

MOLDOVAN GOVERNANCE AND ACCOUNTABILITY

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I wish to thank the Helsinki Commission, in particular Chairman Hastings and Co-Chairman Wicker, for this opportunity to address important developments and ongoing issues in the Republic of Moldova. Events over the past year in Moldova have once again raised hopes that this country was finally shaking off the persistent ills of its post-Soviet history and embarking on a clear path of reform and movement toward fuller rule of law and economic prosperity. Unfortunately, similar to what happened a decade ago, hopeful movement toward real reform has strayed into a familiar pattern of cronyism, political reprisals, and geopolitical posturing. There is a growing, real fear that Moldova has lost its opportunity and movement toward constructive change, and lapsed back into a familiar pattern of continued corruption, impoverishment, and depopulation.

Moldova is not a large, powerful, or obviously influential country, but it is important for Europe and the United States in a number of ways. The weakness of Moldova's institutions and the country's enduring poverty hamper the capacity of the broader international community to address regional security issues, such as smuggling, trafficking, migration, organized crime, and public health. Institutional weakness, social discord, and poverty on the right bank of the Nistru River contribute to the continuing failure to resolve the Transdniestrian conflict. As a result, the continuing existence of the unrecognized separatist entity on the left bank benefits corrupt elites, not only in the separatist entity, but throughout Moldova, other countries in the region, and around the globe.

Moldova is right on the border with both NATO and the European Union. Moldova has had a robust program of cooperation with NATO and since the signature of its Association Agreement has been increasingly integrated economically, socially, and politically with the EU. Chisinau's failure to develop strong institutions of governance, reliable rule of law, and a stable economic and business environment has made the country a weak spot through which these ills may affect broader reaches in Southeast Europe and beyond.

In this testimony I will address three basic issues which I believe are key to understanding why Moldova has failed to develop and flourish, and what the U.S. and our Allies might do about this:

- The continuing problem of endemic corruption, including the failure to develop institutions which guarantee rule of law and a stable investment and business climate;
- The real security issues presented by the Russian presence and continuing failure to reach and implement a political solution to the Transdniestrian conflict; and

- The loss of EU and U.S. credibility and standing over the past decade from their association with and support for the series of ostensibly “pro-European” governments after 2009.

Corruption and Rule of Law

Corruption and the absence of rule of law have been problems common to almost all of the post-Soviet states, and in this Moldova has been no exception. Corrupt government officials and organized crime were rampant in Moldova in the 1990s after the Soviet collapse. The Communist government which came to power in 2001 successfully eliminated a great deal of the most evident organized crime in the country, but arguably did this by transferring a great deal of that illicit activity to party and government cronies.

Many institutions of government have never worked really well in post-Soviet Moldova, and the courts and police are a prime example. Law enforcement and justice personnel almost always cooperated with and supported political authorities in corrupt rather than professional fashion. Property, investments, service, and jobs were generally guaranteed by political affiliation or personal connections rather than the legal system. When I lived and worked in Moldova, I was often quoted the fee for getting a job as a policeman, or a promotion. Things may have changed somewhat for the better by now, but much remains to be done.

Meanwhile, beginning about the turn of the century, a vicious socio-economic cycle developed which persists to this day. Moldovans of working age left the country in great numbers for work in Russia, Turkey, and western Europe. They sent back remittances in large amounts, which supported their parents and children, local retail businesses, and the Moldovan government. Today remittances are well over \$1 billion annually (with a GDP of perhaps \$12 billion), while as many as an estimated 1 million people have left the country temporarily or permanently. The cycle of people out and money back in has an especially pernicious effect: it is a system of rents which supports local elites while lessening the need for investment or reform.

The victory in the July 2009 elections of a four-party pro-European coalition raised great hopes that Moldova would embark on a program of real reform, after eight years of vacillation and false starts under the initially pro-Moscow government of the Party of Communists and President Vladimir Voronin. However, the pro-Western coalition rapidly devolved into a competition between Vlad Filat, Prime Minister and leader of the Liberal Democratic Party (PLDM) and the shadowy businessman Vladimir Plahotniuc, who rose to prominence by financing and then taking over the Democratic Party (PDM). Their feud broke into the open with a scandal ensuing from the cover-up of an accidental killing of a guide during an illegal, drunken holiday hunting party in a state nature preserve in late 2012.

