

Position Paper: Time to Go Beyond Rhetoric: EU Financing for Moldova Must Be Cut

Prepared for: European Commission, European Parliament, EU Council

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Executive Summary:

- **Macro-financial assistance to Moldova should be frozen until all political pre-conditions are fully implemented**, in particular the validation of the local elections' results in Chisinau and cancellation of the mixed voting system introduced in 2017.
- A **mechanism for suspension of the EU's budgetary support to Moldova** should be adopted by the EU Council as a reaction against the invalidation of the elections following the precedent when support was suspended in July 2015¹.
- The **suspension of the current budgetary support should include a list of conditions which have to be implemented by Moldovan authorities** and which should include among top priorities the validation of the elections in Chisinau, cancellation of the mixed voting and a result-oriented and transparent investigation, assets recovery and prosecution of perpetrators in the case of 1 bn banking fraud.

Introduction

The local elections in Chisinau, held in two rounds on 20 May and 3 June 2018, resulted in the victory of the representative of the extra-parliamentary opposition, the leader of Political Party "Platform Dignity and Truth" Andrei Nastase. He gained 129.432 votes which represents 52.57% of the votes. These results were invalidated in the court based on a complaint from the counter-candidate from the Socialist Party Ion Ceban. First, the Court of Appeal said on 12 June that Nastase's calls to vote addressed to voters via Facebook in the day of election were electoral agitation. After that, a lower court established that the alleged agitation directly impacted the election result and thus, refused to confirm the legality of the elections². This decision met with a wave of criticism from the opposition and civil society who believe that the ruling party (Democratic Party) exerted influence on the judges in order to keep the extra-parliamentary opposition out of public institutions. After the forced introduction of the mixed voting system as of 2019, against the recommendation of Venice Commission and with a noticeable lack of national consensus, the invalidation of the local elections represents a new break with democratic principles and commitments under the Association Agreement with EU.

On 20 June, the European External Action Service³ underlined the commitments of Moldova towards EU to ensure the democratic mechanisms. On 21 June, the Foreign Affairs Committee of the European Parliament⁴ demanded from the Moldovan authorities to stop "the political interference in justice" and to guarantee "the rule of law in the management of the outcome of the elections". The Committee also noted the political pre-conditions attached to the macro-financial assistance of 100 million EUR, which

¹ https://www.eca.europa.eu/Lists/ECADocuments/SR16_13/SR_MOLDOVA_EN.pdf, p. 14

² <https://www.zdg.md/stiri/stiri-politice/doc-cum-motiveaza-judecatoria-chisinau-hotararea-de-invalidare-a-alegerilor>

³ https://eeas.europa.eu/delegations/moldova/46971/statement-spokesperson-validation-election-mayor-chisinau_en

⁴ <http://www.europarl.europa.eu/news/en/press-room/20180621IPR06306/moldova-key-meps-react-to-the-chisinau-court-decision-on-local-elections>

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implies effective democratic mechanisms including a multi-party parliamentary system, rule of law and human rights. The latest statement of High Representative/Vice-President Federica Mogherini and Commissioner Johannes Hahn⁵ asks the authorities to guarantee judiciary independence from political pressure, respect for democratic values and rule of law, and to restore the results of the mayoral elections in Chisinau.

It is now time to go beyond rhetoric. EU's official statements must be followed by strong actions, forcing the government to retrace its steps by, correcting some previous decisions and speeding up other vital measures. These measures include: (i) an official announcement postponing the macro-financial assistance until preconditions are fully met; (ii) suspension of the budgetary support promised for 2018, similar to the 2015 suspension triggered by the banking fraud; and (iii) drafting a list of new conditions which must include the validation of the mayoral elections in Chisinau, cancellation of the mixed-voting system and showing concrete results of the investigation of the banking fraud.

1. Macro-financial assistance to Moldova should be postponed until political preconditions are in place

The Moldovan authorities are failing to fulfill the political preconditions of the macro-financial assistance which are respect for democratic mechanisms and the rule of law and a multiparty political system. The invalidation of the results of mayoral elections is a severe case of political interference with the justice and an attempt to marginalise the extra-parliamentary opposition by the Democratic Party and their occasional partner the Socialist Party. Given the deviations from the political criteria of the macro-financial assistance, EU should publicly say it will put on stand-by the first payments until the preconditions are fully met.

2. A mechanism of budgetary support suspension should be urgently established

EU should use the precedent of budgetary support suspension last applied in July 2015 in the aftermath of the banking crisis (the "billion-dollar theft"). In July 2015, the EU decided to suspend budgetary support for Moldova⁶. The conditions to resume the support were clearly spelled out in the conclusions of the EU Council in February 2016: they included an accelerated implementation of the Association agenda, addressing politicisation of state institutions, corruption, public administration reform; strengthening corporate governance of the financial sector, investigations of the bank fraud, implementation of reforms in the judiciary, improvements of the transparency in the energy sector, cooperation with the civil society, addressing all OSCE/ODIHR recommendations concerning party financing⁷. The EU resumed its budget support disbursements only after an agreement at the end of 2016 on a programme between Moldova and the IMF, whose main aim was to stabilise the banking sector in Moldova⁸. The government had to comply with other budget support conditions (such as progress on public finance management). The Commission continued to apply strict conditionality concerning key reforms, especially in the justice area, the financial sector, the energy sector, public administration and on prevention and fight against corruption, and paid particular attention to the sound implementation of the IMF agreement. The EC envisaged monitoring the respect of effective

