

**REPORT:**

# The authorities of Moldova roll back the democratisation process and fail to fulfill their obligations to the EU

Year in and year out, Moldova cannot shake off the shackles of corruption, oligarchy, and selective justice. International partners expressed their readiness to render assistance to the country in carrying out the necessary reforms, but they have faced sabotage and inactivity on the part of the Moldovan authorities.



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The Foundation pursues its goals through the organisation of observation missions, including election observation and monitoring of the human rights situation in the post-Soviet area. Based on these activities, the Foundation creates its reports and distributes them among the institutions of the EU, the OSCE and other international organisations, foreign ministries and parliaments of EU countries, analytical centres and media.

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## 1. INTRODUCTION

The tendency to violate democratic standards and the rule of law in Moldova continues. In the interests of pro-government forces, new electoral law was adopted. The authorities began to tighten the control over the activities of non-governmental organisations. The law enforcement and judicial systems are used to prosecute oppositionists and civil society activists who oppose the usurpation of power in the country.

According to the conclusions of Transparency International, in Moldova, a narrow oligarchic group continues the process of 'capturing' the state with the use of public institutions and resources in their own mercenary interests. Particularly successful in this field is the most influential Moldovan oligarch Vladimir Plahotniuc.

In recent years, Plahotniuc, who does not occupy a high public office, managed to take control of the parliament, the executive branch of power, as well as the law enforcement, anti-corruption, and, to a large extent, the judiciary bodies.<sup>1</sup> He owns 60-70% of the TV market in Moldova. Plahotniuc's assets are estimated at 2-2.5 billion dollars, which is about 30% of the country's GDP.<sup>2</sup>

Recent events testify to the formation in Moldova of an informal ruling coalition of the forces of President Igor Dodon and oligarch Vladimir Plahotniuc. Pro-Russian Dodon has a high level of support from the society (approx. 50%<sup>3</sup>); however, he does not have real power in the state. Vladimir Plahotniuc, whose political force declares its pro-European orientation, on the contrary, is the most influential figure in Moldova, but, at the same time, extremely unpopular. Plahotniuc plays on the contradictions between the EU and Russia, using the rhetoric that he is the 'only pro-European alternative'.<sup>4</sup> At the same time, the company that belongs to him in 85%<sup>5</sup>, is the station retransmitting one of the main mouthpieces of Russian propaganda - Channel One, in Moldova.<sup>6</sup>

The existence of the tandem of Dodon-Plahotniuc, illogical at the first glance, can be explained by the desire of both to remain in power and, at the same time, to effectively prevent changes in the country. The current Moldovan authorities are interested in preserving the existing corruption system, which allows them to enrich themselves at the expense of the State and citizens. Due to the puppet law enforcement agencies, they can feel safe and eliminate their competitors and critics.

Reforms, in which international partners had placed their hopes (in particular, in the justice system)<sup>7</sup>, transpired to be merely an imitation of activity and did not change the rules of the game in the state.

In order to stabilise the economic situation in the country, the Moldovan authorities need assistance from the EU. In this report, the Open Dialog Foundation cites facts which confirm Moldova's failure to fulfill its commitments, assumed in connection with the EU's decision to provide macro-financial assistance and conclude the Association Agreement with the EU. The report considers the following problems: changing of the electoral system; initiatives to restrict foreign funding for NGOs; politically motivated criminal prosecutions; torture in the detention facilities; cases of exerting pressure on journalists and representatives of the civil society.

<sup>1</sup> [http://www.transparency.md/wp-content/uploads/2017/10/TI\\_Moldova\\_Ldis\\_Viitorul\\_Monitoring\\_public\\_policies\\_in\\_Moldova\\_-\\_October\\_2017.pdf](http://www.transparency.md/wp-content/uploads/2017/10/TI_Moldova_Ldis_Viitorul_Monitoring_public_policies_in_Moldova_-_October_2017.pdf)

<sup>2</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony> ; <https://www.osw.waw.pl/en/publikacje/osw-studies/2016-12-14/unfinished-state-25-years-independent-moldova> ; [http://media-azi.md/sites/default/files/Raportul%20siuatia%20presei%202015%20rusa\\_3.pdf](http://media-azi.md/sites/default/files/Raportul%20siuatia%20presei%202015%20rusa_3.pdf) ; <http://carnegieeurope.eu/strategieurope/?fa=69856>

<sup>3</sup> [http://www.iri.org/sites/default/files/wysiwyg/2017-11-8\\_moldova\\_poll\\_presentation.pdf](http://www.iri.org/sites/default/files/wysiwyg/2017-11-8_moldova_poll_presentation.pdf)

<sup>4</sup> <http://www.jurnal.md/ru/politic/2016/11/2/dodon-prezident-plahotnuka/>

<sup>5</sup> <https://anticoruptie.md/ru/novosti/ofitsialno-vlad-plahotniuk-javljaetsja-vladeltsem-chetyreh-telekanalov-i-treh-radiostantsij>

<sup>6</sup> <http://omg.md/index.php?newsid=13988>

<sup>7</sup> [https://eeas.europa.eu/delegations/moldova/33723/moldova-eu-cuts-budget-support-programme-justice-reforms\\_en](https://eeas.europa.eu/delegations/moldova/33723/moldova-eu-cuts-budget-support-programme-justice-reforms_en)

## 2. THE DEMOCRATIC PARTY'S ATTEMPT TO MAINTAIN POWER BY CHANGING THE ELECTION SYSTEM

In the previous parliamentary elections, the Democratic Party of Moldova, headed by Plahotniuc, got less than 16% of the vote. However, the alliance with the Liberal Democratic Party and the Liberal-Reform Party **allowed the Plahotniuc party to form a ruling coalition in the parliament.** During its governance, the Democratic Party's ranking dropped to a critical level. According to recent sociological research (October 2017), in the case of parliamentary elections, this party would gain approx. 8% of the votes cast<sup>8</sup> (with the electoral threshold of 6%).

