

Moldova in the EU's Eastern Partnership

Lessons of a Decade



Dr. Dr. Martin Sieg
Associate Fellow DGAP,
Director of the offices of the
Konrad-Adenauer-Stiftung in
Romania and the Republic of
Moldova

In Moldova, the weakness of the Eastern Partnership has been over-reliance on incentives, rather than a lack thereof. Veto players who hid their true interests by claiming allegiance to the European cause hijacked the EU's soft power. The EaP's shortcoming was lack of means and readiness to make these key opponents of political reforms keep their commitments. Its core challenge is how to overcome the resistance of these veto players who have been obstructing transformational goals.

- The EU should prioritize and insist on its transformational goals over geopolitical concerns in its dealings with Moldova's leaders, in particular with regard to the rule of law and the survival conditions for genuine democratic forces.
- The EU should employ sanctions earlier, more flexibly, and more toughly – including by withholding financial aid, gradual suspension of the Association Agreement, and personal sanctions – in response to major corruption or democracy and the rule of law violations.
- The EU and its member states should build up their intelligence and prosecution capabilities in order to understand corrupt interests, networks, and influences in Moldova's politics and to prosecute corrupt schemes where there is jurisdiction in the EU.
- The EU should extend its conditionality and involvement wherever reforms can be blocked, from legislation to implementation, including appointments in institutions. EU missions could monitor and implement reforms, in particular in the justice sector.

EXECUTIVE SUMMARY

Once considered the success story of the Eastern Partnership (EaP), Moldova has become an example of the problems encountered by the EU's initiative. The EaP has suffered fundamental backlashes in the country in terms of oligarchic state capture and its legacy, including a strengthening of pro-Russian forces.

In contrast to the successful transformations that accompanied EU enlargement in Central and Eastern Europe, the EaP has been marked by the lack of a membership perspective and far stronger opposition from Russia to European integration in the post-soviet space. However, both factors fall short in explaining its lack of success in Moldova.

The analogy with earlier enlargements and their conditions for reforms and integration does not seem to be applicable to realities in Moldova. The key challenge has been that oligarchic structures and corrupt interests created powerful veto players whose interests were fundamentally opposed to reforms toward strengthening democracy, rule of law, and a market economy.

The EU faced such players not only or predominantly in the pro-Russian camp. They also held power under "pro-European" governments, culminating in the regime of Vlad Plahotniuc from 2016 to 2019, which saw the worst abuses of power with regard to democracy and the rule of law. Further deterioration could only be stopped when an unlikely alliance between the genuine pro-European opposition and pro-Russian forces under President Igor Dodon brought down Plahotniuc's regime.

In the short run, geopolitical interests within the EU contradicted its transformational goals, whereas in the long run both can only succeed together. Corrupt actors in the "pro-European" camp exploited the threat of a takeover by pro-Russian forces to distract from a lack of reforms and to refocus the attention of the pro-Western electorate and of EU actors, playing off their geopolitical concerns against their transformational goals. Russian influence strengthened the veto power of corrupt interests. Yet, concerns about pro-Russian forces coming to power brought this about rather than prevented it.

Actors such as Plahotniuc claimed to be pro-European to mitigate their lack of democratic legitimacy by presenting themselves as guardians of a European orientation. At the same time, they weakened genuine pro-European forces and strengthened the pro-Rus-

sian camp. By associating themselves with it, they also discredited the EU in large parts of the population. The strengthening of pro-Russian forces was the consequence of the European cause becoming associated with corruption and abuse of power. Only the survival of a pro-European opposition prevented this turn from becoming irreversible.

The lesson from the experience the EaP in Moldova is not that it lacked incentives such as EU membership. The incentives were, in fact, so strong that governments and corrupt actors alike sought legitimacy by claiming or pretending to be pro-European. In fact, the EaP was over-reliant on incentives. These may have even worked against change as leaders used the promise of integration to compensate for not delivering reforms. In this way, the EU's soft power underlying the EaP's incentives was hijacked by status quo interests – helping them to extend and maintain their power – and to be turned against the EaP's transformational goals.

In this respect, lack of hard power has been the shortcoming of the EaP. The key challenge has been how to overcome the veto power of corrupt interests and to ensure compliance. This will require of the EU greater willingness and means to respond to violations of commitments undertaken in the Association Agreement.

So far, the conditions for the success of the EaP have deteriorated. To improve its chances, the EU should prioritize its transformational goals over concerns regarding geopolitics or stability. Political actors ought to be assessed by their respective business models instead of geopolitical claims. EU conditionality needs to become tougher and focus on the conditions for the survival and ability to compete of genuine democratic forces. The EU should be ready to reduce and eventually suspend the existing framework of relations under the Association Agreement in case of noncompliance. And it should be equally ready to employ sanctions against corrupt interests and to get more directly involved in implementing reforms.

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INTRODUCTION

Once considered its success story, the Republic of Moldova may have become a typical example of the problems encountered by the Eastern Partnership (EaP) of the EU. Launched in 2009 as an upgrade of the European Neighborhood Policy (ENP), its core concept was to offer economic integration as incentive for reforms toward more democracy and rule of law in post-soviet Eastern Europe. A key aim has been “to promote a ring of well-governed states” around the EU as part of its security strategy.¹ Like the ENP, the EaP was from the onset shaped by two compromises: between the geopolitical and transformational interests of the EU, and between mostly Western European EU members wary of further enlargement and conflicts with Russia and mostly Central and Eastern ones interested in further integration eastward.

As a consequence, the EaP lacks an explicit EU membership perspective. Although more limited in its offers and different in procedure than earlier enlargements, the EaP's logic and design was taken from these. The core design consisted of a deep and comprehensive free-trade area (DCFTA) – far-reaching economic integration – as the strategic offer and visa liberalization as a medium-term deliverable. In return countries were to commit themselves to far-reaching reforms in the political parts of Association Agreements with the EU. As with earlier enlargements, the underlying presumption was that the EU and local political elites had common agenda over moving toward a market economy and liberal democracy based on the rule of law and independent institutions.

Today, more or nearly the same amount of time has passed since the launch of the ENP and the EaP than it took for the process leading to the enlargements of 2004 and 2007. That Association Agreements could only be concluded with Georgia, Moldova, and Ukraine is due to geopolitical impediments or the lack of a minimum of democratic preconditions in the other EaP countries. However, even in these three cases there has not been reform to any extent similar to that in any enlargement country. One argument for why is Russia's opposition, which was of marginal relevance in enlargement countries. A second argument is the lack of a membership perspec-

tive, taking the EaP's shortcoming to be a failure to provide sufficient incentive.

Moldova's case suggests another explanation: that the enlargement experience is generally not applicable. The key difference is that, before the launch of the ENP and the EaP, oligarchic structures and systemic corruption had created strong elite veto players whose interests have been opposed to the EU's transformational goals. Therefore, and despite their pro-European claims, the most powerful local actors did not share a reform agenda with the EU. Integration was a strong incentive within society but, instead of becoming a motor for change, this kind of EU soft power was hijacked by oligarchic actors to legitimize their power and prevent change. Interference by Russia seems to be only of secondary relevance in forestalling the success of the EaP. Its most important effect has probably been to enable oligarchic actors to play off the EU's geopolitical concerns against its transformational goals. In Moldova, the question of how to make the EaP a success has not been about incentives but how to overcome the resistance of local veto players.

The EU has recently adopted its “beyond 2020” objectives for the EaP, emphasizing direct benefits to peoples and societies but reaffirming its focus on good governance, democracy, the rule of law and fighting corruption.² It may also need a bolder approach toward governments and leaders, less in terms of offers and incentives but rather of how to employ its leverage to ensure compliance with commitments undertaken under the EaP.

THE POLITICAL EVOLUTION OF MOLDOVA DURING THE EAP

A New Hope

When the Eastern Partnership was launched in 2009, the Party of Communists (PCRM) under President Vladimir Voronin governed Moldova. The EU and the more pro-Western citizens viewed his regime as semi-authoritarian. His relationship with Russia had become more strained and that with the EU closer; however, he had avoided commitments to either side that could weaken his power.

¹ Council of the European Union, “European Security Strategy: A Secure Europe in a better World”, Brussels 2003, p. 10: <<http://data.consilium.europa.eu/doc/document/ST-15895-2003-INIT/en/pdf>> (accessed July 3, 2020).

² Council of the European Union, Council Conclusions on Eastern Partnership policy beyond 2020 (May 11, 2020): <<https://www.consilium.europa.eu/media/43905/st07510-re01-en20.pdf>> (accessed July 3, 2020).



Voronin's regime looked increasingly anachronistic after the Rose Revolution in Georgia and the Orange Revolution in Ukraine. When in the same year his rule was replaced by the first explicitly pro-European coalition, this was seen as a new start toward a European future. Integration was backed by an overwhelming majority of the population.³ It was also supported in principle by the PCRM. Igor Dodon, while minister of the economy under Voronin, had championed speedy rapprochement with the EU.

The new ruling coalition called itself the Alliance for European Integration (AIE), demonstrating that the claim to follow the EU model had become a key source of political legitimacy. However, it consisted of parties diverse within and between themselves, and was built on compromises between old establishment figures and new leaders, reform goals and status quo interests. Its most popular constituent was the Liberal Democratic Party (PLDM), led by Prime Minister Vlad Filat. A businessman who embodied contradictions between special interests

and reforms, he built a strong team of personalities who were or appeared to be reform-minded, which helped him establish the PLDM as the most credible pro-European party.

The second partner, the Democratic Party (PDM), rose to new relevance when it was taken over by two key figures who switched from the PCRM to the pro-European camp. Marian Lupu became its new president. Vlad Plahotniuc, Moldova's only true oligarch due to his proximity to Voronin, joined the PDM when he saw the latter's power crumbling. He provided the party with superior resources and became its true leader, later its president.⁴ The third and smallest partner, the Liberal Party (PL), mainly represented the moderate pro-Romanian electorate. Led by Mihai Ghimpu, it benefitted largely from the popularity of Chisinau Mayor Dorin Chirtoaca.

