

Roadmap for national reconciliation and european integration in Moldova

Background:

The political crisis after the general elections in Moldova has seriously shaken the foundations of the rule of law in the Republic of Moldova. Accusations of electoral fraud and large use of administrative resources by the incumbent government have not been prevented, generating street riots and major political tensions. Instead of responding to these frustrations, the authorities accused the protestors and the opposition of a 'coup d'état attempt', resorting to mass arrests and physical mistreatment of peaceful protestors. Recognition by the Constitutional Court of the final results of elections will not end the stalemate; moreover, mistreatments on the police side are added to the allegations of electoral frauds. Thus, a national reconciliation can be ensured only through the implementation of a Roadmap, which is to be accepted by all actors, political parties and the civil society involved, focused on the restoration of the rule of law, legitimated elections and European integration of the Republic of Moldova. The current document is an initiative of Moldovan civil society, which is extremely concerned of the necessity to establish a crisis management mechanism. The purpose of the document is to suggest the first steps out of the stalemate, with the following objectives:

- re-establish and ensure the functioning of the democratic institutions;
- restoring the fundamental human rights and freedoms,
- strengthening the social and European cohesion during crisis.

Assessing the current state of affairs

According to the observation monitoring reports, parliamentary elections of April 2009 were “partially free and unfair” (Coalition 2009) or “free and partially correct” (OSCE/ODIHR Monitoring Mission).

Numerous irregularities registered during the campaign by national and international observers (undue use of administrative state resources to the benefit of the ruling party, inappropriate management of the voter’s lists, political persecution of opposition, and censorship over public mass media) have ultimately compromised the electoral process in Moldova. The overspread feeling of rigged elections, combined with hasty statements on behalf of the ruling party, generated street protests held immediately after the preliminary results were announced by the Central Election Commission. The exasperation expressed by a significant part of the electorate on April 6 grew up into large peaceful street gatherings. Street protests continued on April 7, and in the afternoon developed into clashes with law-enforcement bodies. Afterwards, some of the aggressive groups vandalized two state institutions, unprotected by the law enforcement bodies.

As a result of the protest actions, questioning the legitimacy of elections, the law enforcement bodies (police, prosecution, and the Intelligence and Information Service), invoking only the need for response to the vandalizing actions perpetrated by the aggressive groups, have embarked upon an indiscriminate persecution campaign against all protesters. The public security forces set on actions of intimidation against media outlets. There were numerous cases of detainments and arrests on the basis of summary proceedings, by police and unidentified persons in civil clothing, which led to the brutal use of force and mistreatments. The fact that the presumption of innocence was ignored in respect to those arrested, political persecution was launched against peaceful

protestors, opposition and civil society after the elections, led to deterioration of trust in public institutions and nurtured a deep sense of fear. Moldovan watchdogs documented hundreds of testimonies of degrading and inhuman treatment against persons detained at police offices. The 'appeal for amnesty', voiced by President Voronin, for the acts of torture breaches upon the international principles of non-impunity, while the investigations of mistreatment are timid and, so far, only declarative.

The above actions were further followed by a campaign of intimidation of the civil society, of independent media and opposition parties, generating deep cleavages inside society, and compromising the well functioning of the democratic institutions. The political actors involved in this crisis come with mutual accusations, deeply hostile, thus having no adequate framework for political dialogue. The public and private media is heavily polarized; state media institutions being fully subordinate to the ruling party, while private media institutions actively promoting the image of confrontation and polarization of the society. On the background of degrading political climate, the EU reactions remain unaccented, while the US reactions are delayed. Although certain institutions of the Council of Europe launched some evaluation and fact-finding actions, the political crisis is far from being resolved. The lack of firm actions can be perceived by the incumbent Communist Party as an invitation to practice impunity, at the expense of civil rights and liberties, the rule of law state, thus deepening the absence of political legitimacy within society. Only more robust and firm engagement of the EU, US and other international actors would return the country to the normal democratic governance, and stable functioning of democratic institutions.