In the autumn of 2018, the next parliamentary elections should take place in Moldova. **In March 2017, representatives of the Democratic Party initiated changes to the electoral law,** proposing to move from elections system based on the party lists to the majority election system.

This initiative caused a wave of outrage among the Moldovan community. On 5 May 2017, the Moldovan parliament approved, in the first reading, the draft law of the formally oppositional Socialist Party, whose member, until recently, was President Igor Dodon. The party proposed an alternative to the reform of the electoral system, namely, the transition to a mixed electoral system (half of the members of the parliament to be elected by the party lists, while the other half - in single-member majority constituencies).

According to the findings of Transparency International experts, the 70% of the draft law proposed by the Socialist Party is similar in structure and content to the draft law of the Democratic Party. The only important difference is the proposal to introduce the mixed system, rather than the majority system. The draft law of the Socialist Party was put to the vote of the parliament without preliminary examination by the government and parliamentary commissions, and without carrying out anti-corruption expertise.<sup>9</sup>

On 20 July 2017, the Moldovan parliament approved by  $\frac{3}{4}$  of the votes cast on a change to the mixed electoral system by supporting the entire draft law of the Socialist Party. The vote has confirmed the existence in the parliament, **of a situational alliance of political forces of Vladimir Plahotniuc and Igor Dodon.**

**The new legislation on the elections was adopted despite the negative opinion of the Venice Commission (published on 19 June 2017),** which noted the lack of political consensus in Moldova as to which electoral system is needed in the country. In particular, the national debate was not properly conducted. The conclusions of the Venice Commission emphasise that, in modern Moldova, there is a risk that the MPs, elected on the basis of the majority electoral system, will be dependent or under the influence of big business. In addition, experts drew attention to the fact that, under the new law, the Central Election Commission (CEC) is responsible for forming the boundaries of single-member constituencies. However, the criteria for the formation of constituencies are not clearly defined, which creates the risks of the exertion of political influence on the CEC.<sup>10</sup>

**The mixed electoral system increases the chances of pro-government political forces** in the forthcoming parliamentary elections. In majority constituencies, pro-government candidates will be able to misuse administrative resources. And, on the other hand, the chances of the opposition forces to get a significant number of parliamentary seats are significantly reduced.

The change in the electoral law in the context of a decline in the electoral ranking, is a common method of exerting artificial influence on the election results. **The situation, identical to that in Moldova, took place in Ukraine in the run-up to the 2012 parliamentary elections.** Sociological surveys recorded a decline in the rankings of the pro-government 'Party of Regions'. On the initiative of the authorities, a

<sup>8</sup> [http://www.iri.org/sites/default/files/wysiwyg/2017-11-8\\_moldova\\_poll\\_presentation.pdf](http://www.iri.org/sites/default/files/wysiwyg/2017-11-8_moldova_poll_presentation.pdf)

<sup>9</sup> [http://www.transparency.md/wp-content/uploads/2017/10/TI\\_Moldova\\_Idis\\_Viitorul\\_Monitoring\\_public\\_policies\\_in\\_Moldova\\_-\\_October\\_2017.pdf](http://www.transparency.md/wp-content/uploads/2017/10/TI_Moldova_Idis_Viitorul_Monitoring_public_policies_in_Moldova_-_October_2017.pdf)

<sup>10</sup> <http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282017%29012-e>

year before the parliamentary elections in the country, the election law was amended. Ukraine moved from elections based on the party lists to the mixed system. As a result, the Party of Regions won by 4% less of the votes cast than in the previous parliamentary election of 2007 (30% vs. 34% in 2007), but it managed to increase its representation in parliament by almost 6%.<sup>11</sup> It was possible for the Party of Regions to achieve a positive result for themselves due to the fact that the party won in more than half of single-member constituencies. On the other side, the opposition parties that won almost 50% of the votes cast in the election, lost the election in majority constituencies and received only 40% of the seats in the parliament, which, consequently, prevented them from forming a ruling coalition.

The current Moldovan authorities replaced the election law just one year before the elections, which may indicate that they are making attempts to change the system for their own benefit.

High Representative of the EU Federica Mogherini and Commissioner Johannes Hahn stressed that the change in the electoral law in Moldova ‘directly contradicts’ the recommendations of the Venice Commission<sup>12</sup>. The US Embassy in Moldova stated its disappointment in connection with the fact that Moldova ignores the recommendations of the Venice Commission and the OSCE by Moldova<sup>13</sup>. The European People's Party labelled the decision on changing the electoral system in Moldova ‘the preference for authoritarianism over democracy’.<sup>14</sup>

The European People's Party and the Alliance of Liberals and Democrats for Europe appealed to European institutions with a call to respond to the decline in the level of the rule of law and democratic standards in Moldova, as well as to suspend any financial assistance for Moldova, and revise the Association Agreement<sup>15</sup>.

