

# The Captured State:

## Politically Motivated Prosecution in Moldova And Usurpation of Power by Vladimir Plahotniuc



Against the backdrop of growing public discontent with the current government, the political regime in Moldova is becoming tougher. The powerful oligarch Vladimir Plahotniuc has monopolised the influence on the state authorities and, currently, he controls law enforcement agencies. Opposition activists, independent journalists and human rights activists increasingly frequently face politically motivated persecution.



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## 1. INTRODUCTION

Moldova remains one of the poorest and most corrupt states in Europe, which causes tension in society and discontent with the actions of the authorities. The year 2015 and the beginning of 2016 were marked by anti-government protests across the country, involving thousands of protesters. Initially, they were provoked by the news of a loss of about \$ 1 billion from three large Moldovan banks (which is approx. 15% of the country's GDP<sup>1</sup> and was labelled 'theft of the century').<sup>2</sup> However, with the passing of time, the protesters began to make general demands: the resignation of the government and the implementation of anti-corruption reforms.

In October 2015, the government of Valery Strelets resigned. However, the new government, formed mainly from persons close to the oligarch Vladimir Plahotniuc,<sup>3</sup> sabotaged the implementation of systemic reforms. Furthermore, in response to the protests, the Moldovan authorities began to prosecute opposition representatives. For the first time in several years, the international community has noted the presence of political prisoners in the country.

In April 2017, the Moldovan Parliament adopted in first reading a draft law that allows the involvement of armed forces in order to counteract protest rallies and 'ensure public order'<sup>4</sup>. This means that the authorities do not wish to engage in a dialogue with the public and expect to suppress protest sentiment by force, as is done by other undemocratic post-Soviet states.

The concentration of power in the hands of Vladimir Plahotniuc, the most powerful oligarch and the most influential politician in the country, poses a threat to democratic processes in Moldova. The data collected by authoritative analytical centres and the media outlets confirm that Plahotniuc has monopolised the impact on the state authorities and controls the justice system in Moldova; he also owns the largest media resources. This is the main reason for which Moldova is called 'the captured State'.<sup>5</sup> The ruling Democratic Party, headed by Plahotniuc, is striving to introduce amendments to the legislation, having initiated the transition to a majority system of elections, which would open additional opportunities for bribing voters and using administrative resources.

Opposition activists who oppose Vladimir Plahotniuc, have been subjected to prosecution (Ana Ursachi, Alexandru Machedon, Serghei Cebotari and others). Dubious criminal cases were initiated against other opposition activists for their participation in protest actions (Grigore Petrenco, Aureliu Pisciă, Ruslan Verbitchi, Radu Cibotari, Alexandru Panuța, Ion Matasevici, Veleriu Casu and others).

Several lawyers and human rights defenders faced criminal charges related to their professional activities (Ana Ursachi, Veaceslav Turcan, Maxim Belinschi). Also, the international community drew attention to cases of criminal prosecution of judges who handed down judgements, inconvenient for the current authorities (Domnica Manole, Marina Anton and others).

These criminal cases are accompanied by procedural violations and bear signs of political motivation. The cases presented in this report serve as a clear illustration of the problem, repeatedly pointed out by international organisations, the EU and the USA. It is a question of illegal and selective justice, which is used as an instrument to combat political opponents in Moldova.

Prosecution based on political reasons contravene Moldova's obligations under the Association Agreement with the EU, signed in 2014, and also call into question the European integration aspirations of the current Moldovan government.

<sup>1</sup> <http://data.worldbank.org/country/moldova>

<sup>2</sup> <http://www.bbc.com/news/magazine-33166383>

<sup>3</sup> <https://anticoruptie.md/ru/rassledovaniia/nepodkupnost/pravitelstvo-filipa-interesy-imuschestvo-i-biznes>

<sup>4</sup> <http://www.moldova.org/en/moldova-parliament-adopts-draft-law-first-lecture-allow-national-army-intervene-violent-protests/>

<sup>5</sup> <https://mobile.nytimes.com/2015/08/11/opinion/bring-moldova-back-from-the-brink.html?smid=fb-share& r=0&referrer=>

## 2. VLADIMIR PLAHOTNIUC'S MONOPOLY INFLUENCE ON THE STATE AUTHORITIES AND CONTROL OVER THE SYSTEM OF JUSTICE

Plahotniuc's assets are estimated at 2-2.5 billion dollars, which is approx. 30% of the country's GDP.<sup>6</sup> According to various sources, Plahotniuc has revenues from the privatisation of state assets, as well as the hotel and real estate market. He owns a significant part of the Moldovan media and advertising market.<sup>7</sup> According to open sources, in the 1990s, Plahotniuc was engaged in the export of wine to Russia. In the early 2000s, he became the head of the Moldovan branch of the Romanian oil company 'Petroil'.

After that, he established close working relationship with the leader of the Communist Party, Vladimir Voronin who was the President of Moldova in 2001-2009. Following the resignation of the communist government, Plahotniuc began to finance the Democratic Party of Moldova. Experts noted that Plahotniuc's influence increased significantly, after, in June 2016, the former Prime Minister and leader of the Liberal Democratic Party Vlad Filat was sentenced to 9 years' imprisonment, having been convicted of involvement in embezzlement of money from the country's banking system. For a long time, Plahotniuc and Filat were the main competitors in the struggle for control over the state apparatus and financial flows in Moldova.<sup>8</sup>

Compared to other big businessmen and groups of influence, the main characteristic of Plahotniuc is that he, although not occupying any high public office, has monopolised the control over the authorities. Plahotniuc became the richest man in Moldova who has a decisive influence on the political processes in the country.<sup>9</sup> The results of the research, carried out by analytical centres and journalistic investigations confirm that Plahotniuc influences the Prime Minister, the President and members of the Parliament; he controls the heads of law enforcement bodies and owns 60-70% of the telemarket in Moldova (nationwide TV channels: Prime, Publika TV, Canal2 and Canal3).<sup>10</sup>

The information that **Plahotniuc controls the heads of law enforcement and judicial bodies in Moldova**, in particular, those appointed by the ruling coalition, has received broad reverberation. *"In its current shape, Moldova is also a classic example of a captured state, in which the operation of key state institutions ... has been fully subordinated to the interests of a narrow political and business elite led by Plahotniuc. ... Plahotniuc now has a decisive influence on the General Prosecutor's Office, the Supreme Court of Justice, the Supreme Judiciary Council, anti-corruption bodies ... and – indirectly – most judges throughout Moldova"*, - this conclusion was drawn by representatives of the Centre for Eastern Studies (OSW).<sup>11</sup> OSW analysts emphasise that Plahotniuc enlists the support of politicians and officials, threatening them with initiation of criminal cases against them in case of their disloyalty.<sup>12</sup>

In August 2016, documents were posted on the blog OFFSHOREPLAHA, which is registered on WordPress (in Romanian).<sup>13</sup> According to Counsel Ana Ursachi, the documents show that the companies, affiliated to Plahotniuc, paid Moldovan judges and law enforcement officials for initiating criminal cases and issuing judgements, convenient to them. Some media pointed out that the list of persons who received money, includes Head of the Anti-Corruption Prosecutor's Office, Viorel Morar,

<sup>6</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony>

<sup>7</sup> <https://www.opendemocracy.net/od-russia/maria-levcenco/vlad-plahotniuc-moldova-s-man-in-shadows> ; <https://www.europalibera.org/a/27333651.html>

<sup>8</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony> ;

<https://www.opendemocracy.net/od-russia/maria-levcenco/vlad-plahotniuc-moldova-s-man-in-shadows>

<sup>9</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony> ;

<http://jurnal.md/en/politic/2016/12/1/financial-times-about-the-oligarchs-from-eastern-europe-plahotniuc-the-richest-man-from-moldova-captured-long-time-ago-the-power/>

<sup>10</sup> <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%20situatia%20presei%202015%20rusa\\_3.pdf](http://media-azi.md/sites/default/files/Raportul%20situatia%20presei%202015%20rusa_3.pdf)

<sup>11</sup> <https://www.osw.waw.pl/en/publikacje/osw-studies/2016-12-14/unfinished-state-25-years-independent-moldova>

<sup>12</sup> <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony>

<sup>13</sup> <https://offshoreplaha.wordpress.com/2016/08/30/схемы-плахотнюка-в-оффшорах-и-лицах/>

former General Prosecutor Valeriy Gurbul, as well as judges from the Supreme Court of Justice and the Appeals Chamber.<sup>14</sup>

