

Moldova Reality Check (*Policy Review*)

1st Non Paper

Bratislava, April - June 2013

Introduction

The “Reality Check” is a policy review process aiming to gather insights from top domestic and international analysts, practitioners, diplomats and policy-makers covering Eastern Partnership countries in order to discuss these behind closed doors. It has the ambition to satisfy demand for a more in-depth policy in this area. Under the aegis of Lithuania’s EU Presidency (July-December 2013) the first such a review was the Belarus Reality Check enacted in Vilnius, Lithuania October 2012.

The first Moldova Reality Check event was held in Bratislava on April 20, 2013 in a closed format aimed at encouraging an honest exchange focused on factors influencing the country’s politics on the ground (i.e. the reality check). The event took place at a rather sensitive time when the pro-European government in Chisinau had collapsed.

The review group is comprised of top Western, Moldovan and regional analysts with a particular emphasis on the independent character of the group in order to achieve evidence-based and balanced policy advice. The non-paper is a product of the Bratislava meeting, fact-checking and peer review process. It is released in order to contribute to the policy debate in and outside of Moldova.

Conclusions

The collapse of the Moldovan pro-European government coalition confronted the European Union (EU) with political realities on the ground. In retrospect, the high expectations of a fast-track integration process by the Government of Moldova (GoM) as well as the EU were unrealistic. Reasons included the lack of the political cohesion of the ruling coalition, which left room for rent-seeking wide open. Using law enforcement agencies for political purposes has been a political practice since the country’s independence. Although the Party of Communists (PCRM) mastered it, the pro-European government merely continued this practice.

Actual reforms run counter business interests, which are based on monopolies, and political ratings based on populists supporting citizens. It also took a longer time to prepare a reform package that would bring visible results for the public. Delays increased frustration on all sides, while optimistic messages remained in place. As a result, both the ruling coalition’s ratings and the support for the EU are in decline, as different public opinion polls show. The ruling coalition finds itself in a trap with two objectives: 1) trying to pursue a reform plan in order to speed up the European processes (in connection with the Association Agreement); and 2) attempting to consolidate various coalition fractions pursuing personal interests (rent-seeking) through political concessions in order to achieve steps toward EU integration. Although these are not contradictory objectives, balancing among all these actors takes time.

Only the aggressive lobbying and communication effort of the GoM matched the high expectations, leaving the actual implementation of reforms behind. At the same time, the EU also could not catch up with the speed of its promises and messages. This could be a mere coincidence, but political conflict erupted when key Moldovan policymakers understood that it is impossible to catch up with the Association Agreement (AA) and sign it at the Vilnius Summit.

The Moldovan political elite believes that after having signed the AA, the European integration process will be irreversible. This explains the urgency both on the side of the EU and the GoM to speed up the association process. Russia seems to agree as it has increased its rhetoric and steps in connection with the Customs Union of Belarus, Kazakhstan and Russia (CSU). It has renewed its support for Transnistria under the aegis of Eurasian integration and soft power influence (through media) in Moldova proper.

Given the CSU would result in a suffocating 2,7-fold increase in customs tariffs, Russia's only carrot is cheap energy. As the Deep and Comprehensive Free Trade Agreement (DCFTA) is likely to bring increased food or medicine prices in short term and benefits will only be delivered in the long run, Moldovan politicians facing elections can feel trapped.

The track record of implemented reforms as well as the EU's performance (elaborated in this non-paper) suggest that both sides tried hard to move Moldova's reform process forward. Lessons from this process therefore should be learned in and out of Moldova in order to not only accelerate but enroot the transition process deeper in the region.

Recommendations

The Eastern Partnership's structural weakness – the lack of a clear vision on where it leads – has become a full-blown case in Moldova. There is need to differentiate in line with the different developments, ambitions and needs of the Eastern partners. “Merit based membership perspective” rather than “geography based perspective” (Thessaloniki consensus) should be considered and should complement the “more for more” incentive.

