

Foreign Policy Association together with Friedrich-Ebert-Stiftung offer you a newsletter on foreign policy and European integration issues of the Republic of Moldova. The newsletter is part of the "Foreign Policy Dialogue" joint Project.

# NEWSLETTER

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## Synthesis and Foreign Policy Debates

The newsletter is developed by Sorina Ștefărtă, editor-coordinator

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### News in Brief



The presidents of Romania, Czech Republic, Estonia, Latvia, Lithuania, Poland and Slovakia sent on Thursday, 24 December, a joint official statement in support of the President of the Republic of Moldova, Maia Sandu, appointed on the same day. "Maia Sandu has received a strong mandate from the citizens of the Republic of Moldova who are waiting for changes, a more ambitious reform agenda, democracy and closer ties with the European Union," said the statement of the seven heads of state, who expressed their "full" support for the new Moldovan president. "We support Ms. Maia Sandu in her efforts to develop a functioning democratic system in the Republic of Moldova, which should reflect the will of the country's citizens. We are also willing to share our experience on the reforms and the European integration process, an approach that could contribute to the prosperity and well-being of the Republic of Moldova on its way to the EU", said the statement of the seven presidents of the EU member states.



The new Government of Romania aims at continuing the support actions for the direct benefit of the Moldovan citizens. According to the Government Programme 2020-2024 of the Romanian Executive, the Romanian state will make efforts to advance the strategic bilateral projects, especially those with an interconnection role (energy interconnection; in the field of road infrastructure/ construction or reconstruction of bridges across the Prut and construction of the Iași-Ungheni highway etc). It is also proposed to create a Democratization and Sustainable Development Fund for the Republic of Moldova, with an adequate financial allocation, within the budget of the Agency for International Development and Cooperation (RoAid) and to establish a working group of the European Commission for the Republic of Moldova whose aim will be to support the implementation of the Association Agreement with the European Union. Romania will also continue to support the comprehensive, peaceful and lasting settlement of the Transnistrian conflict, with an emphasis on respecting the sovereignty and territorial integrity of the Republic of Moldova within internationally recognized borders and without affecting its pro-European vector.



The Strategic Partnership, Trade and Cooperation Agreement between the Republic of Moldova and the United Kingdom of Great Britain and Northern Ireland was signed on 24 December by the Foreign Minister, Aureliu Ciocoi, and the British Ambassador to Chisinau, Steven Fisher. The agreement will regulate the post-Brexit Moldovan-British relations and, according to Minister Ciocoi, the document will advance the bilateral relations to a strategic partnership, strengthening the economic and trade cooperation between the two sides to achieve trade liberalization, and helping create conditions for cooperation in various fields of mutual interest. In this context, it was emphasized that the document also brings good news for the economic agents and final consumers: once the agreement is signed by both countries, it will be applied provisionally, which will ensure free access of exporting companies to the market for goods and services on favourable terms. Thus, the trade relations between our countries will not be interrupted after the cessation of the application on the United Kingdom of the Association Agreement signed between the Republic of Moldova and the EU.

## Moldovan European Integration Forum 2020: a radiography at the end of the pandemic year



### Sorina Ștefărtă

The seventh edition of the Moldovan European Integration Forum, organised in Chisinau on 8 December by the Friedrich-Ebert-Stiftung and the Foreign Policy Association, in partnership with the Ministry of Foreign Affairs and European Integration, was not about the end of the presidential election campaign. However, the issue of the elections and, especially, the priorities announced by President Maia Sandu have been a

leitmotif in the speeches of the participants.

Either live, respecting the "pandemic" security measures, or connected online (2020 has taught us what seemed impossible until now), the protagonists of the three panels expressed their hope that the political turn produced in our country on 15 November will contribute to real reforms and modernization of the Republic of Moldova. This was said either more openly or discretely by the government officials

(Minister of Foreign Affairs, Aureliu Ciocoi, or Radu Foltea, State Secretary of the Ministry of Justice), as well as by the business representatives, legal experts, political analysts, journalists. And one of the sharpest messages came from HE Peter Michalko, Ambassador of the European Union to the Republic of Moldova...

"At the same Forum, in 2018, I thought that was the bottom in the EU-Moldova relations during my term,

▶ but it seems that great efforts are being made now by a part of the political “elite” to reach the situation back then”, began his speech the EU Ambassador. He has listed then three reasons for his disappointment in connection with the recent events in our country, but also three reasons for hope that things can change for the better.

Meanwhile, in the middle of the night and contrary to all procedural and moral norms, a non-formalised majority in the Moldovan legislative forum has voted several contradictory laws (some already challenged with the Constitutional Court), Prime Minister Ion Chicu has tendered resignation, and president Maia Sandu has been sworn into office. However, the challenges are not over, and the year 2021 is not presenting itself simpler than 2020.

The participants in the Forum have tried to give a radiography of the passing year. A year with an extremely complicated internal and regional context; a year marked by the pandemic and drought, by inconsistency of state policies and party switching, by the lack of real reforms in the judiciary and the slow investigation into the major corruption cases. These and many other backslides have led to a cooling of relations with the Western partners. However, the latter seem more concerned about resolving the consequences of the Covid-19 crisis than the state authorities.

How and under what conditions can the country’s European integration agenda be relaunched so that the society’s aspirations are reflected in the actions of the government? Are the Moldovan authorities ready to get back to the reform agenda, including to the fight against corruption, reform and integrity of the judiciary? What are the expectations of the people from the EU, including in the field of security policy for the Eastern Partnership region? These are the questions that the Moldovan European Integration Forum 2020 has tried to answer - a post-election radiography at the end of the pandemic year, whom we have dedicated (by publishing some of the speeches) the last 2020 edition of the Newsletter. Enjoy reading and ... Happy new year, Moldova!