On 13 February, 2017, Member of the European Parliament Tomáš Zdechovský Informed the European Commission that the oligarch Vladimir Plahotniuc has influenced Moldovan law enforcement agencies with the aim of prosecuting political opponents. *"This influence includes bribery of judges, police officers and others"*, - Zdechovský noted.<sup>15</sup>

The US State Department also drew attention to the term 'the captured State', by which experts describe the illegal influence of private interests on government bodies.<sup>16</sup> *"No independent institutions remain in Moldova"*, – the Carnegie Europe material noted.<sup>17</sup> The Chatham House experts noted that, at the moment, the Moldovan civil society does not have enough strength to resist the concentration of power in the hands of Plahotniuc.<sup>18</sup>

**Plahotniuc was involved in several corruption scandals.** According to the journal 'Der Spiegel', Plahotniuc may be implicated in raider attacks on Moldovan banks and insurance companies.<sup>19</sup> One of the former leaders of the National Centre for Combating Corruption of Moldova, Mikhail Hoffman, stated that Plahotniuc is the "main beneficiary" of the stolen \$ 1 billion from 3 Moldovan banks: Unibank, Sociala and Banca de Economii.<sup>20</sup>

The Moldovan media cited the words, uttered by Plahotniuc, by which he confirms that in 2007 he was 'monitored' by the Rome bureau of Interpol. Plahotniuc explained this by saying that in Italy, he *"landed, on a chartered plane, at the same airport where businessmen from Russia, who were involved in real estate transactions, were present at that time"*.<sup>21</sup> Radio Liberty noted that in 2013, it became known that in the Moldovan Ministry of Internal Affairs "several pages" of the Interpol documents relating to Plahotniuc "disappeared".<sup>22</sup>

### 3. PLAHOTNIUC PLAYS ON CONFLICTS BETWEEN THE UE AND RUSSIA AND LABELS HIMSELF 'THE ONLY PRO-EUROPEAN ALTERNATIVE'

Plahotniuc is the head of the Democratic Party of Moldova, which positions itself as 'pro-European'. This party belongs to the ruling coalition (Moldova is a parliamentary republic). In January 2016, the coalition proposed to appoint Plahotniuc to the post of Prime Minister. However, the then President Nikolai Timofti rejected this candidacy, stating 'reasonable suspicions' regarding 'Vladimir Plahotniuc's non-compliance with the criteria of incorruptibility'.<sup>23</sup> After that, the Prime Minister appointed another representative of the Democratic Party - Pavel Filip. Experts and journalists have repeatedly emphasised that **Filip is Plahotniuc's protege**.<sup>24</sup>

In November 2016, Igor Dodon, advocating closer rapprochement with Russia, was elected President of Moldova. For several years, Dodon headed the Party of Socialists. After winning the presidential election, he officially left its ranks. Still, in December 2016, Dodon participated in the party congress.<sup>25</sup>

<sup>14</sup> <https://ru.crimemoldova.com/news/rassledovaniya/morar-trebuat-u-kharunzhena-proverit-spisok-sluzhashchikh-kotorym-platil-plahotnyuk/>

<sup>15</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2017-000986+0+DOC+XML+VO//EN&language=en>

<sup>16</sup> <https://www.state.gov/documents/organization/265662.pdf>

<sup>17</sup> <http://carnegieeurope.eu/strategieurope/?fa=69856>

<sup>18</sup> <https://www.chathamhouse.org/expert/comment/moldova-captured-state-europe-s-edge>

<sup>19</sup> <http://www.spiegel.de/politik/ausland/republik-moldau-nato-warnt-vor-russischer-aggression-a-1020428.html>

<sup>20</sup> <http://www.forbes.com/sites/kenrapoza/2016/08/01/billion-dollar-theft-in-moldova-one-rich-bankers-crime-has-a-nation-doing-time/#6cb7b8767a4d> ; <http://newsmaker.md/rus/novosti/mihail-gofman-nazval-glavnym-benefitsiarom-krazhi-veka-vladimira-plahotnyuka-26145>

<sup>21</sup> <http://actualitati.md/ru/vnutrennyaya-politika/plahotnyuk-priznalsya-pochemu-im-interesuetsya-interpol>

<sup>22</sup> <http://www.europalibera.org/a/27333651.html>

<sup>23</sup> <http://jurnal.md/ru/politic/2016/1/13/prezident-nikolai-timofti-otklonil-kandidaturu-oligarha-plahotnuka-na-dolznost-prem-er-ministra/>

<sup>24</sup> <https://www.opendemocracy.net/od-russia/maria-levenko/chelovek-v-teni> ; <http://www.jurnal.md/ru/opinii/2016/7/8/analiz-centra-vostocnyh-issledovanij-moldova-ot-oligarhiceskogo-pluralizma-k-gegemonii-plahotnuka/>

<sup>25</sup> <https://ava.md/2016/12/18/zinaida-grechanyy-izbrana-predsdatelem/>

The Socialist Party is not part of the coalition. Therefore, the current President does not have the support of the majority in Parliament. Vitaliy Kulik, the director of the Ukrainian Civil Society Research Centre, noted that **Dodon's party is dependent on oligarchic groups, and, predominantly, on Vladimir Plahotniuc.**<sup>26</sup> The Moldovan media also reported Plahotniuc's strong influence on Dodon.<sup>27</sup>

The pro-Russian President Dodon does not have substantial powers. There are reasons to believe that Plahotniuc uses him, playing on the contradictions between the EU and Russia. On the example of Dodon, he shows the threat of Russian influence on Moldova. Plahotniuc is striving to enlist the support of the EU and the USA. He declares that only his party, which formed the government, can provide the pro-European course for Moldova.<sup>28</sup> Carnegie Europe experts emphasise that Vladimir Plahotniuc, being neither a democrat nor a reformer, only uses false pro-European rhetoric as a cover.<sup>29</sup> Thus, Plahotniuc is not interested in carrying out real reforms in accordance with the commitments to the EU, as this would undermine his monopolistic influence on the authorities.

Plahotniuc, who has a low rating and a dubious reputation, presents himself as "the only strong pro-European alternative". This causes disappointment with the European vector of development among the society, which is used by pro-Russian populist powers in their own interests.

#### **4. ON THE EVE OF THE PARLIAMENTARY ELECTIONS, THE DEMOCRATIC PARTY MAKES ATTEMPTS TO INTRODUCE AMENDMENTS TO THE ELECTORAL LAW**

Mr. Plahotniuc and the Democratic Party enjoy an extremely low level of confidence among the society. According to the sociological survey 'Barometer of Public Opinion' (October 2016), 76.5% of the Moldovan population 'do not trust' Vladimir Plahotniuc 'at all'. As of April 2017, the level of confidence in Mr. Plahotniuc alternated at the level of a statistical error and was 1%, while the level of confidence in the Democratic Party was 5%, which is below the electoral threshold.<sup>30</sup> In addition, the low rating of the current government is evidenced by the fact that in the first round of the presidential elections, two opposition candidates Igor Dodon and Maya Sandu got a total of 87% of the vote.

At the same time, it should be noted that sociological surveys confirm generally low levels of Moldovans' confidence in state institutions. In particular, as of October 2016, 64.4% of the population 'do not trust' the government 'at all', 67.7% - do not trust the parliament, 73.8% - the President, 53% - the General Prosecutor and 58.3% - political parties.<sup>31</sup>

In the autumn of 2018, the next parliamentary elections should take place in Moldova. Representatives of the Democratic Party have initiated amendments to the electoral legislation, suggesting switching from elections by party lists to the majority system. Probably, this step has been taken due to the low rating of the Democratic Party, which raises concerns that it would not overcome the 6% electoral threshold.

