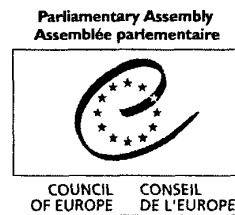


## Parliamentary Assembly Assemblée parlementaire



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### Functioning of democratic institutions in Moldova

#### Report

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Co-rapporteurs: Mrs Josette Durrieu, France, Socialist Group and Mr André Kvakkestad, Norway, European Democrat Group

#### *Summary*

During its 10-year membership OF the Council of Europe, Moldova has advanced significantly on the path of democratic reforms but a number of important commitments have not yet been met in a satisfactory manner. The priorities should be the improvement of the functioning of democratic institutions; the independence and efficiency of the judiciary; ensuring freedom and pluralism of the electronic media; the strengthening of local democracy; the raising of economic performance coupled with good social protection and the fight against corruption and trafficking of human beings and organs.

The current political situation offers an opportunity to achieve these objectives. The report advocates a series of measures in specific areas in order to help the country fulfill its European aspirations.

Furthermore, a peaceful solution to the Transnistrian conflict has to be found since this conflict continues to be a major obstacle to the further democratic and economic development across the entire territory of the country.

## I. Draft resolution

§ 1. Moldova has been a member of the Council of Europe for 10 years and is still under monitoring procedure. The country has advanced significantly on the path of democratic reforms but a number of important commitments have not yet been met in a satisfactory manner. The pace of reforms has been slowed down because Moldova, in addition to its democratic institutions, has had in parallel to build its national identity and to deal with a separatist regime and foreign troops on the Transnistrian part of its territory.

§ 2. The Parliamentary Assembly considers that now is the right moment for Moldova to make decisive, comprehensive and irreversible progress with regard to the implementation of democratic standards and practices. The priorities should be the improvement of the functioning of democratic institutions; the independence and efficiency of the judiciary; ensuring freedom and pluralism of the electronic media; the strengthening of local democracy; the raising of economic performance coupled with good social protection and the fight against corruption and trafficking in human beings and organs.

§ 3. The currently stabilised political situation offers an opportunity to achieve these objectives. The country cannot afford to miss it. The ruling communist party has taken a resolutely pro-European stance since 2002 and now seems determined to speed up the process of European integration. Since the parliamentary elections in March 2005, the President has also had the support of part of the opposition, including the Popular Christian Democratic Party, on condition that he undertakes rapid legislative reforms. Furthermore, new prospects may be opening up for the settlement of the Transnistrian conflict. The regional context is also more favourable for greater convergence with European standards and values.

§ 4. The newly elected Moldovan Parliament has taken the exceptional initiative of adopting unanimously, at its first plenary sitting, a Declaration on Political Partnership to Achieve the Objectives of European Integration. The political maturity and responsibility of Moldovan politicians in the eyes of their people and their country will also be measured by the yardstick of this spirit of co-operation and all the democratic reforms they are able to carry out.

§ 5. The Assembly encourages the Moldovan leadership to accompany all the declarations in favour of democratic values and standards with a real dialogue and transparency in relations with the opposition, both nationally and at local level. Political debate must take place in parliament, not in the courts or on the streets. The Assembly deplores the high incidence of criminal proceedings against opposition figures, whether in the capital or in the provinces.

§ 6. Democratic reforms will not succeed in an atmosphere of conflict and without the support of the population. The Assembly welcomes the Moldovan Parliament's decision to broadcast its plenary sittings, thus making the political debate public. However, genuine involvement of civil society requires a plural and dynamic media sector, particularly with regard to television. The conditions must also be created for a genuinely independent and professional public broadcasting service.

§ 7. The Assembly takes note of the first concrete results of the work of the new legislature. On 22 July, the Parliament adopted a package of laws dealing with important aspects of the country's commitments to the Council of Europe, such as the functioning of the judiciary, electoral legislation or the reform of the Information and Security Service. The Assembly will be able to take position on these reforms after these laws have been assessed by the relevant Council of Europe expert bodies.