## ***I think we have reached a national consensus on the process of modernizing the country by implementing European standards***

***Aurel Ciocoi, Minister of Foreign Affairs and European Integration***



***First of all, I would like to say that I am glad to be among the participants, and the Ministry of Foreign Affairs and European Integration - among the partners of this Forum, which has established itself over the years as an extremely beneficial platform for a constructive and, in places, critical exchange of ideas. But we have always agreed that only in discussions and controversies we can convince the opposing***

***side and, consequently, we can reach a consensus and achieve unanimously accepted priorities. National consensus on a major issue for a society is one of the most important things for the stable development of a state. But this is not possible without dialogue - inter-institutional, with the civil society, etc. – the latter being the crucial factor for ensuring an upward pace in the development of the country.***



### **Economy and justice - crucial**

Regarding the topic of this panel discussion – “Relaunching the European integration agenda of the Republic of Moldova: the main challenges and perspectives”, I would like to refer to some basic findings, which I think are extremely important and which I hope to discuss today. First, roughly speaking, I believe that a national consensus has been reached in the Republic of Moldova regarding the process of modernizing the country by implementing European standards. I do not think that there is at present any political force that would question this fact, which, in my opinion, is already a substantial achievement in ensuring the stability of the country’s development on its European path. However, beyond all the political controversies and inter-party debates, I do not see any player on our political scene to question this aspect. Second, (something confirmed by various opinion polls) the economic aspect also proves the irreversibility of the European modernization of the Republic of Moldova. You know that the total volume of our trade with the European Union accounts for 65 per cent. As a result, one of the absolute priorities of the country’s economic development is to continue the implementation – difficult sometimes, it is true - of the Deep and Comprehensive Free Trade Area.

Third, at the beginning of this panel, Mr. Anatolie Golea said, in his capacity as moderator, that the European integration process has made no progress lately. Let me disagree with this statement,

because even in this difficult year, hit by the pandemic and a severe drought for the Republic of Moldova, the dialogue and efforts of the Government have continued. It’s true that sometimes that was at a slower pace ... but it certainly hasn’t stopped. Proof of this is the completion of the Strategy on the Integrity and Independence of the Justice Sector for the 2021-2024 period, an ambitious document and a comprehensive strategy that they have worked on extensively and sometimes with difficulties, and which allows the opening of new doors to ensure an impartial justice at the service of the citizens. It is not going to be easy to implement the strategy as we all know what is happening in the judiciary of the Republic of Moldova and how difficult it is to make reforms in this opaque system. However, regardless of the difficulties that the Government will face in implementing this document, it is absolutely necessary to do the utmost to ensure an independent justice system in the Republic of Moldova, a judiciary free of corruption, where the law and not the thickness of the envelope matters. This is something I wish with all my heart.

I want to see a prosperous, modern and European Republic of Moldova ever since I joined, as a young diplomat, the Ministry of Foreign Affairs in 1996. At that time, I thought we were a young state and it may take us just a little, five or ten years, to become one. Almost three decades have passed, and we continue to want the same thing. It is a state of affairs that can no longer be tolerated - the judiciary should

do its job in a fair and impartial way, without lobbying, financial or any other interests.

### **Foreign and domestic policy - interdependent**

What are the obstacles to relaunching the country’s European integration agenda? I would like to point here three key elements. First, unfortunately, this is about the system problems that we are facing. I am referring to all this negative baggage that has accumulated for decades in relation to the state institutions. And no matter who will be in power, it will be extremely difficult to eliminate this negative perception and regain people’s trust in the openness, goodwill and transparency of the institutions... An example of “negative baggage” is the already famous bank fraud and I cannot but be glad to hear that six people involved in it have been detained recently. I hope that the day will come when we will see the final beneficiaries brought to justice.

Second, the limited capacities of the institutions. The implementation of the Association Agreement and Free Trade Area is a very complex exercise. We know it first-hand at the Ministry of Foreign Affairs and European Integration what it takes to discuss with colleagues from other ministries and departments aspects related to the implementation of the two agreements, and we find that there is really limited capacity. This is a global problem for the Republic of Moldova, because i) we have few well-trained staff in the public system and ii) there is a need for a profound reformatting of public authorities in order to encourage people trained

at the highest level to come into the public service. For now, the state service is still not attractive ... It is an issue that any government will have to reflect upon, in the medium and long term. The sooner we succeed in finding a solution to this major challenge, the sooner the public service will become more attractive, including for young professionals who have the capacity to implement European standards at national level.

Third and perhaps the most important aspect in terms of possible obstacles is the political instability. It is well known that there is a direct correlation between foreign and domestic policy. The Romanian foreign minister Nicolae Titulescu's saying here is self-evident: "Give me a coherent domestic policy and I will ensure a brilliant foreign policy!". A very true thing. Or, when we have a perpetual political instability domestically, the foreign dialogue and the reform implementation process is affected.

### **The Association Agenda - even more ambitious**

I would like to refer now to the priorities for the next period. We are at the crossroads, and 2021 will be very important for the adoption of the next EU-Moldova Association Agenda. We have had countless consultations with colleagues in Brussels to draw up this comprehensive document and dozens of people have been involved in order to achieve an agenda that best reflects and sets our country's priorities in relation to the EU for the next seven years. We are now at the final stage of this process.

