

## Reforms in Moldova: Moderate progress and an uncertain outlook for the future

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After coming to power in September 2009, the Alliance for European Integration (AIE)<sup>1</sup> coalition began implementing a wide-ranging programme of reforms, with a view to bringing Moldova closer to the European Union, and ultimately to ensure the country's full membership of the EU. Today, Moldova is considered a clear leader in European integration among the members of the EU's Eastern Partnership programme. This, however, has less to do with the concrete reforms introduced by the Moldovan government, and more to do with, on the one hand, Chişinău's excellent public relations with Brussels, achieved through effective diplomacy; and on the other hand, the growing disillusionment with the lack of progress in other Eastern Partnership countries, particularly in Ukraine. Attempts to evaluate Moldova's reforms have proven rather problematic. On the one hand, the ruling coalition has managed to make significant progress in the areas of civil liberties, human rights and electoral reform. The government has also successfully implemented regulations which have brought Moldova closer to signing a Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU, and it has made headway in talks on visa liberalisation with Brussels. On the other hand, Chişinău has still not carried out the structural and economic reforms without which real change in the country will be impossible. No reforms have been introduced in the Ministry of the Interior, the Moldovan police force, or the judiciary. The AIE has also failed to decentralise governance and has had no real success in reducing corruption; its attempts to rebuild the country's financial institutions have proved equally unsuccessful. The main reasons for this poor performance include mutual mistrust and conflicting interests among the coalition members, a shortage of financial resources, strong resistance to change by public administration staff, and significant pressure from those political and business groups whose interests could suffer as a result of the proposed reforms. It should also be noted that since the AIE took power, the international context of the reform efforts has undergone significant changes. On the one hand, the EU has been facing an economic crisis, which has had a negative impact on Moldovan exports and contributed to the worsening of the economic situation in the country; and on the other hand, Moldova has been offered membership of the Customs Union as a viable alternative to EU membership.

The ineffective and only partly implemented reforms have led to a rise in social discontent. Currently, up to 72% of Moldovans believe that

the country is heading in the wrong direction<sup>2</sup>, which has led to a drop in support for EU membership and a rise in support for Moldova's future within the Customs Union. In the long term, this could lead to a change of government,

<sup>1</sup> Initially, the AIE was formed by four parties; after an early parliamentary election in November 2010, however, 'Our Moldova', the smallest of the coalition partners, failed to pass the electoral threshold. As a result, the coalition currently consists of three parties: the Liberal Party, the Democratic Party and the Liberal Democratic Party.

<sup>2</sup> Barometrul de Opinie Publică – Noiembrie 2012; [http://www.ipp.md/public/files/Barometru/BOP\\_11.2012\\_prima\\_parte.pdf](http://www.ipp.md/public/files/Barometru/BOP_11.2012_prima_parte.pdf), page 7.

and a shift from a pro-Western to a pro-Russian orientation in Moldova's foreign policy.

## Institutional reforms

A substantial reform of state institutions – including the Ministry of the Interior, the police force, and the Ministry of Justice, as well as changes to public administration, local government and election law – are essential for the former Soviet republics to transition successfully to Western-style democracies. So far, Georgia is the only post-Soviet state that has successfully reformed its institutions and undergone a full transformation resulting in the adoption of the Western political and economic model<sup>3</sup>.

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Reform of the Ministry of the Interior, including structural and administrative changes within the MOI and within the Moldovan police force, is the main challenge facing the government in Chişinău. Its most important task lies in the complete restructuring of a corrupt and highly inefficient Ministry inherited from the Soviet era. The measures taken to this end include the demilitarisation of the MOI through the replacement of military ranks with police ranks, the restructuring of the Carabinieri (internal troops), a clear separation of powers between the Carabinieri and the police, and the establishment of an independent department monitoring the work of the police. This last change is particularly important, as it would protect the police from political pressure and greatly improve their professionalism. The new

department would oversee the work of law enforcement agencies and conduct regular training. The head of the department would be appointed for a fixed five-year term, without the possibility of dismissal, while the rest of the staff would be appointed by competition. Reform of the MOI and the police force is essential in order to convince the Moldovan people of the effectiveness of the broader socio-political changes facing the country. Currently, Moldovan police officers are considered to be one of the most corrupt groups of public servants in the country (41.2% of Moldovans have at some point bribed a police officer); public confidence in the police remains at 25%<sup>4</sup>.

