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before

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Mr. Chairman,

Thank you for the possibility to share my views about the democracy in Moldova, as well as for the concern that the Commission shows for my country. I hope this extremely encouraging attitude continues and the Commission will organize a hearing on Moldovan matters ahead of 2009 elections. I would also like to thank the Moldova Foundation based in Washington for assisting me in attending this session.

I do not intend to speak about the comparative successes of the current Government versus existing problems, as the Government has the opportunity to promote its point of view extensively through the existing network of official visits and meetings. The civil society has fewer possibilities. Therefore I will go to the point and focus mainly on those concrete shortcomings that present a serious concern for democracy in Moldova.

Three matters to be taken into account

The 2008 is an eventful year for the Republic of Moldova. First of all the country is approaching general and Presidential elections at the beginning of 2009. The Communist party in government continues to make promises of European integration and, at the same time, of resolution of the Transnistrian conflict along better relations with Russia. These electoral statements remained valid throughout the year, including after the war in Georgia.

The 2008 is also the year when the Action Plan signed between the European Union and the Republic of Moldova expired. Government's commitment on democratic reforms is lagging behind Plan's schedule. Moldova is encouraged by EU, in light of Russia's pressure along recent years. It is also warned by EU to stay on course of democracy. The Governing party is cautioned not to use State resources against political opponents in 2009 elections.

As mentioned above, the 2008 is also a year of changes with impact on Transnistrian conflict resolution and Russia's role in it, particularly after the war in Georgia.

The state of democracy, EU and the 2009 elections

The state of democracy in Moldova was admirable by regional standards at the beginning of its independence and the country was the first from the countries of the newly created CIS to be admitted into the Council of Europe. The local assessment of the situation, the indicators of such international non-governmental organizations as Freedom House, Amnesty International and Transparency, do not place now Moldova in a

position of leader. The Council of Europe announced this year that it does not intend to renounce to its monitoring of Moldova, since the country did not meet the democratic criteria that would allow for such an image-making decision.

The state of democracy is closely linked now with country's European aspirations. Moldova signed in February 2005 a three-year Action Plan with the European Union. This plan also foresees the step-by-step implementation of those democratic reforms that Moldova needs in order to come closer to the European Union. By European rules, Moldova should abide by Copenhagen Criteria that stipulate that any EU aspiring country should ensure in good faith the stability of democratic institutions, rule of law, human rights and respect for minorities, as well as a free and functioning market, and the capacity to face the obligations of an EU member-state. This joint European-Moldovan Action Plan left some questions marks still unanswered.

The EU decided to encourage Moldova in 2008, due to the fact that it was already facing a difficult relationship with Russia on the Transnistrian conflict resolution, as well as due to the fact that this country, already on EU and NATO border, still made some steps towards mostly legal reforms. Thus, at the beginning of 2008 the Europeans took the decision to formally extend the Action Plan for a brief period of time, while in May 2008 they started a reflection process on a new Agreement with Moldova.

Even though there are concerns in relation to Russia's intentions, the EU remains concerned about the pace of reforms in Moldova. In its country report of April 3rd, as well as during its May 2008 decision on reflection, it stated that the Action Plan implementation needs progress in five crucial spheres – these are exactly from those five areas that form the Copenhagen Criteria of a candidate country. Moldova was suggested that it has arrears in such fields as the independence of justice, fight against corruption, freedom of the media, investment climate and business environment. One more warning came from the European Union along the May 2008 decision to support Moldova with the reflection process – the Moldovan government was asked to ensure free and fair elections in 2009. Such a warning came as it is widely believed that there is a high temptation of the governing communists to use State resources and their control over the public media to either clamp down on competition or fraud the elections in less visible ways.

Of all these issues, one is of primary attention, as it forms the base for a sustainable democracy and respect for human rights – the independence of justice. The Government again declared the reform of the judiciary as its priority in 2008. However, most of the so-called achievements meant resending by the Ministry of Justice a Council of Europe opinion to the Prosecutor's Office, creating a commission to draft a Concept paper, and other similar moves.