### 3. NARROWING THE SPACE FOR FREE MEDIA, NGOS AND CIVIL ACTIVISTS

According to the ranking of the World Press Freedom Index, produced by the organisation ‘Reporters Without Borders’, in 2017, Moldova ranks 80th among 180 countries and, compared to 2016, it went down four points.<sup>16</sup> The organisation noted that the editorial policy of the main Moldovan media is closely related to the political and business interests of their owners. According to the Economist Intelligence Unit, in 2016, Moldova ranked 76th globally in terms of democracy, which is six points lower than in 2015. The downgrade was mainly due to the decline in the civil liberties index in the country (from 8.5 to 7.35 points on the 10-point scale).<sup>17</sup>

Moldova continues to exert pressure on journalists and representatives of the civil society.

On 10 July 2017, a joint meeting of the leadership of the Moldovan prosecutor's office with representatives of Amnesty International was held. At the meeting, Deputy General Prosecutor Igor Popa expressed his dissatisfaction with the findings of the organisation which recorded a number of violations at the court trial of Petrenco. In response, Amnesty International issued a statement, accusing the General Prosecutor of an attempt to intimidate and discredit the organisation. *“We consider unacceptable the manner the Prosecutor General’s Office organised an event by planning “a public execution”, and namely presenting an agenda about strengthening the cooperation between the General Prosecutor’s Office and Amnesty International Moldova. (...) It is not in the competence of the General*

<sup>11</sup> <http://www.cvk.gov.ua/pls/vnd2012/wp300?PT001F01=900>, <http://www.cvk.gov.ua/pls/vnd2012/wp039?PT001F01=900>

<sup>12</sup> [https://eeas.europa.eu/headquarters/headquarters-homepage/30221/statement-hrvp-mogherini-and-commissioner-hahn-amendments-electoral-legislation-republic\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/30221/statement-hrvp-mogherini-and-commissioner-hahn-amendments-electoral-legislation-republic_en)

<sup>13</sup> <https://md.usembassy.gov/statement/>

<sup>14</sup> <http://www.epp.eu/press-releases/moldovas-new-electoral-system-a-blow-to-democracy/#.WXcIprlGYHw.twitter>

<sup>15</sup> <http://www.epp.eu/press-releases/alde-and-epp-join-forces-to-call-on-eu-institutions-to-re-evaluate-eu-moldova-association-agreement-following-democratic-setback/>

<sup>16</sup> <https://rsf.org/en/moldova>

<sup>17</sup> <https://infographics.economist.com/2017/DemocracyIndex/>

*Prosecutor's Office to initiate discussions and to question AI annual reports, press-releases or other documents, all related on human rights and freedoms in the Republic of Moldova*<sup>18</sup>, - the organisation stated.

On 29 September 2017, it became known that journalist **Ghenadie Brega** applied for political asylum in Iceland. Brega stated that he had faced politically motivated criminal prosecution. The Moldovan police put Brega on the wanted list for evading prosecution, although, according to his counsel, law enforcement agencies were aware of his whereabouts. Brega was accused of hooliganism: in January 2017, he allegedly used 'aggression and physical violence' against the official of the Central District of Chisinau, Vasile Uratu. Brega claims that he had to defend himself, as he was first attacked by the official when he was striving to document the violation of the law on the part of the latter.<sup>19</sup>

On 18 October 2017, the Centre for Independent Journalism published an official appeal on behalf of 15 NGOs to the embassies of foreign countries in Moldova. The appeal notes **an increase in incidents of obstruction of journalistic activities and exerting pressure on journalists in Moldova**. Examples of the ill-treatment included: detention by the police of the film crew of Gagauz.info in March 2017; surveillance of the editor of the Newsmaker.md portal, Vladimir Solovyov; selective restriction of access to places of public interest for the film crews of the TV channel 'TV8' and photojournalist Constantin Grigoriță. In October 2017, security guards of the Global Business Center, owned by Vladimir Plahotniuc, threatened journalists of the newspaper 'Ziarul de Garda' and did not allow them to take video footage in the business centre.<sup>20</sup>

On 2 November 2017, the information agency **OMEGA** reported that the number of lawsuits against the agency for protection of honour and business reputation has raised. As reported in the statement, the claims were filed by public persons following the release of materials, critical of them. One of the claims was granted by the court in the absence of representatives of the agency. *"The orchestrated harassment of the OMEGA agency is a response of the state to a certain critical position of the agency regarding the activities of the authorities"*, the statement reads.<sup>21</sup>

### **The ban on external financing for non-profit organisations**

Following the criticism on the part of representatives of the Moldovan civil society regarding the changes in the electoral law, the authorities of the country put forward an initiative to limit the financing of NGOs from abroad. Minister of Justice Vladimir Chebotar enunciated that the restrictions would 'prevent the influence of external forces' on the policy of Moldova.