I have already talked about the justice sector - and I would like to thank my colleagues from the Ministry of Justice for the dedication with which they have worked on the Strategy on the integrity and independence of the justice sector for the years 2021-2024. Another priority is the continuous implementation of the Deep and Comprehensive Free Trade Area with the EU. Here we have a lot of work to do to approve the new additional protocols, to adjust the regulatory framework to the EU standards, including the sanitary and phytosanitary ones - a very difficult thing, including due to the system and capacity issues.

In the field of Transport and Energy, we will work, in particular, on putting into the full operation of the Iasi-Chisinau Gas Pipeline, on the interconnectivity of the country's electricity system with the European one and on the famous *unbundling* provided by the EU's Third Energy Package that provides for the separation of the gas supplier from the gas carrier.

Among other essential priorities for the 21<sup>st</sup> century, I will mention the digital transformation, reducing pollution, environment protection, climate change and, last but not least, strengthening the health sector. Here, too, I would like to thank, in particular, the European Union for the assistance it has provided to the Republic of Moldova in overcoming the consequences of the COVID-19 pandemic, including the disbursement of the first tranche of the Omnibus programme. Obviously, we will focus on fulfilling

all the conditions in order to benefit from the second tranche.

In this context, I would like to mention that the Republic of Moldova benefited from the EU support not only in 2020. In all the almost 30 years of independence of the country, the EU has been one of our most reliable and feasible partners, always helping to overcome the financial, political and institutional problems. A special instrument has been created for this purpose - the Eastern Partnership. We are relying heavily today on the fact that the EU will find a way to revitalize that multilateral cooperation platform, taking into account the problems facing some of its Member States, so that dialogue on this dimension can continue.

In the end, I want to reiterate one thing with which I've started my intervention: regardless of any criticism, the authorities of the Republic of Moldova are moving firmly and consistently on the path of the country modernization. I have said it repeatedly: the modernization of the country, the application of European standards in our daily life domestically, at all levels, is a commitment for the benefit of the people. We should do our homework not for the sake of Brussels, but in order to bring a new spirit and restore the confidence of the Moldovan citizens in the possibility of the change for the better. If we succeed in this effort, whatever the costs, the issue of Moldova's accession to the European Union will come naturally. It is a complex exercise as mentality, effort and purpose, but it all depends on us.

**Chisinau, 8 December 2020**

# ***The European Union is constant: we are helping, we are informing, and if the commitments are broken - we are raising our voice and taking action***

***Peter Michalko, Ambassador of the European Union to the Republic of Moldova***

***This is my fourth and probably my last participation in the European Integration Forum, so let me speak on my own behalf. This is also because there have been 25 years since I first came to the Republic of Moldova ...***

As always, also today the European integration agenda of the Republic of Moldova is viewed through hopes and disappointments. This is despite the Association Agreement, including the DCFTA, which is a solid foundation of our relations with an extraordinary potential for the country development and a promising prospect for the intensification of our relations – only if existing opportunities are utilised, of course.

## ***There is a risk of fatigue...***

At the same Forum in 2018, I was thinking then it was the bottom moment of the EU-Moldova relationship during my term, but it seems that great efforts are being made now by a part of the political “elite” in order to reach the situation back then. In 2018, the EU’s high-level attention was clearly noticeable and included new Conclusions by the Foreign Affairs Council (February 2018), European Parliament resolutions, high-level statements, regular discussions with the Member States in Brussels, as well as a local joint initiative by the EU ambassadors.

This time, however, there is a risk of a fatigue effect, especially when we see that the same destructive figures of the past are playing political and economic games, that the reforms that have been



carried out with much difficulty in the last four to five years - in the banking sector, for example - are about to be thrown to the trash. Of course, we will continue to react every time we see backsliding or regress, we will continue to apply the same strictly conditional policy and we will use the levers we have at hand - from political dialogue to direct assistance to people.

But it is very important to understand that everything is changing today, including under the pressure of major crises such as the one caused by the Covid-19 pandemic, and that a great competition is awaiting us, in which the Republic of Moldova should use the beneficial opportunities offered to it, leaving in the past the setbacks and all the factors that have impeded the progress of the country and the progress of our relationship. Especially given the high hopes based on the apparent understanding by the citizens of what the European values are, common to all

of us, and how they want to feel them in reality in their lives.

The European Union has shown it is close to the people of the Republic of Moldova both in the short and long term. Thus, in this dramatic year, the “Europe Team” has provided great support in combating the consequences of the pandemic crisis and we continue to be present with projects and support to the Moldovan economy. And this is the chance for the future development as are the chances offered by the Eastern Partnership whose opportunities should be used by the Republic of Moldova as this is also in its interest.

## ***Between disappointment and hope***

I would like to mention, very briefly, three reasons why I feel a certain disappointment:

1. There have been a few windows of opportunity - and I am not referring

here to any political parties or figures, but to a few moments of rehabilitating the people's hope that changes for the better are possible. I still remember with emotion the day of 14 June 2019, when the people who had been brought in front of the state institutions and who had prevented the peaceful transfer of power have left in less than an hour, so that the rain that followed seemed to have changed the face of the town... But I am still convinced these windows have not closed and that the lost time will be recovered.

2. The rapid way in which non-transparent alliances are being made based on hidden interests - there may have been a certain underestimation of the "reactionary" forces, which have quickly found ways of dialogue and returned to old habits - from cigarette trafficking to undermining the rule of law and the democratic institutions.
3. Practices that I thought had been long gone in the past are being revived - forced entry into public institutions, the use of courts to overturn perfectly valid decisions of public authorities, and a very high level of impunity. And even if I have not once talked about the bank fraud, the laundromat and other cases of political corruption, today I would like to mention something else: my deep disappointment with the way the case of the Turkish teachers' expulsion was treated. This case, which is not at all a "sophisticated" one, with interference or money running through all kinds of jurisdictions; a case in which the punishment has not been only insignificant, but also does not lead to the accountability of state institutions, dignitaries and civil servants. Consequently, it does not support the application of the principle according to which the law is above any verbal order or political command.