Representatives of the Democratic Party argue that the initiative to move to the majority system was supported by a number of non-governmental organisations. Nevertheless, according to the Moldovan media, many of these organisations are directly related to the main actors of the Democratic Party, including Vladimir Plahotniuc.<sup>32</sup>

<sup>26</sup> [http://www.bbc.com/ukrainian/politics/2016/11/161114\\_moldova\\_ukraine\\_relation\\_after\\_election\\_sd](http://www.bbc.com/ukrainian/politics/2016/11/161114_moldova_ukraine_relation_after_election_sd)

<sup>27</sup> <http://www.jurnal.md/ru/politic/2016/11/1/govorim-dodon-podrazumevaem-plahotniuc-lider-psrm-partner-oligarha-na-protazanii-desatiletij/> ; <http://vnews.agency/exclusive/50194-prezidentstvo-dodona-eto-chast-plana-plahotnyuka-stat-premer-ministrom-moldovy.html>

<sup>28</sup> <http://dailycaller.com/2017/04/11/moldova-steers-a-path-to-democracy-and-reform/>

<sup>29</sup> <http://carnegieeurope.eu/strategieurope/?fa=69856>

<sup>30</sup> <http://newsmaker.md/rus/novosti/barometr-obshchestvennogo-mneniya-v-parlament-prohodyat-tolko-dve-partii-psrm-i-pa-31064>

<sup>31</sup> <http://www.bop.ipp.md/ru>

<sup>32</sup> <http://www.report.md/politic/Cine-sta-in-spatele-ONG-urilor-care-au-semnat-pentru-uninomialul-lui-Plahotniuc-677>

It should be noted that, in the conditions of 'young democracies', the majority system is often characterised by such negative phenomena as: bribery of voters, the use of administrative resources, as well as artificial change in the boundaries of constituencies to fit the interests of pro-government candidates.

On 3 May, 2017, two large parties of the European Parliament (the European People's Party and the Alliance of Liberals and Democrats for Europe) expressed their indignation about the initiative to introduce amendments to the electoral system, labelling it 'an attempt by the Democratic Party of Moldova to stay in power'.<sup>33</sup>

On 5 May, 2017, the Moldovan parliament approved in the first reading, the law presented by the Socialist Party, which is an opposition party only formally. This party proposed an alternative solution with regard to the reform of the electoral system - the transition to a mixed electoral system (half of the members of the parliament would be elected by party lists, the other half - in single-mandate majority districts). At the same time, the law was adopted in the first reading at a time when the Venice Commission was yet to draw its conclusions on it.

The Moldovan civil society and the opposition reacted to the decision of the parliament by protest actions. In particular, on 14 May, 2017, several thousand people gathered near the parliament building.<sup>34</sup> The protesters stated that Mr. Plahotniuc and President Dodon act together and do not carry out real consultations with the civil society regarding the amendments to the electoral system.<sup>35</sup>

## 5. PUBLIC REPRESENTATIVES DOUBT THE INDEPENDENCE OF THE GENERAL PROSECUTOR AND POINT TO VIOLATIONS OF THE PROCEDURE OF HIS APPOINTMENT

Former Moldovan ambassador to the Council of Europe Alexei Tulbure noted that the current **General Prosecutor is Plahotniuc's trusted person**<sup>36</sup>. On 7 December, 2016, in the course of a contest, the Supreme Council of Prosecutors nominated Eduard Harunzhen as General Prosecutor. On 8 December, 2016 President Nicolae Timofti approved this candidacy. A few days later, Igor Dodon took presidential office. He appealed to the court with a demand that the decision on the appointment of Harunzhen be canceled. Previously, the same lawsuit was filed by politician Grigore Petrenco. The court consolidated both cases into one case.

Among the arguments voiced against the appointment of Harunzhen, were the following:

- According to Art. 17 of the Law 'On the Prosecutor's Office' (of 25 February, 2016), the office of General Prosecutor may be taken by a person who 'during the past six months has not been a member of the Supreme Council of Prosecutors'. Petrenko noted that Harunzhen has been a member of the council since 1 March, 2016, i.e. from the moment he became Acting General Prosecutor.
- The authorities did not disclose the results of verification of Harunzhen's compliance with the criterion of incorruptibility. On 9 December, 2017, several non-governmental organisations (including Amnesty International and Transparency International in Moldova) expressed doubts about the objectivity of the verification and urged the authorities to make its results public.<sup>37</sup>

<sup>33</sup> <http://www.epp.eu/press-releases/joint-statement-epp-alde-moldova-the-uninominal-system-is-a-desperate-attempt-to-keep-the-democratic-party-in-power/>

<sup>34</sup> <https://www.facebook.com/NuPlaha/videos/1964295697138465/>

<sup>35</sup> <http://newsmaker.md/rus/novosti/oppozitsiya-vnov-protestuet-pered-parlamentom-protiv-izmeneniy-izbiratelnyy-sistem-31265>

<sup>36</sup> <http://jurnal.md/en/justice/2016/12/7/experts-harunien-s-designation-in-the-post-of-prosecutor-general-plahotniuc-s-game-it-is-a-catastrophe-for-the-republic-of-moldova/>

<sup>37</sup> [https://deschide.md/ru/russian\\_news/social\\_ru/4233/Гражданское-общество-возмущено-механизмом-назначения-генерального-прокурора.htm](https://deschide.md/ru/russian_news/social_ru/4233/Гражданское-общество-возмущено-механизмом-назначения-генерального-прокурора.htm)

– According to the media, Harunzhen could have been involved in sabotaging the investigation of the events of 7 April, 2009. On that day, protest rallies took place in Chisinau. One of the activists to die in the rallies was Ion Tsybulak. According to some reports, he could have died at the hands of policemen. Harunzhen refused to open a criminal investigation into the death of Tsybulak.<sup>38</sup>

On 30 March, 2017, the Supreme Court of Justice rejected the claims of Dodon and Petrenko, recognising the appointment of Harunzhen as legitimate.<sup>39</sup>

Since March 2016, when Harunzhen actually began to lead the prosecutor's office, criminal cases against opposition activists have been investigated; they have been accompanied by procedural violations and borne signs of political motivation (for example, the cases of Ursachi, Chebotar, Pistică, Verbitchi, Panuță, Matasevici, Manole and others).

## 6. THE CASE OF ANA URSACHI



Ana Ursachi

Photo: [privesc.eu](http://privesc.eu)

Ana Ursachi is a Moldovan lawyer, human rights activist, founder of the civil society movement #NuMaTem ('I'm not afraid'). For several years, Ursachi has been engaged in high-profile cases. She has defended the interests of opponents of Vladimir Plahotniuc, as well as witnesses who reported Plahotniuc's illegal actions. In particular, Ms Ursachi is a defender of Alexandru Machedon, Serghei Cebotari, Grigore Petrenco, Domnica Manole, Marina Anton and others.

The Moldovan authorities accused Ana Ursachi of involvement in the murder committed 20 years ago.

In 1997, a citizen of Moldova, Lyubov Manoli, was killed. One of the convicts in this case was Ursachi's ex-husband, who pleaded innocent. At that time, the prosecutor's office carried out a verification regarding Ms Ursachi herself, but the case against her was closed due to a lack of evidence.

In September-October 2016, in media belonging to Plahotniuc (e.g. Canal3 and Prime), an information campaign was launched with the aim of discrediting Ursachi (with allegations of her involvement in the 1997 murder).<sup>40</sup> In October 2016, General Prosecutor Eduard Harunzhen signed a resolution to resume the investigation into the murder of Lyubov Manoli. The goal is "to establish the degree of Anna Ursachi's involvement in the crime".<sup>41</sup>

The actions of the prosecutor's office contradict the Moldovan legislation. First, according to the decision of the Constitutional Court of Moldova, it is possible to resume a criminal case only within the period of limitation.<sup>42</sup> In Ursachi's case, the 15-year period of limitations expired in 2012. Secondly, the principle of *non bis in idem* (no one can be tried or punished twice for the same act) was violated.<sup>43</sup>

On 21 November, 2016, the prosecutor's office searched the apartment of Ms Ursachi's father. The search was conducted without a warrant and in the absence of lawyers. Ursachi's computer was seized.

<sup>38</sup> <http://www.zdg.md/ru/?p=7371>

<sup>39</sup> <http://newsmaker.md/rus/novosti/kadr-blansh-vsp-otklonila-iski-o-nezakonnosti-naznacheniya-genprokurora-30602>

<sup>40</sup> <http://en.odfoundation.eu/a/7992,moldova-prosecution-of-consuel-ana-ursachi>

<sup>41</sup> <http://ru.odfoundation.eu/a/7989,moldova-presledovanie-advokata-anny-ursaki>

<sup>42</sup> <http://lex.justice.md/ru/360888/>

<sup>43</sup> This rule is enshrined in the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

After that, the pro-government media published personal materials from the counsel's computer, which caused criticism from Amnesty International.<sup>44</sup>

The prosecutor's office reported that the investigation against Ms Ursachi was resumed "in connection with the discovery of new circumstances" on the basis of a statement by Dorin Manole (the son of the murdered woman). According to Ms Ursachi, on 10 February, 2017, at the hearing, Manole stated that he 'does not want to be a victim' and does not see any 'new circumstances' in the case. "Dorin Manole has been escorted to court by about 20 policemen", Ms Ursachi noted.