The Ministry of Justice proposed several amendments to the draft law on non-profit organisations. The changes concern the organisations which take part in political and lawmaking processes. According to the proposed amendments, such organisations will not be able to receive 'financing or material values from outside the Republic of Moldova'. It is also proposed to oblige non-profit organisations which receive funding from foreign sources, to file reports not only to the tax service, but also to the Ministry of Justice. They will also be required to report their incomes and expenditures in the field of 'political activity' to the Ministry of Justice and the Central Election Commission.<sup>22</sup>

Thus, the proposed amendments **will not only limit the possibility of financing NGOs from outside Moldova, but will also tighten control over them by the state structures**. Such practices exist solely in authoritarian states (Russia, Azerbaijan, Kazakhstan). A very vague treatment of 'political activity' in the

<sup>18</sup> <http://amnesty.md/en/media/procuratura-general-a-incearca-sa-intimideze-si-sa-descalifice-profesional-miscarea-amnesty-international-2/>

<sup>19</sup> <https://ru.crimemoldova.com/news/social/advokat-u-gennadiya-bregi-ne-bylo-zapreta-pokidat-naselenny-punkt/>

<sup>20</sup> <http://www.media-azi.md/en/stiri/official-address-embassies>

<sup>21</sup> <http://omg.md/index.php?newsid=14006>

<sup>22</sup> [http://justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2017/iulie/11/2017\\_07\\_11\\_proiect\\_lege\\_ONG\\_final.pdf](http://justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2017/iulie/11/2017_07_11_proiect_lege_ONG_final.pdf)

draft law creates a threat of its selective use in order to prosecute NGOs which are inconvenient to the authorities.

For violation of the law, NGOs will be fined and may even be deprived of a license by court order.

More than 70 Moldovan NGOs opposed the initiative of the Ministry of Justice. Representatives of the civil society stated that at least 90% of NGOs receive foreign funding, and, should the amendments be introduced, they simply will not be able to work.<sup>23</sup>

On 11 September 2017, the UN High Commissioner for Human Rights, Zayed Ra'ad al-Hussein, expressed his concern over the attempts of the Moldovan authorities to restrict the activities of NGOs. The Commissioner stressed that legislative changes should lead to the expansion of opportunities for a free and independent civil society.<sup>24</sup> Freedom House stated that, should the amendments proposed by the Ministry of Justice be adopted, all the achievements on the path of democratisation of the country over the past decade will be obliterated".<sup>25</sup> Amnesty International stressed that the right to freedom of association in Moldova is at serious risk, and urged the authorities to immediately withdraw the amendments to the law.<sup>26</sup>

President Igor Dodon supported the idea of limiting foreign funding for NGOs.<sup>27</sup> This is **the second time** (along with the amendment of the electoral law), when the president and the ruling coalition jointly promote an initiative, criticised by Western partners and the Moldovan community for its undemocratic nature.

#### 4. POLITICALLY MOTIVATED CRIMINAL PROSECUTION IN MOLDOVA

On 11 September 2017, during the opening of the 36th session of the Human Rights Council, the UN High Commissioner Zeyd Ra'ad al-Hussein expressed his concern over reports of harassment and persecution of counsels who defend representatives of the opposition, as well as human rights defenders and journalists in Moldova.<sup>28</sup>

Criminal prosecution based on dubious criminal charges is a popular method of combating political opponents and critics in Moldova. In its previous report, the Open Dialog Foundation<sup>29</sup> cited examples of criminal cases, which are accompanied by procedural violations and bear signs of political motivation:

- The prosecution of opposition activists who are opponents of Vladimir Plahotniuc (**Ana Ursachi, Alexandru Machedon, Serghei Cebotari**).
- The prosecution of participants in anti-government protests (for example, **Grigore Petrenco, Aureliu Pisiță, Ruslan Verbitchi, Liviu Vovc, Radu Cibotari, Alexandru Panuța, Ion Matasevici, Veleriu Casu** and others).
- The prosecution of counsels in connection with their professional activities (for example, **Ana Ursachi, Veaceslav Turcan, Maxim Belinschi**).
- Criminal cases against judges who have issued decisions, inconvenient to the current authorities (for example, **Domnica Manole, Dorin Munteanu**).

<sup>23</sup> <http://api.md/news/view/ro-declaratie-tentativa-de-a-limita-finantarea-din-exterior-a-ong-urilor-pune-in-pericol-functionarea-democratiei-in-republica-moldova-si-nu-poate-fi-acceptata-sub-nicio-forma-1587>

<sup>24</sup> <http://www.un.org/russian/news/story.asp?newsID=28537#.Wgl2QnYIG02>

<sup>25</sup> <https://freedomhouse.org/blog/draft-law-ngos-could-imperil-moldovan-democracy>

<sup>26</sup> <https://www.amnesty.org/en/documents/eur59/6920/2017/en/>

<sup>27</sup> <http://presedinte.md/rom/comunicate-de-presa/in-cadrul-vizitei-de-lucru-la-budapesta-igor-dodon-a-avut-o-intrevedere-cu-presedintele-ungariei-ianos-ader>

<sup>28</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E>

<sup>29</sup> <http://en.odfoundation.eu/a/8188,the-captured-state-politically-motivated-prosecution-in-moldova-and-usurpation-of-power-by-vladimir-plahotniuc>



Below is an update on several of the aforementioned cases, and three cases – of **Alexei Alexeev**, **Alexander Raichuk** and **Felix Grincu** are presented.

**Alexei Alexeev** - the driver of the car which delivered sound amplifying equipment for the protest action of 17 September 2017, organised by the parties the Platform 'Dignity and Truth' (headed by Andrei Năstase) and 'Action and Solidarity' (headed by Maya Sandu).<sup>30</sup> On that day, approx. 4,000 people gathered near the Parliament Building, demanding to cancel amendments to the legislation on elections, and to impose sanctions against Plahotniuc and his entourage.