The subsequent struggle within the governing coalition resulted in both Filat and Plahotniuc withdrawing from their government positions (Prime Minister and Deputy Speaker, respectively), but they remained in charge of their political parties. Meanwhile, somewhat obscured by this high-profile political battle, members of the governing coalition collaborated with private cronies in a growing number of corrupt deals which penetrated widely into Moldova’s economic life. A dubious award of a contract to manage the Chisinau Airport

enabled a lucrative duty-free operation headed by one of the country's wealthiest "oligarchs." From 2012-2014 there were increasing signs of political interference in the courts, regulatory agencies, and banks. Subsequent investigations show these were almost certainly part of the so-called "Russian laundromat," in which at least an estimated \$20 billion, and perhaps much more, largely from Russia, was laundered through an international banking network, including Moldova, ending up in western tax havens.

Then, in November 2014, came the so-called "theft of the century," in which approximately \$1 billion – about ten percent of the country's GDP – disappeared through fraudulent loans made by three major Moldovan banks. As the theft was discovered on the eve of national elections, the bank records mysteriously burned in a traffic accident before they could be examined. The population became indignant when the three banks were bailed out by the government. Former Prime Minister Filat and oligarch and leader of his own political party Ilan Shor were later convicted in cases related to the theft. (Neither is currently in jail.) However, an international investigation by the U.S. firm Kroll indicates that a much greater number of Moldova's political elite was involved in the scheme.

Plahotniuc and the PDM gradually took control of the Moldovan government during and after the 2014 election. Dubious maneuvers during the campaign eliminated key rivals to the PDM. Although the Socialist Party initially held the largest number of seats, through pressure, party mergers, and financially induced party switching, the PDM more than doubled the size of its parliamentary faction. In January 2016 a PDM-dominated government was sworn in during the dead of night, while pro-West and pro-Russia protestors surrounded the parliament building.

Plahotniuc continued to consolidate his dominance over Moldova's political and judicial system. PDM and Plahotniuc loyalists dominated the courts, procuracy and anti-corruption agency, and police. In 2017 Plahotniuc and his PDM colleagues joined with the PSRM to support an electoral "reform," changing election of half the deputies to single mandate districts, which it was widely believed would be easier to manipulate or purchase. In 2016 the Constitutional Court issued a dubious ruling, nullifying the 2000 amendment providing for election of the president by a 60 percent vote in parliament, and returning to election by popular vote. (The ploy backfired, as Socialist leader Dodon won the November 2016 presidential election, and the campaign proved the first step in building a new, more genuinely pro-Europe opposition.) In 2018, a pro-PDM judge annulled the victory of pro-Europe and PDM opponent Andrei Nastase in the Chisinau mayoral election on the thinnest of pretexts.

By 2019 Moldova was increasingly referred to by both international and local observers as a "captured state," dominated by Plahotniuc and a few wealthy allies and cronies. However, notwithstanding his increasing use of corruption and coercion, Plahotniuc was never able fully to disable Moldova's tradition of relatively free and competitive elections. Despite the 2017 "reform," the February 2019 parliamentary elections produced a hung parliament, with the PDM, the Socialists, and the pro-West coalition ACUM (NOW in Romanian; composed of the Party of Action and Solidarity and the Platform of Dignity and Truth, led respectively by Maia Sandu and Andrei Nastase). ACUM ran on an anti-corruption, anti-oligarch platform, which clearly resonated with large parts of the voting public.

After three months of inconclusive negotiations, as the deadline for forming a government or calling new elections approached, ACUM and the Socialists unexpectedly were able to form a coalition. Plahotniuc at first attempted to resist, seizing and ringing the government building with private security forces. After a week's standoff, combined pressure from Russia, the EU, and the U.S. convinced the PDM to give in, and recognize the left-right coalition. Plahotniuc and several key associates fled the country.