From the beginning, the AIE was hampered by conflicts that diverted attention, including that of the EU, from reform. A constitutional crisis arose from

³ Institutul de Politici Publice, "Barometer of Public Opinion," November 2009: <http://ipp.md/public/files/Barometru/2009/final_bop_noiembrie_2009_recap.pdf> (accessed July 3, 2020), p. 109.

⁴ Kálmán Mizsei, "The New East European Patronal States and the Rule-of-Law," in *Stubborn Structures: Reconceptualizing Post-Communist Regimes*, ed. Balint Magyar (Budapest, 2019), pp. 531-610, 566-572.

its repeated failure to secure the qualified parliamentary majority to elect a new president, which had triggered early elections in 2009 and 2010. This changed in 2012, when Dodon and other MPs broke with the PCRM and voted for a pro-European compromise candidate, Nicolae Timofti.⁵ The new president was an apolitical candidate on whom the AIE leaders settled because he lacked a power base and could not threaten their interests.

The relationship between the coalition's leaders was rivalrous. Filat and Plahotniuc toyed at times with allying with the PCRM against each other. In negotiations after the 2010 elections, Plahotniuc pressured Filat with parallel negotiations with the PCRM. Sergey Naryshkin, the head of Russia's Presidential Administration, travelled to Chisinau to seal a deal between the PDM and PCRM, but in the end was used to extract concessions for the PDM when the AIE was renewed. (This is probably one of the roots of Plahotniuc's strained relationship with Russia.) When the EU intervened in favor of maintaining the AIE,⁶ party leaders also learned that, once Russia entered the game, geopolitics pushed transformational concerns into the background and they gained leverage over the EU.

From the beginning, the AIE leaders carved up control over supposedly independent institutions.⁷ Plahotniuc established control over the General Prosecutor's Office and the National Anti-Corruption Center.⁸ This laid the ground for his control over law enforcement that gave him the edge over his competitors. Plahotniuc realized that power could depend more on control over the institutions of justice than on winning elections.

The first years of the AIE saw some important reforms, in particular on police violence and human rights. There was more pluralism and a more vibrant civil society. Most of civil society and the Western-minded part of the population initially were optimistic and gave credit to the AIE. This optimism was transmitted to many in the EU. It was fuelled by the fact that in all the coalition's parties decent, reform-minded personalities strove toward a European future. A capable team of Moldovan diplomats

led by Foreign Minister Iurie Leanca succeeded in convincing partners in the EU of the AIE's commitment to European values and reforms. Negotiations for the Association Agreement started in 2010 and were conducted speedily, reinforcing the narrative of progress in integration.

However, the hope for the future never really materialized. In areas most critical for the transformation toward liberal democracy, rule of law, and fighting corruption, reforms remained lacking or superficial. The AIE focused on symbolic deliverables – such as biometric passports to qualify Moldovans for visa-free travel to the Schengen area – that did not threaten the power or interests of its leaders or other actors within it.

The Façade Crumbles

In January 2013, Filat challenged Plahotniuc's control over law enforcement by forcing the resignation of the prosecutor general. Plahotniuc retaliated with corruption investigations on Filat and his close allies. The release of compromising phone calls also damaged Filat's reputation. Releasing recorded conversations or videos of Plahotniuc's opponents became a regular occurrence, indicating the extent to which surveillance was used for political purposes and blackmail.

Filat and Plahotniuc each sought the help of the PCRM, whether in dismissing Filat as prime minister or Lupu as speaker of parliament. When the conflict seemed to benefit the PCRM, and the EU and United States pushed for compromise, they agreed to re-establish a coalition. But Filat had lost much of his public support and Plahotniuc apparently dealt his final blow when the Constitutional Court blocked Filat's reappointment as prime minister. This and subsequent obviously arbitrary decisions clearly made it hard to doubt Plahotniuc's control over the court.

Leanca became prime minister and Igor Corman, the most credible pro-European PDM politician speaker of parliament. The crisis had all but destroyed trust in the coalition – and collaterally damaged the EU's image. With its two most credible figures at the fore-

⁵ Witold Rodkiewicz, "Russia's strategy towards Moldova: continuation or change?" OSW Commentary 74, Center for Eastern Studies (April 2012), p. 3: <https://www.osw.waw.pl/sites/default/files/commentary_74.pdf> (accessed July 3, 2020).

⁶ Vladimir Socor, "Moldova Between the EU and Russia," Eurasia Daily Monitor 8, 6, The Jamestown Foundation (January 10, 2011): <<https://jamestown.org/program/moldova-between-the-eu-and-russia/>> (accessed July 3, 2020).

⁷ Kamil Calus, "A captured state? Moldova's uncertain prospects for modernization" OSW Commentary 168, Center for Eastern Studies (April 2015), pp. 3-4: <https://www.osw.waw.pl/sites/default/files/commentary_168_0.pdf> (accessed July 3, 2020).

⁸ Unimedia, "Details of the Secret Agreement of AIE," Unimedia, November 16, 2011: <<https://unimedia.info/stiri/detalii-din-acordul-secret-al-aie-41233.html>> (accessed July 3, 2020).

front, the coalition managed to regain confidence in the West and with a majority of voters.

However, Filat and Plahotniuc still controlled the levers of power. The government and parliament had little control over justice and banking – where developments proved to be most detrimental to Moldova's European path. Actors from both sectors had already established the “Russian Laundromat” scheme in which at least \$20 billion of obscure Russian origins were laundered through Moldovan court decisions and banks.⁹

In 2014, Leanca suggested an EU mission that would effectively put Moldovan justice under surveillance, but nothing came out of this before he and Corman were set aside after that year's elections.¹⁰ Meanwhile, the privatization of two strategic assets showed that coalition leaders were pursuing different interests. With a large share of highly non-transparent state-owned enterprises in the economy, control over their revenues or privatizations had always been instrument of power. Apparently a condition of the deal between Filat and Plahotniuc, one of the first decisions of the renewed coalition was to privatize the concession for Chisinau airport and to sell part of the shares in the state-owned Banca de Economii.

Opacity as well as a dubious procedure and buyers turned the airport transaction into a prominent example for the alleged corruption of the coalition leaders. The Banca de Economii transaction resulted in a theft of unprecedented dimensions. Businessman Ilan Shor took control of the bank as well as two smaller ones and apparently implemented a massive fraud worth \$1 billion – around 10 percent of GDP at the time.¹¹ This triggered a government bailout. Since Shor could hardly have perpetrated such large-scale fraud alone or concealed it from institutions controlled by the coalition leaders, he was likely executor rather than mastermind. Public opinion blamed Filat and Plahotniuc when the extent of the fraud and bailout became known.¹²

The Party System Breaks Up

The 2014 elections were again presented as a contest between the pro-European and pro-Russian camps, in which the PDM, PLDM, and PL again won the majority of seats. In reality, geopolitics was largely a façade to mobilize voters and impress Western partners. In opposition the PCRM had taken a more pro-Russian stance, but after the elections most of its MPs joined Plahotniuc's forces. The scene was set for his ascendancy.

The party system had also begun to break apart. The PCRM softening its message on European integration opened space for political projects more dependent on Russian support. Using his links to Russia's leadership, Dodon took over and rebuilt the Party of Socialists (PSRM). He faced competition for the pro-Russian electorate from Renato Usatii, a radical activist who also could draw support from more obscure Russian sources and presented himself as an anti-establishment fighter. However, Usatii's increasingly popular Our Party was banned from the elections over accusation of foreign financing. This was an apparent political decision, as it would be unrealistic to expect that the authorities would have acted without the decision been taken by Filat and Plahotniuc. Likely they judged Usatii less predictable than Dodon, with whom they had done business before. Dodon was the main beneficiary, with PSRM winning the most seats in the elections. The EU responded to the ban on Our Party only with moderately critical statements. Geopolitical concerns prevailed.

The PLDM was still the strongest “pro-European” party but mistrust had grown between Leanca and Filat, who became more preoccupied with each other than with Plahotniuc. Ousting Leanca as prime minister after the elections, Filat agreed with Plahotniuc to establish a government with the PCRM. Together with the banking fraud, the extent of which became known at the same time, this led to an irreparable loss of public trust in the PLDM.

Of the parties represented in parliament since 2010, at the end of 2015 only Plahotniuc's PDM remained as the dominant force – one opposed by an overwhelm-

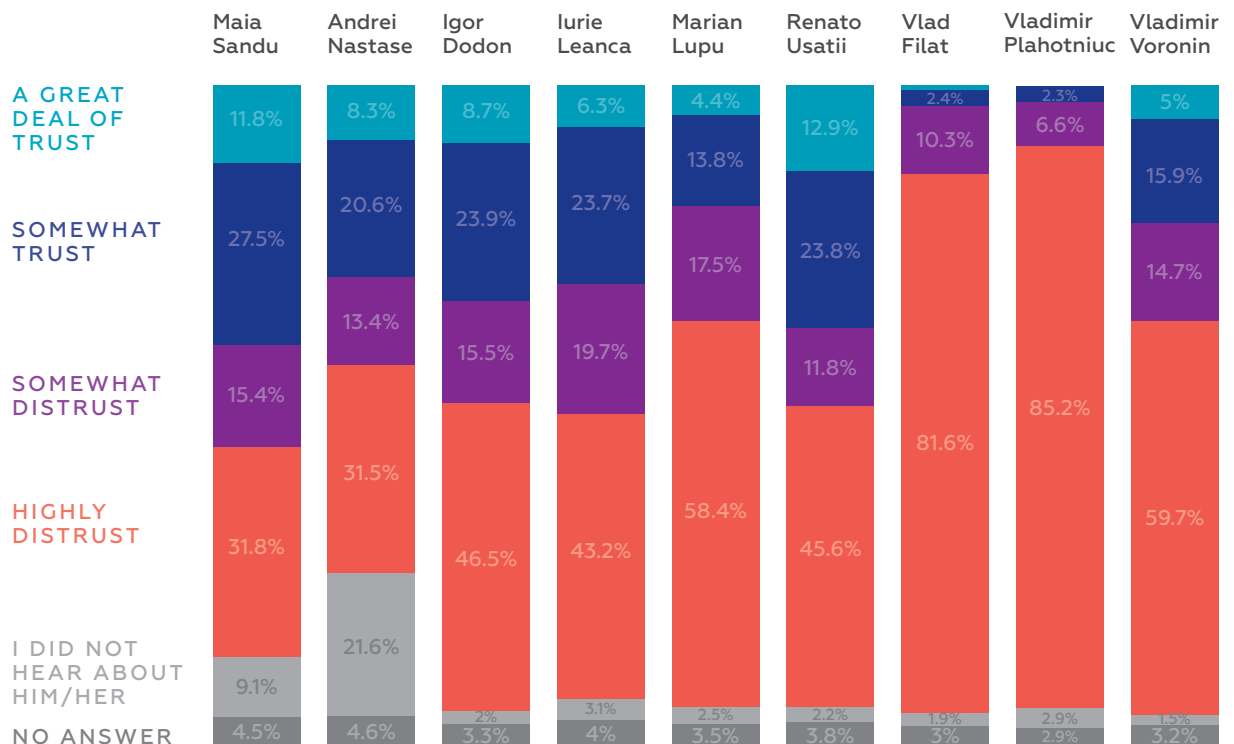
⁹ Organized Crime and Corruption Reporting Project, “The Russian Laundromat Exposed,” OCCRP, March 20, 2017: <<https://www.occrp.org/en/laundromat/the-russian-laundromat-exposed/>> (accessed July 3, 2020).