Alexey Alexeev was accused of 'using threats or violence against a public official' (Article 349 of the Criminal Code). According to the investigative bodies, he drove into the police cordon and injured several policemen. **However, video records contradict this accusation.** The video demonstrates the protesters making way for the car to pass. The policemen were on the way of the car and demanded that it stop. The car approached the policemen and stopped. After this, people began to crowd in around the car, and protesters and policemen began to push one another.<sup>31</sup> According to the representative of Transparency International Moldova Janina Spinea, the police sprayed tear gas, as a result of which two women were injured.<sup>32</sup>

Counsel Yulian Rusakovski asserts that the case of Alexeev involves five injured policemen; *"four of them have no bruises, nothing, and the fifth one sustained an injury which does not pose a danger to his life"*<sup>33</sup>.

Several Moldovan NGOs (including the Centre for Legal Resources of Moldova, the Institute for Public Policy, Promo-LEX, Transparency International Moldova, etc.), issued statements in defence of Alekseyev and enunciated that the criminal charges, brought against him were 'unreasonable and designed to intimidate citizens'.<sup>34</sup>

On 20 September 2017, Alekseev was arrested for 30 days. Still, on 26 September 2017, the measure of restraint was changed to house arrest. He faces from four to eight years of imprisonment.

In a written declaration, 31 PACE members from 18 countries labelled Alekseev's case 'one of the examples of oppression of civil activists in Moldova'.<sup>35</sup> Also, members of the European Parliament, Igor Šoltes and Helmut Scholz spoke in defence of Alekseev.<sup>36</sup>

**Alexander Raichuk** - a civil activist from the city of Bălți. On 9 March 2017, three criminal cases were simultaneously initiated against him on charges of hooliganism (Article 287 of the Criminal Code of the Republic of Moldova). According to the Prosecutor's Office, in February 2017, Raichuk committed the following acts: he took a video footage of a school headmaster who was allegedly involved in illegal exactions for school textbooks; he tried to enter the courtroom for a hearing in public court; he filmed a court hearing on a video camera and addressed a judge from the court of Bălți with 'provocative' questions. Previously, in October 2016, a criminal case was initiated against Raichuk for video recording in the cadastral department of the city of Bălți. In connection with the criminal prosecution, Alexander Raichuk spent three months in custody<sup>37</sup>, he is facing imprisonment.

<sup>30</sup> <http://p.dw.com/p/2k8aZ>

<sup>31</sup> <https://www.youtube.com/watch?v=CFZG9JMDIPQ&app=desktop> ;

<sup>32</sup> [https://deschide.md/ru/russian\\_news/social\\_ru/18462/Ряд-НПО-подписали-Заявление-с-призывом-освободить-Алексея-Алексеева.htm](https://deschide.md/ru/russian_news/social_ru/18462/Ряд-НПО-подписали-Заявление-с-призывом-освободить-Алексея-Алексеева.htm)

<sup>33</sup> <http://moldnews.md/rus/news/88302>

<sup>34</sup> <https://www.facebook.com/amachedon.starnet.md/posts/1631774753533404>

<sup>35</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=24224&Lang=EN>

<sup>36</sup> <https://www.facebook.com/100008439937369/videos/1819576895000291/> ;

<https://www.facebook.com/100008439937369/videos/1819577791666868/>

<sup>37</sup> <https://ru.crimemoldova.com/news/rassledovaniya/kak-grazhdanskaya-aktivnost-stala-prestupleniem-v-respublike-moldova/>

**Grigore Petrenco** – a leader of the left-wing party ‘The Red Bloc’. He and six other protesters were accused of ‘orchestrating and participating in mass riots’ (Article 285 of the Criminal Code). On 6 September 2015, in Chisinau, they participated in protest actions with thousands of other protesters, demanding the resignation of senior officials, and punishment for the embezzlement of funds from the country's banking system.

On 28 June 2017, the court sentenced Petrenco to a suspended sentence of 4.5 years’ imprisonment. Other protesters, namely: Mihail Amerberg, Pavel Grigoriuc, Alexandr Roşco, Vladimir Jurat, Oleg Buznea and Andrei Druzi were sentenced to conditional sentences of 3 to 4.5 years in prison.

In August 2017, Petrenco left Moldova. Shortly after that, he informed reporters that on 18 October, 2017, Germany granted him political asylum.<sup>38</sup>

**Ana Ursachi** – a Moldovan counsel and a civil society activist. She participates in high-profile cases, in particular, she defends the interests of Vladimir Plahotniuc’s opponents. In September and October 2016, the media owned by Plahotniuc (for example, Canal3 and Prime) launched a campaign to discredit Ursachi. In their stories, they spoke about Ursachi's involvement in the murder 20 years before (in 1997, Ms Ursachi's ex-husband became one of the convicts in the murder case). In October 2016, General Prosecutor Eduard Harunzhen resumed the criminal case in order to ‘establish the extent to which Ms Ursachi was involved in the crime’.

In the case of Ursachi, the 15-year statute of limitations expired in 2012. In addition, as noted by Ursachi, 20 years ago, law enforcement agencies had already carried out an investigation against her, but the case was closed. Therefore, the counsel points out a violation of the principle of *non bis in idem* (no one can be tried or punished twice for the same act).

Ms Ursachi requested that the court declare illegal, the decision to resume the criminal case on the murder. However, on 4 October 2017, Judge Aureliu Postica dismissed her complaint. According to Ursachi, one of the arguments of Judge Postica was that, recently, another criminal case was initiated against Ursachi, which is, supposedly, an aggravating factor.