⁵ https://eeas.europa.eu/headquarters/headquarters-homepage/47472/statement-hrvp-mogherini-and-commissioner-hahn-invalidated-mayoral-elections-chisinau_en

⁶ <https://www.euractiv.com/section/europe-s-east/news/eu-freezes-funding-for-moldova/>

⁷ <http://www.consilium.europa.eu/en/press/press-releases/2016/02/15/fac-moldova-conclusions/>

⁸ https://eeas.europa.eu/headquarters/headquarters-homepage_en/4011/EU-Moldova%20relations,%20Factsheet

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democratic mechanisms, rule of law and human rights in Moldova. While not all these conditions have been met since, this mechanism provided a stronger leverage for the EC to push for reforms. Most progress was observed in the banking sector and in the business environment, whereas in other sectors the results are mixed.

A similar mechanism should be put in place today for the new direct budgetary support. In December 2017, Moldova agreed with the EU to receive budgetary support accounting for 36.3 million EUR for increasing the exports to European market, for the public administration and police reform, and for accelerating the regional development. The conditions for this assistance include ensuring the justice reform and democratic mechanisms. The invalidation of elections proves that the hitherto reform of the justice sector remains faulty and that democratic institutions are not respected. Therefore, as in July 2015, the EU should freeze any budgetary assistance, which consists only of grants. These are even more convenient to the government than other forms of external assistance, which consist mainly of loans. Just as in 2016, a clear list should be put on paper with conditions on resuming the budgetary support. The option of suspension is provided for in the Guidelines for the direct budgetary support, which allows the donor to reallocate funds or take precautionary measures in case of a significant deterioration of fundamental values⁹. The suspension of the assistance and the creation of such a mechanism with clear conditionality has an additional advantage compared to 2016: it will provide more leverage for the civil society to press for reforms in an electoral year, jointly with international partners.

3. Draft a list of priority actions that should include the validation of elections, cancellation of the mixed-voting system and thorough investigation of the banking fraud

A clear list of actions to be undertaken by the government should be linked to the mechanism of budgetary support suspension. These actions should cover:

- the validation of the elections in Chisinau
- the cancellation of the mixed voting system and a return to the previous proportional system
- the determined and robust conduct of a transparent and effective investigation of the banking fraud.

Only after these actions will be implemented the EU can remove the mechanism of suspension, based very much on the experience with the suspension of the budgetary support in July 2015 as a result of the 1 billion USD fraud.

Box: EU financial assistance to Moldova. Where would sanctions hit the hardest?

At the moment, the EU supports Moldova with two main financial instruments:

- The macro-financial assistance¹⁰ (EUR 100 million), approved in September 2017, which consists of grants (40 million) and medium-term loans at favourable financing conditions (60 million), in three

⁹ https://ec.europa.eu/europeaid/sites/devco/files/bsg_web_version_20180206-v2_1.pdf, p. 27

¹⁰ https://ec.europa.eu/info/sites/info/files/economy-finance/20171123_-_mou_eu_-_moldova_-_signed_eu_version.pdf

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instalments. The first instalment of 30 million (10 grant, 20 loans) should have been disbursed in 2017; however, the disbursement was delayed because Moldova introduced the mixed voting system, criticized by both EU and Venice Commission¹¹.

- In December 2017, EU made a EUR 36.3 million grant available for direct budgetary support for Moldova. The goals are to create jobs, increase exports to the European market, strengthen the public administration, speed up rural development and carry out police reform. The grant is earmarked for four sectors: enforcement of the DCFTA between EU and Moldova, implementing the liberalization of the visa regime with EU, rural and agriculture's development, carrying out the reform of the public money policy and the police reform¹².

While disbursements of EU financing under the MFA have already been delayed because of Moldova's failure to meet the political pre-conditions, both these financial instruments must now be officially suspended. Macro-financial assistance is already de facto on hold¹³, as no disbursements have been made, but an official decision - publicly announced would be, a de jure confirmation of suspension, would show that the EU means business. The most painful sanction with de facto financial implications for the Moldovan government would be the suspension of the budgetary support, which, unlike the MFA, is made up of non-reimbursable grants.

More Information

The Eastern Partnership Civil Society Forum (EaP CSF) is a unique multi-layered regional civil society platform aimed at promoting European integration, facilitating reforms and democratic transformations in the six Eastern Partnership countries - Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Serving as the civil society and people-to-people dimension of the Eastern Partnership, the EaP CSF strives to strengthen civil society in the region, boost pluralism in public discourse and policy making by promoting participatory democracy and fundamental freedoms. For more information, please visit the EaP CSF website at www.eap-csf.eu

¹¹ http://infomarket.md/en/analitics/The_delay_in_the_allocation_of_the_first_tranche_of_EU_macro-financial_assistance_is_due_to_the_fact_that_Moldova_has_not_fully_met_all_the_conditions_for_obtaining_it_-_Siegfried_Mureshan

¹² <https://www.moldpres.md/en/news/2017/12/21/17009950>

¹³ https://ec.europa.eu/commission/commissioners/2014-2019/hahn/announcements/press-remarks-commissioner-johannes-hahn-following-eu-republic-moldova-association-council_en