The EU will be able to keep the pro-reform motivation of the elites, which might lose their power if they implement the necessary reforms, as long as there is a national consensus on the issue. It should consider reducing patronization toward its Eastern partners and work to maintain in-depth contacts with all sides. In Moldova, it should stop putting all eggs in one basket and begin to also work with the Russian speaking populations and with the Communist Party.

Conditionality is strong but unclear and often adopted when elites are motivated to make progress. The EU should adopt clear criteria in connection with the AA, similar to the Copenhagen Criteria previously related to the EU membership negotiations.

Moldova could “escape forward” by finishing the AA and proceeding with energy integration, including the implementation of the third energy package. Chisinau should move ahead with the energy interconnectors with Romania, focus on promoting renewable energy resources and energy efficiency. Harmonizing institutions and policies with EU standards as much as possible would have an impact on future Moldovan mentality, actions, policy, institutions and eventually will set the stage for a new Moldova in the coming years.

Domestic Stakeholders Review: Rent-Seeking vs. EU Integration

After three years in power, the pro-European government of the now former Prime Minister Vlad Filat is connected to a widespread disappointment, which is also reflected in recent public opinion polls. According to an April 2013 poll, as many as 84% of Moldovans feel their country is heading in the wrong direction, the highest score in the region. In December 2009, only few months after the first Alliance for European Integration (AEI) was created, it was 55%. Discontent has grown in almost all fields of government policies (with salaries at 72%, pensions 73%, employment 66%, fight against corruption 70%, living standards 61%). 76% of the population is not happy with Moldova's current economic situation and 60% expressed its general discontentment with political life in the country. 50% think that the government of PM Filat did worse than that of the Communists Party (PCRM) led by Vladimir Voronin, who remains the most popular politician with a 35% margin of positive perception.

A significant part of this malaise is produced with good intentions but with too high expectations by both the GoM and by Brussels officials trying to accelerate EU integration in the region. The confusion of Moldovans might be furthered by inconsistency in communicating the issue, with the GoM delivering different declarations at home, in Brussels and in Moscow.

On the other hand, the AEI coalition's wide composition and different interests were cemented by its pro-EU drive and efforts. These different (and often private) interests, however, created inherent structural tensions from the very beginning. This also exploded under the push from the EU to catch up with the AA, but not being able to meet the Vilnius deadline to sign it (only to initiate it). The boar hunting accident and its immediate aftermath (see table) only illustrate the issue of persisting conflict of interest among the AEI coalition partners pertinent in Moldova's politics for a long time.

Unclear separation of power, with state institutions (including the executive and the judiciary) falling under direct political control or influence of different coalition parties and their connected business interests, is a direct result of the first and second AEI coalition agreements. The constant power struggle between