The current crisis requires implementation of the following actions:

- restoring the rule of law, institutional checks and balances and effective separation of the state powers
- bringing to justice those guilty of torture and abuses against protesters arrested during 6-20 April, as well as those involved in vandalism acts
- creating the necessary conditions for the initiation and consolidation of the political dialogue, in a pluralist environment.

The current document presents a consolidated position of the experts from the Moldovan civil society regarding optimal measures for short and mid-term perspective with the aim to find a solution to the ongoing political crisis in a peaceful way and employing exclusively legal means.

I. ENSURING THE FUNCTIONING OF DEMOCRATIC INSTITUTIONS

The European specialized agencies (CoE, OSCE/ODIHR and EU) assess that the functioning of the democratic institutions in Moldova needs progress and reforms. The Judicial system is extremely vulnerable to the political pressures, the reform of the General Prosecution Office have not been implemented in its scope and essence, the degree of independence and impartiality of these institutions is very low. The 'vertical of executive power' remains an exclusive prerogative of a single dominant party, which prevents the exercise of political pluralism and makes almost impossible the accountability of the decision-makers for their actions or inactions to the Parliament,. The Presidential office has de facto monopolized all the decisions within the state, thus ensuring total impunity and concentrating almost unrestricted powers within the state. The obvious malfunctions of the rule of law state in Moldova, and of the democratic institutions, have been confirmed after the 5th April elections by reprisals, initiated by the authorities. The return to the functioning of the democratic institutions and to the European integration course is impossible without the ensuring of certain basic conditions through the following actions:

Short – term priorities

1.1. Halting the intimidation and oppressive actions against the civil society, through fiscal control and interventions of the Ministry of Justice; halting the intimidation and oppressive actions against holders of opinions that differ from the official ones, particularly on political issues.

1.2. Investigating all actions of violence and mistreatment done between 6-15 of April by the law enforcement and security bodies, by an International Investigation Mission followed by prosecution of these abuses.

1.3. Deployment of an EU Rule of Law Mission to Moldova that would assist it in reforming the law enforcement bodies, such as: judiciary, prosecution, police, intelligence and security service, and other “force” structures.

1.4. Establishing a mechanism for permanent consultations between the Central Electoral Committee and political parties, media and civil society, with assistance of UE, OSCE; adjusting the electoral laws in line with the UE and Venice Commission recommendations on the organization of free elections in Moldova.

Mid – term priorities

1.5. Renouncing to the direct and indirect political control over judiciary, consolidating the role of the Supreme Council of Magistrates regarding the conduct and independence of the judges,

1.6. Strengthening the independence and functional responsibility of the of the General Prosecutor’s Office.

1.7. Depoliticizing the position of the President of the Republic of Moldova, by determining its compulsory non-affiliation to any political party

1.8. Strengthening legal mechanisms that provide for the separation of powers within the state by consolidating the role of the Parliament in monitoring and oversight of the Executive, in its quality of the supreme representative authority of the state.

1.9. Ensuring future effective transformation of the Public Broadcast, strengthening of the public control and of true independence of its coordinating bodies (Coordinating Council of Audiovisual, Board of Observers of "Teleradio-Moldova" Independent Public Company).

II. JUSTICE, FUNDAMENTAL RIGHTS AND FREEDOMS

The situation regarding human rights has constantly degraded during the last years, compared with the positive changes at regional level and visible signs of political reforms stagnation in Moldova. The most obvious setbacks of the human rights dimension were registered in the following areas: independence of judiciary, right to a fair trial, freedom of expression, and the right of citizens to information, local autonomy and the state of the political opposition. The censorship installed in the state mass media isolated the civil society and the opposition from the governance, tensioning their relations and suppressing political pluralism. Serious violations of the human rights after 5th of April show the degradation of the political system, and equally, its extreme vulnerability during crisis, particularly because of the lack of independent judiciary system, political tutelage over Prosecution Office, and continued major deficiencies of police functioning. The biased coverage, banning the access to the holders of different opinions from the civil society or opposition political parties, by the state/public media controlled by the ruling party confirms the censorship and inclination to hate speech. A series of monitoring reports focusing on pre-electoral, electoral and post-electoral periods provided additional evidence that the public mass media is being used as propaganda instrument.