§ 8. The Assembly welcomes the fresh boost the Moldovan authorities have given to economic growth. Moldova remains however one of the poorest countries in Europe. The endemic poverty of a large part of the population, low wages and poor social protection create fertile territory for corruption at all levels of public life. This poverty also sustains some of the most revolting and degrading criminal practices such as trafficking of human beings and organs. Without rapid and real improvements in living standards, a disappointed Moldovan people are unlikely to feel a lasting commitment to the democratic reform process.

§ 9. The Action Plan, signed between the European Union and Moldova in February 2005, has given the authorities strong motivation to further move towards European integration. The Assembly notes with satisfaction that the objectives set out in the EU-Moldova Action Plan make reference to the requirements of the Council of Europe and it resolves to ensure further co-ordination between the two institutions at the highest level.

§ 10. The Assembly welcomes the resumption of negotiations following Ukraine's optimistic initiative of settling the Transnistrian conflict by giving priority to democratisation. It hopes that the current five-member format, involving Moldova, the Transnistrian region, Russia, Ukraine and the OSCE, will be extended to include also the Council of Europe. It emphasises the need for effective supervision of the border between Moldova and Ukraine, arms stocks and the production of armaments factories. Given their accumulated expertise, the Assembly wishes its rapporteurs to be associated with all these developments.

§ 11. Any settlement of the Transnistrian conflict must be based on the inviolable principle of full respect for Moldova's territorial integrity and sovereignty. In accordance with the rule of law, any solution must accord with the popular will as expressed in fully free and democratic elections run by internationally recognised authorities.

§ 12. The Assembly therefore invites the Moldovan authorities, with regard to the functioning of democratic institutions to:

§ 12.1. revise immediately its rules of parliamentary procedure along the lines of the expertise provided by the Parliamentary Assembly, in further co-operation with the Assembly; guarantee in legislation and regulations that members of parliament can fully perform their responsibilities without the fear that they might lose their mandate or immunity for political reasons;

§ 12.2. revise the legislation on political parties in the light of European standards;

§ 12.3. ensure that all the recommendations of the Venice Commission and the OSCE/ODIHR on elections are immediately taken into consideration in the electoral legislation and practice;

§ 12.4. to bring legislation and practice in the field of local democracy in line with the European Charter on Local Self-Government:

§ 12.4.1. to revise in particular legislation regarding the status of the municipality of Chisinau and local public finances, in co-operation with the Council of Europe Congress of Local and Regional Authorities;

§ 12.4.2. following the failure to elect a mayor of Chisinau on 10 and 24 July 2005, owing to an inadequate turnout, to organise new elections in line with European standards;

§ 12.4.3. to denounce the principle of dismissal of the former mayor of Comrat by the Peoples' Assembly of Gagauzia and investigate the reasons for the high incidence of criminal court cases against leading figures of the opposition, both nationally and in the provinces.

§ 13. The Assembly also asks the Moldovan authorities, with regard to the rule of law, to:

§ 13.1. reform the judiciary in order to guarantee its independence and increase the effectiveness and professionalism of the courts to:

§ 13.1.1. revise legislation in particular with regard to civil and criminal procedures, judicial organisation, the status of judges, the strengthening of the independence of the judiciary and the enforcement of judicial decisions;

§ 13.1.2. revise the extensive competences of the General Prosecutor's Office;

§ 13.1.3. undertake institutional reform (the Ministry of Justice, the High Council of Justice, the Bar Association);

§ 13.1.4. improve the working environment of the judiciary; to improve their training and working methods; eliminate corruption within the system and train magistrates up to the highest standards;

§ 13.2. ensure the successful implementation of the Anti-Corruption Strategy and Action Plan;

§ 13.3. ratify the Council of Europe Convention on action against trafficking in human beings and take all necessary measures at national and international level for a decisive crackdown on human and organ trafficking.

§ 14. The Assembly further urges the Moldovan authorities, with regard to the protection of human rights to:

§ 14.1 strengthen all the necessary guarantees and practical steps for respect of freedom of expression as defined in Article 10 of the European Convention on Human Rights and in line with the case-law of the European Court of Human Rights, in particular to:

§ 14.1.1. revise legislation regarding public service broadcasting (both national and local) and the audiovisual sector in general;

§ 14.1.2. pursue the transformation of TeleRadioMoldova into a genuine public service broadcaster, as defined in Assembly Recommendation 1641 (2004) on public service broadcasting;

§ 14.1.3. revise the laws on defamation to ensure that any fines imposed are reasonable in quantum.