On 20 March 2017, the authorities of Moldova initiated a criminal case against Ursachi under Article 327 of the Criminal Code (‘abuse of power’). She was accused of illegal activities in the provision of legal advice in 2012. Ursachi emphasised that she had been carrying out her professional activities, and Article 327 of the Criminal Code cannot be applied to a counsel.

The prosecutor's office filed a request that the court arrest Ursachi in connection with the murder case. The court is yet to consider the motion of the prosecutor's office (the court hearings have been postponed over the recent year).

**Alexandru Machedon** – the owner of the group of companies ‘StarNet’ (one of the largest in the telecommunications market of Moldova) and one of the sponsors of the opposition party ‘The Platform ‘Dignity and Truth’. Machedon supports the protest movement, which, as he stated, was the reason for the persecution, orchestrated by Vladimir Plahotniuc.

The state authorities have repeatedly tried to deprive ‘StarNet’ of a license, accusing the company of violating the rules of retransmission. For several years, a criminal case was carried out against StarNet. In 2017, an inspection was carried out with regard to ‘StarNet’ in the framework of the investigation of the criminal case on charges of economic crimes. As noted by Machedon, he has recently been subjected to surveillance by law enforcement agencies.

<sup>38</sup> <http://newsmaker.md/rus/novosti/grigoriya-petrenko-vzval-berlin-on-poluchil-politicheskoe-ubezhishche-v-germanii-34173>

On 22 October 2017, in Chisinau, a fire broke out on one of the central nodes of 'StarNet'. The company stated that it suffered damages of approx. 430,000 euros.<sup>39</sup> Thus far, the examination of the cause of the fire brought no results.

**Domnica Manole** – a judge of the Appellate Chamber of Chisinau. On 14 April 2016, she recognised as illegal, the CEC decision to deny holding a referendum on amendments to the Constitution. On 31 May 2016, a criminal case was initiated against the judge on charges of 'issuing an unjust decision' (Article 307, section 1 of the Criminal Code). Manole claims that she is being persecuted for issuing a decision, inconvenient to the authorities.

The head of the Superior Council of the Judiciary stated that the arguments of the General Prosecutor raise "*reasonable suspicions of Judge Manole's bad intentions*" when issuing the decision on the referendum. On 4 July 2017, the Superior Council of the Judiciary dismissed Manole from her post. 22 Moldovan NGOs expressed concern about the decision.<sup>40</sup>

Manole requests that the initiation of a criminal case against her be declared illegal. According to Anna Ursachi, the court is yet to consider the complaint.

**Felix Grincu** – a businessman, representative of the opposition party 'Our Party', which is a pro-Russian political force. On 17 November 2016, Grincu was detained. After that, he was arrested on charges of fraud. According to his counsel, in 2013, the Supreme Court of Justice closed the criminal cases against Grincu, but the prosecutor's office resumed them.

According to the Moldovan legislation, **the maximum period of preliminary arrest in one criminal case is 12 months**, and so, Grincu should have been released on 17 November 2017. However, on that day, the court granted the prosecutor's motion **to arrest Grincu in connection with another criminal case** on charges of attempted murder (based on the statement of Grincu's former business partner).<sup>41</sup> Thus, Grincu continues to be held in custody.

His counsel noted that, the cell of the pre-trial detention centre where Grincu is being held, has a concrete floor and there's no glass in the window. In addition, according to the counsel, the employees of the detention centre took the medicine from Grincu, who suffers from hypertension. The representative of the Department of Penitentiary Institutions refuted this information. As reported by the counsel, at the court sessions, Grincu felt bad, and the doctors stated that there's **a threat of a heart attack**. Grincu's family members are striving to persuade the authorities to allow him to be examined in a private clinic.<sup>42</sup>

Counsel Anna Ursachi noted that on 11 November 2016, (a few days before his arrest), Grincu organised a protest action in support of her. According to Ursachi, this caused the intensification of the persecution of Grincu. This was also pointed out by the former Moldovan ambassador to the Council of Europe Alexey Tulbure. He claims that the criminal charges against Grincu are fabricated and politically motivated: "*The prosecutor's office wasn't able to substantiate any of the criminal charges*". Tulbure pointed to the fact that, in the detention facility, the health and life of Grincu is in danger.

<sup>39</sup> <http://newsmaker.md/rus/novosti/klienty-starnet-ostalis-bez-interneta-iz-za-pozhara-na-odnom-iz-osnovnyh-internet-34223>

<sup>40</sup> <http://newsmaker.md/rus/novosti/npo-vystupili-protiv-snyatiya-s-dolzhnosti-sudi-domniki-manole-32327>

<sup>41</sup> <http://newsmaker.md/rus/novosti/feliksi-grinku-nashli-drugoe-delo-aktivist-nashey-partii-ostanetsya-pod-arestom-34698>

<sup>42</sup> <http://newsmaker.md/rus/novosti/chtoby-delo-ne-konchalos-kak-aktivistu-nashey-partii-feliksi-grinku-pytayutsya-pro-34682>

## 5. MOLDOVA DOES NOT FULFILL ITS OBLIGATIONS TO THE EU, ALTHOUGH COMPLIANCE IS A CONDITION FOR GRANTING MACRO-FINANCIAL ASSISTANCE TO THE COUNTRY

On 13 June 2017, the European Parliament, the European Commission and the EU Council issued a joint statement<sup>43</sup>. On the request of Moldova, the EU decided to provide the country with 100 million euros of macro-financial assistance in order to stabilise the economic situation and support reforms in the country. Among the conditions for granting the financial assistance were: respecting democratic mechanisms (including the multi-party parliamentary system, the rule of law and guarantees of observance of human rights), and ensuring an effective fight against corruption and money laundering. The responsibility for monitoring the compliance with the aforementioned conditions rests with the European Commission.