The ACUM-PSRM coalition was able to accomplish a few things, most notably a return to the previous proportional electoral system and repair of the country's relations with the EU, IMF, and other international partners. A number of steps were also begun to investigate previous corruption and promote transparency and legality. Unfortunately, this process broke down in November 2019, in my view largely over personnel disputes involving the Procurator General, courts, and other investigative and judicial offices. The main problem appears to be that too many current political leaders allegedly remain vulnerable to genuine anti-corruption investigations, and still more political leaders fear such investigations may be used and abused by their political rivals.

In November PDM deputies joined the PSRM faction in parliament in a vote of no confidence in Maia Sandu's government. President Dodon appointed his former economic advisor Ion Chicu to be Prime Minister and to form a "technocratic" government. PDM deputies voted for the new government, but did not formally join the Socialists to form a ruling coalition in parliament. The members of the government were generally PSRM members, or current or former advisors or associates to Dodon. While the new government has professed to be non-aligned, its actions in its first weeks in office seemed to lean toward Moscow (which, for example, promised a \$500 million loan for infrastructure) and were less aligned with IMF and EU priorities and conditionalities. During the past week, tentative negotiations have begun between the PDM and PSRM on formation on a new ruling coalition in parliament. This would allow Dodon and the Socialists to avoid the need for early parliamentary elections, and for Dodon to focus on his own reelection this November.

The appointment and background of the country's new Procurator General, Alexandru Stoianoglo, in my view epitomize the problems facing Moldova under its new government. He has a professional record as a Deputy Procurator in Chisinau under Voronin and as Procurator in his native autonomous region of Gagauzia. He was a member of Plahotniuc's PDM, with a leadership post in parliament, although he quit the party in 2014. His prosecutorial decisions since he was appointed in late November so far resist definitive categorization. Some of the charges filed raise disturbing questions, but other actions seem encouraging. For example, in January he apologized to the "hundreds of citizens who were illegally prosecuted" under the previous regime. In general, expectations are low and suspicions are high, but some hope for progress nevertheless may remain.

Russia and the Transdnestrian Conundrum

Many misconceptions have grown up about Moldova's longstanding conflict with its breakaway Transdnestrian region. First of all, this conflict is not frozen. Although the dividing line between the two has not changed since 1992, and there has been no real violence since 1993,

relations between Chisinau and Tiraspol and the dynamics of the conflict have been constantly changing. Second, if there is a real military threat to the country, it is probably not from the presence of a small number of Russian troops that remain in the Transdniestrian region against the express desire of the recognized government of the country. The greater danger probably comes from the far more substantial military forces belonging to Chisinau and Tiraspol, although there is little evidence that either party desires to provoke a fight. Third, the greatest security threat more likely stems from Tiraspol's unrecognized status, thus ungoverned and uncontrolled by important international norms and regimes. This unrecognized and ungoverned space offers an opportunity to other international actors wishing to evade or violate international sanctions and norms.

This should not be taken as an assertion that the current Russian military presence and activity in Moldova is either constructive or acceptable. Rather, it is an argument for a measured, more accurate assessment of Russia's actual actions and aims in Moldova, and the nature of the challenge or threat they pose. In my experience and observation, Moscow's aim in Moldova is not primarily support for the Transdniestrian separation, but rather to maximize its influence in all of Moldova and to ensure a friendly, cooperative government in Chisinau. Involvement as a mediator in the Transdniestrian political settlement process is only one of the means Moscow uses to pursue these ends.

Russia has around 1500 troops currently stationed in the Transdniestrian region of the Republic of Moldova. About half of these are part of the Joint Peacekeeping Force, established by the ceasefire agreement signed on July 21, 1992 by Russian President Yeltsin and Moldovan President Snegur. The other half of the Russian troops are the Operational Group of Russian Forces (OGRF), the miniscule remnant of the Soviet Fourteenth Army. The sole remaining military task of this force is to guard approximately 20,000 metric tons of Cold War era Soviet ammunition stored at the small base in Colbasna, on the border with Ukraine. As far back as the 1990s Russian military leaders acknowledged privately that there is no legal basis for the OGRF's presence in Moldova. Last August and September, both Russian Defense Minister Shoigu and Foreign Minister Lavrov indicated Russian willingness to remove or destroy the ammunition at Colbasna, but there has been little public movement or comment on the issue since then.

