moldova-proper and those from Transnistria, post 2015. In the meantime, the Moldovan government should try to maintain dialogue with Tiraspol but also continue on its European path, while trying to reform and improve the lives of Moldovan citizens, on both banks of the Dniester. Sooner or later, the people of Transnistria might notice.

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## Integrating Ukraine and Moldova in EU's energy security plans

*Cristian Ghinea*

Vulnerability in the EU's internal energy market has been made starker since the Russia-Ukraine crisis, highlighting specifically the importance of upstream energy linkages. March this year saw the European Council calling for a comprehensive plan to reduce the EU's energy dependence. The European Commission responded to this call with a communication on Energy Security published on 28 May, in time for another European Council at the end of June, at which a decision is anticipated.

The Commission's document includes a specific reference to Moldova and Ukraine: "The Union should work closely with its neighbours and partners within the Energy Community, notably Ukraine and Moldova, to improve energy security". Unfortunately this isolated reference is not accompanied by specific measures, even though their location as crucial energy gateways to Europe requires special attention and support. It is thus worthwhile to look at how the EU could take concrete steps towards transforming the political objectives assumed by the Council and the Commission into concrete policies.

Only some 4-5% of Moldova's energy consumption is covered by internal sources. The rest is imported from Russia (gas) as well as Ukraine and Romania (electricity). Moldova imports 1.5 bcm (billion cubic meters) of natural gas per year (not counting the separatist Transnistria region). Unlike Ukraine, it lacks gas deposits and its role as a transit country is limited. Moldova and Ukraine have committed to implementing the EU's Third Energy package, which is a condition of the Deep and Comprehensive Free Trade Agreements (DCFTA), element of their AAs. They are also members of the European Energy Community. Both states will become more integrated into the EU economic space, including the EU energy market. Their commitment to implement energy directives, which represent a test even for EU Member States, should be reciprocated by the Union with concrete support in the energy area. Energy is a key issue for both the new president in Kiev and the pro-European coalition in Chisinau, which will face parliamentary elections in November. The prospect of another winter exposed to Russian blackmail represents a powerful propaganda tool, openly used by the pro-Eurasian Union parties in Moldova and by the pro-Russian autonomous region of Gagauzia which promises cheaper gas to its people by claiming to have struck a special deal with Russia, over the heads of Chisinau.

One way to help the two countries would be to cover them in the Connecting Europe Facility. This programme was the EU's response to the delays and the incoherent manner in which Member States were implementing projects to interconnect their energy markets. €5.8 Billion was put aside for these so called Projects of Common Interest (PCI), a list of which was published by the Commission in October 2013. Each Member State promoted projects in this list, with the final list including 248 projects. However, the total estimated budget necessary to complete all the projects is more than €150 billion, signalling that prioritisation is necessary.

The Commission communication points to 33 projects (27 in gas and six in electricity) that "have been identified as critical for EU's energy security in the short and medium terms". Most of these focus on distributing gas from the South corridor and helping Eastern members look for an alternative supply (mostly Liquefied Natural Gas). The European Council should enforce this prioritisation.

However, the list includes only one project that interconnects a Member State with an EaP country – the reverse flow connection between Romania and Ukraine. Although necessary, this project is a novelty for most experts in the region and has no political backup in Bucharest. On the other hand, the list ignores two areas in which both the EU and Romania invested in the last few years: exploring the Black Sea potential and the interconnection with Moldova.

The annexation of Crimea by Russia gave Moscow access to the unexplored resources in the Black Sea. Some studies conclude that these waters have a similar potential to North Sea resources. The Black Sea had been considered even by the Yanukovich government as the main chance for Ukraine to loosen Russia's grip on its energy security. In 2012 an agreement was signed with ExxonMobil to start exploration in the Black Sea. In September 2013 another agreement was announced by Kiev between the Ukrainian company Nadra Ukrayny and an international consortium composed of Shell and Petrom (Romanian oil company, owned by the Austrian OMV) to explore the Black Sea's Skifska sector. The estimation was for 8-10 bcm per year (around 20% of Ukraine's current gas consumption).

This door is now closed, representing a setback to Ukraine's energy diversification plans. Moscow's claim to the marine area will not be recognised by most of the international community but the area will be effectively controlled by Russia, which has no incentive to explore its gas potential. The new Russian exclusive economic zone now borders the EU (Romania).

Petrom and ExxonMobil announced the discovery of a gas deposit of around 80 bcm in Romanian waters, which should come online in 2018-2019. This discovery alone has the potential to cover Romania's and Moldova's consumption and to alleviate Ukraine's situation. It is important to have the infrastructure projects in place until 2018 to allow access to Romania's network, and between the two Eastern Partnership countries. Romania and the EU should promote these projects on the priority list.