As the Moldovan authorities ignored the conclusions of the Venice Commission regarding the new election law, taking into account their dubious initiatives, aimed at tightening control over the activities of NGOs, as well as repeated incidents of harassment of oppositionists, journalists and civil activists, **the EU doubts Moldova's intentions to fulfill its obligations.**

On 21 July, 2017, the High Representative of the EU, Federica Mogherini and the Commissioner Johannes Hahn stated that the manner in which the electoral law was changed, is not in line with Moldova's obligations, assumed in connection with the planned granting of the macro-financial assistance from the EU.<sup>44</sup>

On 27 September 2017, the European Parliament adopted a resolution on the situation in Moldova, expressing its support for the initiative to suspend all payments within the framework of the macro-financial assistance for Moldova. The resolution also expresses concern over the deteriorating situation with the rule of law, democratic standards, respect for human rights, selective justice and systemic corruption in Moldova.<sup>45</sup>

When reporting the results of his visit to Moldova in October 2017, the Council of Europe Commissioner for Human Rights Nils Muižnieks stated that there are still shortcomings in the justice system in the country. He expressed his concern about the presumption of guilt in court trials, and cases of intimidation and harassment of counsels.<sup>46</sup>

**On 11 October 2017, the EU refused to grant 28 million euros for the reform of the justice system in Moldova,** as the Moldovan authorities have not demonstrated sufficient commitment to the reform. As a result of inefficient allocation of funds and human resources, the reform was never implemented.<sup>47</sup>

A vivid example of the failure of the reform is the case of beating of **Andrei Braguța** and his subsequent death in the Moldovan detention facility. On 15 August 2017, the police detained Braguța. According to the investigative bodies, he was speeding, after which he behaved aggressively towards the police officers. Immediately after his detention, Braguța's father notified the police that since 2012, his son had been a patient of a mental health clinic. Despite this fact, Braguța was arrested.

On the night of 16 August 2017, while in the cell of the detention facility, Braguța was beaten by his cellmates. Two months later, on 24 October 2017, the General Prosecutor's Office released a video footage from the surveillance cameras of the detention facility.<sup>48</sup> The video footage, which was publicised, demonstrates several people in the cell severely beating and kicking Braguța in the face; Braguța is lying on the floor and he isn't resisting the attackers. Several police officers entered the cell,

<sup>43</sup> <http://data.consilium.europa.eu/doc/document/ST-10158-2017-INIT/en/pdf>

<sup>44</sup> [https://eeas.europa.eu/headquarters/headquarters-homepage/30221/statement-hrvp-mogherini-and-commissioner-hahn-amendments-electoral-legislation-republic\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/30221/statement-hrvp-mogherini-and-commissioner-hahn-amendments-electoral-legislation-republic_en)

<sup>45</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B8-2017-0536&format=XML&language=EN>

<sup>46</sup> <https://www.coe.int/az/web/commissioner/-/republic-of-moldova-important-advances-on-addressing-domestic-violence-but-more-progress-needed-in-justice-reform>

<sup>47</sup> [https://eeas.europa.eu/delegations/moldova/33723/moldova-eu-cuts-budget-support-programme-justice-reforms\\_en](https://eeas.europa.eu/delegations/moldova/33723/moldova-eu-cuts-budget-support-programme-justice-reforms_en)

<sup>48</sup> <https://www.youtube.com/watch?v=tWMKCKItHTg>

but did not stop the violence. One policeman looked through the door peek, watching the beating. After that, according to the counsel, Braguța was placed in solitary confinement, from which the employees of the pre-trial detention centre took out the blankets, and switched off the water: *"Braguța slept naked on the concrete floor, had nothing to eat and was forced to drink from the toilet bowl"*.<sup>49</sup>

On 26 August 2017, Braguța died in the detention facility. Forensic experts announced that the cause of death was 'bronchopneumonia'. The case of Braguța was widely publicised. Braguța's four cellmates (accused of causing bodily injuries) and three policemen (accused under the article on 'Torture') have found themselves in the dock. At the moment, the policemen are under house arrest. A disciplinary investigation was initiated against the prosecutor and the judge who issued a decision to arrest Braguța.

In November 2017, at a meeting of the UN Committee Against Torture, it was noted that the Moldovan prosecutor's office had become aware of Braguța's death only a few days later.<sup>50</sup> Interior Minister Alexander Zhizdan admitted that the staff of the detention facility did not pass the information in due time: *"We were not trying to hide anything, we just did not report it on time"*.<sup>51</sup>

## 6. CONCLUSIONS AND RECOMMENDATIONS

Moldova is rapidly turning into a hotbed of instability, corruption and lawlessness in the region. International observers note a decline in the level of democracy, media freedom and freedom of association, as well as an attack on the civil society.

A narrow circle of people who climbed to power, uses the State for their own enrichment and reprisal with their political opponents. Public interests are replaced by personal interests. The term 'the captured state' concisely characterises the situation in Moldova.