Short – term priorities

2.1. Guaranteeing the respect of the right to security and personal freedoms. Respecting the presumption of innocence and the irrevocable right of any citizen to access to equitable

and fair justice. Providing an unimpeded access to justice and to the lawyer's services for all suspects, as well as medical assistance to the detained persons.

2.2. Immediate and effective investigation of all cases of mistreatments, prosecution of all persons who committed, encouraged or tolerated torture in police offices.

2.3. Providing for the freedom of assembly and right to peaceful protests.

2.4. Carrying out an international inquiry regarding the violence provoked on April 7, with the aim of evaluating the actions of the law enforcement bodies and other actors, with participation of national and international actors, provided that final results will be made available to the public.

2.5. The visit of the OSCE High Representative for the Freedom of the Media, who would further delegate his special envoy to Moldova, with the aim of ensuring the necessary conditions for the freedom of the media, banning hate speech, xenophobic and anti-democratic propaganda in the media controlled by the ruling party, ensuring implementation of the mass media legislation and deontological code of conduct.

2.6. The EU Rule of Law Mission will cooperate with the OSCE Strategic Police Matters Unit for to coordinate and implement of the police reform in Moldova.

2.7. Reevaluation of the adherence to the commitments taken by the Republic of Moldova in the field of justice and human rights, pertaining to the relationship with the EU and the CoE, and determination of exact criteria and measurable indicators for the performance by Moldova of the above priorities.

Mid – term priorities

2.8. Elimination of political censorship, enforcing the respect by mass media of legal norms and standards, as well as banning the anti-democratic hate speech in printed and electronic media.

2.9. Providing to the civil society and political parties free

access to the public TV and Radio, on equality and non-discrimination basis,.

2.10. Dismissal of the current and the election of the new leadership of the Public Broadcast, uncompromised by the introduction of censorship, toleration of the partisan hate speech during the pre-electoral and electoral campaign.

2.11. Guaranteeing transparency and free access to the information regarding mass media ownership, i.e. on the circulation of printed outlets, and the structure of mass media holdings registered in Moldova.

III. POLITICAL DIALOGUE

Due to the lack of a democratic and institutionalized dialog the political crisis in Moldova is getting deeper. The Civil society from Moldova greatly hopes for EU engagement and mediation. Political trust shall be restored by institutionalized dialogue and mediation by notorious and credible personalities, delegated by the European Commission. Political dialogue can encourage the functioning of democratic institutions. It should incorporate full and effective participation of the civil society and political parties. A viable framework for political dialogue between the opposition and authorities must use adequate tools to build consensus, and have a mechanism to monitor the implementation of agreed decisions. The result of such a dialogue will bring profound impact on the future political agreement between the Republic of Moldova and European Union, either promoting a deeper cooperation or restraining it.

Short – term priorities

3.1. Setting up a Permanent Political Conference (PPC) in Moldova, aiming at facilitating the political dialogue between the opposition and the authorities (the incumbent Government).

3.2. Delegating a high-level EU official as a Mediator of the current political crisis, having a permanent secretariat and consequent duties to coordinate and monitor the actions

necessary for the restoration of constitutional institutions and of the democratic public space in Moldova.

3.3. Creating Task Force Groups under the Permanent Political Conference, supported by political parties and civil society, with the following aims:

- Investigating the violence, arrests and tortures committed by the police on April 7 onwards.
- Investigating the instigators of the virulent discourse in mass media, and the ways to efficiently implement the journalist deontological standards in mass media.
- Creating mechanisms and tools to establish the efficient democratic control over the “force” state institutions in Moldova.
- Investigating the accusations on electoral fraud and falsifications, checking the existing evidence provided by the political opposition and monitoring the measures for crisis management (voters registration, the role of authorities, public trust).