¹⁰ IPN Press Agency, “EU supports justice sector reform in Moldova by three new projects,” IPN Press Agency, November 17, 2014: <https://www.ipn.md/en/eu-supports-justice-sector-reform-in-moldova-by-three-new-projects-7967_1016609.html> (accessed July 3, 2020).

¹¹ See the report on the investigation conducted by Kroll, released by parliament in July 2019: <https://www.ipn.md/en/second-kroll-report-published-7965_1066592.html> (accessed July 3, 2020); Transparency International Moldova, “Radiography of a Bank Fraud In Moldova: From Money Laundering To Billion Fraud And State Debt,” December 20, 2016: <<http://www.transparency.md/2016/12/20/radiography-of-a-bank-fraud-in-moldova-from-money-laundering-to-billion-fraud-and-state-debt/>> (accessed July 3, 2020).

¹² Institute of Public Policy, “Barometer of Public Opinion,” November 2015, p. 52: <http://ipp.md/old/public/files/Barometru/Brosura_BOP_11.2015_prima_parte_final.pdf> (accessed July 3, 2020).

HOW MUCH DO YOU TRUST THE FOLLOWING POLITICAL PERSONALITIES?



Source: Public Opinion Barometer, Institute for Public Policy, November 2015:
<<http://bop.ipp.md>> (accessed September 3, 2020)

ing majority of the people. In 2015 a succession of crises transformed politics in the final struggle between Filat and Plahotniuc. At one point, Filat nominated Education Minister Maia Sandu, the most credible member of government for her record of integrity, reform and fighting corruption, to be prime minister, but her conditions in order to fight corruption were rejected by coalition leaders.¹³ Instead, the PLDM and PDM set up their last coalition government, joined by Ghimpu's PL, which lost its credibility as a result. Plahotniuc was ready to finally deal with Filat, who was arrested, accused of participation in the banking fraud, and in 2016 convicted to a long jail sentence. Irrespective of whether the accusations were true, the context and proceedings of the trial were clearly political. But Filat's credibility had been destroyed and he had lost the confidence of the West. Most PCRM parliamentarians joined the

PDM while a majority of PLDM ones established a new parliamentary group under Plahotniuc's control. Around one-third of all MPs switched sides, amid accusations of bribery and blackmail.

A Country Lost to State Capture

Plahotniuc and his PDM, who won only 16 percent of votes in 2014, now controlled a comfortable majority in parliament. Following a Constitutional Court ruling that obliged the president to appoint as prime minister a candidate supported by a majority of MPs, Plahotniuc tried to force Timofti to appoint him. Timofti did not comply, citing concerns over Plahotniuc's integrity.¹⁴ Instead, he appointed Pavel Filip, a close associate of Plahotniuc, with whom real power remained and who styled himself the executive coordinator of the coalition.

¹³ IPN Press Agency, Maia Sandu, "Leaders of PDM and PL didn't have courage to say 'no' to my conditions," IPN Press Agency, August 1, 2015: <https://www.ipn.md/en/maia-sandu-leaders-of-pdm-and-pl-didnt-have-courage-to-say-no-to-my-conditions-7965_1021757.html> (accessed July 3, 2020).

¹⁴ Presidency of the Republic of Moldova, Moldovan president rejects new parliamentary majority's candidate for premier office (January 13, 2016): <<http://www.presedinte.md/eng/comunicate-de-presa/presedintele-nicolae-timofti-respinge-candidatura-domnului-vladimir-plahotniuc-la-functia-de-prim-ministru>> (accessed July 3, 2020).

In all but constitutional formality, this was a “parliamentary coup,”¹⁵ putting in control of parliament and government the leader who enjoyed the least trust in the electorate. Lacking democratic legitimacy and needing to avoid early elections, Plahotniuc’s regime presented itself as the only force able to maintain stability and Moldova’s pro-European orientation.

A small number of PLDM MPs continued to oppose Plahotniuc, but Filat and his legacy had largely destroyed voters’ trust in the party. After his ouster, Leanca built his party in opposition but, facing the danger of confronting him, he collaborated with Plahotniuc. He even joined the government in 2017, destroying his credibility.

The powerful protest movement against the banking fraud that had erupted in 2015 gained new strength after Plahotniuc’s power grab. The largest demonstrations since independence were essentially pro-Western, supported widely by civil society, and joined by the remaining genuine pro-European leaders. Sandu and protest leader Andrei Nastase announced the creation of parties and demanded early elections.

The protest movement provided a real chance to reinvigorate a genuine European course. At this point the EU’s position was decisive. With finances strained after the banking scandal and pro-European voters about to oppose him even more than the pro-Russian ones, Plahotniuc’s regime needed EU recognition and support for survival. In the end, concerns over stability and a geopolitical turn prevailed in the EU, which engaged with the government and provided crucial budget support.

Still, the possibility that pro-Russian forces would join pro-European ones in the protest movement threatened the regime. It thus created a diversion with a Constitutional Court decision declaring void an amendment to the constitution according to which presidents had been elected by parliament since 2000. The arbitrariness of this decision was underlined by the court retaining, however, the minimum age requirement for presidents, with the

obvious purpose to exclude Usatii, now mayor of the second-largest city, Balti, and a competitor to Dodon for the pro-Russian electorate.¹⁶ With a presidential election due, this turned the pro-European and pro-Russian forces from eventual cooperation against Plahotniuc toward competition against each other.

Mechanisms of State Capture

Meanwhile Plahotniuc consolidated his state capture. Besides control over parliament and government, his regime came to rest on three pillars.

First, an effective privatization of state institutions controlled via a network of personal loyalties and dependencies. One key element was control over prosecutors and courts.¹⁷ This allowed for selective or manipulative application of constitutional and legal provisions, and intimidation, blackmailing or removal of officials or politicians. Control over local authorities and mayors was crucial for curtailing opposition campaigning. In 2015 the PDM won around 290 of around 900 mayorships. In 2017 the number may have been up to 700.¹⁸ Mayors who refused to join the regime could expect prosecution or removal.¹⁹ In Balti, in 2016, Usatii was prosecuted and fled to Russia. The following year, in Chisinau, Chirtoaca was prosecuted and removed.

The second pillar was monopolization of the mass media and advertising market, denying revenue to remaining independent media. The third pillar was control over economic assets, which gave Plahotniuc vast financial superiority. His private assets were probably less relevant than control over state finances and enterprises. It is difficult to establish to what extent illegal activities – rumors of which followed Plahotniuc since the beginning of his career – were involved.

Such rumors were reinforced by the apparent lack of serious investigation into the banking fraud and an apparent association with Shor. Shor was instrumental in accusing Filat. He was then convicted – possibly as a warning to ensure subservience – but then his appeal proceedings were postponed. He was allowed to create a party and even got the integri-

15 Vladimir Socor, “Regime Change in Moldova: Accomplished but Not Irreversible,” *Eurasia Daily Monitor* 13, 14, The Jamestown Foundation (January 21, 2016): <<https://jamestown.org/program/regime-change-in-moldova-accomplished-but-not-irreversible/>> (accessed July 3, 2020).

16 Stanislav Secieru, “Erase and Rewind: Moldova’s Constitutional Reform,” *Commentary, European Council on Foreign Relations* (April 7, 2016): <https://www.ecfr.eu/article/commentary_erase_and_rewind_moldovas_constitutional_reform_6082> (accessed July 3, 2020).

17 Transparency International Moldova et al., “State Capture: The Case of the Republic of Moldova” (2017), p. 15–32: <http://www.transparency.md/wp-content/uploads/2017/06/TI_Moldova_State_Capture.pdf> (accessed July 3, 2020).

18 INFOTAG, “PLDM: PDM takes over the Mayors to Ensure Victory in Parliamentary Elections,” *INFOTAG*, January 26, 2018: <<http://www.infotag.md/politics-ro/258775/>> (accessed July 3, 2020).

19 Victor Ursu, “The mayor’s criminal files drown investment in localities,” *Institute for Development and Social Initiatives “Viitorul”* (May 10, 2018): <<http://www.viitorul.org.ro/node/1435>> (accessed July 3, 2020).

ty certificate to run for parliament in 2019. His party was in all appearance a PDM proxy targeting poor voters inclined to support Dodon.

The PDM had initially positioned itself as a center-left party, trying to promote a “pro-Moldovan” agenda but, as Plahotniuc came to dominate it, it became simply the party of power. It relied more and more on control over mass media, the use of administrative resources, and overwhelming financial means.

Plahotniuc’s strategy exploited and deepened the geopolitical polarization of society. Using fears of Russia in the West and at home, he pretended to fight pro-Russian forces while strengthening them, in particular Dodon, to present himself as the only actor strong enough to prevent them from taking power. Plahotniuc highlighted geopolitical interests and conflicts while distracting from the transformational aims of European integration. He stirred up occasional conflicts with Russia²⁰ while seeking to suppress and eventually destroy the pro-European opposition so that it could not challenge his claim to be the guarantor of Western interests.