§ 14.2. continue the reform of its security and law-enforcement agencies; considerably improve conditions of detention to bring them fully in line with European standards and find appropriate solutions to the problem of overcrowding of detention centres;

§ 14.3. implement the recommendations given in the Second Opinion on Moldova by the Advisory Committee of the Framework Convention on National Minorities;

§ 14.4. ensure fully the respect of fundamental rights of sexual minorities;

§ 14.4. develop a multi-cultural and multi-perspective approach to education, in particular with regard to the teaching of languages, history and geography.

§ 15. The Assembly further calls on the Moldovan authorities to pursue their efforts in favour of strong and sustainable economic growth and to ensure that the economic achievements would be to the benefit of the entire population. The Assembly refers in this respect to Recommendation 1605 (2003) on the economic development of Moldova: challenges and prospects.

§ 16. The Assembly insists that the Moldovan authorities submit all new draft legislation in areas under monitoring to the Council of Europe for expertise and that they provide timely, regular and exhaustive information to the Assembly on what action is taken in response to this expertise.

## II. Draft recommendation

§ 1. The Parliamentary Assembly refers to its Resolution ... (2005) on the functioning of democratic institutions in Moldova, in which it calls for decisive, comprehensive and irreversible progress with regard to the democratic standards and practices in the country, if it is to fulfil its European aspirations.

§ 2. The Assembly recommends that the Committee of Ministers, with regard to assistance activities:

§ 2.1. call on the Moldovan authorities to speed up reforms corresponding to the Council of Europe values and standards, in particular in the following priority areas: the functioning of democratic institutions, the independence and efficiency of the judiciary; freedom and pluralism of the electronic media; strengthening local democracy; better social protection accompanying strong economic performance and fighting corruption and trafficking of human beings and organs;

§ 2.2. pursue or, where necessary, develop new assistance programmes in the above-mentioned fields and allocate the necessary budgetary resources.

§ 3. The Assembly asks the Committee of Ministers, with regard to expertise, to:

§ 3.1. require the Moldovan authorities to submit all draft legislation in the relevant areas to the Council of Europe for expertise prior to its adoption;

§ 3.2. apply the right combination of expert advice and political pressure to ensure that the Council of Europe recommendations on new legislation are duly taken into account, thus avoiding the waste of resources on several variants of one and the same draft law;

§ 3.3. work out a better system of follow-up of its legal expertise.

§ 4. The Assembly expects that the Committee of Ministers, through its member states, the Council of Europe Development Bank and in active co-operation with the European Union Neighbourhood Policy, will support further economic and social reform in Moldova to the benefit of the entire population. The Assembly refers in this respect to its Recommendation 1605 (2003) on the economic development of Moldova: challenges and prospects.

§ 5. The Assembly asks the Committee of Ministers to urge member states to support Moldova in its action to combat trafficking in human beings and organs. The Assembly refers in this connection to its Recommendations 1526 (2001), 1545 (2002) and 1554 (2002) on the functioning of the democratic institutions in Moldova, Recommendation 1611 (2003) on trafficking in organs and its various recommendations and resolutions on trafficking in human beings.

§ 6. The Assembly further requests that in its contacts at the highest political level with the relevant authorities of the European Union, the Committee of Ministers ensures the best possible co-ordination and complementarity between the Council of Europe requirements and those of the EU-Moldova Action Plan.

§ 7. The Assembly further asks the Committee of Ministers to:

§ 7.1. become involved in the political monitoring and assessment of all proposals for settling the Transnistrian conflict put forward by the various parties concerned;

§ 7.2. ensure that its participation would be the necessary guarantee that these developments take account of the fundamental principles defended by the Council of Europe.

### **III. Explanatory memorandum by Mrs Durrieu and Mr Kvakkestad**

#### **1. Introduction**

1. Moldova recently celebrated the 10<sup>th</sup> anniversary of its membership in the Council of Europe. Since its accession on 13 July 1995, the country has made significant progress towards meeting European standards. This progress though has been rather slow, mostly because of the very difficult circumstances in which the young state has had to form its national identity and build its democratic structures. Regrettably, Moldova is remaining one of the countries where the monitoring procedure has lasted the longest time.