However, I also have three reasons for hope:

1. There have been some indications that the topics that divide society, the hate speech, and geopolitics do not work as well as in the past and that issues such as living standards, the fight against corruption and the children's future are those that matter today. Of course, much remains to be improved in the quality of public debates, including by discouraging by the state institutions of the attacks on the media and genuine civil society. Understanding the importance of fighting corruption and reforming the judiciary as a precondition for economic development and improving the people's lives is encouraging.
2. Ability to mobilize segments of the population. Here I am referring to the diaspora - and not only to the people's effort in exercising their right to vote, but also to their daily sacrifices, and to the remittances they send, which, in fact, have supported all the governments of the Republic of Moldova. I am also referring to the young people who participated in large numbers in the presidential elections and who showed that they care about their future and the future of the country in which they want to live. Ultimately, I mean all the citizens of the country, regardless of ethnicity, who understand that their interest is a better future, in which they will be able to achieve their dreams. Because everyone wants a country in which they feel free, have a prosperous life, and know they can count on the judicial system that will treat everyone equally. It is in everyone's interest.
3. The personal example set by politicians, representatives of civil society, the media and small business, but also representatives of public institutions - all those who have large reservoirs of energy, patience and hope. I am also referring to some

civil servants who are following the long list of commitments made by the country under the Association Agreement or to those few whistleblowers who are informing about the abuses and illegalities within the institutions. And here I would like to thank my colleagues from the Ministry of Foreign Affairs and European Integration, but also from other public institutions, with whom we have been working intensively to strengthen the relations between the European Union and the Republic of Moldova.

All these positive aspects are stronger than the disappointments - and this is just about a pure quantitative factor. There are tens of thousands of people who make positive things possible, while those who try to anchor the Republic of Moldova in fear, poverty and corruption are much fewer. Of course, we also have a qualitative weighting factor - the ability of these "few" to influence, but the balance of power is changing. And the stronger the voice of the former, the less the possibilities of the oligarchs to promote their hidden interests, to retain their influence and power.

### ***Focusing on private interests will generate deep disappointment***

The European Union is constant - we have not changed our approach, the policy framework, the tools or the way of their implementation. We still have a lot of work to do - to inform even more people about our support and our instruments, to make them more accessible, flexible and direct. As part of the constancy is the fact that we raise our voice when necessary and take action when the commitments are broken. And I will now refer, in particular, to the latest amendments to the Law on Internal Trade, which are contrary to the commitments of the Republic of Moldova under the World Trade Organization, but also under the



Deep and Comprehensive Free Trade Agreement with the EU. If this law enters into force, the EU will have to initiate dispute settlement procedures. In recent days we have seen also other initiatives that go against the commitments made, including a so-called Lustration Law...

I think that here we cannot talk about irony, but absurdism, when we think that a party, which includes people listed in the Kroll Report as having been involved in the bank fraud, could do “cleaning and ‘disoligarchization’” of the regulatory or supervisory institutions, including the National Bank, outside the existing legal framework.

The EU is already the largest trading partner of the Republic of Moldova and a destination for exports, as well as a source of investment coming to the country. This role will increase in the coming months and years and will be a decisive factor for Moldova in overcoming the impact of today’s crisis. Moldova only needs to be open to use the chance that may come with the new multi-annual EU budget and the European plan for the economic recovery- the largest economic plan in the human history. It is essential that the citizens of the Republic of Moldova have the chance to feel that their lives are improving, which is why the authorities should show a decisive will for reforms and an active dialogue, with the “best cards” with the EU. At the same time, the focus on private interests would generate profound disappointment of both the citizens and the development partners of the Republic of Moldova ... There is still time to prevent these latest events from having medium and long-term effects on the country. And we hope that the people and institutions will fulfil their functions and responsibilities, subordinating only to the law, the principles of democracy and rule of law. And for all those who are acting, day by day, according to the commitments made and the hopes expressed by the people through their vote, I can only promise them that the European Union will continue to be with them.

## **What counts, above all, is substance in the implementation of reforms**

**Nils Schmid, member of the Foreign Affairs Committee of the German Bundestag**



**W**e in Germany are very glad that Maia Sandu won the presidential elections with a clear pro- European perspective, which is encouraging for all of us. However, we need a broad consensus as to the European integration path and association since for too many years there has been political strife and little progress and substance when it comes to the judiciary reform, fighting against corruption, reforming the banking sector and so on. So, what counts for us above all is substance in the implementation of reforms and any political party or coalition in charge contribute to what has been agreed.



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Synthesis and Foreign Policy Debates

### ***We can win the trust, offering real improvements***

We take the presidential elections as an impetus for relaunching the European reform agenda in Moldova and we believe that the European Union, and especially Germany, should support this push by assisting in the implementation of the key reforms in the area of justice, fiscal administration, banking sector, security sector. So, I believe that these are still on the table. And I know that they are complex issues that take time, but the European Union is ready to help and fund facilities for that. We believe this is key for transforming the Moldovan society and also being attractive for investors, for example.

The second point which I would like to stress, which is also a key sector of European support, is improving the standards of living of as many ordinary citizens as possible.