Revival of the Democratic Opposition

The pro-European opposition, now led by Sandu and Nastase, had to organize itself outside parliament. With her record, Sandu represented the clearest alternative to Plahotniuc, while Nastase was seen as the most uncompromising fighter against the regime. What gave them credibility and clout, and distinguished them from earlier reformers, was courage to confront Plahotniuc.

Nastase took the name of his new party, Platform Dignity and Truth (PDA), from the protest movement, while Sandu founded Action and Solidarity (PAS). Unlike nearly all other parties, these were largely free from special interests. Former parties could only succeed by commanding media and money, hence their links to oligarchs, business people and their special interests. By destroying the party system, Plahotniuc created in the pro-European electorate a vacuum that he probably hoped to fill, but also a want for a different kind of leadership. These circumstances helped Sandu and Nastase gain voters’ attention despite lacking resources usually needed for this.

The PAS and PDA were largely cut off from financial sources. Their supporters and activists could expect

harassment by authorities, even fabricated charges and prosecutions. A few TV stations were supportive but only survived with assistance from US and EU donors. Relying heavily on social media, the opposition could only reach a minority of voters directly. Most of the electorate got their “information” from regime-controlled media that ran disinformation campaigns on a scale unprecedented against Nastase and Sandu.

Societal change also weakened support for the pro-European course. Massive immigration, in particular, has affected the composition of the electorate and, more importantly, of the elites. While pro-European voters tend to be middle class, urban, better educated and opportunity-seeking, the pro-Russian or left-wing electorate is drawn from entrenched patronal sentiments in society and consists of a large socially dependent clientele. For voters, “pro-European” and “pro-Russian” are largely just labels for two development models: one seeking prosperity in a Western-style liberal democracy, the other relief from poverty and corruption in an authoritarian leader.

The experience of past elections and opinion research do not yet suggest there would be a pro-Russian majority in any remotely free and fair vote. As a result of immigration, however, pro-Western elites have been leaving in large numbers. Combined with the repression by Plahotniuc, this limits the human resources available for new parties like the PAS and PDA. It also makes the extinction of all relevant pro-European parties possible. Without Sandu and Nastase, this might have happened in 2016. For the lack of any serious partner of the EU, a European development path would likely have been lost.

A Difficult Recovery

Crucial for the survival of the pro-European opposition was that the PAS and PDA managed to cooperate despite considerable differences, with the latter rather activist and focusing on anti-Plahotniuc protests and the former more intellectual and emphasizing integrity. Their cooperation conveyed a willingness to rise above the self-interest that had characterized leaders and parties. Nastase made the decisive step in endorsing Sandu as common candidate for the 2016 presidential election, whose support in the electorate has always been broader. Facing certain defeat, Plahotniuc

²⁰ William H. Hill, “More than a Frozen Conflict: Russian Foreign Policy Toward Moldova,” Atlantic Council (August 2018), pp. 11-12: <https://www.atlanticcouncil.org/wp-content/uploads/2018/08/More_Than_A_Frozen_Conflict_web_final.pdf> (accessed July 3, 2020).

and the PDM withdrew their candidate Lupu and endorsed her. But in reality they threw their resources behind Dodon, with their media running concerted negative campaigns against Sandu. The most prominent and damaging example was the fabrication that Sandu promised German Chancellor Merkel to resettle 30,000 Syrian refugees in Moldova, which shortly before the election was widely and systematically broadcasted by Dodon's and Plahotniuc's media alike.²¹ Despite these attacks and a massive inequality of resources,²² Sandu only narrowly lost the election with 48 percent.

Mutual arrangements subsequently characterized the relationship between Dodon and Plahotniuc, who retained control over power. The Constitutional Court empowered itself to suspend the president if he did not consent to the promulgation of laws and ministerial appointments.²³ As result, Speaker of Parliament Andrian Candu, Plahotniuc's second-in-command, regularly took the president's place and approved controversial decisions, after which Dodon would be reinstated. This appeared to be a face-saving solution procedure whenever Dodon would not take responsibility for a law or an appointment.

Dodon knew that he could not defeat Plahotniuc and aimed to keep him focused on the pro-European opposition. He may have understood the regime was trapped in a vicious circle in which maintaining power required ever more arbitrary action, more delegitimization, and more international isolation. Dodon needed to survive and wait until its eventual collapse.

Relations with the EU worsened when in 2017 the PDM-led "coalition" changed the electoral system from a proportional to a mixed one with half of MPs elected through party lists and half in single-member constituencies with one round of voting. This potentially favoring it also, the PSRM supported the bill,

ensuring a broad majority in parliament though the parties supporting it had only gained 36 percent in the elections.

Lacking resources, their local structures harassed, and mostly facing PDM-controlled local administration, opposition parties were far more disadvantaged competing in constituencies. In addition, the drawing of constituencies reduced the impact of the diaspora vote, which overwhelmingly supported the pro-European opposition, while increasing the impact of votes in pro-Russian Transnistria. When the law was adopted over the objections of the Venice Commission of the Council of Europe²⁴ and of the EU, the latter conditioned future macro-financial assistance on democratic standards.²⁵ However, that its warnings were ignored shows that the regime was so entrenched that the EU had lost leverage.

The 2018 Chisinau Election

The conflict with the EU escalated further in 2018. After being removed from office and replaced by a Plahotniuc-controlled administration, Chirtoaca formally resigned as mayor of Chisinau, thus forcing an early election. It was won by Nastase, the PAS-PDA candidate. However, decisions by courts and the election commission annulled the election and denied a new poll before the 2019 local elections.²⁶ The justification – Nastase having campaigned on election day by calling for voters to go vote – was obviously absurd, possibly deliberately. After a clear defeat for him, Plahotniuc possibly felt a need to reassure his followers that power would not depend on elections any more. In response, the European Parliament directly condemned the "state capture" in Moldova,²⁷ while the European Commission finally froze micro-financial assistance and scaled down further contacts with the government.²⁸

21 Vladimir Socor, "Moldova's De Facto Ruler Enthrones Pro-Russia President," Eurasia Daily Monitor 13, 196, The Jamestown Foundation (December 14, 2016): <<https://jamestown.org/program/moldovas-de-facto-ruler-enthrones-pro-russia-president/>> (accessed July 3, 2020).

22 See the filings of the candidates at the Central Election Commission under: <<https://a.cec.md/ro/sustinerea-financiara-a-concurentilor-electoral-3180.html>> (accessed July 3, 2020).

23 The Constitutional Court of the Republic of Moldova, "Decision on the Interpretation of the Provisions of Article 98 (6) in Conjunction with Articles 1, 56, 91, 135 and 140 of the Constitution (Failure of the President to Fulfill his Constitutional Obligations)" [in Romanian], October 17, 2017: <<http://www.constcourt.md/public/ccdoc/hotariri/ro-h2817102017ro0300f.pdf>> (accessed July 3, 2020).

24 Council of Europe, Venice Commission et al., Republic of Moldova – Joint opinion on the draft laws on amending and completing certain legislative acts (electoral system for the election of the Parliament) (June 19, 2017): <[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)012-e)> (accessed July 3, 2020).

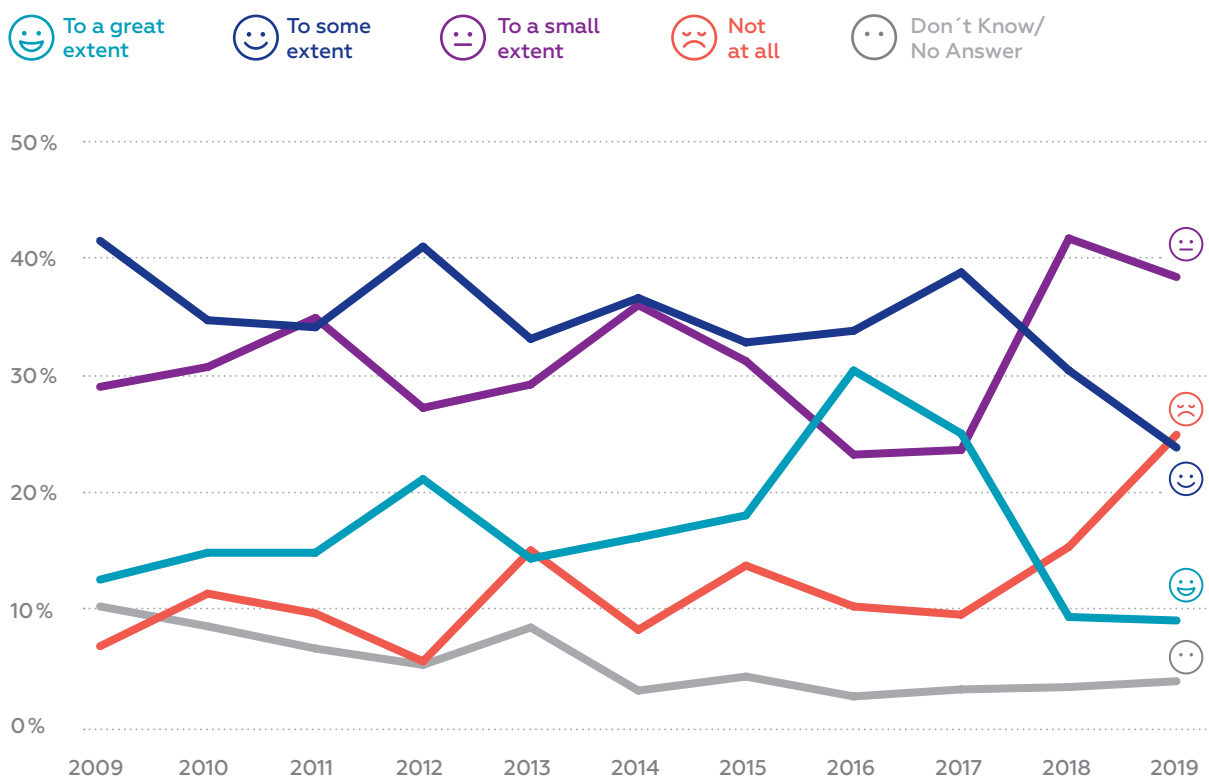
25 Council of the European Union, Relations with the Republic of Moldova – Council Conclusions (February 26, 2018): <<http://data.consilium.europa.eu/doc/document/ST-6280-2018-INIT/en/pdf>> (accessed July 3, 2020).