Ana Ursachi's defence requested that the court recognise the decision to resume the criminal case unlawful. On 3 November, 2016, the prosecutor's office filed a motion with the court requesting that Ursachi be arrested. In November and December 2016, Judge of the Chisinau Central Court, **Dorin Munteanu**, postponed the consideration of the request for arrest. He stated that, first, a different court should consider the legality of the resumption of the criminal case. After that, according to Ursachi, Munteanu was removed from the case.

On 31 January, 2016, General Prosecutor Eduard Harunzhen initiated the proceedings to bring Judge Dorin Munteanu to criminal responsibility. Mr. Munteanu was accused of "issuing an unlawful decision" in one of the cases.<sup>45</sup> Ana Ursachi believes that the real reason behind these criminal charges was Judge Munteanu's position on her case.

At the moment, Ana Ursachi resides on the territory of the EU and cannot return to Moldova due to the threat of arrest.

## 7. THE CASE OF ALEXANDRU MACHEDON



Alexandru Machedon  
Photo:

<https://alexandrumachedon.wordpress.com/>

Alexandru Machedon is a businessman, owner of the group of companies 'StarNet' - one of the largest in the telecommunications market of Moldova. Mr. Machedon also supports non-commercial projects to provide free IT education.

Mr. Machedon is one of the sponsors of the opposition party 'The Dignity and Truth Platform'.<sup>46</sup> He financed non-state media (the jurnaltv portal and the TV channel TV-7), and also supported the protest movement against corruption. Mr. Machedon noted that this caused a conflict with Vladimir Plahotniuc, who subsequently orchestrated his criminal prosecution.

In October 2015, in the midst of anti-government protests, 'StarNet' changed the broadcast network by placing the TV channels: 'Chisinau Live' and 'Dignity and Truth' as first. They broadcast speeches of activists during protest rallies, organised by the party 'The Dignity and Truth Platform'.<sup>47</sup>

The state authorities have repeatedly made attempts to revoke the StarNet's licence, accusing the company of violating the rules of rebroadcasting. In this regard, since 2011, court trials have been

<sup>44</sup> <http://newsmaker.md/rus/novosti/informatsiyu-skrvyayut-chtoby-ubedit-nas-chno-vse-horoshochto-reformy-rabotayut-i-29924>

<sup>45</sup> The Supreme Council of the Judiciary allowed the prosecutor's office to initiate a criminal case – <http://www.zdg.md/stiri/stiri-justitie/doc-declaratii-incredibile-ale-judecatorului-de-instructie-urmarit-penal-dupa-ce-nu-a-prelungit-arestul-unui-invinuit>

<sup>46</sup> <http://tribuna.md/ru/2016/09/15/oameni-de-afaceri-in-sustinerea-lui-andrei-nastase-la-alegerile-prezidentiale/>

<sup>47</sup> <http://newsmaker.md/rus/novosti/ploshchad-podklyuchili-k-televideniyu-starnet-zapustil-onlayn-translyatsiyu-protis-18270>

carried out. Defenders noted that in all cases, 'StarNet' has successfully brought about the cancellation of the bans and fines. The Supreme Court of Moldova also found the claims against the company ungrounded.

In November 2013, the General Prosecutor's Office initiated criminal proceedings against 'StarNet' on charges of illegal entrepreneurial activity (Article 241, section 2 of the CC). After that, the state bodies conducted several checks in the company. The counsels pointed out to the fact that no violations have been found. Despite this, the prosecutor's office refused to close the criminal case. 'StarNet' appealed against the actions of the prosecutor's office in court, but without success.

Attempts, made by the state, to revoke the StarNet's license can be regarded as an 'assistance', rendered to the company's main competitor in the Moldovan telecommunications market, namely, the state-owned company Moldtelecom. From 2009 to 2015, Moldtelecom was headed by Vitaliy Yurku, whom the Moldovan media associate with Vladimir Plahotniuc.<sup>48</sup>

The counsels stated that the procedural status of 'StarNet' is vague, and investigative actions are not being conducted. Still, at the same time, the criminal prosecution continues. Representatives of the company noted that the criminal case hinders normal work and negatively affects the reputation among customers and investors.

Besides, Alexandru Machedon found out that a criminal case was initiated against him in Ukraine on charges of 'raping a minor' (Article 152, section 3 of the CC of Ukraine). The pro-government Moldovan media began writing about this in October 2016, when presidential elections were held in Moldova. Mr. Machedon was the leader and sponsor of the election campaign of the candidate from 'The Dignity and Truth Platform', Andrei Năstase.

According to the counsels, the criminal case was initiated on the basis of a statement by a resident of Odessa Province, V.M. Skobla. According to her, on 29 January, 2016, in Odessa Province, Mr. Machedon allegedly raped her son. Mr. Machedon noted that he was on the territory of Ukraine only on the day of 28 March, 2016 for several hours. He stated as follows: *"On 29 January, 2016 I was not staying on the territory of Ukraine, as can be seen from the official information of the Border Guard Service of Moldova."*

Mr. Machedon emphasises that, using heavy and shameful accusations, opponents are striving to discredit him and remove him from political activities.

Mr. Machedon claims that the criminal case against him is the result of the activities of Moldovan oligarchic clans (including Vladimir Plahotniuc), which used their connections in Ukraine's Odessa Province. An employee of the Investigation Department of Odessa Province, Alexandra Malinovskaya, told President of the Open Dialog Foundation Lyudmyla Kozlovskaya by phone that the case of Mr. Machedon is under the control of the General Prosecutor's Office of Ukraine. It should be emphasised that this department has always been considered an instrument of political influence in the hands of the President of Ukraine who plays a key role in the process of appointing the General Prosecutor.<sup>49</sup> At the same time, Vladimir Plahotniuc calls himself 'a close friend of President of Ukraine Petro Poroshenko'.<sup>50</sup>

The Open Dialog Foundation made attempts to obtain official information about the details of the criminal case and the procedural status of Mr. Machedon. However, the police department in Odessa Province is yet to respond to the inquiry.

<sup>48</sup> <https://www.reportingproject.net/internetownership/?p=244&lang=ru>

<sup>49</sup> Practice shows that when appointing persons to these positions, the President isn't guided by the criterion of professionalism, but rather by the degree of the person's loyalty. For example, the current General Prosecutor Yuriy Lutsenko had previously headed the pro-presidential party in parliament.

<sup>50</sup> [http://ru.publika.md/plahotnyuk-ukraina-izbrala-prezidenta-v-kotorom-nuzhdalas\\_1337381.html](http://ru.publika.md/plahotnyuk-ukraina-izbrala-prezidenta-v-kotorom-nuzhdalas_1337381.html)

## 8. THE CASE OF SERGHEI CEBOTARI

Serghei Cebotari is a member of 'The Dignity and Truth Platform' and former head of the financial control service of the state enterprise 'Post of Moldova'.



Serghei Cebotari  
Photo: <http://politics.md>

According to Cebotari, on 11 November, 2012, he notified the administration of the 'Post of Moldova' that, under the guise of parcels with books and cosmetics, 'Post of Moldova' daily sends anabolic drugs to the EU countries and the USA. "In response, I was banned from publishing this information," Mr. Cebotari stated. In July 2013, he lost his job, as the financial control service was liquidated. Mr. Cebotari stressed that for several years, the prosecutor's office and other state bodies refused to respond to the information, obtained by him, regarding corruption.