2. Over the last months however, we have witnessed developments, both in the country and internationally, which could provide for the right set of conditions and opportunities for change. They are not to be missed. Following the parliamentary elections of 6 March 2005, the country is enjoying the highest degree of political stability in many years. The leadership of the country is taking a clearly pro-reformist and pro-European line. Although rather unorthodox in political terms, the cooperation between Communists and Christian Democrats seems to be producing certain results.

3. New initiatives have also been launched to try to settle the Transnistrian conflict, which has been like gangrene on the rather weak – politically and economically – body of the Moldovan State. Finally, the regional context is more favourable for further democratisation and alignment with European standards and values.

4. The economic growth over the last years is accelerating. However, Moldova remains one of the poorest countries in Europe. The extremely precarious living conditions for a substantial part of the population have generated all sorts of criminal traffic, such as of women and children and of human organs. This still gives Moldova a poor international image, which this pleasant country needs to change rapidly.

5. During our latest visit to Moldova on 24-27 May 2005, we detected positive signals which made us feel that, more than ever, the country deserves encouragement and support. Moldova must not delay further if it wants to establish its position in democratic Europe. In this respect, all the political forces in the country face this major challenge. The present situation is the best test of their political maturity and sense of responsibility towards the Moldovan people and the whole country.

6. For its part, the Council of Europe has to put all its weight and available expertise behind the expected reforms. Hence this report aims at presenting the Moldovan authorities with a "to-do-list" of necessary measures to be taken, so that Moldova could fulfil its remaining commitments upon accession and comply with the obligations of every member state of the Council of Europe. This is not an exhaustive list, as this report is neither a full monitoring report nor does it have the intention to overlap with the Committee of Ministers stock-tacking exercise. It shows which in our view should be politically the most important priorities. In the course of 2006 a full monitoring report will assess what has been achieved.

7. Finally, we would like to extend our warm thanks to the Moldovan Parliament for the excellent organisation of our visit and for the unfailing Moldovan hospitality. We also express our gratitude to the office of the Special Representative of the Secretary General of the Council of Europe in Chisinau.

#### **2. Recent political developments**

##### ***2.1. Political set-up following the elections***

8. Parliamentary elections were held in Moldova on 6 March 2005. According to the international observation mission, they generally complied with most Council of Europe and OSCE standards but could not meet some commitments that are essential for a genuinely democratic election process. This concerned especially the pre-election campaign, which did not provide fair campaign conditions, free and equal media access and unbiased news coverage for all participating parties and blocs. The pre-

election Assembly delegation, at the end of a visit to the country on 16-18 February 2005, criticised the lack of a clearly visible campaign and questioned the possibility of electors to be informed in a way which would allow them to make an informed choice<sup>1</sup>.

9. Not surprisingly, the Communist Party (CPRM) led by President Vladimir Voronin won the parliamentary majority with 45.98% of the votes, followed by the deputies of the "Democratic Moldova" Bloc (BMD), [renamed the Alliance "Moldova Noastra (Our Moldova)" (AOM) shortly before the presidential election] with 28.53% and the Christian Democratic Popular Party with 9.07%. The communists were campaigning on a pro-European, more-social democrat agenda and the Christian Democrats' programme was clearly pro-western and pro-sovereign. In return, the rather heterogeneous BMD was in general advocating better relations with Russia.

10. According to the Constitution, the newly elected parliament then had to elect a new President of the country. However, despite winning an absolute majority in parliament with 56 seats, the Communist party this time fell short of the two-third majority required in the 101-seat parliament in order to re-elect Mr Voronin (61 seats). This put the political establishment to the test. A way out of this difficult situation had to be found quickly; otherwise a fresh political crisis was unavoidable.

11. In this situation, Moldova certainly deserves praise, as politicians on opposite boards demonstrated political maturity. On 4 April President Voronin was re-elected with the votes of the Christian Democratic People's Party (PPCD) and two break-away parties from the BMD, the Democratic Party (DPM) and the Social Liberal Party (SLP). The deputies representing the Moldova Noastra Alliance in the Democratic Moldova voting bloc faction refused to vote.