The Moldovan non-governmental organization "Lawyers for Human Rights" rightly assesses that the most relevant indicator of the state of judiciary and its independence in Moldova is the number of cases that is directed to the European Court of Human Rights. And among the states-members of the Council of Europe, Moldova holds the first place with the highest number of cases per capita – 15 cases per 1,000,000 citizens. Various analyses, both governmental and non-governmental, show that of all the cases where Moldova was accused, about half are related to the faulty judiciary decisions. Despite officially expressed concerns by Prime-Minister and Minister of Justice, this reality is a result of the unofficial policies of the current governing party implemented since their accession to power in 2001. Thus, the independence of courts was affected by a 2002

mass-cleaning of judges by the Moldovan President, who is also the Chairman of the Communist Party. He refused to extend the nomination period of the judges, at that time without any (written) explanation. At the same time, there were cases of nominations of some other judges based on loyalty to the ruling party, as Freedom House reported in 2003. Now the civil society assesses that such a cleaning that started in 2002 led to an increased interference of the executive power in judiciary. The US State Department Report on Human Rights Practices in Moldova, from March 2008, confirms that in judiciary “official pressure and corruption remained a problem”¹. The problem with the procedure of selection of judges is another point where Moldovan NGOs agree with the findings of the US State Department report. Thus, the initial phase of nomination is not uncommon – the judges are appointed, upon suggestions of the Supreme Council of Magistrates, by the President of the country. However, one NGO stresses that, under an informal practice, such an appointment is done after a hearing by the Governing Communist Party Faction of the Parliament, and not by the Parliament’s Legal Commission. The Prosecutor’s office is also considered to be affected by the same weaknesses and pressures as the courts.

When we speak about the reforms in Moldova, the local and EU experts conclude that the adoption of documents, regulations and legislation is not followed by their implementation, a problem that is reported in all areas, not only in judiciary.

Thus, we will come to another important element of a democratic society – a free media. Moldova dropped down several places on the ladder made in the Freedom House report that includes media freedom. Although media legislation legally embraces European norms, the implementation of those provisions is done in such a manner as to ensure governing party control over the only national TV “Moldova One”. Despite promises of reforms that the Moldovan President made in May, after EU meeting, the real actions still do not meet the promises. Opposition parties have no access to the national TV, which is now by law a public station. The broadcasting code was previously edited to allow the governing party to preserve control over the Broadcasting Coordination Council – this body then distributed broadcasting frequencies to the politically loyal stations, and operated arbitrary licenses annulments. There were cases of inappropriate treatment of forum commentators, journalists or unwanted media by law enforcement (such as juvenile Unimedia forum commentators, Romanian TV prohibition in context of relations with Russia, denial of access to journalists), also raising concerns regarding to the freedom of expression. Even non-important anti-governmental demonstrations, sometimes by singular people, were sometimes violently stopped by police, despite the existing legislation. Media outlets are not closed in Moldova – their criticism of the governing party is often quoted by the Moldovan President as a proof of the media freedom. However, the impression is that these media are afloat only to be such examples of pluralism, while in reality they are permanently pressured and, as mentioned above, limited in distribution and broadcast, as to minimize the competition to the government-controlled media.

Moldova is the poorest country in Europe and that makes the investment climate, as well as business environment important elements that the State should ensure. Moldova’s economy is growing each year, particularly when looking at the former-USSR. However when compared with its European neighbors, it seriously lags behind. Due to that, allegedly one third of the Moldovans have already left to find jobs in EU and Russia. They supply in remittances already near 50 per cent of country’s GDP and hence provide the opportunities to

¹ <http://www.state.gov/g/drl/rls/hrrpt/2007/100573.htm>

grow. However, people leaving the country is not a sign of a growing economy and the money transfers can not mean proper economic development, as these are not reinvested in businesses. The so-called tax amnesty operated last year by the Government does not seem to be the best solution to manage the fiscal burden. The unconfirmed rumors of Presidential family involvement in taking over many lucrative businesses do not help the situation. Pressure over foreign investors (best known examples are Lafarge from France and Union Fenosa from Spain) seem to produce a negative effect, regardless of declared intentions. Thus, the reduction of taxes, operated by the Government in an attempt to increase interest in investing in Moldova was considered by international monetary organizations insufficient as to favor Foreign Direct Investment (FDI). The FDI is proven by those organizations to grow in countries with predictable business climate and a stable judiciary –last one being a crucial problem reported above and both being exactly on the EU list of Moldovan arrears.