In April 2016, Mr. Cebotari managed to publicise his statement in some media. He stated that the management of the enterprise, customs service, MP Yevgeniy Nikiforchuk, as well as godson of Vladimir Plahotniuc, Dorin Damir, were implicated in the criminal scheme in the 'Post of Moldova'.<sup>51</sup>

Following the publicising of this information, three criminal cases were initiated against Serghei Cebotari. The Moldovan authorities accused him of illegal actions when holding the post of the director of the agricultural firm SERCONLUX-Group:

- On 12 July, 2016, a criminal case was initiated on charges of using forced labour (Article 168 of the CC). According to the investigative bodies, in 2011-2014, Cebotari "did not pay for hired labour". It was only on 30 June, 2016 that employees filed an appropriate complaint. Cebotari stated that he made all the payments, and the victims include people who have never worked for his company.
- On 8 August, 2016, a criminal case was initiated on charges of fraud (Article 190 of the CC). The investigative bodies claim that "by fraud, the accused illegally acquired the property of another person (agricultural machinery)". Mr. Cebotari noted that he had acquired the agricultural machinery legally.
- According to Cebotari, the investigators never summoned him for questioning. He learned about his status only after the two cases had been transferred to court on 29 November, 2016. The counsels noted that, at the trial, one of the victims stated that "the district police officer forced them to sign a testimony". However, the judge did not permit the court reporter to record these words in the protocol, citing that they were uttered after the closure of the court session, - the counsels enunciated.
- On 10 October, 2016, a criminal case was initiated on charges of 'evading taxes' (Article 244 of the CC). Currently, it is at the stage of preliminary investigation. Mr. Cebotari labels the charges 'trumped-up'.

Mr. Cebotari was detained on 29 July, 2016, when he was going to the meeting of the special commission of the Moldovan parliament in order to give evidence about smuggling at the 'Post of Moldova'. The Parliamentary Commission confirmed Mr. Cebotari's information about the existence of

<sup>51</sup> <http://actualitati.md/ru/vnutrennyaya-politika/plahotnyuk-ispolzuet-gospredpriyatie-pochta-moldovy-dlya-kontrabandy> ;  
<http://www.jurnal.md/ru/social/2016/4/5/rassledovanie-ezednevno-cerez-poctu-moldovy-v-es-i-ssa-otpravialis-posylki-s-zapresennymi-vesestvami/>

the criminal scheme and called for the dismissal of the Minister of Finance, the Minister of Information Technologies, as well as the heads of the Customs Service and the 'Post of Moldova'.<sup>52</sup>

Mr. Cebotari was taken into custody, but on 10 August, 2016, the Appellate Court released him from detention.<sup>53</sup>

Mr. Cebotari claims that he has been subjected to prosecution as his statements about smuggling on the 'Post of Moldova' work against the interests of Plahotniuc and his entourage. Mr. Cebotari claims that the smuggling scheme continues, and unidentified persons threaten him with new criminal cases if he does not 'forget about the case of the 'Post of Moldova''. One of Serghei Cebotar's counsels is Ana Ursachi, who has widely publicised the case<sup>54</sup>.

## 9. THE PROTEST RALLIES OF 6 SEPTEMBER, 2015: THE CASE OF GRIGORE PETRENCO



Grigore Petrenco

Photo: <http://unimedia.info>

**Grigore Petrenco** is the leader of the left-wing party 'Red Bloc' (until 2015, the party was called 'Our Home – Moldova'). In the years 2005-2014, Petrenco was a member of Parliament from the Party of Communists. He was expelled from the party after he accused the leader of the Moldovan Communists, Vladimir Voronin, of secret cooperation with Vladimir Plahotniuc.

In 2015, several major anti-government protest rallies were held in Moldova, and their peak occurred in September. The protesters demanded the resignation of the government and leaders of law enforcement agencies, as well as their punishment for corruption and theft of financial means from the country's banking system. On 6 September, 2015, approx.

100,000 people gathered in the main square of Chisinau. In addition, Grigore Petrenco and other activists organised a picket near the General Prosecutor's Office. They tried to enter the building of the prosecutor's office, after which clashes with the police began.

As a result, accusations of 'organising and participating in mass riots' (Article 285 of the CC) were brought against Petrenco and six other protesters: Mihail Amerberg, Pavel Grigorciuc, Alexandr Roşco, Vladimir Jurat, Oleg Buznea and Andrei Druzi. They face up to 8 years' imprisonment. By their actions, they "*created a threat to the constitutional order, as well as to the peace and security of mankind*", the investigative bodies claim.<sup>55</sup>

Petrenco and his associates were held in custody for 6 months. It was due to the pressure of the international community that on 22 February, 2016, the measure of restraint against them was changed to house arrest. In April 2016, the house arrest was changed to judicial control, which, according to the counsels, provides for a ban on participating in protest rallies and traveling outside the country.

In January 2017, a trial began in the case of the so-called 'Petrenco's group'. Seven policemen are involved in the case as victims.

<sup>52</sup> <http://www.jurnal.md/ru/social/2016/10/13/sledstvennaa-komissia-podtverzdaet-anaboliki-otpravialis-za-granicu-cerez-poctu-moldovy-shemu-podderzivali-pravitel-stvo-i-tamozna-a-postavki-prodolzalis-i-v-period-rassledovania-dokument/>

<sup>53</sup> <https://ru.crimemoldova.com/news/rassledovaniya/sergey-chebotar-osvobozhden-iz-pod-aresta/>

<sup>54</sup> [http://www.noi.md/index.php/ru/news\\_id/89340](http://www.noi.md/index.php/ru/news_id/89340)

<sup>55</sup> <http://humanrights-online.org/власти-молдовы-продолжают-преследов/>

Petrenco claims that the authorities intend to intimidate opposition activists with this criminal case.<sup>56</sup>

## 10. THE PROTEST RALLIES OF 20 JANUARY, 2016: THE CASE OF AURELIU PISICĂ, RUSLAN VERBITCHI, LIVIU VOVC AND OTHERS



The protest of 20 January  
Photo: <http://www.reuters.com/>

On 20 January, 2016, against the backdrop of protest actions demanding early parliamentary elections, it became known that on that day in the evening, a voting for the new government was scheduled in the parliament. Representative of the Democratic Party, Pavel Filip was nominated as a candidate for Prime-Minister. MPs from the opposition blocked the rostrum, and so, Mr. Filip spoke from his place. The coalition MPs did not discuss Filip's manifesto, but

immediately voted for his appointment, which is a procedural violation.

This provoked a spontaneous protest. In an attempt to prevent the appointment of Mr. Filip by the government, protesters broke into the parliament building. According to the police, as a result of the clashes, 8 policemen, 5 protesters and 2 MPs were injured; also, the building of the parliament suffered some damage.<sup>57</sup>

As a result, a criminal case was initiated under Art. 285 of the CC of the Republic of Moldova ('Mass riots'). The police identified 13 people who allegedly stood out by their high levels of aggressive behaviour during the protests at the parliament building: **Liviu Vovc, Aureliu Pisciă, Sergiu Cibotoreanu, Serghei Cebotari, Ruslan Verbitchi, Radu Cibotari, Igor Cociorba, Anatolie Bizgu, Aureliu Bucureanu, Adrian Portean, Oleg Sirbu, Stanislav Fauras and Vrej Martirosian**. They were accused of 'organising mass riots and participating in them'. According to the latest information, charges against Stanislav Faurash were dropped. All the others face 3 to 8 years' imprisonment.

Half of the accused are leaders and active members of the party 'The Dignity and Truth Platform' (Vovk, Pisciă, R. Cibotari, S. Cebotari, Verbitchi). As reported by Aureliu Pisciă, his case has already been brought to court. He fears that he can be taken into custody.

The Moldovan police distributed a video footage which captured the actions of some of the defendants in the criminal case.<sup>58</sup> Judging by the footage, the accused took part in the events near the parliament in the same way as thousands of other protesters who tried to push back the police cordon. Some of the accused simply watched what was happening.

<sup>56</sup> <http://jurnal.md/en/politic/2016/5/12/grigore-petrenco-plahotniuc-s-governance-used-our-case-to-intimidate-the-forces-of-opposition-and-the-civic-society-in-our-place-stay-other-protesters/>

<sup>57</sup> <https://news.tut.by/world/481535.html> ; <http://rtr.md/novosti/obshchestvo/policiya-opredelila-lichnosti-provokatorov-sprovocirovavshix-stolknoveniya-u-zdaniya-parlamenta>

<sup>58</sup> <https://www.youtube.com/watch?v=fiFieycTzc0>

The leader of 'The Dignity and Truth Platform', Andrei Năstase urged protesters to cease their attempts to break into the parliament building.<sup>59</sup> The party activist Aureliu Pisciă noted that among protesters, there were provocateurs who ignored their demands not to commit aggressive actions.

Therefore, the question as to according to what principle law enforcement agencies have determined the circle of perpetrators, remains open. It is not excluded that they were subjected to prosecution in connection with their membership in the opposition party.