The "Hunting Accident" and the Immediate Aftermath

- On December 23, 2012 an illegal hunting trip took place in the "Royal Forest" natural reserve with participation of businessmen and high-level officials including the Prosecutor General. Sorin Paciu, a Chisinau businessman was accidentally wounded and died two days later.
- On January 6, 2013 Sergiu Mocanu of the anti-corruption "Anti-Mafia Popular Movement", publicized the event and identified Valeriu Zubco, the Prosecutor General responsible for wounding Paciu. According to Mocanu, Zubco (nominated by Lupu the Democratic Party - DP) intended to confess, however, those involved attempted to cover up the incident preventing a proper investigation.
- After the incident became public, the Prime Minister Filat forced Zubco to resign. In response, the DP, using the National Anti-Corruption Centre which it had controlled, launched a series of anti-corruption investigations against the Filat's party members, even accusing the Prime Minister himself of cigarette smuggling.
- Filat tactically teamed up with the Communists in February 2013, ridding Plahotniuc of his position as the First Deputy Speaker of the Parliament, just to be defeated in March 2013 in a no-confidence vote initiated by the Communists and supported by the Democrats.
- Trying to remain in power, and also under pressure from Brussels, PM Filat struck a very unfavourable deal with the DP, making a number of generous concessions. Eager to complete their capture of the state, the Democrats used their influence over the judiciary to secure a unanimous Constitutional Court decision barring Filat from seeking the PM office again. The Liberal-Democrat Foreign Minister Iurie Leancă was appointed the acting head of government.
- To curb the growing hegemony of the Democrats, Filat fought back – he again joined forces with the Communists to dismiss the DP's Lupu as a Speaker of the Parliament, replacing him with Liliiana Palihovici (then the Deputy Speaker for the Liberal Democrats), and then to pass a package of seven laws negating the concessions made earlier to the DP, as well as introducing few changes to the political system, almost all of which were promulgated by President Timofti.
- On May 30, 2013 the Parliament approved the new government of the "Pro-European Coalition", consisting of the Liberal Democrats, Democrats and several Liberal MPs (together with 57 seats), with Iurie Leancă as the new Prime Minister.

democratic parties has created a situation where the government, judiciary and business sectors are all often connected via personal, political or business loyalties and/or interests. Personal interests rule over the interests of the state; in this case steps necessary toward accelerating the EU integration process. Corporate raiding with the help of state institutions and questionable court rulings has been more evident when it became clear that the EU integration is a longer process than it had seemed (or had been promised).

Using law enforcement agencies for political purposes has been a practice in Moldova since the Soviet times. Although it was a practice typical for the Communists, the pro-EU government did not dismantle it, but continued this political practice.

In addition to that, also politicians' engagement with oligarchs is a not a unique practice. There are oligarchs, rent-seeking and blurred lines between state and private interests in Central or Southern Europe as well, while Visegrad countries also suffer from weaker civil societies. That perhaps is why the current ruling elite in Moldova looks at the EU as an arbiter in such case. What makes Moldova a difficult case, however, is the lack of capacity on the side of the state, a very poor nation, the dispute over the Transnistria region, as well as the country's democratic credentials (free and fair elections since it had gained independence).

The May 2013 public opinion poll, with 39% support for the Communists, suggests that the opposition needs only to be patient. However, the PCRM is mired in a no-succession situation as there is no one to replace Vladimir Voronin. If he retires, the PCRM may fall into fractions as well as see a decrease in its support. In such a case PCRM would no longer be able to act as an opposite political block, but would become just another party. Either way, the international community, and especially the EU, should try engaging more with the PCRM and not put all its eggs in one basket – just as Russia used to do in the region until the Orange Revolution in Ukraine.

External Stakeholders Review: Russia Remains

Among external actors in Moldova the EU is clearly the main public player in town. Moldovan political elite believes that after the AA is signed, the European integration process will become irreversible. This explains the urgency both at the EU and the GoM side to speed-up the association process.

At the same time, Russia – realizing that Moldova may reach the point of no return – has increased its presence and activities in Transnistria, but also in Moldova proper (using soft power tools). The tension between Moldova, Russia and Transnistria has reached its new apex since the war (ceasefire declared in 1992) and currently there are no incentives to move forward with the conflict resolution process. The window of opportunity created at the time when Germany began engaging in the debate on a new European security architecture seems to have closed.

Public perception indicates a rather deep divide: approximately 51% support Moldova's accession to the EU, while 52% would rather opt for the country's membership in the CSU. However, when asked to choose between accession to either the EU or the CSU, as many as 52% respondents did not provide an answer. In order to increase pro-European public support, those 52% of undecided Moldovans need to be targeted. Importantly, the country's EU integration is supported by the most

educated population and youth, which will be in charge of the political and economic life in the coming years.