So far, however, only minor changes have been implemented at the Ministry of the Interior. These include the creation of a new border police force falling under the MOI, and a partial demilitarisation of the Ministry's administrative structures, significantly reducing the number of military personnel (in July 2012, the first ever civilian was appointed as head of the Ministry of the Interior). Meanwhile, the planned reform of the police force has not yet been launched and remains under consultation in Parliament. Public confidence levels in the Moldovan justice system, on the other hand, are even lower, and do not exceed 15%<sup>5</sup>. Extensive reform of the judiciary began in December 2011 with the adoption of an Action Plan for 2011–2016; its aim was to improve the effectiveness of the justice system, reduce corruption, guard it against political influence, and increase its efficiency (by reducing the number of judges). The widespread corruption affecting the courts, the prosecution service, and other departments under the Ministry of Justice, poses a major challenge to the success of this reform. The main difficulty in dealing with this issue lies in the very structure of the Ministry, which (also due to its close ties with the Moldovan political elite) resists the implementation of anti-corruption

<sup>3</sup> For more on the subject of Georgian reforms and their effectiveness, see Marek Matusiak, 'Georgian dilemmas. Between a strong state and democracy', Point of View, No. 29, July 2012, [http://www.osw.waw.pl/sites/default/files/PW\\_29\\_EN.pdf](http://www.osw.waw.pl/sites/default/files/PW_29_EN.pdf)

<sup>4</sup> 'Transparency International – Moldova, A Sociological Study. Corruption In the Republic of Moldova: Perceptions vs. Personal Experiences of Households and Business People', Chişinău 2012.

<sup>5</sup> *Ibid.*

measures. As a result, both existing and new legal provisions (including the removal of immunity for judges accused of accepting bribes) have not only failed to improve the situation, but have also been unsuccessful in preventing a further escalation of the problem.

Structural reform of the judiciary has only just begun; so far, the number of judges has been reduced, separate economic courts have been closed down and their cases have been passed on to specialised departments within regular courts, and the number of Supreme Court judges has been cut down. Despite EU pressure, however, judicial salaries have not been increased, even though better pay could significantly reduce the prevalence of corruption.

Meanwhile, the **changes to Moldova's election law and the restructuring of the Central Electoral Commission (CEC)**, initiated at the end of 2009, have proved quite successful. Significant personnel changes and the establishment of the Centre for Continuing Professional Development, aiming to raise the level of professionalism and ensure the CEC staff's ethical conduct, have had a positive impact on the overall quality of the electoral process. In addition, amendments to the Electoral Code have lowered the election threshold to 4% for political parties and 2% for independent candidates running without the backing of a party. The amended Electoral Code has also brought back the regulations permitting the formation of political coalitions. However, the funding of political parties and election campaigns remains an unresolved issue, and so far no new regulations have been introduced to address it. The current system lacks transparency and allows for undeclared political donations; no effective system has been put in place to monitor party budgets and the financing of election campaigns.

Preparations for **administrative reform**, designed to decentralise the state and thus create a basis for stronger local authorities, which would further bolster the development of Moldovan civil society, began in January 2012 as part of a National Strategy for Decentralisation.

The document proposes the transfer of certain powers from central government to local authorities, especially local councils, and offers them greater control over their budgets

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(including the right to set local taxes and the right to retain any income generated from the lease of land or property). Despite attempts to implement the decentralisation policy, the effects of Moldova's administrative reform have so far been negligible. This has mainly been caused by the reluctance of local councils to take independent decisions, and of central government to give up some of its powers. The process has also been negatively affected by the politicisation of the mechanisms used to distribute central government funds to local authorities<sup>6</sup>.