I think that one important feature of the last presidential elections was that many people in Moldova did not vote along the geopolitical line but rather along the facts of life, that is the economic situation and the perspectives for the economic improvement that the candidates have offered. So, there is a huge opportunity for the European Union to invest more in concrete measures to improve the living standards, the public infrastructure, and connectivity which is key to linking Moldova to the single European market and in this respect, further implementation of the Association Agreement is very important.

I'd like to stress that I'm deeply convinced that we can win the Moldovans over the European perspective by offering real life improvements, and in certain way, the high approval rate for Maia Sandu among the Moldovan emigrants showed us that those who experienced the European reality are much more in favour of the European integration that those for which this is a faraway reality from their daily life.

Europe has to perform in Moldova's real life and has to show to the Moldovan people all over the country that the European integration matters this being an opportunity for improving their and their families' standards of living.

### ***National consensus not only in words but also in actions***

And the last point that I would like to make is about the importance of the parliamentary politics. So all over the post-soviet space, but also in the Balkans, we've seen very unsteady parliamentary politics which does not necessarily mean it leads to instability, but still a well-functioning parliament is of utmost importance for the rule of law, for democracy in general, and I'm very much concerned about the latest events in the Moldovan parliament which was sort of shake-up of the Parliament. So, you never know what happens in this parliament - this impedes a steady political reform process. That is why a national consensus not only in words but also in concrete actions, and especially in the actions of the Government and Parliament, is very important for us.

I hope that all the disappointment coming out of the presidential elections will not result in a very unsteady parliamentary situation in Moldova. In order to push through the reforms, you need a Parliament and the full support of it, and in order to control Government, you also need a strong Parliament. That's why we, in Germany, have started to look more and more at how parliaments work in the reform states all over Eastern Europe and for us this has become a very important aspect in judging the progress made in the area of institutional reform. If you look at what's lying ahead of us in Moldova, there is still a lot of work to do in institutional building, capacity building, strengthening social and political cohesion of the society. We believe that the Parliament in a democracy is also part of the separation of powers, therefore it's important to have a properly working Parliament.

I want to ensure you that Germany will stay with Moldovans. We believe that the European dimension of the Moldovan politics is an essential part and we can only offer it to Moldovans. They have to choose their way forward in the domestic and foreign policy, but still the presidential elections demonstrate that the way of coming closer to the European Union in economic and political terms is very important. And of course, we appreciate that and we want to continue helping Moldova on this path forward by finding tailor-made approaches to support the reforms in the country.

***Berlin-Chisinau,  
8 December 2020***



## Editorial

# Three essential conditions for a credible and effective foreign policy

**Victor Chirilă,**  
**executive director**  
**of the Foreign Policy**  
**Association (APE)**

The new President of the Republic of Moldova, Maia Sandu, has undertaken to promote a foreign policy which is “open, positive and beneficial to the country.” It is a desideratum of the majority of citizens, which is also supported by our neighbours (Romania and Ukraine), and by the main development partners (the EU and USA). However, it is clear that the Republic of Moldova will have an effective and impactful foreign policy only when a number of essential conditions for a substantial relaunch are met...

### **The messages sent externally should reflect the actions internally**

First of all, we need to restore the credibility of our foreign policy, which has been shattered in the last year by the irresponsibility and incompetence of the former President Igor Dodon in terms of foreign relations and, in particular, by his government’s sabotage of reforms agreed with the development partners in the field of justice, the fight against corruption and the consolidation of the financial-banking system.

The visa liberalization regime, the negotiation of the Association Agreement and the Deep and Comprehensive Free Trade Area with the EU, the inclusion of the Republic of Moldova in the list of beneficiaries of the USA Millennium Challenge Program, the launch of the Strategic Dialogue with the USA and other foreign policy



successes were possible due to the credibility of the Moldovan diplomacy in the major Western capitals in the early years of this decade. Unfortunately, the 2014 bank fraud and the growing discrepancy between the foreign policy messages and the concrete domestic actions have shaken the confidence of the European and American partners in the sincerity of the promises and commitments of the Moldovan government.

Therefore, if we want a diplomacy to be heard and respected alike in Brussels, Washington, Berlin, Paris, Kiev or Bucharest, it is crucial that the external messages reflect as accurately as possible

the commitments made and the reform actions taken domestically in the area of fighting against corruption, reform of the judiciary, respect for and consolidation of the rule of law, ensuring a transparent and accountable government etc... This can be achieved by President Maia Sandu only in close cooperation with the Parliament and Government. Unfortunately, both institutions are currently controlled by the Dodon-Shor-Plahotniuc triumvirate of the corrupt and oligarchs, who have declared total war on the new head of state and her reform agenda. In these circumstances, we will not exaggerate if we say that the restoration of the credibility of the country’s foreign policy is postponed until the release of Parliament and Government from this triumvirate, following free and fair early elections.

### **Formulation and explicit commitment to national strategic objectives**

Secondly, we need a coherent foreign policy. However, in diplomacy, coherence starts, above all, from the

formulation and explicit commitment to national strategic objectives, which should be pursued regardless of the vicissitudes of the domestic political life. Unfortunately, in recent years, as a consequence of the major disappointments generated by the performance of former pro-European governing alliances, the national goal of joining the EU has become less imperative for the political class in Chisinau. As a result, against the background of this context, our diplomacy is being imposed false objectives, such as the transformation of the Republic of Moldova into a bridge that would unite the liberal West with the anti-liberal East (illiberal) or the international recognition of the permanent neutrality of the country as a guarantee for the political settlement of the Transnistrian conflict and the withdrawal of Russian troops from the left bank of the Nistru.