## 11. PROTESTS ON 24 APRIL, 2016: THE CASE OF RADU CIUBOTARI, ALEXANDRU PANUȚĂ, ION MATASEVICI, AND VELERIU CASU



Protests on 24 April

Photo: <https://ru.sputnik.md/>

On 24 March, 2016, the Dignity and Truth Platform Party held a protest rally in Chisinau. Protesters demanded early parliamentary elections and chanted slogans against Vladimir Plahotniuc.

The authorities brought large forces of law enforcement agencies into the city. The police cordoned off government buildings and some of the streets. First, the protesters rallied outside the building of

the business centre owned by Vladimir Plahotniuc, but later they moved towards his house. However, the street where Plahotniuc's house is located was also blocked by the police. Some of the protesters tried to break through the police barricades, which provoked scuffles.

On 5 May, 2016, four protesters were detained: **Radu Ciubotari, Alexandru Panuța, Ion Matasevici, and Veleriu Casu**. They were accused of 'participating in mass riots' (Article 285, section 2 of the CC). According to Counsel Ana Ursachi, there were no 'organisers' indicated in the case, although the provisions of Art. 285 of the Criminal Code require that the investigative bodies establish the 'organisers and leaders of riots.' In May 2016, the accused were arrested, and two months later, the measure of restraint was changed to house arrest.

Representatives of the Dignity and Truth Platform Party stated that Veleriu Casu was not the party's supporter, but has been "introduced into the ranks of protesters" in order to subsequently testify against them.<sup>60</sup>

Currently, the case is being heard in court, and seven police officers are included in the case as victims. As noted by Counsel Ana Ursachi, on 2 March, 2017, during the court session, four injured policemen did not recognise the participants of the brawls among the defendants. The rest of the police officers are yet to be questioned. Also, according to Ursachi, the prosecutor's office did not summon a single witness of the events.

<sup>59</sup> <http://rtr.md/novosti/obshhestvo/protest-u-zdaniya-parlamenta-protiv-naznachenie-pravitelstva-live>

<sup>60</sup> <http://newsmaker.md/rus/novosti/bit-po-semu-obvinyaemyh-v-nasilstvennyh-deystviyah-protiv-politsii-24-aprelya-ares-24751>

## 12. THE PROTESTS OF 27 AUGUST, 2016: THE CASE OF ANATOLIE STEPULEAC, ALEXANDR PETKOV, AND OTHERS

On 27 August, 2016, on the Independence Day of Moldova, a peaceful anti-government protest action ‘#NuMaTem’ (‘I’m not afraid’) was held in Chisinau. The activists gathered near the square where a military parade took place and chanted opposition slogans. The police surrounded the square, but the protesters managed to break through the cordon in one location. The police sprayed tear gas into the crowd, although, according to the activists, children and elderly people were among the protesters.<sup>61</sup> Amnesty International condemned the unjustified use of tear gas.<sup>62</sup>

On 2 September, 2016, a criminal case was initiated under Art. 184 of the Criminal Code (‘Violations of the right to freedom of assembly’) and Art. 349 of the Criminal Code (‘Threat or violence against an official’). The defendants in this case remain unknown.



The protests of 27 August  
Photo: <http://www.jurnal.md>

According to **Ana Ursachi**, a source in the prosecutor's office informed her that the investigative bodies intend to bring charges against her as well as opposition activists **Anatolie Stepuleac, Alexandr Petkov, and Aureliu Pisičă**.

Alexandr Petkov is a Moldovan politician and editor-in-chief of the ‘Omega’ information portal.<sup>63</sup>

Anatolie Stepuleac is a Moldovan businessman and an intern attorney. According to Stepuleac's complaint, a criminal case was opened against the head of the National Police Inspectorate Alexandr Pynzar (on charges of abuse of

power and abuse of authority). Representatives of the opposition stated that on 27 August, 2016, Pynzar ordered the police to use tear gas against protesters.<sup>64</sup>

## 13. THE CASE OF VEACESLAV TURCAN AND MAXIM BELINSCHI

Along with the case of Ana Ursachi, another case of prosecution of Moldovan lawyers and human rights defenders, in particular, the case of Veaceslav Turcan and Maxim Belinschi, received broad reverbaration.

Counsels Veaceslav Turcan and Maxim Belinschi are the leaders of the human rights organisation Human Rights Embassy. When working on another case, they found that a former police officer, a judge and his wife (a notary) could be involved in fraud aimed at misappropriating property (real estate). In 2015, the counsels requested that the prosecutor's office investigate into all the circumstances, but the criminal case was closed several times. Moreover, shortly after, he counsels themselves became victims of criminal prosecution.<sup>65</sup>

<sup>61</sup> <http://www.bbc.com/russian/news-37205510>

<sup>62</sup> <http://www.jurnal.md/ru/politic/2016/8/29/amnesty-international-zestko-osuzdaet-dejstvia-vlastej-v-otnosenii-protestuusih-primenenie-slezotocivogo-gaza-nedopustimo-pozdravlaem-rm-k-25-letiu-nezavisimosti-u-teba-vse-men-se-prav/>

<sup>63</sup> <http://www.omg.md/>

<sup>64</sup> <http://ru.crimemoldova.com/news/rassledovaniya/glava-natsionalnogo-inspektorata-politsii-okazalsya-na-skame-podsudimykh/>

<sup>65</sup> <http://www.ign.md/ru/societate/79576>

A former police officer, suspected of fraud by the counsels, filed a complaint against them for ‘providing false information.’ On 23 December, 2015, the prosecutor's office initiated a criminal case against Mr. Turcan and Mr. Belinschi under Art. 352 (1) of the Criminal Code (‘False statements in declarations’). Currently, they are facing a fine or imprisonment for up to one year. According to Turcan, on 21 December, 2016, the prosecutor's office initiated another criminal case against him and Belinschi under the same article 352 (1) of the Criminal Code. As emphasised by Mr. Turcan, the General Prosecutor Eduard Harunzhen is aware of the situation, yet he does nothing to prevent unlawful criminal prosecution.<sup>66</sup>

The accused stated that the criminal case is an attempt to intimidate them and deprive them of the right to practice law. They emphasised that the Moldovan authorities are violating international law, as a counsel cannot be held responsible for providing information to law enforcement bodies which they have received in the process of defending their client<sup>67</sup>. Human rights organisations Amnesty International<sup>68</sup> and Human Rights Embassy<sup>69</sup>, as well as Union of Lawyers of Moldova<sup>70</sup> spoke in defence of Turcan and Belinschi.

#### 14. THE CASE OF DOMNICA MANOLE



Domnica Manole

Photo: <http://www.ziarulnational.md>

Domnica Manole is the judge of the Appeals Chamber of Chisinau.

In March 2016, the Central Election Commission (CEC) denied the civil platform Dignity and Truth<sup>71</sup> in holding a referendum on amending the Constitution<sup>72</sup>. However, on 14 April, 2016, Judge Domnica Manole ordered the CEC to authorise the referendum. The CEC, in turn, filed a complaint with the Supreme Court, which overturned Manole's decision on 22 April, 2016.

Moreover, the CEC requested that the prosecutor's office verify the actions of Judge Manole. On 31 May, 2016, Eduard Harunzhen, the then Acting General Prosecutor, received the permission from the Superior Council of Magistracy to initiate criminal proceedings against Manole. She has been accused of ‘issuing an unlawful decision’ (Article 307, section 1 of the

CC). As a justification, the prosecutor's office cited the decision of the Supreme Court, which states that Manole has ignored the arguments of the CEC and exceeded her authority in interpreting the Constitution.

The head of the Superior Council of Judiciary stated that the General Prosecutor's arguments cause “reasonable suspicion about Judge Manole’s bad intentions” when deciding on the referendum.<sup>73</sup>

<sup>66</sup> <http://www.pana-defenders.info/index.php/ru/monitoring/dela-protiv-pravozashchitnikov-aktivistov-v-sudakh/item/260-adv mold2017feb>

<sup>67</sup> <https://www.youtube.com/watch?v=PS4KgL3Nzr0>

<sup>68</sup> <http://amnesty.md/en/media/cerem-standarde-transparente-si-echitabile-pentru-avocatii-din-moldova/>

<sup>69</sup> <http://www.osce.org/ru/odihr/267076?download=true>

<sup>70</sup> <https://en.crimemoldova.com/news/social/state-officials-accused-of-abusing-lawyers/>

<sup>71</sup> Some of the activists of the civil platform are members of a party with the same name.