3.4. Imposing a moratorium on any decision that would aggravate the political contradictions in Moldova; avoiding actions and statements that would restrain or suppress the freedom of media.

3.5. Stopping the actions of the Moldovan Government menacing or intimidating local authorities by reducing their funding from the central budget based on criteria of political loyalty to the ruling party.

3.6. Moldovan authorities will unconditionally follow its obligations according to the legal international documents signed with the European Union, and in that regard it will cancel its unilateral decision to impose a visa regime with Romania and sanctions against that country, which is an EU-member.

Mid – term priorities

3.7. EU will only accept the negotiation of more generous policies on visas and other political facilities depending on

the return of the Republic of Moldova to normality both domestically and internationally, through ad-hoc institutionalized mechanisms (i.e. Conference on Moldova under EU auspices and the strict respect of the Agreement on the visa facilitation between EU and Moldova).

3.8. Conditioning the signing of the future EU-Moldova Agreement on the democratic settlement of the political crisis in Moldova, reinstalling of the rule of law and fundamental freedoms.

3.9. Support provided by the EU to a robust democracy and pluralist institutions building program in the Republic of Moldova, based on evaluations of facts and specific vulnerabilities of the political system and post election crisis.

4. ECONOMIC CRISIS

Moldova is already affected by the economic crisis. Starting with June-July 2009 the Government will not be able to honor its obligations on pensions and employees. Over 450,000 Moldovan citizens are currently abroad as migrant workers, compared to 350,000 that are employed in the real sector of Moldovan economy. That massive migration brought an increase in foreign remittances, which in 2008 reached a figure equal with 1/3 of the country's GDP. The consumer goods sector was the one that provided for the increase of the state budget, over 90% of which is consumer-driven. As the public budget does not grow on the real sector of the economy, that factor has determined the degradation of free market mechanisms and deterioration of the economic climate. World economic crises resulted in a drop of foreign remittances (during the 1st trimester of 2009 there was a two-fold decrease compared with last 2 trimesters of 2008), and a poor economic climate, which has triggered a chain reaction. Foreign currency reserves of the National Bank of Moldova dropped by 40%, the monetary mass decreased by 25%, which made it difficult for the businesses to borrow directly from banks. In conditions of serious

economic crisis both at the national and global level, we consider the necessity to examine the following urgent priorities:

Short – term priorities

4.1. Ensuring transparent public funds spending for the reconstruction of the Parliament and Presidency buildings and excluding frauds in appropriation of the public funds.

4.2. Setting up a National Anti-Crisis Council (NACC), consisting of representative members of political parties, civil society and business associations. The NACC will be involved in negotiating the conditions for foreign economic assistance, with international financial authorities, executing consultative functions in regard to the central public authorities. NACC will monitor actions and policies of the state aimed at combating the economic crisis and its social consequences.

4.3. Establishing Partners for Development Conference in Moldova that would undertake more efforts to provide for a democratic and coordinated foreign assistance to Moldova, ensuring the necessary instruments to overcome the economic and financial crisis effects.

4.4. Review of the adopted public budget for 2009 for the optimization of the public spending; launch a set of National Public Projects on infrastructure, energy conservation, schools, kindergarten and hospitals maintenance, , jobs in respective important fields, as economic crisis advances.

Mid – term priorities

4.5. For the purpose of an efficient, transparent and responsible administration of foreign aid, the EU should establish a National Fund for Development (NFDRM), separated from the Moldovan state budget, which will address the development needs of the country and the projects agreed together with the partners for development and local stakeholders (including business and civil society)

4.6. Ensuring social protection mechanisms for all socially-vulnerable groups and public servants, at the same time reducing capital investments and undue public spending; diminishing the effects of economic crisis through more flexible economic policies of monetary and foreign currency relaxation.

4.7. Accelerate reforms of the Moldovan public sector, particularly Central Government reform, EU providing assistance in the key-field reforms through:

- Secondment of European consultants to the key-ministries and executive agencies of Moldovan Government;
- Coordination and monitoring of policies and decisions taken by the Moldovan Government in a consultative, credible and representative format.

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