But let us not delude ourselves; those “objectives” have only one purpose: to remove, once and for all, the idea of joining the European Union from the agenda of the Moldovan political class and diplomacy. This should be prevented and stopped, and the national goal of joining the EU should be brought back to the forefront of our domestic and foreign policy, as a beacon for society, but also for the diplomacy.

Moldova’s accession to the EU is not a geopolitical desideratum, but a sine-qua-non condition for the country’s development and for its existence as a modern, independent and sovereign state - and this should be a clear and explicit commitment of the political class. Without such a commitment both at the level of discourse and actions/ reforms, our foreign policy will always be in the wind of the changing political winds in Chisinau. *Building Europe at home* and joining the European Union are two sides of the same coin, which cannot be separated or treated separately, as some “equidistant” Moldovan politicians and officials are trying to do.

### ***Restoring the authority of Moldovan diplomacy***

Third, the authority of Moldovan diplomacy should be restored. Unfortunately, in the last six years, the Ministry of Foreign Affairs and European Integration has lost its

respect and institutional authority it once used to have, becoming a docile instrument of internal political struggle in the hands of the oligarch Vlad Plahotniuc and, later, of the former President Igor Dodon. Both used the foreign office to promote their individual and/ or party/ group interests, to the detriment of the national interests, the rule of law and the country’s security. More precisely, Plahotniuc has tried to ensure the irremovability of his oligarchic regime, and for this he has set himself up as the only guard against the Russian tanks and as the supreme protector of the American and Romanian interests in the Republic of Moldova. Pursuing the same goals, in his turn, Igor Dodon has set himself up as a promoter of a “balanced foreign policy” and as a “unifier” of Europe from Lisbon to Vladivostok, while coordinating his foreign policy messages/ actions with Moscow. In both cases, our diplomacy has been a useful tool, humbly carrying out their instructions.

In parallel, it is becoming increasingly clear that the Ministry of Foreign Affairs suffers from a number of institutional deficiencies, such as insufficient communication with the public, lack of public diplomacy, but also digital diplomacy, insufficient strategic analysis and planning capacities, etc. Once a generator and promoter of modern foreign policy ideas and solutions, today the foreign office has become a docile executor of ideas and solutions imposed by dubious politicians, lacking (clear) vision and strategic thinking characteristic to statesmen. The recent case of smuggling of anabolic substances, which involves the Embassy of the Republic of Moldova in the Russian Federation, is, in that context, an additional signal that something is rotten in our diplomatic Denmark ...

There is only one way to restore the lost respect and institutional authority of the Ministry of Foreign Affairs and European Integration: to thoroughly reform the domestic diplomatic service based on the model of successful diplomacies of some EU member states of the size of the Republic of Moldova. However, this reform should begin with an impartial external audit, which assesses all procedures and areas of activity of the Diplomatic Service, starting with the auxiliary (technical-administrative) and ending with the political ones. And ... who can do that today?

# Justice system reform and the role of the judicial integrity in the European integration process

*About strengthening the judicial integrity and the role of the executive and legislative powers in ensuring it; about the prevention of corruption in the judiciary and the interference of politics with the judiciary; and about the decisive role of the media...*

**RADU FOLTEA, Secretary of State, Ministry of Justice:**  
**"Accountability and integrity - key elements for restoring confidence in the judiciary"**

First of all, on behalf of the Ministry of Justice, I would like to express my sincere thanks to the organizers and participants in this event - especially for the fact that a separate panel of discussions has been dedicated to justice. Ensuring quality justice is a commitment assumed by our country in the process of European integration, and the success of achievements in the sector should be the main impetus conditioning the assertion of the Republic of Moldova as a democratic state and a credible partner in relation to the entire international community. On this occasion, I would like to reiterate that, over the years, the Ministry of Justice has developed and promoted a series of justice reform projects - we all know the National Justice Reform Strategy 2011-2016, for example ... Much has been done, but much remain to be done, that is why we would like to reach a stage when we could already talk about consolidating the justice sector and not about reforming it.

Despite the efforts, it is unfortunate that the judiciary but also the entire justice sector, including the Prosecutor's Office and the free professions - is still affected by structural problems and lack of integrity, which has a major impact on the quality of justice and people's satisfaction with the performance of

justice. Among the main reasons for this situation are the maintenance of corruptible factors and elements that affect the integrity of actors in the sector; involvement of political factors in issues related to the career of judges; uneven judicial practices that generate contradictory judgments and, in the end, affect the security of legal relations and lead to the condemnation of our country by the ECHR; poor application of the regulatory framework and legislative instability.

Of course, we cannot deny that, according to opinion polls, corruption and lack of integrity in the justice system and, in particular, in the judiciary are perceived by society at a high level. Accountability and integrity are two main elements ensuring the citizens' trust in the justice system and fair procedures, given the suspicions today that some court rulings have been issued under pressure from political factors. At the same time, the judicial accountability and integrity cannot be viewed and analysed outside the concept of independence, and this is because the judiciary is a constitutional, state power and has to become distinct. Also, judges cannot be sheltered by an absolute immunity, which can turn into a kind of impunity - we all know cases when judges cannot be held liable just



because of the immunity which is being invoked...

As for the Roadmap for the coming years, it will be based on the new Strategy for Ensuring Independence and Integrity in the Justice Sector 2021-2024. Starting with January 1<sup>st</sup>, our task will be to implement this Strategy, which contains key elements included at the level of law based on the previous recommendations coming from both civil society and various international organisations. I am referring, in particular, to the draft laws on constitutional amendments related to the judiciary and the Superior Council of Magistracy. This year we have managed to revive that initiative, which has had previously two attempts (2016/2018) and we did it by involving all actors - civil society, the Government, the Council of Europe and the European Union. We have been open to all suggestions and recommendations in order to strengthen the draft and pass it on to the Constitutional Court, then to Parliament. I very much hope this draft will be examined by the Parliament next year.