<sup>72</sup> Activists said they collected about 400,000 signatures for holding a referendum on the following issues: the return to direct presidential elections, possibility of recalling the president by the parliament, reduction of the number of parliamentarians and removal of their immunity –

<http://newsmaker.md/rus/novosti/apellyatsionnaya-palata-annulirovala-reshenie-tsik-ob-otkaze-v-provedenii-referend-24130>

<sup>73</sup> [http://www.noi.md/ru/news\\_id/85511](http://www.noi.md/ru/news_id/85511)

Domnica Manole stated that she is being prosecuted for rendering a decision which was inconvenient for the authorities. *“Criminal prosecution of a judge merely due to the fact that a higher authority found their decision illegal is an act of exerting pressure on the court and an attempt at independence of the judiciary,”* — Manole stated.<sup>74</sup>

In addition, another case of criminal prosecution of a judge received broad reverberation. The case regarded Judge of the Appeals Chamber of the city of Kishishev, **Marina Anton**. In 2015, she was accused of ‘issuing an unlawful decision’ (Article 307 of the CC). The reason for the accusation was a mistake in drafting a decision on a civil case. Judge Anton explained that this was an unintended technical error, which was immediately corrected after its discovery.



Marina Anton

Photo: <http://www.zdg.md>

Marina Anton stated that the true reason behind the criminal prosecution was her desire to *“act without any restrictions, influence, pressure, threats and interference, direct or indirect.”* The judge stressed that the purpose of the authorities' actions was to prevent her exposure of double standards in the Moldovan legal system.<sup>75</sup>

As noted by Counsel Ana Ursachi, on 11 January, 2016, the criminal case against Judge Anton was closed on the basis of Art. 275, point 9 of the Code of Criminal Procedure (‘other circumstances stipulated by law’). On 28 December, 2016, in court, Marina Anton won a decision which obliges the prosecutor to either explain the ‘circumstances’ on the basis of which the case was dismissed or close the case for rehabilitative aspects (the absence of an offence). According to Ms Ursachi, the prosecutor has yet to fulfil the court's decision.

## 15. CORRUPTION IN THE JUSTICE SYSTEM, RESTRICTION OF MEDIA FREEDOM AND POLITICAL PROSECUTION IN MOLDOVA: INTERNATIONAL REACTION

According to the reports of international organisations, Moldova remains one of the most corrupt states in Europe with strong oligarchic influence, selective justice and high dependence of the media's editorial policy on the will of their owners.

### Corruption in the Justice System

Transparency International<sup>76</sup>, Freedom House<sup>77</sup>, and the U.S. Department of State<sup>78</sup> stress the fact that the Moldovan authorities do not wish to effectively oppose corruption. A large number of elites have accumulated significant wealth due to corruption, and their cases were not investigated — in particular, the case of embezzlement of \$1 billion from the country's banking system.

<sup>74</sup> <http://1news.md/politica/23148-sude-domnike-manole-vynesshey-postanovlenie-kotorym-cik-obyzali-provesti-referendum-predyavleno-obvinenie.html>

<sup>75</sup> <http://www.zdg.md/ru/?p=532>; <http://jurnal.md/ru/social/2015/5/1/zarkoe-zasedanie-vsp-po-delu-pati-sudej-my-zertvy-mesti-klanov-sudebnoj-sistemy/>; <http://jurnal.md/ru/politic/2015/3/17/vinovny-li-5-sudej-v-tom-cto-v-moldove-samaa-korrumpirovannaa-sistema-pravosudia-v-mire-dokumenty/>

<sup>76</sup> [https://www.transparency.org/news/pressrelease/corruption\\_index\\_reflects\\_moldovas\\_disappointing\\_response\\_to\\_corruption](https://www.transparency.org/news/pressrelease/corruption_index_reflects_moldovas_disappointing_response_to_corruption)

<sup>77</sup> <https://freedomhouse.org/report/nations-transit/2016/moldova>

<sup>78</sup> <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

The high level of corruption in the justice system and its dependence on the ruling elites were noted in the reports of the UN Human Rights Committee<sup>79</sup>, the Council of the European Union<sup>80</sup>, Transparency International<sup>81</sup>, and Freedom House. In particular, Freedom House came to the conclusion that Moldova is characterised by a low level of training of judges, an opaque system of their appointment and insufficient validity of court decisions.<sup>82</sup> *“Perceived political interference in the judiciary and law enforcement is a systemic impediment to social and economic development”*, the European Commission stated in its most recent report on Moldova<sup>83</sup>. *“There were credible reports that local prosecutors and judges sought bribes in return for reducing charges or sentences...”*, the U.S. State Department reported.<sup>84</sup>

In December 2016, the head of the EU Mission to Moldova, Pirkka Tapiola, pointed out the existence of ‘selective justice’ in the country<sup>85</sup>. *“The EU repeatedly drew attention to the lack of independence of the justice and law enforcement agencies in the Republic of Moldova”*, reported the Vice President of the European Commission, Federica Mogherini, and European Commissioner, Johannes Hahn, in their letter to the deputies of the European Parliament dated 21.02.2017.

### Political Prosecution

Human rights organisations, namely: Amnesty International, Destination Justice, and Open Dialog Foundation, as well German Ambassador to Moldova, 12 MEPs<sup>86</sup>, and more than ten deputies of the Polish Sejm<sup>87</sup>, stated that the criminal prosecution of Counsel Ana Ursachi was connected with her professional activities. They expressed their concern that the media belonging to Plahotniuc are carrying out a campaign aimed at discrediting Ms Ursachi.

On 25 January, 2017, in a written declaration, 23 PACE deputies labelled the prosecution of Alexandru Machedon ‘one of the attempts to intimidate representatives of the opposition and civil society of Moldova’.<sup>88</sup> The declaration also noted the political nature of the case of Serghei Cebotari. In their letters, Members of the European Parliament, Ana Gomes, Rebecca Harms, Benedek Jávor, Helmut Scholz, Jaromír Štětina, Gabriele Zimmer and Hannu Takkula, referred to the cases of Alexandru Machedon and Serghei Cebotari as examples of politically motivated and questionable criminal prosecutions in Moldova.

In the report of the U.S. State Department for the year 2016, the case of the ‘Petrenko’s group’ was mentioned in the section ‘Political Prisoners and Detainees’.<sup>89</sup> At the same time, in February 2017, Minister of Justice Vladimir Cebotari stated that he “did not see” the report of the U.S. State Department and that “there are no political prisoners” in Moldova.<sup>90</sup>

The UN Human Rights Committee<sup>91</sup> and U.S. Embassy in Moldova<sup>92</sup> expressed their concern about the criminal prosecution of Judge Domnika Manole. Several non-governmental organisations, including

<sup>79</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MDA/CO/3%20&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MDA/CO/3%20&Lang=En)

<sup>80</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/02/15-fac-moldova-conclusions/>

<sup>81</sup> [https://www.transparency.org/news/pressrelease/corruption\\_index\\_reflects\\_moldovas\\_disappointing\\_response\\_to\\_corruption](https://www.transparency.org/news/pressrelease/corruption_index_reflects_moldovas_disappointing_response_to_corruption)

<sup>82</sup> <https://freedomhouse.org/report/nations-transit/2016/moldova>

<sup>83</sup> [https://eeas.europa.eu/sites/eeas/files/association\\_implementation\\_report\\_on\\_the\\_republic\\_of\\_moldova\\_2017\\_03\\_10\\_final.pdf](https://eeas.europa.eu/sites/eeas/files/association_implementation_report_on_the_republic_of_moldova_2017_03_10_final.pdf)

<sup>84</sup> <https://www.state.gov/documents/organization/265662.pdf>

<sup>85</sup> <http://www.jurnal.md/en/social/2016/12/13/head-of-eu-delegation-pirkka-tapiola-condemns-the-cases-of-selective-justice-and-persecution-of-press-be-it-jurnal-or-other-institution/>

<sup>86</sup> Ramona Manescu, Ana Gomes, Rebecca Harms, Benedek Jávor, Helmut Scholz, Jaromír Štětina, Gabriele Zimmer, Petras Auštrevičius, Michał Boni, Mark Demesmaeker, Kazimierz Michał Ujazdowski, Hannu Takkula.