12. As the PPCD leader Iurie Rosca explained publicly immediately after the announcement of the results, Mr Voronin had endorsed a list of 10 reform proposals that Mr Rosca and the SLP leader Oleg Serebrian had put forward the day before. The list includes legislative proposals to ensure the independence of the media and the judiciary, strengthening of local self-government, reform of the security service, amending critical stipulations in the Electoral Code, and improving the effectiveness of public spending.

13. The new Parliamentary Speaker Marian Lupu, aged 39, former Minister of the Economy, incarnates that reformist and pro-European spirit which seems to now dominate the parliamentary majority. During our extensive meetings with him we received strong assurances about his determination to make a breakthrough in reforming the Moldovan law-making. The parliament deserves the Assembly's support and encouragement. To "seal" its pro-reformist commitment we have invited Mr Lupu to the Assembly October part-session where this report will be discussed.

14. Maria Postoico (PCRM), former Chairperson of the parliamentary Legal Commission for Nominations and Immunities and Mr Rosca were elected Deputy Speakers of Parliament. The AOM, which was claiming this post as the second-largest parliamentary group, did not receive support from other factions.

15. The new parliament started its work by adopting unanimously on 25 March a Declaration on Political partnership. The main goals for the legislative body in the coming 4 years were defined as: EU integration, respect and promotion of democratic standards, social and economic development, peaceful solution of the Transnistrian conflict, strengthening the role of the Moldovan state language and respect for national minorities. According to Mr Lupu, these objectives have successfully created a "constructive format" in the work of the parliamentary factions (also including some, but not all members of the "Our Moldova" faction, he says).

16. Parliament has set up several ad-hoc working groups which have to analyse the legislation in the priority areas for reform. Mr Lupu promised that he would personally keep us informed of the pace of reforms and that by the end of July he would send us a list of all the legislative initiatives which would be undertaken in the priority areas. A letter outlining the main achievements of the new

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<sup>1</sup> See Doc. 10480: Observation of the parliamentary elections in Moldova (6 March 2005): report by the Ad hoc Committee of the Bureau of the Assembly / Rapporteur: Mr André Kvakkestad.

parliament was received on 29 July 2005 (see Appendix I). We would like to thank the Speaker for sticking to his undertakings and we would very much appreciate a full list of all the legislative initiatives.

17. The new cabinet was approved with the votes of the PCRM faction. The DPM, SLP and PPCD abstained and the AOM deputies votes against.

18. The composition of the new cabinet showed a great level of continuity – Vasile Tarlev received a second term as Prime Minister, and the first deputy prime minister, as well as the ministers for foreign affairs, justice, internal affairs, defence, finance, reintegration and health kept their positions from the old government. At the same time, major restructuring of the government was announced in order to modernise its structures and improve its effectiveness, including reduction of staff.

19. The first results of the work of the newly set-up parliamentary working groups in parliament came on 22 July. The parliament adopted a package of laws dealing with important aspects of Moldova's commitments to the Council of Europe, such as the operation of the justice system, electoral legislation, the Information and Security Service etc. In particular, the parliament amended the following laws: the Law on Judicial Organisation, the Law on the Supreme Court of Justice, the Law on the Status of Judges, the Law on the High Council of the Judiciary, the Electoral Law, the Law on the Information and Security Service, the Law on the Court of Auditors, and the Law on the Adoption of the Rules of Procedure of Parliament.

20. While the speedy work of the parliament has to be commended, it is to be regretted that the amendments were not submitted prior to adoption to the Council of Europe for expert appraisal (see section 3.2.1). This hastiness can be explained firstly by the need for the communist party to "deliver" as soon as possible on the 10-point programme, so that the constructive, but delicate, relationship with the Christian Democrats could be maintained. A further factor was the undertakings entered into with the rapporteurs to expedite the legislative process to produce initial results before the end of July.

## **2.2. Elections for General Mayor of Chisinau**

21. The election of a new Mayor of Chisinau became necessary after the former General Mayor and leader of the opposition block BMD Serafim Urechean became a member of parliament. The posts of mayors of 13 other settlements had also been left vacant for various reasons. Elections for these posts were held on 10 and 24 July 2005, but because of a low turnout (only 27.2% the first time and 19.7% the second) the election of the Mayor of Chisinau had to be declared invalid. By the way, 8 out of the 10 candidates withdrew from the contest the day before the second round, convinced that the required one-third voter turnout would not be reached. In both rounds the CPRM candidate and Finance Minister Greceanii came first.