The Commission communication makes a vital recommendation to prioritise the projects which diversify supply sources (TAP pipeline and its connections to Greece and Bulgaria, LNG terminals in Poland, Lithuania and Croatia). But a political decision should be made to open the PCI list to projects that include Ukraine and Moldova. In another example, the EU previously played an important role in influencing Slovakia to provide gas to Ukraine; however, the current pipeline linking Slovakia with Ukraine needs an upgrade. It would be beneficial in the long run to place this project on the main PCI list, as well as on the priority list. The political will of the EU would then be linked to its financial instruments.

Romania is currently building an interconnector with Moldova with finance coming from a different EU programme (the trilateral Romania-Ukraine-Moldova cross-border cooperation). This pipeline will be finished in August and may provide up to 10% of Moldova's gas consumption. Critical decisions are expected from the Moldovan government in setting up the necessary legislation that could open the internal pipelines (owned by a local Gazprom subsidiary) for Romanian gas. However, 10% is hardly enough to make Moldova truly independent. The Romanian project should be followed by a compression station and another pipeline to Chisinau (thus being able to cover 60-80% of Moldova's consumption).

This new pipeline would cost approx. €70 million and the Moldovan government has already expressed its intention to contract a loan from EBRD or EIB to pay for it. The Connecting Europe Facility offers Member States guarantees for such loans from the European development banks. The Moldovan pipeline is seen as vital for the country's energy security and will have an interconnection with Romania in August 2014. In addition it has the potential gas supply from the Black Sea for support (or from shale gas, which is also currently explored in Romania). With this in mind, a political decision should be made to open the PCI list for this project and to co-finance / guarantee the loan intended by Chisinau.

Another key point for the two associated countries is the EU competition investigation against Gazprom. In September 2012, the European Commission launched its anti-trust investigation against the Russian energy giant. Although announced as "a matter of priority" in the Commission's press release at the time, the finalisation of the case is still pending. DG Competition has a good track record in dealing with powerful players, including powerful European energy companies. A common and competitive market in this sector is inconceivable without taming the biggest abuser of competition laws. The investigation was initiated by Lithuanian complaints, but was quickly extended to other Member States from the East. It targets Gazprom's core business model: dividing gas markets, forbidding third party access to pipelines, and preventing resale. All these practices are traditionally used by Gazprom in Moldova and Ukraine. EU Energy Commissioner, Günther Oettinger, promised solidarity with Moldova when Russia threatened Chisinau with gas cuts last winter. Such major political statements should be followed by actions. Given Moldova's commitment to enforce the third energy package (thus forcing the Moldovan gas national company – owned by Gazprom – to open the market), it should also benefit from the EU law enforcement mechanisms. A decision of DG Competition against Gazprom should also be applicable to Gazprom practices in Moldova and Ukraine. In the case of Ukraine, regulating Gazprom practices at EU level could allow the Slovak government to supply energy to Ukraine without jeopardising its special deals with Gazprom (Slovakia would simply enforce the EU ruling).

All the recommendations included in this commentary represent small steps, which could be taken by the European Council and Commission to prove their solidarity with two countries looking for shelter ahead of the storm. These non-ground-breaking steps just prolong already available instruments and are in line with decisions announced by the EU. Not a long way to go, for a big change.

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*Disclaimer: The views expressed in this Commentary are the sole responsibility of the author.*

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## It has only just begun: EU and anticorruption institutions in Moldova

*Ludmila Gamurari and Cristian Ghinea*

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The Republic of Moldova recently signed the Association Agreement with the EU, closely followed by a detailed Association Agenda, which comes with concrete steps and conditionalities in the future dialogue between Chisinau and Brussels. The current paper discusses the most recent evolutions of the anticorruption institutions in Moldova, which owe a lot to EU's influence. We pay specific attention to the justice reforms chapters in the Agenda and we conclude with recommendations for the EU to continue to pay attention to corruption in Moldova, but address it in a more coherent manner.

### BACKGROUND

Europe Day was celebrated on 10 May this year in Chisinau, Republic of Moldova. It had been postponed for diplomatic reasons, in order to avoid overlapping with the more traditional Victory Day on 9 May. Between the stalls promoting the national delicacies and the sounds of national music, debates emerged regarding EU integration by citizens who were given the rare opportunity to address questions to diplomats and other European representatives. Among the many questions, those relating to corruption featured more than most, one in particular relating to an incident in which a contract for the administration of the Chisinau airport was given to a small named company from Russia, for the duration of 49 years without a transparent procurement procedure. "Such an affair would not be possible after signing the Association Agreement with the EU", one European representative said, triggering the applause of the audience. "The EU will help us with the fight against corruption", a civic activist added, "as they managed to do in Romania, (with EU help) where they are convicting many officials". The Romanian example given was easy to grasp for many Moldovans who followed the Romanian debates around numerous high level corruption cases prosecuted by the special anticorruption bodies, established during the EU accession process.