Since 2015 there has been considerable progress in the Moldova-Transdnistria political settlement process in solving concrete, practical points of dispute between Chisinau and Tiraspol. Longstanding sore points involving education, transport, travel, and official access have been resolved in an active mediation process led by a succession of OSCE Chairmanships. While discord between Moscow and most of its western partners has dominated most OSCE fora, Russia, Ukraine, the EU, the US, and OSCE representatives have worked with relative harmony and common purpose over the past five years to help resolve many practical differences between Chisinau and Tiraspol.

However, the political crisis of the past ten months in Chisinau may be having an effect on continued progress in the political settlement process. Expert groups from both sides continue to meet in the offices of the OSCE Mission to Moldova, and active exchanges continue on a number of outstanding practical issues. However, both Moldovan and Transdniestrian

negotiators have complained publicly in recent months about the alleged uncooperative and unconstructive approach of the other side. Furthermore, both Chisinau and Tiraspol have taken isolated actions to suspend or disrupt the workings of recently reached and implemented agreements. As of this date, it is my personal impression that nothing irrevocable has been done to abandon that which has recently been achieved or preclude further progress. However, it is also clear that the political settlement process is not immune and cannot be isolated from the increasing political turmoil, instability, and uncertainty on the right bank.

Russia also has great influence over Moldova due to its virtual monopoly on the delivery of energy, in the form of natural gas piped through Ukraine to Moldova and on to the Balkans. Moscow has used delivery and pricing as means of economic and political pressure on Chisinau, while subsidizing the Transdnestrian entity's economy by not charging Tiraspol for gas. Efforts have been made to find other energy sources for Moldova, notably via a pipeline from Romania from Iasi through Ungheni. Even if this pipeline is completed and expanded, questions remain about the adequacy of its capacity and, even more important, where the gas will come from. Nonetheless Moldova remains dependent on Russian gas through Ukraine. Given the conflict between Russia and Ukraine and the pending completion of Nordstream-2, Moldova faced the possibility of the loss of deliveries through Ukraine in 2020 or 2021. However, the delay caused by western sanctions and the following Russia-Ukraine gas deal have apparently given Chisinau a reprieve of uncertain duration.

Finally, I would emphasize that the separatist entity in Transdnestria and Russia's energy monopoly are not the only sources of Russian influence in Moldova. For such a small country, Moldova has a remarkably diverse population. In addition, Russia has had a long presence and deep influence in the territory of present-day Moldova, long preceding the Soviet period. While the number of those on the right bank who identify themselves as ethnic Russian is by now relatively small, a far greater number speak Russian as their first language. This includes groups such as the Orthodox Christian ethnic Turkic Gagauz in the south, many ethnic Ukrainians in the center and north, and even a substantial number of Russified Moldovans residing in certain rural areas.

This substantial Russophone population in Moldova, for cultural and linguistic reasons, remains highly susceptible to Russian influence. In addition, tens of thousands – perhaps even hundreds of thousands – of Moldovans work in Russia, sending money home and returning from time to time. These Moldovans do not necessarily support Russian policy. However, they have since the early 1990s consistently looked to leftist parties – first Voronin's Party of Communists, and now the Socialists – as a defense against what they perceive as possible threats to their employment and their children's schooling from Moldova's Romanian speaking majority. Historically, this has resulted in a fairly consistent 40 percent share of the electorate, first for the PCRM and now the PSRM.

This political-demographic equation may change eventually. But for the moment, Russian language news, films, music, and other media find a ready-made, receptive audience in Moldova. Moscow does not have to go out of its way to create an audience in the country. Given the lack of resources and generally poor quality of competing media, to date Moscow has also not had to work too hard to keep this audience.

Moscow reacted quickly and cooperatively to the new technocratic government in Moldova after the collapse of the ACUM-PSRM coalition. There were a flurry of meetings and visits, but to date more seems to have been promised than delivered. For example, Moscow quickly promised a large (\$300-500 million) loan for infrastructure, but movement on arranging and delivering the loan has been halting and uncertain. In several public statements President Dodon has emphasized his intention to steer a middle course of close relations with both the EU and the EaEU. So while the new government's attitude clearly seems far more pro-Moscow than the Sandu administration, one may still have to wait before reaching a more definitive verdict on the implications of this shift.

The Role of the EU and U.S.