22. The OSCE Mission and the Congress of Local and Regional Authorities of Europe (CLRAE) delegation stated after the first round of elections that although they had generally complied with most OSCE commitments and Council of Europe election standards they had not met all the key requirements, particularly regarding campaign conditions and the registration of election observers. Improvements with regard to information for voters in polling stations were also desirable. The regulations for covering the electoral campaign in broadcast media had substantially improved since the March parliamentary elections, but the public broadcaster Teleradio Moldova needed to provide more balanced reports. The use of privately-owned advertisement space had been even more restricted than in March 2005.

23. The Head of the Congress delegation, Pascal Mangin, criticised the bad timing of the elections. The Central Election Commission has started consultations with all political parties on a possible date for new elections.

## **2.3. European integration**

24. Symbolically, the first act of the new government was to approve the EU-RM Action Plan, which had been signed in February 2005 in Brussels. On 28 June the European Commission and the Moldovan government signed an agreement to open a Delegation of the Commission in Chisinau.



25. The Action Plan is a political document laying out the strategic objectives of the cooperation between Moldova and the EU. Its implementation will help fulfil the provisions in the Partnership and Cooperation Agreement (PCA), signed in 1994 and in force since 1998, which forms the basis of EU-Moldova relations. The Action Plan covers three years; during this time Moldova has to bring its legislation, norms and standards in line with those of the European Union; to adopt regulations that would enhance further economic integration; to promote economic growth and social cohesion, to reduce poverty and to protect the environment.

26. The Action Plan has generated unprecedented enthusiasm and determination amongst the authorities to speed up the democratic reforms. In our meetings in Chisinau in May we also felt that for the ruling political class, "being on a European track" entails closing the monitoring procedure of our Assembly as soon as possible. The Action Plan has been drawn up in very good cooperation between the secretariats of the European Commission and the Council of Europe and contains references to all the important requirements set by our organisation in the field of democracy, rule of law and human rights.

27. However, despite the fact that it sets really tough tasks to the Moldovan authorities for the coming years, the Action Plan does not contain any specific commitment on the side of the European Commission for future Moldovan membership in the EU. It only goes as far as raising the rather vague perspective of "moving beyond cooperation to a significant degree of integration". Yet Moldova is an integral part of Europe, both geographically and historically. It was unable to submit its request for membership at the same time as Romania and Bulgaria, but it could legitimately have done so. This relatively short political hiatus must not be to Moldova's detriment. It is a part of Europe.

28. It is now up to the Moldovan authorities to make their own case convincingly in front of the EU. In three years' time they will be able to say how they want their status with regard to the EU to be "upgraded". President Voronin has already stated that the European Neighbourhood policy does not satisfy Moldova's aspirations. He recently declared that the term "neighbourhood" in the naming of a possible new agreement "will reflect neither the aspirations of Moldova nor the character of its relations with the EU. We see the future of democratic, integrated and modern Moldova in the future of united and indivisible Europe". The commitment is clear.

29. A coherence of political messages coming from the Council of Europe and the European Commission is vital for Moldova's progress. It should therefore be backed by a political commitment at the highest level. Regular contacts and exchange of information between the Assembly and relevant Commission services was recently agreed between the Assembly President van der Linden and the EU Commission President Barroso. The visit of the newly appointed EU representative to Moldova Adriaan Jacobovits de Szeged to the Council of Europe was also a positive sign.

30. We firmly believe that the competence of our Organisation in the field of democracy, rule of law and respect of human rights means that the fulfilment of the requirements put forward by the Council of Europe in these fields to the Moldovan authorities should be a condition *sine qua non* for any further European integration. We have therefore received the mandate of the Monitoring Committee to visit the European Commission in order to agree on specific lines of cooperation.

#### **2.4. Transnistria**

31. Major new developments have occurred during the last months which the Assembly has to follow very closely and accompany in the best possible way.