### STATE OF PLAY

The debate between citizens and officials was more than relevant, both in light of the high expectations the common Moldovan citizens hold with regard to the EU, and due to the frustration with local pro-EU politicians. It is difficult to tackle corruption in a poor society, with a weak state and an unstable democracy, but EU involvement may tip the balance in favour of reformists and anticorruption activists in the Moldovan society. In all fairness, important steps have already been taken in the last two years, even before the Association Agreement was signed. The EU paid attention to the issue and pressured the Chisinau government to reform the justice sector and strengthen new anticorruption bodies. The previous Center for Anticorruption and Economic Crimes created by the former communist president Vladimir Voronin was reshuffled with EU assistance. Now called the National



Anticorruption Center (NAC), its legal framework was redesigned to only target corruption cases. As part of the visa liberalisation conditionalities, a new institutional body was established in order to deal with officials' conflicts of interests and to verify the declarations of wealth the National Integrity Commission (NIC), replicating elements from the similar Romanian and Lithuanian institutions. A comprehensive anticorruption legal package was proposed last year by the young Justice Minister Oleg Efrim and it was narrowly adopted by the Parliament. The EU argument was crucial into passing all these changes. By taking an unprecedented step for in a non-accession country, the EU offered 60 million Euro in direct assistance for reforming the justice sector (and even surpassing the assistance provided for the Balkan accession countries, a welcome implementation of the "more for more" principle). This assistance allowed raising judges' salaries. In return, the autonomous governing body – the Supreme Council of Magistrates – allowed some of their peers to be prosecuted.

At the beginning of 2014 a judge was convicted for corruption, and is currently serving a jail sentence, which is a first for Moldova after the collapse of communism. Since 2010, one third of the entire number of judges, 140 to be precise, was replaced. This was rendered possible by a mix of incentives for early retirement and voluntary resignations, avoiding a new professionalism test, one in which many would have likely failed. In a region in which the balance between reforming the judicial system and brutal politicisation is fragile (see the recurrent scandals with judges' appointment in Serbia), this smooth and uncontroversial renewal of judges deserves credit. The EU interest for the issue made the local politicians appoint reformist technocrats in key positions, with a credible background in anticorruption NGOs: the General Prosecutor, the President of the National Integrity Commission, the Deputy Director of the National Anticorruption Center and the Justice Minister himself follow this pattern.

However, this is not the whole story. The anticorruption institutions in Moldova suffer from systemic problems. Purposely or not, the decision makers created them weak, granted them unclear powers and underfund them.

In addition, political infighting within the pro-EU governing coalition took its toll on their credibility: during the 2012 crisis in Moldova, the National Anticorruption Center was transferred from the government to the parliament and then back to the executive. Of the persons prosecuted by the NAC, 90% are found guilty by the judges, but the sentences are too lenient and people are seldom sent to jail. Most of these cases target low and medium-level officials, which triggers accusations against the NAC of avoiding high level culprits. To its credit, the NAC recently started prosecuting several ministers, but none of the investigations has yet reached the final phase. In the ever changing political alliances of Moldovan politics, all cases led to accusations of political manipulation. Only a continual and solid track record of successfully prosecuted high level cases will decrease the general skepticism of the public towards such investigations.

The National Integrity Commission (NIC) is also affected by its institutional arrangements. It is a collective body, with four members and a President, all of whom appointed by the Parliament. The law makes no clear arrangements about sharing the responsibility and power between the members, leading to internal infighting between appointed members of the Commission, which undermines the efficiency of the institution and its public credibility. The Parliament was called upon to step in and arbitrate the conflict – a peculiar position given the fact that the NIC should control these very parliamentarians. More so, under the same law, NIC members could be easily removed by the Parliament, even without a grounded reasonable motivation. The legal framework needs urgent revision in order to clearly distribute responsibility between the president of the institution on one side and its members, on the other. Also, a legal buffer is necessary in order to ensure actual independence of this institution from the Parliament.

Although the NIC began its work, its budget and its human resources severely limit its capacity. Its annual budget is of only 200,000 Euro and its 26 staff members are supposed to control assets and incompatibilities of tens of thousands of officials. Even in the cases when NIC makes a complete investigation and reaches a collective decision, the final punishment is weak as the general Penal Code is outdated. For example, a former General Prosecutor of Moldova was fined for conflict of interest, with the maximum penalty provided by the law: 6,000 Lei (375 Euro).

Overall, there is a visible tendency of Moldovan politicians to comply with EU recommendation in a minimal manner in relation to anticorruption: they establish the new institutions, but endow them with insufficient resources; they select credible activists to run the institutions, but grant them unclear responsibilities; they allow the passing of new legislation, but leave it vague.

Although new institutions were created, there was and continues to be no overall strategy but rather incremental steps, aimed at fulfilling specific EU requirements. The institutional fragmentation is severe, allowing numerous blocking points and opportunities for vetoes. For instance, bribery cases are initiated by either the National

Anticorruption Center or by the Home Affairs Ministry, but at some point the case has to be overseen by a prosecutor from the Anticorruption Prosecutor Office – a special division under the General Prosecutor Office. Problematically, this means that the police and the prosecutor are required to work together under two different institutions, which leads to competition rather than collaboration. The two institutions tend to blame each other for the poor results.