Instead of carrying out the necessary anti-corruption and economic reforms, the authorities are prosecuting the opposition, and amending the electoral law in order to increase their chances in the forthcoming parliamentary elections.

The Moldovan authorities declare their adherence to European values; still, at the same time, they constantly appear in corruption scandals and fail to implement the reforms. This leads to disillusionment of citizens with the pro-European course of the country. The results of the recent presidential election, won by the pro-Russian candidate Igor Dodon, clearly testify to this.

More and more facts indicate that the obligations of Moldovan authorities to international partners are merely declarative in nature.

The Open Dialog Foundation hereby calls on the European Union authorities (European Commission, European Parliament, European Council) to take decisive actions in connection with Moldova's failure to fulfill its obligations. We consider it necessary:

- To extend financial sanctions in the form of refusal to provide macro-financial assistance to Moldova by the EU. Any other financial assistance should be provided to Moldova only if there is an improvement in the situation with democratic standards and the rule of law in Moldova.
- To raise the issue of revising the Association Agreement between Moldova and the EU in connection with the increasing number of incidents of violation of democratic principles, human rights and fundamental freedoms in Moldova.

<sup>49</sup> <http://newsmaker.md/rus/novosti/pravopohoronitelnyaya-sistema-pravozashchitniki-schitayut-smert-andreya-bregutsy-di-34292>

<sup>50</sup> <https://www.kommersant.ru/doc/3462066>

<sup>51</sup> <http://agora.md/stiri/38577/jizdan-fenomenul-maltratarii-in-izolatoare-nu-exista--cazuri-ca-braguta-nu-se-intampla-in-fiecare-z>

- To demand the immediate cessation of politically motivated criminal prosecutions of representatives of the opposition, human rights defenders, journalists and judges in Moldova.
- To introduce personal sanctions against persons involved in politically motivated criminal prosecutions.
- To demand that conditions for the safe operation of the opposition, NGOs and independent media, be created in the country.
- To demand that the Moldovan authorities do not adopt amendments to the law on non-profit organisations which would restrict foreign funding for NGOs and oblige them to file additional financial statements.

**All those wishing to support our demands are welcome to send their statements to the following persons and institutions:**

- European Parliament President Antonio Tajani - 1047 Brussels, Belgium, Bât. Paul-Henri Spaak 09B011, Rue Wiertz / Wiertzstraat 60, tel: +32(0)2 28 45503 (Brussels), +33(0)3 88 1 75503 (Strasbourg);
- The President of the European Commission Jean-Claude Juncker – 1049 Brussels, Belgium Rue de la Loi / Wetstraat 200, e-mail: [president.juncker@ec.europa.eu](mailto:president.juncker@ec.europa.eu);
- The President of the European Council Donald Tusk — 1048 Brussels, Rue de la Loi / Wetstraat 175, e-mail: [donald.tusk@european-council.europa.eu](mailto:donald.tusk@european-council.europa.eu), tel: +32 2 28 15650;
- EU High Representative for Foreign Affairs and Security Policy Federica Mogherini – 1049 Brussels, Rue de la Loi / Wetstraat 200, e-mail: [federica.mogherini@ec.europa.eu](mailto:federica.mogherini@ec.europa.eu), tel: +32 2 584 11 11; +32 (0) 2 295 71 69;
- The Head of the European Parliament Committee on Foreign Affairs David Mcallister – 1047 Brussels, Belgium, Bât. Altiero Spinelli 05E240, Rue Wiertz / Wiertzstraat 60, e-mail: [david.mcallister@europarl.europa.eu](mailto:david.mcallister@europarl.europa.eu), тел: +32(0)2 28 45323 (Brussels), +33(0)3 88 1 75323 (Strasbourg);
- The Head of the European Parliament Subcommittee on Human Rights Antonio Panzeri – 1047 Brussels, Belgium, Bât. Altiero Spinelli 11G354, Rue Wiertz / Wiertzstraat 60, e-mail: [pierantonio-panzeri@europarl.europa.eu](mailto:pierantonio-panzeri@europarl.europa.eu), тел: +32(0)2 28 45846 (Brussels), +33(0)3 88 1 75846 (Strasbourg);
- EU Special Representative (EUSR) for Human Rights Stavros Lambrinidis - e-mail: [stavros.lambrinidis@ext.eeas.europa.eu](mailto:stavros.lambrinidis@ext.eeas.europa.eu), tel: +32(0)2 584 230;
- OSCE PA President George Tsereteli — 1070 Vienna, Austria, Neustiftgasse 3/8, tel.: +43 1 523 3002;
- OSCE PA Chair of the Committee on Democracy, Human Rights and Humanitarian Questions Ignacio Sanchez Amor – e-mail: [crisrina.casado@gps.congreso.es](mailto:crisrina.casado@gps.congreso.es), tel: +34 91 390 6919;
- The Secretary General of the Council of Europe Thorbjørn Jagland - e-mail: [thorbjorn.jagland@coe.int](mailto:thorbjorn.jagland@coe.int), tel: + 33 (0)3 88 41 20 00;
- PACE President Stella Kyriakides — e-mail: [skyriakidou@parliament.cy](mailto:skyriakidou@parliament.cy);
- United Nations High Commissioner for Human Rights Ra'ad Zeid Al-Hussein – Palais des Nations CH-1211 Geneva 10, Switzerland, tel: +41 22 917 9220.