### **Economic reforms**

The goal of Moldova's economic reforms, as set by the current government soon after taking power in 2009, has been to increase the country's attractiveness to investors, and to ensure a continuous and substantial economic growth. Over the past three years, the coalition government has set up seven Special Economic Zones offering favourable conditions for business activity (including, VAT and customs duties exemptions for manufacturers). The government also established three industrial estates during this period. Foreign companies registered in Moldova were

<sup>6</sup> According to a report by the Expert Group, in 2011 additional funds from the state budget were allocated to 40% of local councils ruled by mayors affiliated with the AIE. Meanwhile, only 6.5% of councils led by non-partisan mayors, and 3% of councils headed by the Communists, received such funds.

granted tax breaks linked to the size of their investments<sup>7</sup>. Consequently, these measures placed Moldova 83<sup>rd</sup> in the latest Doing Business ranking (up 11 places on June 2009); the same ranking also ranked Moldova in the top 10 of the most successful reformers. Nevertheless, the economic reforms attempted by the AIE government can be considered unsuccessful, particularly in areas such as investment law and the protection of property rights. As a result Moldova has been losing foreign investors, who have complained about difficulties in dealing with the local tax office, customs officials and

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the prosecution service. These investors included three major international players: the American Lear Corporation, Germany's Dräxlmaier and Australia's Shan Lian Group, all of whom decided to cancel their investment plans in Moldova in the last two months of 2012. In all cases, the companies cited serious problems with the Moldovan tax office and customs officials as the reason for their decision. As a result, Moldova lost up to €60 million, i.e. 25% of all its foreign direct investment for 2012. The investment climate has also suffered due to repeated cases of so-called corporate raiding, where a majority stake in a company is illegally acquired on the basis of a corrupt judicial decision. Corporate raiding is made possible both because of loopholes in Moldovan law and the high levels of corruption among local judges. It also offers proof that no major

<sup>7</sup> For the first five years of their operation, companies with a start-up capital of \$250,000 are granted a 50% tax break, subject to the reinvestment of at least 80% of the saved funds in projects based in Moldova. Companies investing more than \$5 million are completely exempt from income tax for a period of five years.

changes have been made in the area of property rights protection or the fight against corruption. This further highlights the fact that the success of economic reforms in Moldova is directly dependent on the efficiency of judicial reform. It should be noted, however, that the reforms required for signing a DCFTA with the EU (scheduled for autumn 2013) have been carried out without major problems. Moldova has begun amending its Customs Code, the law on customs tariffs and the law on free economic zones, as well as completing the implementation of its fair competition legislation. Other changes include the introduction of new anti-monopoly regulations and a reform of the state body responsible for the prevention of unfair competition. Moldova's Parliament has passed a law regulating and restricting state subsidies for local companies, which protects the principle of equality of all businesses operating in the free market.

In addition, the AIE coalition has had marked success in implementing its energy policy. Moldova has joined the Energy Community and adopted a series of directives resulting in partial regulation of its electricity and gas market. The country has also adopted EU energy efficiency provisions, with a view to ultimately aligning all of its energy law with EU standards. Despite some delays, further progress has been made on the Iași-Ungheni pipeline, designed to link the gas systems of Moldova and Romania, and thus allow Chișinău to end its complete dependence on Russian gas. Completion of the project has been scheduled for November 2013.

### **Reforms in the areas of civil rights and liberties**

The current coalition has successfully paved the way for wide-ranging reforms in the area of civil rights – particularly freedom of speech, protection of minority rights, religious freedom, and implementing major changes to the country's education system.