To take another example: after making a decision, the NIC sends conflict of interests and incompatibilities cases to the NAC, which is supposed to implement the sanctions. Again, these two institutions tend to compete rather to collaborate. The journalists and NGO activists trying to monitor corruption cases complain of this institutional ping pong, resulting in the same blame game.

In addition, there is a widespread assumption that political oligarchs informally control these weak institutions. In some cases the distinction between politicians and businessmen is hard to make in Moldova, as political parties can be seen as the 'personal fiefdoms' of powerful individuals, especially those higher up in the ranking of the richest Moldovans. The personal conflict between former prime-minister Vlad Filat and former deputy speaker of the Parliament Vlad Plahotniuc started several government crises which undermined the efficiency of the pro-EU Coalition. Many people in Moldova tend to associate the EU itself with this coalition, which is increasingly frustrating to the European diplomats in Chisinau. Back in 2010 EU officials were encouraged to see that the governing coalition in Moldova was called the "Alliance for European Integration", but since then the sentiment has waned.

Still, successive crises and turf wars between Plahotniuc and Filat led to a situation in which both of them are now outside the government and the Parliament. This created space for a more technocratic government led by Iurie Leanca to take the helm in 2012 and to continue the Association Agreement negotiations. Unfortunately, their mandate is drawing to close and the November 2014 elections will set the context for a potential oligarch come-back. The elections could be won by either the Communist Party, which would lead to colder relations with the EU, or the parties led by Filat and Plahotniuc. Neither part is enthusiastic about having strong and credible anticorruption institutions. The EU should follow two successive goals: a) to at least protect the current achievements and b) promote the improvement of the institutional and legal framework. This will not be easy in a small country caught in a geopolitical turmoil. Still, corruption undermines in the long term, any chance to change Moldova. It should stay on the EU supported reforms agenda.

## PROSPECTS

The Association Agreement signed in late June is accompanied by an Association Agenda. It proposes a list of priorities for joint work in 2014-2016 in order to enhance the implementation of the Agreement. The justice and human rights chapters of the Agenda sets up ambitious targets for anticorruption, recommending the Moldovan Government introduce the following measures:

- a) ensuring the full functioning and independence of the National Anticorruption Center, including the appointment and dismissal of its director and deputy-directors through an open, transparent and merit-based procedure clearly provided by the law, and in regards to its oversight and accountability in operations;
- b) work towards furthering the independence of the justice sector institutions so that they are not subject to political or any other form of pressure from the administration, the Government or the Parliament;
- c) implement the new system of disciplinary responsibility for judges, ensuring their responsibility towards the society;
- d) strengthening the capacity of the National Commission for Integrity; strengthen coordination and information exchange between the authorities responsible for the fight against corruption, including by establishing clear working arrangements between the National Anticorruption Center and the National Commission for Integrity.

The attention paid by the Association Agenda on improving the track record of anticorruption institutions and the collaboration between them is welcome as it's encouraging the institutional stability for the near future. However, on a medium term, EU should also encourage:

- a) a merger between the National Anticorruption Center and the Anticorruption Prosecutor Office, in order to bring the investigators and prosecutors under the same umbrella. The creation of the new body should avoid the dilemma of 'whether it should be controlled by the Parliament or the Government?' which sunk previous

reform attempts. Some EU experts believe in the myth of parliamentary control as a mean to avoid polarization of the anticorruption institutions. In fact is a recipe for both politicisation and inefficiency. There is no example in Eastern Europe of such an institution performing well under Parliamentary supervision. The Parliaments themselves are products of the same corrupt political practices so putting them in charge means creating multiple veto players interested in politicisation and inefficiency. An efficient and accountable institution should be headed by a management appointed on merits and controlled only by the magistrates self-governing body and for limited circumstances only.

- b) a revision of the legal framework of the National Integrity Commission in order to clearly empower and make accountable the management of the institution. The institution should be allowed to implement the sanctions it decides. The World Bank, the Romanian and Finish Governments provided supporting grants for this newly created institution, the EU should also channel parts of its funding dedicated to the judicial reform towards the NIC. It was the EU who asked for its creation after all.
- c) a review of the penal and administrative laws to allow truly deterrent sanctions for corruption.

As a general approach, EU should encourage the Moldovan authorities to apply a coherent vision for these institutions and to avoid fragmentation which currently reduce their efficiency.

Moldova is a case study for the potential transformative power of the EU in its vicinity. With no real membership perspective but bold in its pursuit of an EU future, Moldova is the most advanced in the association process among the Eastern Partnership countries. It is not easy for the local elite to support institutions which at the end of the day could threatened their fortunes and even freedom. The anticorruption constituency is currently weak in Moldova but it exists. The EU has an essential role in tipping the balance to empower the reformists in the Moldovan society: media, NGOs, technocrats and selected politicians.