It is a draft that contains some strong elements, such as the exclusion of the five-year probation period for judges, which will give them the confidence that they are appointed for life or that the magistrates of the Supreme Court of Justice are appointed by the President, not by Parliament. These are very

important changes, which will lead to the exclusion of the political influence on the process of appointing judges. The draft provides also for resetting of the Superior Council of Magistracy (SCM). Ultimately, we want a transparent process for implementing these amendments.

The Ministry of Justice, as coordinator of the implementation of all policies in the field, will be involved in the implementation of the Strategy and is convinced that the approach should be inclusive, involving all actors, including civil society and the media. Let's take on this success together - I hope it to be so.

**CRISTINA ȚĂRNĂ, anti-corruption expert,  
former deputy director of the National Anticorruption Centre:  
"Corruption poses high risks to state security"**

The issue of integrity is a long-known and painful truth, but it is inevitable when the justice and politics are involved in a "flirtation" that can also be referred to "the wedding of corruption." The main problem of people's distrust of the judiciary is the way it interacts with the political power - a mesalliance that gives birth to monsters such as the captured state, kleptocracy, and, more recently, the cartel state. Unfortunately, we often have to watch these phenomena helplessly, and people rush and take to the streets to protest as it was the case with the bank fraud... The inability of justice to draw red lines when the politicians burst into it, leads to sad social phenomena and has its say in the process of European integration. In addition, corruption is also a major security issue for the state, because you can no longer control the processes, the priorities being the transactions and private interests, which can generate anything - instability, lack of progress and, ultimately, security risks.

Judges should probably understand that they have been appointed for lifetime and not for four or five years as it is the case of the politicians. That is why they should treat the relationship with the politicians from the position of the "Immortal and cold morning star". This too much loyalty of the justice to the ephemeral political actors should cease. Moreover, justice should remind you that its both eyes are tied and in one hand it has the sword which can take

anyone's head. Because justice is not **the third power** in the state as most politicians see it, but **one of the three powers**. Only when judges understand how much power and autonomy they have, in the good sense of the word, will the real change in this vital system for a society begin. And here I would like to get back to the issue of integrity, without which there is no independence.

I've said earlier that judges need to understand that they have a lifetime appointment - but who gives it to them?! This would be the role and mission of the SCM. It's just that I personally don't remember any period of time in which the SCM was associated with the promotion of meritocracy or integrity in the judiciary, and not because it didn't have the tools. What the representative of the Ministry of Justice spoke earlier is about laws, but this does not matter much to the SCM...

Another issue is how judges enter the system and, especially, how they are appointed into high-level positions. The role of the SCM here, as a mechanism, should be the same, whether it's about judges' appointment or promotion. It's just that the de facto procedures of the SCM are a real magic, and the role of mechanisms such as the Judicial Performance Evaluation Board or the Judges' Selection and Career Board - which have very strict regulations, by the way - has been reduced to zero by the SCM. And, even though these Boards



give the candidates a certain score, which the SCM has to take into account when making decisions, the SCM always sees other merits, consequently it ends up promoting other candidates than those who scored higher.

This is how the SCM understands the application of the principle of meritocracy. Despite the fact that in 2019 a 20 percent amount of the role of the SCM was introduced in the decisions within the competitions regarding the promotion in the judicial system, the SCM puts each candidate to vote and promotes who they want. It's a vote which I consider illegal. But it seems that the fact that the law says otherwise is not relevant for the members of the Superior Council of Magistracy as they live in a truly parallel reality. As long as no one knows what is behind these votes, it doesn't matter at all that the meetings are broadcast online, etc. It's a travesty of transparency, nothing more. The explanation would be that these are less orthodox methods, not to say directly that this is corruption, because I have no evidence ... And this is what everyone suspects.

Compromising the concept of meritocracy is affecting severely the

justice system, preventing the good judges from entering the system or their promotion. And the quantitative solutions proposed by the politicians - to increase the composition of the SCM - do not help. The practice has not changed at all.

Regarding integrity, in my capacity as author of the Judicial Integrity Guide, I will tell you what was the emblematic reaction of the SCM Ethics Commission when I presented the guide to them. Initially, the members of this commission have kept telling me for about half an hour that they did not need such a guide, that the people were wrongly

accusing judges etc. After a while they agreed to be presented it and, in the end, they said that it could even be useful and that they will vote for it and will recommend it - which they did. Most of all, I was surprised by their question if we can translate the Guide into English, to show it to the development partners that they have such a thing. So, it was not a question of how to disseminate and implement it, but how to boast about it to the donors.

The result of the SCM's disinterest in these two basic principles - meritocracy and integrity – and of their undermining leads to the fact that the honest judges

are demotivated. People, in turn, see that people with integrity problems are being promoted and extrapolate this fact to the whole system.

What would be the solutions to break this vicious circle? First of all, to challenge the actions of the SCM and to bring the SCM to the understanding that it must comply with the law. Perhaps the extraordinary evaluation of judges would also be useful ... It is certain that the boundaries between politics and justice must be delimited. The politicians should make policies for the justice system and not politics.