The government has also liberalised rules on freedom of expression, and the local media no longer complain about the types of political pressure that restricted their work before 2009. The Moldovan media market gained new television channels as well as a number of newspapers and magazines. A recent ranking compiled by Reporters Without Borders ranks Moldova 53<sup>rd</sup>, up 61 places on 2009. However, over the past two years observers have noticed negative trends indicating growing restrictions on media freedom. Among the particularly worrying developments was the decision to strip the pro-Communist opposition NIT television channel of its broadcasting licence in April 2012. What is also becoming apparent is that shares in the country's media outlets have been increasingly bought up by AIE politicians or people associated with them, which may adversely affect media plurality in the country. The adoption of legislation guaranteeing the rights of ethnic and sexual minorities and religious freedom has suffered delays due to continued opposition from Moldova's rather conservative society. In May 2012, however, Parliament finally adopted the so-called Equal Opportunities Act, which ensures equal legal status of minorities, including sexual minorities and the Romani population. Previously, similar difficulties were experienced in the enforcement of the right to freedom of religion. Although the appropriate legal framework was adopted when the reforms were first launched, it was not until March 2011 that the Ministry of Justice agreed to register the first non-Christian religious group in Moldova. Despite the delays, the adoption of the new regulations in both cases proves that reform in this area has on the whole been successful.

Some success has also been achieved in the **reform of Moldova's education system**: there has been a complete overhaul of the country's primary and secondary schools, local teachers have been given a pay rise, and the Bologna Process has been implemented in Moldova's universities. The Department for Education has begun the implementation of a new national

curriculum, many schools have been refurbished, and the network of existing schools has been optimised. The main problems experienced by the Moldovan education system are widespread corruption, a lack of funding, and shortages of fully qualified teachers. The government has also been making steady progress in adopting regulations aimed at ensuring Moldova's eligibility for **visa-free travel to the EU**.

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In November 2012, Moldova officially entered the second and final phase of the Action Plan on Visa Liberalisation, which means that the necessary legal framework has been completed and its implementation will start soon. It is worth noting that the government chose not to wait for the EU's official confirmation of the completion of the first phase, and has pressed ahead with further reform on its own initiative. This has allowed Chişinău to make biometric passports available to all its citizens, among other measures.

### **The sources of difficulties**

The pace of reform has been affected by several factors, including disputes and conflicting interests within the ruling coalition; the resistance to change from public administration; the lack of financial resources, the pressure from business lobbyists linked to local politicians; and the legacy of the Soviet-era political culture.

Meanwhile, the main problems hampering Parliament's work on new legislation are Moldova's coalition government and the **mutual distrust among the members of the Alliance for European Integration**. This issue became particularly significant during the two and

a half-year period of political instability (from September 2009 to March 2012) when the Moldovan Parliament was unable to elect a new head of state. Consequently, throughout this period, many ministers and senior officials were hesitant to push through radical reforms, fearing a lack of stability of the coalition and the Cabinet.

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This in turn led to a delay in reforming the Ministry of the Interior, and almost entirely halted the debate on reforms to the justice system<sup>8</sup>. However, following the election of a new president, the risk of early general elections disappeared<sup>9</sup>, resulting in the stabilisation of Moldova's political scene – at least until the next parliamentary elections, which are scheduled for December 2014.

Finally, a significant obstacle to successful political and social reform in Moldova has been posed by the **lack of financial resources**. It was the lack of sufficient funds, for instance, that meant the National Human Rights Action Plan for 2011-2014 (adopted in September 2010) was implemented in a rather haphazard manner. The same reason has been cited for the delays in the implementation of provisions relating to the rights of children, regional development, and general administrative reform. Similarly, the Anti-Corruption Action Plan adopted in February 2012 contains no funding provisions and offers no estimate for the cost of its implementation; nor does it specify the human resources necessary for the implementation of the plan. The omission of such information appears to be rather common.

<sup>8</sup> See. L. Litres, 'How to avoid the EU fatigue towards Moldova?', *Moldova's Foreign Policy Statewatch*, No. 23, May 2011.

<sup>9</sup> After two failed attempts to elect a new president, the Moldovan parliament must be disbanded.