And now we can focus on the internal political climate, where there are interconnected elements that need our attention – the governing party made an internal analysis that prompted them to change the electoral legislation, as speculated, to ensure a greater electoral success in 2009. The communists changed the electoral threshold from four to six per cent. They further prohibited pre-electoral political alliances, which are often voted by Moldovan people, and finally passed a legislation that provides State funds only to those parties that will enter the parliament or local, regional governments. If seen separately, these steps may raise minor questions, since many of those principles are separately present on the European political scene. However, only one year ahead of the elections and taken in conjunction to one another they create a cumulative effect that is anti-democratic. It affects the right of a large part of the populace to unite, chose and ensure that they are properly represented in the political life.

Moreover, the Government used the State budget to distribute funds mainly to Communist led local governments. The Moldovan President himself publicly declared that those who did not vote for the Communist party in local 2007 elections will have to pay the price when they receive no State funds, a promise that is now implemented. Using State resources to punish voters, in fact the citizens of own country, is a deeply undemocratic act, in our opinion. In case of local governments, he further opted for the dismissal of the freely and democratically elected Liberal Party Mayor of the Moldovan capital, a very important electoral district in Moldova, and speaking, in spring of 2008, the President particularly hinted that such a dismissal will be organized in autumn. That was exactly after he went to Brussels, and promised the EU free and fair elections in Moldova.

These goals remain valid even after Georgia events and raise further concerns about democracy in Moldova. Recently, the members of the Central Electoral Commission stated that the electoral legislation was already modified, that it can not be any longer changed as Moldovan laws prohibit such modifications six month ahead of the elections, and particularly mentioned that the recent changes also incorporated the initiative that allows for organizing a referendum to dismiss Chisinau's Mayor. Such a particular attention to that topic, unfortunately, continues to add to the concerns regarding the undemocratic political environment ahead of elections.

One should mention that harassment of the political parties was in place in Moldova during 2008. Thus, signatories for another, newly created party that starts to have impact on Moldovan political life, were a subject to excessive questioning by law enforcement bodies. People were called by law enforcement agencies and

questioned for hours as to why they want to become a member of that party, who are their relatives, were asked to sign standing, seating, with right hand, with left hand and so on.

In case of another Parliamentary party that declared during its June congress that the EU integration was transformed into a unsupported political game, the governing communists accused that party of being devoted to Russia's goals, although, as we know, the Communists themselves are in negotiations with Russia.

The assertive Russia, Transnistrian resolution problem, and future of democracy in Moldova

European integration was declared a strategic irreversible goal for the country. Moldovan ruling party also insisted to bring forth the resolution of the Transnistrian problem and relations with Russia as other two top priorities of the country since 2006. After almost unanimously adopting, on July 22, 2005, a Law on the principles of the Transnistrian conflict resolution by Moldovan Parliament, the governing party unexpectedly launched direct, bilateral negotiations with Russia, which provoked an increasing amount of concerns. These concerns came out of the previous experience of 2003, when the Kremlin pressed for an unacceptable settlement through a Memorandum, drafted by the Russian Presidential envoy Dimitri Kozak. The unfortunate Kozak precedent made the civil society and political parties suspicious of the new negotiations. After pressures from national and particularly international actors, the governing party admitted that something that it initially called "consultations" is taking place and suggested that it prepared a Package deal that would be based on the July 2005 law, along with other document that are in line with that Law. It also stated that the deal was drafted in such a way as to already include Russia's interests and, thus, makes it interesting for Moscow, while respecting the Moldovan law. This, in itself is a contradiction, as many think – Russia is a country that behaves in a realpolitik manner, projects power, and believes in a controlled "chaos" of separatist regions that it masters. Russia is a country that strongly believes in trade-offs on international arena. This is a reality on the ground that contradicted assessments that we are not in the 19th century. Indeed, we are not – however, Russia is.