With minor, short exceptions, Moldova's governments of all complexions since 2009 have emphasized their support for and adherence to Moldova's "European course." For their part, both the EU and the U.S. have welcomed and encouraged Moldova's stated desire for closer relations and integration into European institutions. However, despite considerable political and material support from both, Moldova's adoption of European and more generally western institutions and norms has been spotty and incomplete, with much more promised than delivered and considerable backsliding, especially under Plahotniuc.

I recognize that some of my colleagues who remain in government in Washington and Brussels might dispute the following narrative. However, in my view both the United States and the European Union early on justifiably adopted policies of vigorous support for the post-2009 pro-European coalitions, but then continued this support for a considerable time after almost all of the reform and much of the pro-Europe had disappeared from these governments. As a result, U.S. and EU representatives lost considerable credibility with important portions of Moldovan civil society, in particular for their continued support for and cooperation with the post-2014 governments dominated by Plahotniuc.

The U.S. provided all sorts of assistance to Moldova, but the most visible and largest effort was probably the Millennium Challenge Corporation program which was launched in 2010 and started to deliver visible results a couple of years later. The EU concentrated its assistance to Moldova in the Eastern Partnership, launched in 2009, which led to an Association Agreement and visa-free travel to Europe by 2014.

It took the EU and the U.S. a long time after the 2014 "theft of the century" and 2016 installation of the Filip government to publicly qualify, if not reverse their support for Moldova's "pro-European" government. Chisinau's adoption of the electoral reform in 2017 over western objections and nullification of the results of the 2018 Chisinau mayoral election led to EU to suspend economic assistance, offer more public criticism, and apply explicit, stricter conditionality.

The U.S. was, in my view, slower and less explicit in citing and criticizing the Plahotniuc regime's departure from democratic norms and practices. Washington's image was further tarnished in some parts of Moldovan civil society by Plahotniuc's frequent hiring of U.S. public

relations and lobbying firms to produce favorable press coverage and meetings with American officials which were widely reported by Plahotniuc's Moldovan media outlets as signals of American approval and support. In the absence of critical commentary or clarification from U.S. agencies, the impression in Moldova that America was on Plahotniuc's side went on much longer than it needed to or should have.

With the crisis of June 2019 and installation of the Sandu administration, the EU and the U.S. have made up some lost ground with a disillusioned Moldovan public. Support for the ACUM-led government was strong and unequivocal. Unfortunately, the coalition's early demise did not allow for anywhere near the degree of change that was needed.

Recommendations

While many might justifiably lament the early end to the ardently reformist Sandu administration, the U.S. should not be too quick to write off the current government. Washington should continue to push the reforms in the justice system, rule of law, and anti-corruption which the PSRM accepted at least implicitly by joining in the coalition with ACUM.

The U.S. should also continue to make available considerable long and short-term economic assistance. However, we should examine ways in which this assistance might be offered with more explicit and more rigorous conditionality.

If Plahotniuc is really in the U.S., as recent press stories allege, the U.S. government should waste no time in seeking his removal. His presence after the January 2020 State Department determination of his ineligibility (along with close family members) for a U.S. visa otherwise calls into question Washington's credibility and intentions.

The U.S. should continue to cooperate with Russia in the Transdnestrian political settlement process as long as and wherever Moscow continues to play a relatively constructive role. For example, U.S. funds available through the OSCE should be offered quickly to support the removal and destruction of Russian ammunition, should that become a real prospect.

The U.S. could do much more in the realm of culture and media, both by increasing support for teaching Romanian to minorities, improving Romanian language media, and offering Russian language alternatives to present Russian media available in Moldova.

We should not fear that well-founded criticism or withholding assistance if conditions are not met will drive Moldova into Russia's arms. Public opinion polls in Moldova over a long period of time have consistently shown at least fifty percent of the people support a close relationship with the West. Any Moldovan government which ignores that reality will not last long.

To the extent that we can, we should avoid framing the choice as a geopolitical one between Moscow on the one hand, or Brussels and Washington on the other. Instead we should maintain that by making reforms and respecting norms, Moldova has the opportunity to choose rule of law, stability, and prosperity. We should attempt to be inclusive, inviting all who support those aims to work with us in their pursuit.