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## Moldova – Heading into a hot autumn

*Amanda Paul*

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After four years of negotiations, Moldova signed an Association Agreement (AA) including a Deep and Comprehensive Free Trade Area (DCFTA) Agreement with the European Union (EU) on 27 June 2014. Ratified in the Moldovan Parliament on 2 July 2014 it came into provisional application on 1 September 2014.

While this development represents an important milestone in Moldova's relations with the EU, the journey has not been easy. Negotiations were difficult and internal politics turbulent with three government crises during the process. Neighbouring Ukraine, Moldova has also come under pressure from Russia, including a ban on imports of Moldovan wine in 2013 and, in the aftermath of the AA's ratification, on fruit and meat products. Despite Russia's bullying, Moldova has remained focused on its goal of becoming a full EU member, although no such perspective is currently on offer. Yet the road ahead remains tough. Moldovan society is far from united on European integration; the ruling pro-European Coalition, remains fragile and prone to infighting, and Russia is poised to meddle further. Concern is growing as security and stability in the region has deteriorated following Russia's invasion of Ukraine. The result of the forthcoming 30 November parliamentary elections is crucially important, as a return to power of the current coalition is far from guaranteed.

### BACKGROUND

Best known as Europe's poorest country, Moldova has come a long way. It is the fastest-reforming country on Europe's eastern border, frequently touted at the champion of Eastern Partnership (EaP). Since the current government came to power in 2009 there have been many positive developments. Politics have become more pluralistic and the country has experienced slow but steady economic growth with GDP growing in the first semester of 2014 by 3.9%. Important political and economic reforms have taken place, along with improvements to key infrastructure. Steps aimed at improving the business climate have taken Moldova from 98<sup>th</sup> position to 78<sup>th</sup> in the World Bank's Ease of Doing Business Index. In order to obtain visa liberalisation with the EU, the government had to carry out far reaching reform of the police service and Moldova is still the only member of the EaP to forbid discrimination by sexual orientation in line with the new "Law on Enforcement of Equality," despite resistance from the Church and leftist forces. Today Moldova is the only EaP state to have achieved a visa free regime with the EU.

Yet reforms need to be completed and implemented. Governance structures need to be strengthened and problems over their independence persist. The economy is still distorted by monopolies, constitutional reform, deep judicial reform, and further efforts to fight corruption are crucial. Transparency International Corruption Perception Index placed Moldova 102 out of 137 countries in 2013, one point lower than the previous year. The newly created National Anti-Corruption Centre and National integrity Council have not been as successful as expected.

Carrying out unpopular reforms, failing to adequately fight corruption, bickering within the ruling coalition, which has in the past brought decision-making to a standstill, and more recently Russia's sanctions, have cost the government support. This has boosted the main opposition Communist Party of former President Vladimir Voronin, the most popular party in the Moldova with some 37% support.



## Russian revanchism

Russia has taken steps to push back against what it views as an encroachment by the EU into its sphere of influence. Moscow has significant leverage over Moldova in a number of areas including trade; energy; migrant workers; the breakaway territory of Transnistria backed by Moscow; and the pro-Russian Autonomous region of Gagauzia. It has used this leverage, along with an intensive 'information' campaign to try and re-rail the process by spreading nightmare scenarios on what closer association with the EU means. Bans have been placed on a number of key exports to the Russian market, while Moscow has threatened to cut off Moldova's gas, with the country until recently almost 100% dependent on Gazprom; and denied work permits to some 20,000 Moldovans. Approximately half a million Moldovans work in Russia either permanently or seasonally with remittances averaging €1.09 billion annually, 19% of Moldova's entire GDP. The potential loss is some €31.1 million if they are unable to return for an entire year, which could be catastrophic for living standards.

Furthermore, EU integration is far from being a national project. Recent polls show that only 35% of Moldovans support EU integration while 38% favour Russia's Customs Union. This includes the population of Gagauzia, with which Chisinau has a strained relationship, having spent years embroiled in a struggle over the degree of autonomy and amount (and distribution) of funding the region should receive.

## STATE OF PLAY

### The Gagauz headache

While a strong pro-Russian sentiment prevails, the Gagauz, which number some 160,000 are not ethnic Russians but descendants of the Seljuk Turks. In a referendum on 2 February 2014, denounced as illegal by Chisinau, 98.4% of Gagauz favoured Russia's Customs Union over the EU. This is not surprising given the lack of information about the EU. They fear that European integration could lead to the possible unification of Moldova with Romania and that Russia could also punish them with trade restrictions or cut off access to the labour market. So far Russia has exempted Gagauzia from the wine and fruit ban and promised Gagauzia a preferential gas price. Gagauzia's leader, Bascan Mihail Formuzal, claims he was never consulted on Moldova's decision to sign the AA. Another Russian-backed breakaway territory is the last thing that Moldova needs. Chisinau needs to take more steps to improve relations, as well as making EU funded projects in the region more visible. Furthermore, the planned visit of Turkish President Recep Tayyip Erdogan to Gagauzia as part of a visit to Moldova in the autumn is welcomed. Erdogan is expected to give a strong message of support for Moldova and its territorial integrity. Over the years Turkey has contributed considerable economic assistance and investment to Gagauzia and Erdogan is a popular figure.