26 Armand Gosu, "Invalidating the rightfully elected mayor of Chisinau threatens the regime of oligarch Plahotniuc," Studia Politica: Romanian Political Science Review 18 (2) (2018), pp. 293-314, pp.296-300

27 European Parliament, Resolution on the political crisis in Moldova following the invalidation of the mayoral elections in Chisinau (July 5, 2018): <https://www.europarl.europa.eu/doceo/document/TA-8-2018-0303_EN.html> (accessed August 29, 2020).

28 Remarks by HR/VP Mogherini on breaches of human rights, democracy and the rule of law in Moldova, July 5, 2018: <https://eeas.europa.eu/headquarters/headquarters-homepage/47997/remarks-hrvp-mogherini-breaches-human-rights-democracy-and-rule-law-moldova_en> (accessed July 3, 2020).

FREEDOM OF EXPRESSION – TO WHAT EXTENT DO YOU FEEL FREE TO SAY WHAT YOU WANT ABOUT THE COUNTRY'S LEADERSHIP?



Source: 2020 Public Opinion Barometer, Institute for Public Policy, <http://bop.ipp.md> (accessed September 3, 2020)

The parliamentary elections of 2019 were the most unequal and least democratic so far, with means massively in favor of the PDM and against the pro-European opposition. The PAS and PDA ran as the ACUM ("Now") bloc. Fake news, discrediting campaigns, and aggressive speech against the opposition had intensified for months to prepare the ground. Polls in which record high numbers of respondents said they did not feel free or only to a small extent to express their opinions on the country's leadership, indicated that a climate of intimidation had increased since the launch of the EaP.²⁹ Administrative resources and pressures were allegedly used systematically to urge citizens to vote for the PDM.³⁰

The overwhelming campaign spending on behalf of the PDM and its proxies also had large impact. According only to the official figures, the ratio between the money deployed by the PDM and the Shor Party and that by ACUM was more than 40 to 1.³¹ The real figures were likely much higher in favor of the PDM and Shor, as it is doubtful that the election commission enforced the code against the PDM and its proxies, while support by mass media was also not included. In one of the poorest countries in Europe, with an electorate largely disillusioned by a long experience of corruption prevailing and unfulfilled promises, many voters may be willing to trade their vote for even small material benefits. The purpose of

²⁹ International Republican Institute, Public Opinion Survey: Residents of Moldova, December 5, 2018 – January 16, 2019, p. 21: https://www.iri.org/sites/default/files/iri_moldova_poll_december_2018-january_2019.pdf (accessed July 3, 2020).

³⁰ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, Republic of Moldova: Parliamentary Elections, 24 February 2019, ODIHR Election Observation Mission Final Report (May 22, 2019), pp. 12-14: <https://www.osce.org/files/f/documents/8/a/420452.pdf> (accessed July 3, 2020).

³¹ Compare the filings of the political parties on the website of the Central Elections Commission: <https://a.cec.md/ro/sustinerea-financiara-a-concurentilor-electoral-4219.html>; on two referenda, which the government organized on the same day, the PDM officially nearly spent as much for campaigning as on the parliamentary election: <https://a.cec.md/ro/sustinerea-financiara-4221.html> (accessed July 3, 2020).

the Shor Party was allegedly to buy votes from the poorest citizens, usually part of the PSRM's electorate, including by setting up a network of "social shops" for pensioners and other vulnerable people.³²

After the elections, Plahotniuc still controlled 40 MPs out of 101, together with the Shor Party and a few independents close to him. That two of the latter could win the Transnistria constituencies indicates a deal with the region's leadership. Plahotniuc's strategy aimed at compelling Dodon into collaboration to establish a new government, but the latter played for time. An apparent stalemate seemed to drag on until June, when the deadline after which the president could call a new one passed.

In March it became apparent that Russia opposed any cooperation by Dodon with Plahotniuc.³³ This position was made clear by a visit by Russia's deputy prime minister and special envoy for Moldovan affairs, Dmitry Kozak, who urged the PSRM to cooperate with ACUM to replace Plahotniuc. Moscow's reasons were likely not primarily geopolitical. According to Kozak, Plahotniuc had offered to turn Moldova toward Russia and even to resolve the Transnistria conflict with a federal model, which would cement Russia's influence over Moldova.³⁴ In view of Plahotniuc's interests and alternatives – which pointed to such a turn sooner or later – Kozak's claim appeared not implausible. Plahotniuc remaining in power might also have suited Russia's geopolitical interests, as it promised the destruction of the pro-European opposition and likely kill any chance of Moldova returning to a European path. But, in any case, in a Plahotniuc-Dodon arrangement, the latter would have been the junior partner, and Moscow had to expect Plahotniuc might take over the PSRM like earlier "partners."

Regime Change

The EU was also ready to support an ACUM-PSRM arrangement to replace Plahotniuc. It was a coincidence and based on different agendas that it came to support the same alternative as Russia. Within the EU, Plahotniuc's regime had become increasingly recognized as the more immediate danger to its values, interests, and prestige in the EaP countries. Al-

though the EU commissioner for neighborhood and enlargement, Johannes Hahn, was in Chisinau at the same time as Kozak, the two sides acted separately.

These visits triggered negotiations between the PSRM and ACUM. Soundings between both sides had been taken for some time but were marked by lack of trust and posturing. The position of the PSRM remained ambiguous until the end as it had been sounding out the PDM too about a common government. To what extent these negotiations were sincere and failed because Plahotniuc did not make enough concessions or were a deceit to prevent him launching a preventive strike is an open question.

ACUM needed to overcome its strong reservations concerning Dodon's geopolitical positions and past arrangements with Plahotniuc. Two factors were decisive. First, ACUM came under increasing pressure from its support base to prioritize Plahotniuc's removal. Second, the pro-European opposition was already largely at the end of its rope. It was no accident ACUM meant "Now." "Now or never" was the prevailing sentiment. There was no expectation the exhausted opposition would survive much longer should Plahotniuc stay in power.

When a breakthrough was reached on the formation of an ACUM-PSRM government, Plahotniuc launched a counter-strike. In an emergency decision, the constitutional court ruled that the deadline for forming a government had passed, and declared all further decisions by parliament and the appointment of the new government by the president invalid.

It was the most obviously arbitrary decision yet. Even if the court's disputed calculation of the deadline had been correct, the constitution was clear that the president could dissolve parliament but was under no obligation to do so, nor did it contain any provision preventing parliament from voting in a new government after this time. The secretary general³⁵ and the Venice Commission of the Council of Europe³⁶ assessed the court's decision to be arbitrary and unconstitutional. The Constitutional Court was apparently just instrumental in an attempted PDM coup.

³² Organization for Security and Co-operation in Europe, Republic of Moldova: Parliamentary Elections (February 24, 2019), p. 12.

³³ Vladimir Socor, "Does Russia Seek Regime Change in Moldova?" Eurasia Daily Monitor 16, 47, The Jamestown Foundation (April 3, 2019): <<https://jamestown.org/program/does-russia-seek-regime-change-in-moldova/>> (accessed July 3, 2020).

³⁴ Leonid Bershidsky, "Moldova Is the One Thing Russia and the West Agree On," The Moscow Times, June 12, 2019: <<https://www.themoscowtimes.com/2019/06/12/moldova-is-the-one-thing-russia-and-the-west-agree-on-a65970>> (accessed July 3, 2020).

³⁵ Council of Europe, Statement of the Secretary General on the Situation in the Republic of Moldova and the Venice Commission (June 9, 2019): <<https://www.coe.int/en/web/portal/-/statement-by-the-spokesperson-of-the-secretary-general-on-the-situation-in-moldova>> (accessed July 3, 2020).

³⁶ Council of Europe, European Commission for Democracy Through Law (Venice Commission), Republic of Moldova: Opinion on the constitutional situation with particular reference to the possibility of dissolving parliament, Adopted by the Venice Commission at its 119th Plenary Session (Venice, 21-22 June 2019) (June 24, 2019): <[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)012-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)012-e)> (accessed July 3, 2020).

In the following week, the previous government clung to power, threatening the president and the new government. The Constitutional Court declared the president suspended and former Prime Minister Filip to be acting president. He in turn declared parliament dissolved and early elections. Broad, early international support, including by the EU and many member states, for the parliament and the new government may well have prevented a violent crack-down by Plahotniuc. With the PSRM and ACUM threatening to call for a mass rally against his regime and under increasing international pressure, joined by the United States, Plahotniuc gave in and the PDM handed over control of government. He and Shor fled the country.

An Uncertain Future

Sandu headed the new government, with Nastase as vice prime minister and interior minister. The PSRM got the position of speaker of parliament, first in line for the succession to the presidency, providing Dodon with reassurance against suspension from office. But he ceded control over government largely to ACUM. The PSRM agreed to some reforms, including returning to a proportional-representation electoral system, anti-corruption measures, and investigations in high-scale corruption and the recent coup attempt. Having since his election increasingly promoted a “balanced” foreign policy, Dodon and the PSRM committed themselves to the Association Agreement. Nevertheless, common ground between the two sides remained limited with regard to geopolitics and reforms. Their cooperation was expedient and its duration was doubtful from the beginning.

The Sandu cabinet was likely the cleanest and most reform-minded government Moldova ever had. However, the immigration-caused shortage of suitable persons to replace those compromised or unqualified was a serious impediment. The EU resumed macro-financial assistance, while the IMF agreed additional aid. Sandu made justice reform her priority; the heavily compromised Constitutional Court judges and prosecutor general were forced to resign. The procedure for appointing new judges was controversial, as Sandu promoted an impartial selection while the PSRM in particular pushed political nominees, but it produced a court no longer under the control of a political camp.