<sup>87</sup> Kornelia Wróblewska, Marcin Świącicki, Katarzyna Lubnauer, Ryszard Wilczyński, Jakub Rutnicki, Marek Krząkała, Joanna Scheuring-Wielgus, Zbigniew Konwiński, Dorota Rutkowska, Jerzy Meyszowicz, Adam Szałpka, Ewa Lieder.

<sup>88</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=23437&lang=EN&search=Y2F0ZWdvcnlf3RyX2VuOiJXb3JraW5nIGRvY3VtZW50lg==>

<sup>89</sup> <https://www.state.gov/documents/organization/265662.pdf>

<sup>90</sup> <http://newsmaker.md/rus/novosti/minyust-i-menya-plahotnyuk-ne-kontroliruet-intervyu-s-ministrom-yustitsii-vladimir-29884>

<sup>91</sup> [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MDA/CO/3%20&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/MDA/CO/3%20&Lang=En)

<sup>92</sup> <https://www.facebook.com/U.S.EmbassyMoldova/posts/10153861470294081>

Transparency International Moldova and Human Rights Embassy, spoke in support of Domnika Manole.<sup>93</sup>

### Restrictions on Media Freedom

The majority of international observers note serious problems with media freedom in Moldova. The media belong to businessmen or politicians who use them for the purpose of propaganda and struggle against competitors. Due to this fact, Moldovans do not receive objective and independent information about the events in the country.

There is also a tendency to monopolise the media market. As noted in the report of the Centre for Independent Journalism, approx. 60-70% of the country's TV market belongs to oligarch Vladimir Plahotniuc. He owns four of the five existing national television channels.<sup>94</sup>

According to the conclusions of Reporters Without Borders, the editorial policy of the main Moldovan media outlets is closely related to the political and business interests of their owners.<sup>95</sup> The Council of the European Union called on the Moldovan authorities to improve their legislation in order *“to limit the concentration of media ownership and guarantee pluralism”*.<sup>96</sup> Transparency International noted an increase in cases of intimidation of independent media and journalists.<sup>97</sup>

According to the Reporters Without Borders ranking, in 2017, Moldova ranked 80th globally in terms of media freedom, thus falling 4 positions since the previous year.

Recently, more incidents of surveillance of Moldovan journalists (carried out in order to intimidate them) became known. In particular, the editor-in-chief of the independent media organisation NewsMaker, **Vladimir Soloviov**, reported that from 3 April, 2017 to 4 April, 2017 he had been followed by unknown persons. The unidentified persons followed the journalist throughout the city in a demonstrative manner. Soloviov called the police and recognised one of the persons who had followed him. The latter called himself a ‘casual passer-by’ and was released by the police<sup>98</sup>. Soloviov was also shadowed in 2014, but in response to his report, the police stated that “no facts have been established”.

In addition, according to Soloviov, on 21 March, 2017, the NewsMaker journalist was searched at an airport by Moldovan border guards looking for “illegal papers, records, and documents.” *“In this country, you will not find an oppositionist who would not complain about stalking, wiretapping or pressure. Even those involved with the authorities are frightened, and currently, the authorities are the ruling Democratic Party and its leader Vladimir Plahotniuc”*, the editor-in-chief of NewsMaker noted.<sup>99</sup>

## 16. CONCLUSIONS

The criminal prosecution of opposition politicians and activists, human rights defenders, counsels and judges testify to Moldova's roll-back from the declared democratic course.

Instead of introducing the necessary anti-corruption and economic reforms, the authorities resorted to methods aimed at neutralising their critics.

<sup>93</sup> <http://newsmaker.md/rus/novosti/ironiya-sudi-es-raskritikoval-moldovu-za-delo-domniki-manole-25456>

<sup>94</sup> [http://media-azi.md/sites/default/files/Raportul%20sitiuati%20presei%202015%20rusa\\_3.pdf](http://media-azi.md/sites/default/files/Raportul%20sitiuati%20presei%202015%20rusa_3.pdf)

<sup>95</sup> <https://rsf.org/en/moldova>

<sup>96</sup> <http://www.consilium.europa.eu/en/press/press-releases/2016/02/15-fac-moldova-conclusions/>

<sup>97</sup> <http://www.transparency.md/index.php/2017/03/03/declaration-on-worsening-environment-for-civil-society-organizations-and-mass-media-in-the-republic-of-moldova/>

<sup>98</sup> <https://www.opendemocracy.net/od-russia/vladimir-soloviev/for-moldova-s-journalists-surveillance-is-new-norm>

<sup>99</sup> <http://newsmaker.md/rus/novosti/popali-pod-nablyudenie-kak-v-moldove-sledyat-za-zhurnalistami-30708>

The international community notes the dangerous tendency of concentration of power around a single political force — the Democratic Party of Moldova, whose representatives hold key posts in the government. The leader of the party, powerful oligarch Vladimir Plahotniuc, has gathered both large capital and political influence in his hands, which, in turn, led to the usurpation of power in the country.

Being the largest economic partner of Moldova<sup>100</sup>, the European Union should pay more attention to the situation of the rule of law and observance of human rights in that country. The Association Agreement with the EU imposes on Moldova, the obligations to not only implement economic and political reforms, but also to protect human rights.

In April 2017, the Council of the European Union approved the provision of financial assistance to Moldova in the amount of € 100 million to stabilise the country's economy. One of the conditions of the assistance was the observance of the rule of law and human rights in the country.<sup>101</sup> Subsequently, it became known that the European Parliament has postponed the adoption of the final decision. The allocation of financial assistance will depend, among other things, on the results of the electoral reform and its compliance with democratic standards.<sup>102</sup>

The Open Dialog Foundation hereby welcomes the amendments proposed by MPEs Helmut Scholz and Petras Auštrevičius for the report of the European Parliament's Committee on International Trade, regarding the decision to provide macroeconomic financial assistance to Moldova. Helmut Scholz noted that the condition for providing assistance should be the provision of transparency in the political and administrative decision-making system in Moldova, as well as cessation of protracted court trials against political opponents of the authorities. Petras Auštrevičius called for a more effective fight against corruption and oligarchic influence in Moldova.

The Open Dialog Foundation expects that the European Union will put before the Moldovan authorities, clear political conditions for the provision of macroeconomic financial assistance, which will include demands for respect for human rights in the country and the cessation of politically motivated persecution.

The Open Dialog Foundation considers it necessary for the European states, the competent bodies of the EU and USA as well as OSCE, PACE, and the UN to take the following steps:

- During their contacts with representatives of the Moldovan authorities, demand full compliance with their obligations to respect human rights and cease political prosecution.
- Exert pressure on the Moldovan authorities in order to bring about the implementation of the necessary anti-corruption reforms in the country and measures to ensure the independence of the law enforcement and judicial systems.
- With the observance of the lawful procedure, hold a new contest to elect a candidate for the post of General Prosecutor, thus restoring the citizens' confidence in the department.
- Limit the provision of financial and legal assistance to Moldova until the prosecution of opposition representatives ceases and the general state of human rights in the country improves.
- The draft law on amendments to the electoral system in the parliamentary elections in Moldova should be carefully studied by the Venice Commission. The adoption of the draft law is only possible after the publication of the conclusions of the Venice Commission, and also on condition that its recommendations are fully implemented.

<sup>100</sup> <https://www.ceps.eu/publications/president-dodon%E2%80%99s-visit-brussels-%E2%80%93-contemplating-economic-suicide>

<sup>101</sup> [http://www.consilium.europa.eu/en/press/press-releases/2017/04/12-moldova-financial-assistance/?utm\\_source=dsms-auto&utm\\_medium=email&utm\\_campaign=Republic+of+Moldova%3a+Council+agrees+to+%E2%82%AC100+million+financial+assistance](http://www.consilium.europa.eu/en/press/press-releases/2017/04/12-moldova-financial-assistance/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Republic+of+Moldova%3a+Council+agrees+to+%E2%82%AC100+million+financial+assistance)

<sup>102</sup> <https://www.europalibera.org/a/parlamentul-european-ar-amana-aprobarea-ajutoarelor-pentru-moldova/28480993.html>

- Introduce personal sanctions against persons involved in questionable criminal prosecutions of opposition representatives, human rights defenders, and judges in Moldova.
- Demand an effective and independent investigation into the embezzlement of about \$1 billion from the country's banking system and bringing those responsible to justice.
- Demand safe conditions for activities of the opposition and independent media in the country.
- Include information on politically motivated persecution, presented in this report, in the Universal Periodic Review of the UN Human Rights Council for the Republic of Moldova.