### A fruit nightmare

Moldova's economy relies heavily on its agricultural exports. As soon as the AA/DCFTA was ratified, Russia banned Moldovan meat and fruit "for health reasons". Shortly afterwards it cancelled its Free Trade Agreement with Moldova within the CIS, removing the 'zero duty' for 19 products. The EU is the biggest importer of Moldovan agricultural exports (54%), followed by Russia. In 2013, Russia imported 43% (\$988 million) of Moldova's agricultural exports, hence this ban has been a big blow, particularly in the apple sector, where 90% were exported to Russia. The expected loss for the cancellation of the CIS FTA for the remainder of 2014 is reported to be some \$31 million. Coming on top of the estimated \$90 million losses as a consequence of the fruit ban this has put the Moldovan economy in difficulty.

Moldovan Prime Minister, Iurie Leanca, pledged an unspecified amount of compensation from both state and foreign sources to help farmers make up for lost revenue, as well as assistance for the rescheduling of bank loans, and payment of gas and electricity bills. Air Moldova is due to start distributing apples and other fruit to passengers, while the government has allocated some \$1.44 million to provide apples to kindergartens, public schools and the army. Moldovan canning companies also reportedly agreed to purchase more fruit. Moldova is in talks with the Russians to try and solve the issue and it is also actively looking for new markets. While these measures from Russia were expected, Moldova had hoped that much of its banned fruit could enter the EU market. However, since Moscow's decision to block imports of many EU agricultural products, as a consequence of sanctions placed on Russia, the EU market is saturated with fruit and vegetables leaving little space for extra Moldovan produce.

With Brussels also having no extra money to help compensate the farmer's losses, several credit/finance agreements are being negotiated with some Member States including Poland, and Denmark who has donated €4 million to modernise the agriculture sector. Chisinau is also strengthening ties with other states such as Turkey and Qatar. On 12 September 2014 an FTA was signed with Turkey. In August a Strategic Partnership was signed with Qatar. Trade with Belarus has also been boosted. Belarus, a Fellow Customs Union member has refused to join Russia's ban on Moldova, rather

choosing to increase trade. Following Russia's fruit ban the export of plums and apples to Belarus has significantly increased. It is widely predicted much of this will be re-exported to Russia. Furthermore, on 24-25 September, Belarus President Alexander Lukashenko headed a delegation to Moldova, where agreements worth \$50 million were signed.

Moldova pays one of the highest prices in Europe for gas, \$380 per 1.000 cubic meters. Hence the recent completion of the first phase of the Ungheni-Iasi natural gas inter-connector from Romania to Moldova is good news. While initially it is expected to transport only some 50 million cubic metres of gas annually, which represents only 5% of Moldova's gas needs, it breaks the monopoly that Russia's Gazprom has over Moldova and integrates Moldova into the European gas market. Yet to make a real difference it needs to be rapidly completed, as it could have an annual capacity of some 1.5 bcm which would cover all of Moldova's needs. The second phase is the construction of compressor station in Romania, and the extension of the pipeline from Ungheni to Chisinau.

### **Dealing with Transnistria**

Transnistria is a narrow strip of Moldova bordering Ukraine. The 'five plus two' settlement talks (Moldova, Russia, Ukraine, Transnistria, OSCE & US and EU as observers), are far from delivering a result and as a consequence of the Russia-Ukraine crisis, there has been no meeting since the Spring of 2014. On 1 August, the Ukrainian security services reinforced controls at the Transnistrian segment of the Ukrainian-Moldovan border, making Transnistrians feel further isolated. Moldova's leadership tries to maintain a constructive approach with the Transnistrian authorities, taking steps that they hope will ultimately lead to the reintegration of Transnistria with Moldova. This has included actively supporting confidence-building measures, and allowing Transnistria to temporarily trade with the EU as part of Moldova's Autonomous Trade Preferences (ATP) regime. This has most recently included supporting caviar farms, with the first international sales taking place this year. Furthermore, following Moldova's visa free regime with the EU, there has been in a significant increase in demands from Transnistrians for Moldovan passports.

It would have been in Transnistria's interests to accept the DCFTA, given that about 70% of goods produced go to the right bank of the Dniester River (Moldova) and onwards to the EU, while only about 18% go to Russia. However, their dependence on Russia, including financially, makes such an option almost impossible. While Transnistria has been granted an extension of the ATPs until 2015, once this ends it is likely that anti-EU sentiment will grow unless an alternative way is found for trade with EU, thereby increasing tensions with Chisinau. On 16 April 2014, shortly after the annexation of Crimea, the Transnistrian authorities voted in the Transnistrian Parliament to join Russia. A declaration was adopted, motivated by the 2006 referendum in which 97% of voters in Transnistria voted to join Russia, which was actually put on hold by the Russian authorities. While Russia has been happy with the status quo as it allows Russia to keep a tight control over Moldova's actions, it is not cheap. It is estimated that Russia's financial support amounts to some \$1 billion every year. Since the beginning of 2014 Moscow has been increasingly pushing the "Federation Model" which Chisinau firmly rejects. It considers federalisation to be contrary to its interests, and viewed as tool to allow Moscow a long-term influence over Moldova, including related to foreign policy decisions.