The power sharing initially advantaged ACUM. Government offices provided it for the first time with a platform to communicate directly to a majority of

voters. Sandu's popularity rose, helped by the strong recognition and support she got from the EU and United States. This raised PSRM concerns about her as a contender in the 2020 presidential election. Unlike ACUM, Dodon had an alternative: with Plahotniuc gone, large parts of the PDM were now apparently seeking collaboration with him. Fear of Plahotniuc waned and Dodon became emboldened; he started to criticize the government and increasingly strove for more power.

The November 2019 local elections produced a setback for ACUM when Nastase narrowly lost the contest for mayor of Chisinau. Anti-Plahotniuc and geopolitical sentiments that earlier mobilized center-right voters had lost salience, while the winning PSRM candidate proved more effective in addressing local issues. As Nastase had attacked Dodon, his remaining in government was about to become an issue of conflict. Sandu faced the prospect of a confrontation in which Dodon would demand a major reshuffle that would have made the government subordinate to him or ended it. At the same time, the selection of a new prosecutor general had turned into a conflict. Existing legislation left the final decision to the Supreme Council of Prosecutors and the president. Therefore, Sandu also faced the prospect that a politically controlled candidate would again be appointed. Three days after the elections her government passed draft legislation that gave the prime minister right to co-decide the appointment of a prosecutor general under a provision in which a draft becomes law if parliament does not adopt a motion of no confidence. Thus she confronted Dodon with whether he wanted to continue cooperation with ACUM.

The answer came when a majority of PSRM and PDM MPs toppled the government and installed a new one. The new prime minister, Ion Chicu, had been minister of finance in the Filip government and become a Dodon advisor after Plahotniuc's fall. Initially the PDM was not represented in the new cabinet, which was presented as “technocratic.” In substance, it seemed to have traded collaboration for protection of its business model and vested interests, of its influence in institutions, and from prosecution.

Coalition with the PDM invited the question whether Dodon would make himself the heir to Plahotniuc's state capture and even take over the networks the latter used to control institutions. In particular in the media, with apparent Russian support, Dodon

showed similar tendencies toward monopolizing control.³⁷ Discrediting campaigns against competitors, Sandu in particular, also showed similar patterns. However, there has been no abuse of abuse of justice and repression on a similar scale so far. And Dodon still faced constraints to his power.

Dodon denied Sandu, his only serious challenger for the presidency, the public outreach of government. The longer he remained in power, the likelier he could establish control over the PDM or considerable parts of it. The PDM now faced a scenario similar to that the PCRM and PLDM did in 2015, when large parts of these parties were absorbed into Plahotniuc's system. Dodon could have threatened the PDM with early elections should they deny him support, but these are prohibited in the last six months of a presidential term, and in view of the coming election his interest in keeping control over the resources of government was stronger. In the short run, this provided leverage to the PDM.

In February, Filip – Plahotniuc's successor as party leader – negotiated with Dodon a formal representation of the PDM in government, giving the impression of a coalition cabinet. At the same time, a group of mainly Plahotniuc loyalist MPs around Candu, which had been sidelined in the dealings with Dodon, split from the PDM and created the Pro Moldova parliamentary group. Threatening Dodon's majority, they aimed to prevent him from becoming over-powerful and playing all other actors against each other as well as to maintain as much independence and to extract as many concessions as possible. Released videotapes seemed to confirm that Dodon took support from Plahotniuc in the past and that he knew of the annulment of the 2018 Chisinau election in advance.³⁸ Apparently in retribution, the prosecutor general finally opened a criminal case against Plahotniuc. Veaceslav Platon, the alleged mastermind of the Russian Laundromat jailed in 2016, was released and started making accusations against Plahotniuc.

Geopolitically, Dodon moved himself further into a corner. As his credibility in the EU had largely depended on his cooperation with Sandu and Nastase,

and with the new government promising little guarantee for serious reform, the EU again effectively froze support and high-level contacts. Dodon lost the chance to promote his "balanced" foreign policy and his discourse turned more pro-Russian and Euroskeptical. For financial help, he relied on a shady loan from Russia that was eventually prohibited by the Constitutional Court.

In the coronavirus crisis, Dodon emphasized Chinese and Russian while depreciating the assistance of the EU and in particular of Romania. His reactions to the crisis often seemed erratic, with himself downplaying risks while parliament declared an emergency and the government enacting a far-reaching lockdown. Support for Dodon weakened because of his crisis management that has been less efficient than in other European countries in containing the virus while financial constraints have limited efforts for economic recovery.

The Challenge Ahead

No reliable majority seems to exist in the current parliament. Some MPs were induced to switch from to the PDM to Pro Moldova, raising the question of whether the government could survive a motion of no confidence. Pro Moldova commands considerable media and other resources, suggesting the background influence of Plahotniuc. The power of Filip has waned in the PDM, whose coherence remains unclear. So far, the Shor Party has been considered too compromised to work with or depend on. Thus, even if Dodon would not command a majority, it would be quite challenging to organize an alternative one.

The presidential election will be the next major crossroads for Moldova, with Dodon and Sandu as the serious contenders. For Sandu it will again be an uphill battle marked by huge inequalities in access to resources and media.³⁹ ACUM also faces fragmentation: protesting against Plahotniuc was the essence of the PDA's identity and with him gone it suffered a loss of purpose. The alternative to Plahotniuc's regime – in terms of democratic and good government, rule of law, and European integration – came to be more associated with Sandu and the PAS in the elec-

³⁷ Hendrik Sittig and Darija Fabijanić, "Russian Dominance on Moldovan Media Market prevails, (Country Report, Media Programme South East Europe)", Konrad-Adenauer-Stiftung (March 2020):

<<https://www.kas.de/en/web/medien-europa/laenderberichte/detail/-/content/russian-dominance-on-moldovan-media-market-prevails>> (accessed July 3, 2020).

³⁸ "MP Iurie Renita has published another fragment of the negotiations of the president with the former leader of PDM" [in Romanian], INFOTAG, May 18, 2020: <<http://www.infotag.md/politics-ro/284869/>> (accessed July 3, 2020).

³⁹ Cristina Gherasimov and Vadim Pistrinciu, "The 2020 Presidential Election: Key challenges for the electoral process in Moldova," Policy Brief, Institute for European Policies and Reforms (April 2020): <http://ipe.md/wp-content/uploads/2020/04/Policy-Brief_2020-Presidential-Elections_Key-challenges-for-the-electoral-process-in-Moldova_final_edit_28.04.2020_ENG.pdf> (accessed July 3, 2020).

torate. With their poll ratings diverging, the PDA became increasingly concerned with distinguishing itself from the PAS and Sandu, and Nastase has stated his intent to run for president.

Until the election, politics will be characterized by maneuvers between the different political forces. Superficially, geopolitics will continue to play a role, as Pro Moldova and the PDM may still claim to be pro-European. As the PDA expressed willingness to take responsibility for forming a new government, Candu endorsed the initiative. However, it should be expected that the remnants of Plahotniuc's system – Shor and Pro Moldova in particular – will try to protect their business models, including from prosecution. These interests may temporarily support a government not controlled by Dodon, but they have been irreconcilable with the values of the PAS and PDA as well as with the EaP.

In effect, the fall of Plahotniuc resulted in the survival of relevant pro-European parties, stopped the worst abuses of power so far and re-established more political pluralism as three major political camps now compete for power. However, as a direct consequence of Plahotniuc's rule, Russian influence is stronger and more entrenched than ever. So is the influence of corrupt interests and networks. More pluralism should not detract from the fact that 75 percent of MPs have been associated with interests that proved to be opposed to the EaP's geopolitical or transformational goals. Therefore, the success of the EaP in Moldova is anything but certain. Not unlike in 2016, remedying this situation would take not only a presidential election but at least another early parliamentary elections.

LESSONS LEARNED

Three struggles have determined the political evolution of Moldova. The most obvious one was over its geopolitical direction. However, the geopolitical vectors promoted by political leaders were often superficial, based on seeking legitimacy and support from abroad. The second was between leaders for power and control over economic assets and institutions. This occurred across geopolitical camps, but in particular in the pro-European one between Vlad Plahotniuc and Vlad Filat until 2015. Similar struggles will likely continue in the relationship between Igor Dodon and the PDM, Pro Moldova and the Shor Party. The third struggle was between reform and status quo interests, largely within the pro-Euro-

pean camp. Until 2015 it was marked by consensus-seeking rather than conflictual approaches to promoting reform and ended with proponents of reform leaving or squeezed out of the established pro-European parties and the latter's de facto destruction. Since 2016 this struggle has continued with the resistance against Plahotniuc, with Andrei Nastase and Maia Sandu as a new type of leaders and a new type of parties largely free from special interests.

The EaP can only succeed in the third struggle. In any case the outcome can only be decided in a struggle, not by deliberation. So far, the conditions for a success of the EaP – in terms of progress toward a stable democracy based on the rule of law and a market economy, supported by the electorate and elites – have deteriorated. To improve its chances of success, the EU should focus on power more than incentives, assess actors according to their respective business model instead of pro-European claims, prioritize transformation over geopolitics, and accept active domestic involvement in Moldova.

Incentives versus Power

The incentives of the EaP did not lead to intended reforms in Moldova. They may have even worked against change as leaders used the promise of integration to compensate for not delivering reforms. The integration incentive was so strong that government coalitions sought public approval by naming themselves after that goal, and employing the output legitimacy of allegedly defending the European course to cover a lack of democratic input legitimacy.

Citizens' confidence in the EU meant that any engagement with it would be understood as it offering approval. This allowed leaders to dissipate reform pressure that would otherwise result from corruption, abuse of power, and failure to deliver change. As the strength of EU soft power indicates, Moldovan society did not lack in support, or need a stronger incentive, for reforms.

However, EU soft power went along with a belief that integration automatically led to reform. This was a myth, but it encouraged hopes that it would be sufficient to promote rapprochement with the EU instead of taking on corrupt interests. This weakened the resolve of reformers to fight corruption. The promise of future salvation made abuses more tolerable for it suggested they were transitional, yet increased tolerance made abuse more sustainable and kept salvation from materializing.