Moldova can not negotiate on equal terms in a bilateral negotiation with a country such as Russia, because it can not offer, in Kremlin trade-off terms, something that Moscow already has – the leverage over Moldova through the Transnistrian conflict resolution, its military presence and the so-called mediator's role. It seems that the Moldovan officials in charge of the matter, who are the same people who negotiated a bad deal with Kozak in 2003, did not presume that such negotiations meant offering something to Russia that Moldova did not have. Affirming that Moldova will not yield to Kremlin's pressure was unrealistic.

It transpired that Russia was not clearly responding to Moldovan proposal, generating pressure and subsequent concessions in economic sphere. The unilateral dependency on Russian gas was already a concern for the Government, due to a previous decision to provide Russian Gazprom the control package of shares of the Moldovan State monopoly MoldovaGaz in exchange for eradicating the debts. However, when faced with the lack of Russian response the Government recently followed up with a contradictory move that strengthens Moldova's dependency – the State decided to cede the local distribution network to Gazprom as well. Russian companies that bought assets in the Transnistrian region without governmental approval were ensured that their new property rights will be recognized. Exports were encouraged to Russia lately, while there was not the same level of official, visible encouragement to the exports to the EU, at least to diversify the markets and ensure economic security goals.

These unilateral concessions, made in a hope to sweeten Russia, did not yield results. On contrary, it was rumored that Russia was warning Moldovan officials to be more flexible, and that the reasons for such a warning will be seen during 2008. It was before August war in Georgia. By no coincidence Moldovan President Voronin was called to meet the Russian President on the day when Dmitri Medvedev announced the decision to recognize South Ossetia and Abkhazia. The next troubling step was an announcement made by the Russian Minister of Foreign Affairs that the sides in Moldovan conflict will return to the 2003 Kozak Memorandum. This is the very Memorandum that was rejected by Moldova as unacceptable and which comes against the Moldovan Law on July 2005, which can not be violated by the Moldovan negotiators.

A number of Moldovan experts believe that further Russian pressure to either implement such a Memorandum or simply promote its interests in Moldova, will follow with certainty during 2008, with possible negative repercussions over populace. Certain political parties might be supported by Moscow, Transnistrian leadership will be used to put more pressure over Chisinau and make more concessions, the separatism of the Autonomous Region of Gagauzia will be reignited, eventually some do not exclude gas cuts in the winter, all leading to if not to a social then to a political crisis.

The Russian pressure is detrimental to the democratic future of Moldova. Kremlin is insistently promoting the concept of a future Moldova with a Transnistrian veto over most important foreign policy decisions, such as EU membership – hence a veto over democratic reforms. The Transnistria is a dictatorship, and it is against such concepts as “sovereign democracy” and the “vertical of power”, that allows for an unlimited and uncontrolled leadership that declare each of its decision as “democratic”.

The dilemma and next steps

Indeed the Russian pressure is a real and important factor in Moldova. Indeed we can expect negative developments, possibly even before December 2008. However, the geopolitical determinism is not the way to ensure that Moldova should receive unconditional support, without seriously implementing democratic reforms.

The Moldovan communists have been responsible for the current situation of Moldova, which is indeed deteriorating since they have been, by the way, democratically elected to power. It does seem that they are now trying to avoid yielding to the Russian pressure. They would like the Moldovan civil society and political parties to help them out through statements that reject the Russian proposals, so that the President can save his face. The problem is that it is believed that the Communists will use this blame-game not only to avoid complications with Russia before elections. As in 2003, they will presumably blame the civil society, which they already criticize now for not being sufficiently patriotic (meaning that the civil society does not unconditionally supporting the communists), and in the same manner blame other political parties for setting barriers between Moldovan-Russian good relations or, if Russian sanctions follow, to place responsibility for that on those civil or on those political entities that are running against them in elections.

The dilemma of the civil society and particularly of the political parties unaffiliated with the Government is how they can help a Communist party in government that is prosecuting them and does not genuinely implement democratic reforms that would allow for a free political competition. We believe that support for Moldova should be, from now on, conditional on reforms.