## **PROSPECTS**

The next few months will be very challenging for Moldova with internal and external developments continuing to shape Moldova's future. Not only will Chisinau need to move ahead with the difficult and expensive implementation of the DCFTA, the ruling coalition simultaneously needs to campaign for the elections with very importantly, a united front. Moscow timed the bans to weaken support for the government and its EU ambitions ahead of the elections. Russia may take further steps including further trade and labour market restrictions, as well as measures to provoke instability in Gagauzia and Transnistria. Moscow may also try to further pressurise its Customs Union partners, Kazakhstan and Belarus to stop trading with Moldova, although so far both countries have rejected this.

Events in Ukraine will continue to impact on Moldova. The decision to postpone the implementation of the DCFTA until 2016 undermined Moldova's efforts to convince Transnistria that becoming part of its DCFTA would be in their benefit as they would find themselves caught in the middle of a regional free trade zone with the EU. The fact that Russia is now part of Ukraine's DCFTA talks has also set a bad precedent as it gives the impression that Moscow has a say in the foreign policy choices of a sovereign state. Moreover, where Russia's military intervention into Ukraine will finally end is of significant importance to Moldova. An effort by Moscow to create a corridor between Donetsk and Ukraine's border with Transnistria would be a significant security threat, as it would allow Russia to freely move its military personal and equipment. While this would require Russia occupying a number of Ukrainian towns in the Southeast of the country and would therefore seem unlikely, recent events have taught us to expect the unexpected.

The Moldovan authorities, in cooperation with the EU, should devise an effective communication strategy to better inform society about the benefits of the AA/DCFTA to dispel the myths being spread by Moscow. The government has

begun to extend its outreach, organising town hall meetings in towns and villages across the country, but much more needs to be done including creative ideas such as using famous people to sell the EU in order to win hearts and minds.

The outcome of the November election is crucial. If the current government is unable to hold on to power and the Communists return to office a change of policy is almost certain. However, while Voronin has condemned the government's policy as hostile to Russia stating "we cannot lose our partner and restrict our possibilities for development" at the same time, Russia's annexation of Crimea created a rift with Voronin, as the Communists are staunch supporters of territorial integrity. Furthermore, in the past Voronin has said the Communists would back all the initiatives aimed at bringing Moldova closer to the EU. A fan of 'balancing' it is possible that the EU process would continue although at a slower and inconsistent pace with the DCFTA possibly frozen. If the ruling coalition returns to power, they have pledged to drive ahead with reforms in the run up to the Riga EaP Summit in May 2015.

### What can the EU do?

Moldova's successful European integration and modernisation hinges on two things: Chisinau's ability to tackle difficult issues such as corruption and a compromised judiciary and the EU's ability to adequately support it. While numerous senior EU officials have visited Moldova during the past year offering words of support and solidarity, this needs to be transformed into resolute commitment. Requests from Chisinau, most recently asking the EU to send a special mission to support judicial reform should be immediately accepted. Member State parliaments should rapidly ratify Moldova's AA, while further steps should be taken to help Moldova strengthen its energy security. The EU's public diplomacy should also be extended with particular attention to rural areas and Russian-speaking cities. The EU also needs to further differentiate between those EaP countries such as Moldova, that are already implementing their agreements and those that are lagging behind.

Despite the readiness of several Member States including, Romania, Poland, and the Baltic States to give Moldova a membership perspective others such as Germany insist it should be done on a step-by-step basis. By failing to offer Moldova such a perspective the EU is removing the most important instrument for bringing about reform and democratic change. It leaves Moldova in a climate of uncertainty, which is a prerequisite of instability.

Moldova is contemplating throwing down the gauntlet by submitting a membership application at the Riga EaP Summit. Several Member States have advised Moldova not to do this, stating the time is not right. Yet it is unlikely that the time would ever be right. Today's EaP lacks a longer-term perspective which is unhelpful. If the EaP is to deliver a success story, it needs to clarify its current ambiguous position over what is at the end of the EaP road. The Riga Summit should provide roadmap for those countries that want closer ties – a robust package that goes beyond association.