In Moldova's case, the key difference with the transformation through EU enlargement in Central and Eastern Europe is not the lack of the membership perspective but that powerful veto players resisted the EaP's goals. The attractiveness of integration incited these to present themselves as pro-European to consolidate power while their interests were served by not delivering reforms. There is no reason to assume that any incentive by the EU would have fundamentally altered their interests or power.

In fact, since EU incentives, especially membership, are too inflexible instruments to be offered or withdrawn based on who would benefit from them, they would always have benefitted status quo interests. Had a membership perspective been offered while Plahotniuc was in control, this would have helped him. The hypothesis that a membership perspective would make a difference is based on a questionable analogy with earlier enlargements, and likely more based on coincidence than causality. The experience in Moldova challenges the assumption of a relation between the strength of the EU's commitment behind integration and that of reform efforts.

The EaP worked quite well in generating incentives, but the key weakness has been in enforcing compliance, a challenge not encountered in enlargements. As a result, EU soft power proved vulnerable to exploitation by corrupt interests that turned it against its purpose. In Moldova, a lack of hard power has been the shortcoming of the EaP. The key challenge has been how to overcome the veto power of corrupt interests.

Business Models versus Pro-European Claims

The business models of Moldova's political actors should be taken more seriously than their geopolitical claims in assessing the situation and establishing EU policies. Anti-European models cannot become pro-European ones even if they claim to do so. In such a case, this often proved to be a façade for different or even contradictory intentions. Thus, it is crucial to understand the business model of political actors – the interests and structures that determine how and to what ends they operate.

Whether a business model is compatible with European integration has only partly, and sometimes superficially, been linked to the promotion of geopolitical vectors. As conflicts between Russia and the EU in the post-soviet space are also a competition between political systems, pro-Russian forces cannot usually be expected to undertake reforms

toward EU models of democracy and rule of law. It does not follow, however, that this can be expected from actors claiming to be pro-European. The worst abuses have been committed under Plahotniuc by a "pro-European" regime and justified by this stance.

Plahotniuc's business model can be understood as a typical oligarchic one (even if his singular dominant position makes the term a bit contradictory.) Many of its elements can also be found in varying degrees in other pro-European and pro-Russian ones. It is characterized by the mutually dependent control over political and economic power. It aims to remove this control from effective democratic or market competition. The political goal is to establish veto power or dominance. The economic goal is usually rent seeking, effectively aiming to redistribute properties and revenues for the benefit of the oligarchic structure.

The instruments employed include monopolization of economic assets or revenues, capture of state institutions, in particular those providing access to means of coercion – like law enforcement and justice – or to finance, and control over mass media and parties. Within these structures, power is organized by networks in control of key positions or institutions, fuelled by corruption, based on personal loyalties and dependencies, reinforced by a vulnerability to prosecution and blackmailing, accountable only to the leader, and overriding constitutional, legal and institutional responsibilities.

Control over media and administrative and financial resources made it possible to curtail the democratic process without interfering much in voting in elections. It raises the threshold for competition and limits it to actors commanding similar resources, and therefore likely susceptible to similar interests. In effect, and in particular with Plahotniuc, the strategy was to control those elected. When this reached its limits, it was augmented by the removal of opponents from elections, meddling with the electoral code, or the annulment of elections. It was only the discrediting of established leaders and voters' desire for clear alternatives that enabled parties such as the PAS and PDA to become major contenders without commanding much resources or being controlled by corrupt interests.

A system such as Plahotniuc's is inherently contrary to a liberal democracy with its distinctions between private and public, economic and political interests, and politics and the state, as well as its division of powers. Dependent on rules, properties and rights

being subject to power, it is opposed to the rule of law. It is not an accident that it invites comparisons to “Mafia systems.”⁴⁰ The magnitude of allegations regarding the regime’s involvement in organized crimes such as the banking fraud points in a similar direction.

As a consequence, neither Plahotniuc’s regime nor its “pro-European” orientation was sustainable. Economically it provided no development model for the country, depending on the control, exploitation, and redistribution of wealth for the benefit of its own networks. This self-serving model could not maintain itself on the long run in a poor, increasingly isolated country with a trade balance in which imports are more than twice the size of exports and heavily dependent on remittances and funds from abroad.

Lacking democratic legitimacy and unlikely to acquire it, the regime needed to become more repressive to stay in power. At the same time, Plahotniuc’s power was informal and rested on a weak foundation, depending on the belief in and fear of his power as well as in his ability to maintain it. When this belief was challenged, the regime crumbled, which likely would have happened sooner or later.

Since the business model of Plahotniuc and the PDM was irreconcilable with EU standards, its “pro-European” orientation was never substantive. The regime would have become untenable the more contradictions with the EU revealed its lack of legitimacy and its isolation abroad and at home. Since the business model was reconcilable with a pro-Russian vector, however, it was to be expected that the regime, or its remaining structures after a collapse, would seek refuge in a geopolitical turnaround.

It was a consequence of its business model in conjunction with the wish to survive that the PDM took Dodon’s side after Plahotniuc’s fall. The PDM, its splinter parties, or proxies may also eventually try to negotiate siding with the PAS and PDA. But as long as the former do not undergo a fundamental change, it should be expected that this would be tactical to strengthen their negotiating position with either and ultimately to protect their business model. As long as this model remains, their interests require opposing the Western development of the country.

Transformation versus Geopolitics

Just as over-reliance on incentives had a contrary effect on reforms in Moldova, concerns about pro-Russian forces coming to power rather brought this than preventing it. The geopolitical polarization of society was a challenge as pro-Russian forces threatened to interrupt the country’s European course and to anchor it in Moscow’s sphere of influence. Though pro-Russian parties were always more so in opposition (when they depended more on Moscow’s support) and aimed for balance when in government (and needing EU money), they could hardly be relied on to deliver on reform.

In addition, there was always a concern that with a pro-Russian government, Moscow would engineer a settlement of the Transnistria conflict by a federalization that would tie Moldova into its zone of influence – although this faced considerable obstacles, including contradictory interests in Chisinau and Tiraspol and widespread reservations in society. However, a far graver problem was the way the pro-Russian threat was exploited by corrupt actors within the “pro-European” camp to distract from a lack of reforms and to refocus the attention of EU actors and the pro-Western electorate on geopolitical concerns.

Among EaP countries, Moldova has likely the most geopolitically polarized society. But pro-Russian forces did not gain traction primarily because of their strength or the influence and interference of Moscow. The pro-Russian turn was the direct consequence of the European cause becoming associated with corruption and abuse of power. Only the survival of a pro-European opposition prevented it from becoming irreversible.

Even from a narrow geopolitical point of view, the pro-Western orientation of Plahotniuc and the PDM proved to be a Trojan horse. Since the pro-European opposition posed the more fundamental threat to its business model and its self-legitimation, Plahotniuc drove it close to extinction. At the same time, he strengthened the PSRM as the stronger the Russian threat appeared the easier he could appeal for support in the West. When a pro-Russian leader like Usatii emerged whom the “pro-European” leaders did not consider to be under their control, he was removed. Dodon stayed to become the predominant leader of the pro-Russian camp because Plahotni-

⁴⁰ Kálmán Mizsei, “It’s high time for Plahotniuc to leave the scene”, New Europe, June 15, 2019: <https://www.neweurope.eu/article/its-high-time-for-plahotniuc-to-leave-the-scene/> (accessed July 3, 2020).

uc believed he could control him and helped him win the 2016 presidential election.

In the short run, geopolitical interests within the EU contradicted its transformational goals, whereas in the long run both can only succeed together. By contrast, in its geopolitical competition with the EU, Russia can prevail without delivering change. It can rely on business models such as Plahotniuc's turning in its favor sooner or later. The success and credibility of the EU, on the other hand, depends on its ability to deliver change. However, fear of instability and a geopolitical turn raised the EU's tolerance levels, reduced the reform pressure on allegedly pro-European governments and provided the logic for supporting Plahotniuc's regime in 2016. This illustrates that supporting a government for short-term geopolitical reasons can backfire on the longer run by losing more ground to the geopolitical opponent. Placing immediate geopolitical concerns over transformation meant choosing short-term appearance at the expense of sustainability.

Plahotniuc only appeared to prevent a takeover by pro-Russian forces, while under him Moldova shifted from a Western democratic path to an Eastern oligarchic one. The country was lost for the EaP with his power grab in 2015–16. As long as his rule lasted, the weaker the pro-European forces and the stronger the pro-Russian forces became. At any earlier time, a takeover by pro-Russian forces was not only less likely but would have also met with stronger checks and balances. Thus, a worst scenario would not have simply been a takeover of power by pro-Russian forces, but one without any serious pro-European opposition left.

Most importantly, time has been against the pro-European cause. The business model that Dodon and the PSRM represent is sustainable and not dependent on its leader. Even if both disappear, a replacement would evolve for this model has a constituency, is backed by Russia and its media, and can rely on external support and connections to special interests to keep it financially afloat.

Pro-European parties can also rely on a strong constituency but in any other respect their model is far less sustainable. Financially starved, without much media control and access, and depleted by the immigration of pro-Western elites, it is questionable whether a serious replacement for the PAS and PDA would emerge should they disappear. Genuine, relevant pro-European forces can still become extinct,

which would kill any chance to return Moldova to a European path for the foreseeable future.

Despite the formal progress in relations with the EU, political and socioeconomic developments in Moldova suggest it has moved further away from a European course since the launch of the EaP. Immigration is increasing the share of the population that forms a socially dependent clientele and depleting the pro-Western elites needed to implement reforms and good governance. Rent-seeking, oligarchic, or monopolistic structures neither attract nor generate much investment or innovation, increasing the economy's dependence on remittances and aid, which may not be sustainable on current levels.

The EU's geopolitical goals can only be realized if these trends are reversed. If not, Russian interests will likely prevail over Western ones. But Plahotniuc's regime may have also allowed a glimpse into another possibility: that Moldova may descend into a kind of Mafia state, providing a safe haven for money laundering, illegal trafficking, and other sorts of organized crime.