Although the EU manages to retain its position in the public limelight, Russia has also remained a crucial actor in Moldova: a) it is one of Moldova's important trade partners and a significant investor (in Transnistria only); b) it is key for resolving the Transnistria issue; c) Moldova is almost 100%-dependent on Russian gas imports (although electric energy is imported from Ukraine and Transnistria); d) an estimated 300-400 thousand Moldovans work in Russia (25-30% of Moldova's GDP comes from remittances, a lion share of which is sent home from Russia); e) approximately 125 thousand Transnistrians have a Russian passport. Russia remains a very attractive option on the left bank according to local pollsters.

Russia has increased its soft power efforts in Moldova as well. It dominates much of the media, while around one quarter of the population, the Russian speaking population (ethnic Russians, Ukrainians, Bulgarians, Gagauzians), is openly pro-Russian. On the other side, there is virtually almost no Russian-language pro-European communication targeting this constituency.

Joining the Customs Union would bring a 2,7-fold increase in Moldova's custom tariffs for imports from outside of the CSU. Such an increase would drastically damage Moldovan export competitiveness, since half of Moldovan export depends on imported necessary supplies, especially in the case of the newly established sectors, such as the automotive industry. Therefore, Russia offers, similarly as in the case of Belarus, cheap gas/energy prices. This has a significant meaning for the trapped Moldovan political elite trying to deliver some results for the poor Moldovan masses, especially with the elections looming.

It is also getting increasingly clear that the AA will not have the immediate positive short term effects Moldovans could feel. Strict enforcement of intellectual property rights could lead to a considerable increase in medical drug prices, creating large pressure on state health budget. Food prices are also likely to go up due to the increased sanitary and phytosanitary measures.

According to various accounts, even Transnistrian businesses are interested in EU markets. Although the agriculture industry on the left bank would maybe prefer the CSU, the industry would prefer the EU as otherwise they would lose Western markets (in the January-October 2013 period, 45,9% of Transnistria's export went to EU member countries, while 44,9% went to the CIS region). Moreover, at some point oligarchs would also like to legalize their assets. For instance, the Sheriff company, one of the biggest stakeholders in Tiraspol and the largest employer in Transnistria, is in a conflict with Yevgeny Shevchuk, the President of Transnistria, who in 2012 cancelled special privileges the company had enjoyed for years under the former president Igor Smirnov in an attempt to curb the business' influence and gain influence over it.

Moscow is now using the Eurasian integration framework to re-new funding to Tiraspol. Transnistrian debt for natural gas imported from Russia is now estimated at approximately \$3,7bln, a total fee that Gazprom is not asking to cover (indirect "gas subsidies"). Russia's contribution to social projects (direct humanitarian aid for pensions or food supplies) from 2008 until the end of 2012 was around \$110m (on average \$43 per capita per year). These fixed transfers are furthermore increased by different ad hoc subsidies (e.g. \$30m for stabilizing the local currency in 2012) and subsidies to the local law enforcement agencies. This is, however, not costly for Russia especially given the political

“victory” this approach delivers. Thus, sympathies will be hard to transfer into serious interest (and action) when there seems no way out for Tiraspol from Russian dependency (military, subsidies, intelligence, debt as well as endemic corruption). Given the Russian presence and influence, the message from Tiraspol to Chisinau has remained unchanged: if you want to reintegrate, you need to join us on the Eurasian path.

Moldova’s Reforms: Progressive but Mostly in the Headlines

The GoM’s track record is less impressive than its communication strategy. Moldova managed to avoid collapse or harsh austerity measures and at the same time received a 4% GDP growth projection for 2013 by the IMF – one of the best growth potentials in the region (e.g. compared to Ukraine’s 0% or Romania’s 1,6%). The police reform has a slow start but is proceeding now. Energy security, due to the interconnection with Romania (27 km-long Iasi-Ungheni interconnector), has a strong head wind. Serious investment into roads and infrastructure is under way and in three years the GoM intends to rehabilitate approximately 500 km of roads. Although, it took three years to prepare the tenders and the necessary paperwork, which shows the lack of capacity of the state as a significant issue. Steps toward visa liberalisation in all four blocks – document security including biometrics, irregular migration including readmission, public order and security, and external relations and fundamental rights – are expected to be in place before the Vilnius EaP Summit. Moldova has completed the DCFTA negotiations in fifteen months, while it took almost six years in the case of Ukraine.