Another problem, the scale of which is hard to judge at this point, is the **influence of political and business groups** on reform processes within Moldova. A fundamental reform of the justice system is not in the interest of pressure groups holding key positions in the Moldovan economy, as it might upset the long-established corrupt relationships that allow or facilitate their business activities.

**The public perception of pro-European reform**

The majority of reforms undertaken by the Moldovan government have not yet moved beyond the legislative stage, or are awaiting the formation of an institutional basis needed for their full implementation. This means that the Moldovan people rarely notice any concrete outcomes of these reforms. The lack of visible effects of these changes, and the decision to push through unpopular reforms (such as the Law on Equal Opportunities, which offers protection to sexual minorities among others) have had a negative effect on Moldovans' attitude to closer integration with the EU. Recent opinion polls show a clear downward trend in the level of public support for EU membership. In November 2012, 54.7% of Moldovans were in favour of joining the European Union, while support for the Customs Union had increased to 55.8%<sup>10</sup>. Many Moldovans are also deeply unhappy with the effects of economic reform and the inefficiency of the government's anti-corruption measures. A recent opinion poll conducted by Transparency International suggests that nearly 50% of the population believed that the level of corruption in the country had been on the rise over the past 12 months, while 59% of respondents felt that the economic situation in the country had worsened over the same period. The difficulty of the situation is further compounded by the lack of an effective, government-led information

<sup>10</sup> Barometrul de Opinie Publică..., pp. 69-74. The results do not add up to 100% because respondents could choose more than one option.

campaign that could increase public awareness of the benefits of EU membership.

### **Assessment of Moldova's reforms, and the outlook for the future**

Despite its ambitious reform programme, after three and a half years in power, Moldova's ruling Alliance for European Integration has made only modest progress in the pro-European modernisation of the country. Its systemic transformation is still in progress, and much of the Soviet legacy remains deeply influential in the day-to-day running of state institutions, which urgently require extensive structural remodelling. The problem is not helped by the Soviet-era mentality of public administration employees who tend to resist the drive for change. At this stage, however, none of the changes are irreversible, and a different government could easily abandon these reform efforts in the future. Structural reforms of the state apparatus are therefore the only guarantee of a systemic change in Moldova. The greatest success of the reformist coalition has been a marked improvement in the democratic standards of the Moldovan electoral system, greater media freedom, and fewer violations of civil liberties. However, reform of the Ministry of the Interior and the judiciary will require a lot more determination, political will and time. Furthermore, those reforms whose implementation has already begun will need years before they have any real effect on the functioning of the state. This is because the changes require a mature institutional base and a forward-thinking public administration, both of which are only now beginning to emerge.

The future of Moldova's reforms is contingent on the political and economic stability of the country. As the next parliamentary elections approach, Moldova will begin to witness an intensified political struggle between the coalition partners, and the government will likely refrain from implementing any unpopular reforms. The durability of the Moldovan reformist experiment will also be tested by the economic slowdown which is slowly beginning to affect the country, as well as growing pressure from Russia. By employing a variety of instruments (including, high gas prices), Moscow hopes to dissuade Moldova from pursuing its EU aspirations, and instead wants to bring Chişinău into the Customs Union. The worsening economic situation, general disappointment with the recent reforms, and the prospect of concrete benefits resulting from membership of the Customs Union could cost the AIE its place in government in 2014 and lead a pro-Russian party to victory in the next general election. Such a turn of events could easily undermine the current reform efforts. The EU is acutely aware of these issues, but rarely voices its criticism of the government in Chişinău. Despite all the shortcomings of Moldova's reforms, the country remains EU's only 'success story' in Eastern Europe, and Brussels desperately needs a successful country in its Eastern Partnership programme in order to demonstrate the scheme's viability. It is also clear that the EU would like to see the implementation of Moldova's reforms as soon as possible; this would pave the way for the signing of further agreements, which would make Moldova's integration with the European Union irreversible.

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