Between Non-Interference and Domestic Involvement

The Eastern Partnership requires fundamental domestic reforms in Moldova. At the same time, it has kept to the principle of non-interference in domestic affairs. In earlier EU enlargements, this was not much of an issue as the EU and local elites largely shared the same goals – enlargement was about consolidating democracy and the rule of law. Moldova, however, has remained in a hybrid state, with oligarchic interests, corrupt networks, and strong clientelistic structures with a leaning toward authoritarian leadership gaining control over large parts of the political system. For these interests, networks and structures, the EaP's transformational goals were not about democratic consolidation but regime change.

Moldova committed itself to these goals in the Association Agreement with the EU. Formally, compliance has been its sovereign choice. In reality, however, non-interference was an illusion. For the electorate, relations with the EU were not primarily an issue of foreign relations but of domestic development. For its supporters, the EU promised to bring its model of democracy, rule of law, and prosperity. Against the backdrop of generally high dissatisfaction with and mistrust in institutions and politicians, many voters relied on the EU more than on their leaders to deliver progress.

The EU became perceived as a guarantor providing a seal of quality to actors who could present themselves as its partners. This was unintended but unavoidable since any interaction with the EU would be presented or read as a signal of support. The significance of the “European” label’s role in legitimizing governments and in elections campaigns indicates its impact. Support and interventions from EU actors helped on several occasions to establish and stabilize governments and “pro-European” coalitions.

Adherence to non-interference limited the EU largely to intergovernmental relations. This advantaged actors in power, who could instrumentalize these as even meetings between official or leaders could be read as support and transfer legitimacy. The EU faced the further problem that media ownership prevented it from controlling its message. During Plahotniuc’s regime in particular, local media presented as expressions of support meetings that EU or member-state officials intended to convey criticism. In the later stage of his regime, the EU therefore reduced contacts with the government and communicated its criticism by increasing meetings with the pro-European opposition.

With the EaP, the EU became de facto a domestic political actor in Moldova. For a considerable part of the electorate, it shared the responsibility for decisions of “pro-European” governments. This experience suggests a choice for the EU between giving up the political agenda of the EaP – leaving responsibility for domestic developments to local actors – and becoming more assertive and interfering.

Concerns about providing ammunition to anti-EU propaganda and to accusations of imperialism have led to caution. However, the EU would face these in any case. In the end, a defensive approach will not mitigate such accusations from Russia or pro-Russian forces or their impact, and it may allow corrupt interest to continue hijacking the EU’s credibility while preventing reform. Far worse from being accused of imperialism is for the EU to be and to appear ineffective.

RECOMMENDATIONS

The experience of the Eastern Partnership in Moldova shows that its weakness is reliance on incentives, rather than a lack thereof. EU soft power proved vulnerable to hijacking by veto players who hid their true interests by claiming allegiance to the European cause. Since they were the key opponents of political reforms, the EaP’s shortcoming was lack of means and readiness to coerce them to keep their commitments.

Prioritize Transformation

The EU should prioritize transformational goals over geopolitical concerns. In nearly every instance when the latter meant propping up a “pro-European” coalition or government rather than risk a takeover by pro-Russian forces, this only traded short-term appearance for long-term loss of substance, strengthening corrupt and pro-Russian forces. Corruption disguised in European colors made matters worse, adding discrediting to obstruction. The EU should not be too wary about instability and protests as they can create leverage over corrupt interests. In this game, who worries less gains leverage over who worries more.

Without significant progress toward rule of law and against corruption, no other reform can have a sustainable effect and real power will not be controlled by any reliable partner of the EU. However, serious reforms toward democracy and the rule of law are also a vital threat to powerful corrupt interests that will seek to resist, thwart, or bypass them. Frustration with this situation led the EU to seek out successes in more technical reforms, such as visa liberalization or DCFTA implementation. The problem with this is that progress gets measured more by incentives delivered than by goals achieved. Without a readiness to target them, corrupt veto players will largely set the agenda.

With a parliament in which 75 percent of MPs now represent forces close to Russia or whose interests are contrary to the EaP’s goals, the question is not how to keep Moldova on a European path, but whether it can be returned to it. This suggests prioritizing the survival of genuine democratic forces as a precondition of progress in every area of relations with the EU. This includes access to party financing, media access and ownership, and freedom for civil society. The emphasis must be on freedom from repression and restrictions, which can be expected to be used against the opposition. Under Plahotniuc,

laws justified as fighting Russian propaganda were directed against the remaining independent media. Russia has been far more effective in supporting its cause and allies than the EU has. Spending a few million euros on political parties and media can generate more political impact than dozens of millions of euros in EU budget support to the government. So far, EU and US donors have helped some independent media survive but this aid was far more limited and defensive than the means employed by Plahotniuc or pro-Russian forces to establish their control over mass media. EU actors will need to become more competitive in this area.

Respond Earlier, More Flexibly, and More Toughly

The EaP's "more for more" approach should be augmented by a more flexible "less for less" one in case of regress or stagnation, with readiness to question and suspend gradually the framework of relations, including the Association Agreement. Within this framework and by providing financial aid, the EU has transferred legitimacy to Moldovan governments, even if they represented interests opposed to the EaP's aims. The commitments on democracy and the rule of law under the Association Agreement remain unfulfilled. Still, the EU has seemed more concerned about "losing" the agreement than local actors do. Pro-Russian actors questioned it when in opposition but whether this was more than just politics is questionable. Even Russia has de facto accepted the agreement and DCFTA will stay, likely because it would not want or know how to compensate for the economic losses otherwise. The situation looked quite favorable to Moscow's interest already under Plahotniuc, with status quo interests in power preventing any real rapprochement with the EU and Russia strengthening its foothold in politics on the cheap, while the EU kept Moldova financially and economically afloat with a preferential trade regime and budget support. The EU should develop a mechanism for a unilateral partial suspension of the agreement, in particular bilateral formats and mechanisms, in order to be able to send a clear signal by withdrawing legitimacy from local political actors.

The EU should also be ready to employ sanctions earlier, more flexibly, and more toughly. As political realities in Moldova differed so much from those within the EU, it naturally took a learning curve (at least it did for the author) for EU decision-makers to understand the intricacies involved. However, by

2015–16 enough should have been known about Plahotniuc's system to put a stop to his power grab. This could have likely been achieved had the EU responded then by freezing financial aid and political contacts as it did after the annulment of the Chisinau election in 2018. In 2018, these measures had lost effectiveness as they lagged behind Plahotniuc's consolidation of power. As their effectiveness depends on creating a threat that outweigh other interests, sanctions have to be proportionate to the entrenchment of power.

Circumstances in 2016 already justified further sanctions even. The Russian Laundromat or the banking fraud bear comparison with other major corruption schemes, including those targeted in the United States and other Western countries by Magnitsky or similar legislation. Early this year, the US government designated Plahotniuc a major perpetrator of corruption.⁴¹ This would have been justified in 2016 too. The apparent absence of serious investigations and prosecutions in the banking fraud raised questions about complicity of authorities and political leaders. The EU could have demanded an international investigation with its own participation into the fraud, while imposing sanctions against persons implicated or obstructing investigations.

Extend EU Intelligence, Conditionality, and Involvement

The EU and its member states should build up their intelligence and prosecution capacity. The struggle for the success of the EaP is also an intelligence struggle closer to the experiences of the Cold War than to earlier enlargements. The ability – which most member-state intelligence services seem to lack – to track money flows would be crucial to understand interests, connections and dependencies in local politics as well as to monitor and dismantle corruption schemes. Since a transformation of Moldova will partly depend on the decriminalization of politics, the EU and its member states should develop their capacity to investigate and prosecute major corruption cases. Money-laundering schemes and the banking fraud involved banks in the EU, raising the question of EU jurisdiction. Prosecuting ring-leaders within the EU could be a game changer.

The EU should extend its conditionality and involvement to all stages at which reforms could be frustrated, from legislation to implementation. EU

⁴¹ "Public Designation, Due to Involvement in Significant Corruption, of Former Moldovan Official Plahotniuc", U.S. Department of State, January 13, 2020: <<https://www.state.gov/public-designation-due-to-involvement-in-significant-corruption-of-former-moldovan-official-plahotniuc/>> (accessed July 3, 2020).

conditionality has improved significantly with experience. Initially based on standards local actors bypassed easily, financial aid became increasingly tied to more concrete legislation. However, EU involvement may also need to include the choice and supply of key personnel implementing reforms and legislation, in particular in the selection of judges, prosecutors and key personnel in other institutions. Moldova has a shortage of experts willing and qualified to hold public office in a proficient, independent way. The EU could deploy missions to assist in or monitor the implementation of reforms and the functioning of institutions. In this respect, experts have suggested “sharing of sovereignty” as a requirement for the EaP’s success.⁴²

Previous examples of this range from the extensive EULEX mission in Kosovo, which initially had a strong mandate for building the justice system, to the EURALIS one in Albania that supports justice reform, including the vetting of judges and prosecutors. In Moldova, EU missions could provide specific expertise in designing justice reforms, leading to more targeted conditionality; surveillance of judicial procedures in order to increase transparency and accountability as well as to inhibit abuses; evaluation, training and selection of magistrates to promote changes of personnel based on integrity, meritocracy and independence; and participation in investigations, prosecutions and trials, in advisory as well as executive roles.

EU budget support can be made conditional on, and partly help in, increasing pay to make officials financially more independent, while the EU can also insist on a role in selecting key personnel. EU involvement can provide trust in procedures, compensate for shortages in human resources and encourage reform-minded personalities to apply for public offices. Whether the role of EU missions would be executive or advisory will likely be less relevant than the readiness of the EU to take up and back up their conclusions. It would remain the sovereign choice of Moldova’s government to accept such missions, but the EU could treat this as a sign of whether it is willing to honor its obligations. The most crucial question will be in the end to what extent the EU is ready to impose serious consequences if commitments are not met.

⁴² Dumitru Minzarari and Vadim Pistrinciu, “A Problem Shared: Russia and the Transformation of Europe’s Eastern Neighbourhood,” Policy Brief, European Council on Foreign Relations (April 2020): https://www.ecfr.eu/page/-/a_problem_shared_russia_and_transformation_of_europe_eastern_neighbourhood.pdf (accessed July 3, 2020).





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Rauchstraße 17/18
10787 Berlin

Tel. +49 30 2542311-0

info@dgap.org
www.dgap.org
[@dgapev](#)

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