But the GoM was shy in supporting economic reforms that would have unleashed the country’s potential. There was a serious, but an unsuccessful, effort to attract FDI, which failed mainly due to the lack of necessary reforms. Perspective investors were often discouraged by actions of various state institutions, including the tax inspectorate and the judiciary. Employment-to-population rate at 34,5% is very low and the labour force is largely underused, although the official unemployment rate is only 8,1%. The rate of unused highly fertile soil has risen from 10% to 20%. Similar is the trend in unused property, visible in the centre of Chisinau.

The business environment in Moldova depends on very few actors without real interest in improving the climate: improving the rules for and the role of small and medium enterprises (SMEs) would go against rent-seeking efforts connected to political parties. Around 20% of the members of the parliament are businessmen and use their power rather to protect their own interests - this is also a testament of their trust in the judiciary. Similarly, economic ministries (the Ministry of Finance controlled by Liberal Democrats, while the Ministry of Economy under the Democratic Party) showed no progress on prepared reform legislation, according to reports by EU advisers. To illustrate the “reform environment” one could use the case of Nicolae Vicol, the head of the country’s Main State Tax

**The World Bank’s Doing Business 2013 –
Moldova’s Performance**

Topic Rankings	2013 Rank	2012 Rank	Change in Rank
Starting a Business	92	82	+10
Dealing with Construction Permits	168	165	+3
Getting Electricity	161	159	+2
Registering Property	16	17	+1
Getting Credit	40	38	+2
Protecting Investors	82	114	+32
Paying Taxes	109	106	+3
Trading Across Borders	142	141	+1
Enforcing Contracts	26	24	+2
Resolving Insolvency	91	95	+4
Net Rank Improvements			14
Overall Ease of Doing Business Ranking	83	86	+3

Source – USAID BizCLIR Report: Choosing Prosperity - The Case for Business Climate Reform in Moldova

Inspectorate (Liberal Democratic Party appointee), who was arrested for corruption charges, while tax revenues have increased significantly under his tenure.

The track record of Moldovan ministries was saved by the Ministry of Foreign Affairs and European Integration, which adopted an aggressive political marketing especially abroad. This marketing, as well as high level of expectations and engagement of Brussels (and Berlin), paved the way for Prime Minister Filat, who delivered concessions to the Democratic Party (in law enforcement) in order to maintain the unity of the ruling coalition - an EU requirement. This further reduced the pressure toward reform efforts, particularly in the field of economy and the judiciary.

Moldovan citizens have limited knowledge about the reasons for reforms. Public perception is unable to connect pro-EU efforts with modernization of the country, but it rather sees it as a precondition to get visas and work permits in the EU. Not surprisingly, Moldovans may be missing the big picture since the GoM has often reduced the communication of reforms to “Brussels wants this” clichés.

Subsequently, public support for the country’s EU membership is in decline. Disappointment with the government shapes the public’s perception of the EU as well, given the GoM’s tight relations with the EU, but the EU’s own crisis is also a factor. A number of Moldovans supported the EU earlier on because the Communists also did while in power (previously there was a 70% support for the EU), while the PCRM is now rather leaning toward “Eurasia”.

The EU and Moldova: Damning Darling

The perception of Moldova in Brussels has changed significantly over the decade. From the far away and unimportant, Moldova has not only become an immediate neighbour but the darling of the Eastern Partnership. It includes the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM), which is one of the most successful assistance projects in the region.