**MARIANA RAȚĂ, investigative journalist, TV8:**  
**“Politicians can and must have a beneficial influence on the justice system by cleaning and rehabilitating it”**

The fact that a media representative has also been invited to this panel is a step forward. Because no matter how upset judges are about journalists and vice versa, we should all understand that neither the public perception nor things in the justice system will change as long as there is no healthy collaboration between the two powers. We are talking here about reforms, strategies, expectations and whether or not politics should get involved into justice. My answer would be ‘yes’ and I will explain why.

In the last ten years, in the Republic of Moldova we have had several justice reforms - an opportunity for the journalists, but also for the lawyers to make jokes. They had different titles and different names of ministers next to them. I'm not saying that nothing has been done, we have to be honest and objective - things are changing, only they are changing very slowly and not in a conceptual way. Consequently, these fragmented changes cannot produce effects.

In the last 15 years, we have replaced

more than ten justice ministers, nine governments, six heads of state. And almost all of them have said they cannot be blamed for the situation in the justice system, because they draft policies, sign decrees, but cannot intervene to clean up the system. And as long as politicians have this argument, things are not going to change, although the politicians have responsibility and can intervene.

For more than four years, the Government and Parliament have not been able to find a consensus to amend an article of the Constitution regarding the five-year filter for judges in the system. There have already been three attempts to change this in the Parliament, they went also to the Constitutional Court with it, they voted in the first reading and ... that's it! Where is the political will?! I don't believe in it anymore. Although changing an article in the Constitution is much easier than making evaluations - internal, external, etc.

What does this five-year probation of judges mean? I will give you some examples. Many cases of resonance,



which have made us bad publicity in the world, were judged by magistrates under the five-year probation, e.g. Filat's case, Shor's case, Botnari's case regarding the expulsion of Turkish teachers or the cancelation of elections ... Until the moment came and they have been endorsed by the politics to remain in the system till reaching the age limit. I was really ashamed when a judge told me how he prayed that a case of obvious political interest did not fall on him randomly, and as soon as it happened ... he pretended to be “sick” so it has been passed on to another judge.

This change had to be made ten years ago, and it did not require any strategies or reforms - just a quick fix.

And here is another example. In the last four years – during Igor Dodon's presidential term - 129 new judges have

entered the judiciary. That is, every fourth judge out of more than 460 judges came into the system through a decree signed by the head of state. Another 94 judges have been appointed for until they reach the age limit, 38 were promoted to the Court of Appeal, and 43 to administrative positions.

So, in the last four years, every second judge has received the endorsement of the president through the decrees signed by him on entering, staying or advancing in the system. Could the head of state intervene to clean up the system? I think he did... Did he have the necessary tools? I'm sure he did. The SIS was informing him, so the President could object. Yes, the mechanism says he can't refuse a second time. But I once checked how many times he had objected - and I only counted about three or four cases. So, he did not even try to eliminate the elements that didn't comply with the requirements of the justice system.

And because so far, I have talked about the "good" part of the political interference into the justice, I will also refer to the reverse of the medal. In our country, there is a phenomenon that is talked about everywhere - in the corridors of courts, in the offices of prosecutors, etc. - and, to be honest, it's always in the past tense: 'I was influenced', 'I was proposed', 'I was asked' ... after an oligarch fled the country or after an influential politician lost his job. I haven't heard anyone reporting about pressure in the present tense. But what's next?

I want to remind you of the year 2009, when the power in Chisinau had changed and documents began to be declassified.

And some have appeared with clear instructions given by former President Voronin to Mr. Muruianu how to judge certain cases. But did a criminal case follow? Has anyone tried to give a legal note to those abuses?!. Nothing happened then, not even a year ago when other testimonies have also appeared.

What are the law institutions - the Prosecutor's Office, the NAC, the SIS - doing to discourage the attempts of the politicians to interfere into the justice system? I have the feeling that in the Republic of Moldova everyone is afraid to open this black Pandora's box and to recognize, already with the documents on the table, that this influence exists. Judges and prosecutors should do so through "present" denunciations, not post-factum; their fellow prosecutors - by opening criminal cases; and those from SIS - by reporting cases. But I am afraid that, for the time being, we have not crossed the psychological threshold necessary to change this.

Politicians will always be tempted to influence justice and it is a common phenomenon all over the world, because everywhere the interests are high. Therefore, it is counterproductive to rely on re-educating the politicians. In some states, however, the judiciary has managed to create protective barriers, filters that work. But it all started with the awareness of this fact by the actors in the justice system. "I don't want to do what politicians tell me anymore", this is where it should start. And then the mechanisms can be applied.

My conclusion is that politics has to get involved in the judiciary, helping to

clean up the system and enacting laws to protect it from harmful influences. But it is also important to hold justice actors accountable to society, so that we do not find ourselves with a closed corporate system. And judges and prosecutors have to decide on whose side they are - on the politicians' or the citizens' side. Only when they make the right choice will they be able to free themselves from moral pressure. Ultimately, the citizens need to understand that you have to fight for justice - to gain its independence first and then to protect it - as we have seen it happening across the Prut, for example ...

And in the end, we came up to the press, which still has problems and needs to be educated, in the sense that we do not have many journalists who understand the mechanisms and phenomena of the justice system. And when you don't understand, you say it's not interesting, it's complicated, it doesn't bring rating, etc. My suggestion, strange as it may seem, is to convince the press that the independence of justice is as important as the flooded streets, road accidents or the old woman from Etulia who reads eggs...

Let just convince the press it should not talk only about the lack of integrity of some actors in the judiciary, but also about the way the SCM works, for example. And especially about its transparency, if ... For this, however, the representatives of the judiciary should start communicating in an honest manner, proving that they really want change. Help the journalists understand you and then they will help you to be understood by people.

*Chisinau, 8 December 2020*

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