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## **Ending the cat-and-mouse embargos game. Making use of EU funds to steer West the Moldovan agriculture exports**

*Alexandra Toderiță*

Agriculture in the Republic of Moldova is an important economic sector, accounting for 41% of Moldovan exports and employing 1.3 million people, a large share of the working population. The EU has surpassed Russia as Moldova's main commercial partner (54% of its exports go to the EU). It is a paradox that the Soviet inheritance still dictates economic trends: the heavy industrialised Transnistria exports, as a percentage, more into the EU than the rest of Moldova does. The right-bank Moldova was designed by Soviet planners as an agricultural basket while Transnistria, on the left bank of the Dniester River, concentrated the heavy industry. As such, from time to time, Russia strikes Moldova where it hurts, with embargos on food and agricultural products.

Signing the Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU represents an opportunity for Moldova to enter a major and stable market but when it comes to agriculture there are factors which delay reorientation. The main one is the structural fragmentation of Moldovan agriculture. 80% of the Moldovan fruits are produced in farms smaller than 10 ha. In addition, the fragmented and underfinanced Moldovan agriculture is not prepared for the high administrative, quality and sanitary barriers of the EU market. While the political negotiations for DCFTA processed quite fast, the implementation phase was not properly prepared.

Most exports to the EU are primarily low value products and unprocessed raw materials: sunflower seeds, cereals, oil, while the higher value segments go to the Commonwealth of Independent States (CIS) markets: vegetables, pastries, alcoholic beverages. Animal livestock and animal-derived products were exported in 2013 in bigger quantities in CIS than in the EU. After the Russian embargo some help came from other CIS countries, especially Belarus, but this did not replace the lost Russian market. As such, it should come as no surprise that the pro-Russian and Communist parties win votes in the rural areas and in Northern Moldova, which depend heavily on fruit production and exports into CIS.

Moscow had punished Moldova before with a wine embargo in 2006. The wine industry started looking for solutions and made efforts to diversify its export markets. Nevertheless, even for this "flagship" industry for Moldova, reorientation was not fast enough: this year Belarus alone imported 55% more Moldovan wine than the EU market. The vineyards are old and need renewal, while production costs are three to four times higher than those incurred by their established competitors in Western Europe. There is only one laboratory which provides EU quality certification for the Moldovan wine sector, a monopoly which makes this service highly costly. Certifying a wine in Chisinau is more expensive than in Vienna.

Fruit, Moldova's second highly valued agricultural sector, has a worse story to tell. 97.1% of the Moldovan fruit exports went to the CIS market in 2013, which made the Russian embargo imposed in July 2014 particularly painful. Apples for example, are sold to processing units (for juices) at prices four times lower than in 2013, and the compensation provided by the government covers only half of the production sold under these circumstances.

The third sector affected by the Russian embargos this summer – meat – is even more behind in terms of possibilities to reach the European market. There are over 2.600 EU standards that Moldova should adopt, but only 20 of them have been implemented during the past year. The pace of adoption will surely increase but the administrative capacity to do so remains low. The National Agency for Food Safety was established in early 2013 but it is still not accredited to certify agricultural exports to the EU.

Rapid and concrete measures are necessary to turn the EU market from an opportunity into a reality for the Moldovan agriculture. The Republic of Moldova needs a coherent approach, so as to achieve structural changes and develop value added agriculture. Bearing this in mind, efforts to steer exports of key agricultural sectors to the EU can only act as a traction mechanism in this process.

The EU has committed financial support of €64 million to the European Neighbourhood Programme for Agriculture and Rural Development (ENPARD) in Moldova. This programme comes in the form of budget support, which means that it will complement the national agricultural subsidies. The Moldovan government recently adopted a National Agriculture and Rural Development Strategy, and a complementary Action Plan is currently under inter-ministerial consultations.

There is a serious risk for ENPARD to continue the mistakes of the national subsidies. Moldova spends around €27 million from its budget in agricultural subsidies. The criteria for distributing this money as well as the policy objectives have been both overly ambitious and unclear. National subsidies have tried to cover everything: investment in post-harvest infrastructure, processing, greenhouses, equipment, land plots consolidation, irrigation, credit, insurance, but the impact was minimal. The paying scheme was also incongruous: the farmer was supposed to invest but only find out at the end of the year whether money was actually available. This usually led to a low compensation rate (sometimes only 20% of the investment), making the scheme both unpredictable and non-transparent.

Clearer and more straight-forward criteria are needed for the disbursement of the ENPARD budget support. Given the circumstances, this could help Moldovan farmers gain better access to the EU market.

Moreover, issues such as developing agribusinesses through farmers' associations and cooperation, quality certification, marketing and investments in renewing crops with new types of plant varieties, are transversal problems which should be addressed by the new influx of funds aimed at developing Moldovan agriculture.

Besides the ENPARD funds, support for the implementation of the National Agriculture and Rural Development Strategy 2014-2020 comes from various other sources: European Investment Bank, the World Bank, the International Fund for Agricultural Development, USAID, Poland, and the Food and Agriculture Organization of the United Nations. Each donor has specific objectives and modus operandi, but synergy among these actors is needed. Creating a donor coordination platform for rural development and agriculture would be highly recommended in order to ease the exchange of information regarding assistance, grants or training programmes.

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