With the EU Delegation opened in Chisinau only in 2005, the EU has been the most important factor and partner for Moldova in terms of political interests, trade and assistance. EU financial assistance has hit a record EUR 40 per capita. Assistance has been increasing over the years: in 2012 Moldova received an additional 30% increase of funds from the Eastern Partnership Integration and Cooperation (EaPIC) programme (EUR 28m totalling EUR 122m). EU funds were raised three times in six years (from EUR 40m in 2007 to EUR 122m in 2012). 90% of the total EU assistance coming to Moldova comes from the European Commission, while the rest is from member states.

After the post-2009-elections turmoil, Moldova enjoyed high-level public diplomacy from the EU and particularly Germany, as Chancellor Merkel visited Chisinau during the summer 2012. The German consideration about enacting article 49 (membership perspective) in the AA preamble for Moldova, however, has hit a wall with the collapse of the government.

Same is the case with visa liberalization, as it will not be concluded before the next elections. The estimate of how long it will take to sign the visa liberalization agreement and expectations to conclude the process prior to the Vilnius EaP Summit have turned out to have been miscalculated and fuelled by promises by Brussels. This miscalculation may have been one of the triggers of the current political crisis.

The EU, due to various priorities of its member states, has focused on too many issues (for example, it is considered as premature to implement anti-discrimination legislation at this point – it is too early for the society). The main EU tool now used is twinning, a preferred institutional building instrument used for approximation of the national regulation to the EU standards. Also, the EU High Level Policy Advice Mission (EUHLPAM) is considered successful, as it initiated a number of reforms, although with no immediate results. There is some progress even in the judiciary reform with the Action Plan for 2011-2016 adopted and first legislation introduced.

EU's communication of the process has also been admittedly weak. The EU Delegation in Chisinau is the only delegation in the EaP region without a press officer. The EU's efforts have not penetrated into the non-Romanian speaker community, while Russian-speaking Moldovans belonging to business-owning elites are actually in favour of EU integration. In the eyes of Moldovans, the EU is too closely connected with Romania, and Romanian nationals are highly underrepresented in EU structures. According to a Gallup poll, though, 58% of Moldovans say there is enough information on the EU available (EaP average 42%).

According to the International Organization for Migration (IOM) statistics, around 450 000 Moldovans possess a second passport: 330 000 Romanian passports with 125 000 applications pending, 30 000 Bulgarian, altogether 200 000 Russian passports (170 000 of which in Transnistria and 30 000 in Moldova), 130 000 Ukrainian mainly in Transnistria, 10 000 Portuguese, 2000 Italian, 1000 French, or 800 British passports.

EU incentives - perspective of signing of the AA, visa-free travel and increased funding - are evaluated as big enough to trigger reforms in Moldova. The EU is consistent in applying a "more for more" approach towards Moldova. The EaP European Integration Index assessment concurs the EU's conclusions: Moldova is doing relatively better than other EaP countries in observing its commitments towards the EU and upholding democratic institutions. The Visa Liberalisation Index confirms a similar assessment.

EU plays fairly: both insisting on strict conditionality but also recognizing good performance with rewards (increased assistance). According to Gallup (fieldwork December 2012), 55% of Moldovans have a positive image of the EU, compared to 43% EaP average, with only 12% negative. 61% tend to trust the EU (EaP average 51%), 62% believe that the EU support contributes a lot to the development of the country (only 41% in EaP), while 66% believe the EU has an appropriate level of involvement.

Improvements are needed in transparency of EU funding and evaluation of its effectiveness, particularly in budget support. The GoM complains that the promised EU funds come in very slowly (budget support for the justice sector reform, or the Comprehensive Institutional Capacity Building). The EU might have valid reasons for delays (not just its own bureaucracy), as most probably the government does not comply with the conditionality. The EU Delegation should publish the conditionality matrix (or at least the benchmarks for the sector specific reforms). Civil society organizations should be able to monitor those benchmarks and give an independent assessment.

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