32. Following intense diplomatic contacts between Moldova and Ukraine, at the GUAM Summit in Chisinau on 22 April the Ukrainian President Yushchenko announced a 7-point initiative to settle the Transnistrian issue. The main thrust of this new plan is to achieve a long-lasting solution through the democratisation of Transnistria. This would entail:

- the creation of conditions for the development of democracy, civil society, and a multi-party system in Transnistria;
- holding of free and democratic elections to the Transnistrian Supreme Soviet, monitored by the European Union, the OSCE, the Council of Europe, Russia, United States, and other democratic countries including Ukraine;

- the transformation of the current format of peacekeeping operation into an international mission of military and civil observers under the aegis of the OSCE and the expansion of the number of Ukrainian military observers in the region;
- admission by Transnistrian authorities of an international monitoring mission, to include Ukrainian experts, to military-industrial enterprises in the Transnistrian region;
- a short-term OSCE monitoring mission in Ukraine to verify the movement of goods and persons through the Ukrainian-Moldovan border.

33. The full text of the Ukrainian plan was presented on 16-17 May at a meeting of the representatives of the mediators and Moldova and Transnistria in Vinnitsa, Ukraine after the Ukrainian Secretary of Security Council Pyotr Poroshenko<sup>2</sup> and Moldavian presidential aide Mark Tkachuk spent almost a month doing "shuttle diplomacy".

34. The reactions were varied but cautiously positive.

35. On 10 June the Moldovan Parliament adopted a "Declaration on the Ukrainian initiative of settlement of the Transnistrian conflict" as well as two appeals, on demilitarisation and on promoting the criteria of democratisation of the Transnistrian region of the Republic of Moldova (see appendix II).

36. The declaration welcomed the initiative of President Yushchenko, hoping that it would become "a major factor in the achievement by Moldova of its territorial and civil unity". The parliament however regretted that the Ukrainian initiative did not reflect some important principles of settlement, in the first place the withdrawal of Russian troops; demilitarisation; the principles and conditions of the region's democratisation and the establishing of a transparent and legal control over the Transnistrian segment of the Moldovan-Ukrainian border. It called for additional efforts by the international community and Ukraine in this respect.

37. The parliament also criticised a number of provisions which might "infringe upon the sovereignty of the Republic of Moldova", such as the co-participation of Transnistria in the conduct of foreign policy of the Republic of Moldova and the proposal to create the so-called conciliation committee. The Parliament insisted on resolving the conflict within the framework of the Moldovan Constitution through dialogue with a new, democratically elected, Transnistrian leadership. There are thus a number of divergences between the Ukrainian initiative and the approach to implementing it chosen by Moldova.

38. The mediators in the Transnistrian conflict (the OSCE, Russia and Ukraine) stated that the plan provided a concrete impetus toward achieving a settlement. At all of their latest meetings they called for resuming direct, continuing dialogue on resolution of the conflict.

39. More delicate is the position of Russia. It is clear that through its military and economic presence and thanks to the strong cultural and linguistic links with Transnistria, Russia would like to retain its strong influence over the territory. The press recently reported the existence of an "Action plan of retaining Russian influence in the Moldova Republic", details of which are kept secret. Russia is still strongly attached to the so-called "Kozak Memorandum" of 2003, which proposed to Moldova a federal solution. Moldova had nearly accepted the plan; it refused to sign it at the last moment, allegedly under Western influence.

40. Over the last months, there have been several signs of tension. For instance, on 18 February the Russian Federation State Duma adopted with a large majority a resolution requesting from the Russian government a number of economic and other sanctions against Moldova, with the exclusion

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<sup>2</sup> Mr Poroshenko subsequently resigned during a governmental crisis in Ukraine at the beginning of September 2005.

of Transnistria, if the Moldovan authorities did not change their "economic blockade of Transdnistria." The sanctions included a ban on imports of Moldovan alcohol and tobacco, world market prices for exports of Russian natural gas to Moldova and visas for Moldovans entering Russia.

41. Both appeals adopted by the Moldovan parliament called on the Council of Europe for support and, concerning the democratisation of Transnistria, to engage actively in the process. During our visit in Chisinau our interlocutors repeatedly stressed the importance they attached to the expertise and experience of our organisation in this respect. The documents adopted by the Moldovan Parliament were officially submitted by its Speaker to the Monitoring Committee "for examination in the framework of the Moldova's monitoring exercise" and for "analysis, comments and recommendations, as well as ideas of the Parliamentary Assembly that could contribute to the democratisation of the Transnistrian region and final settlement of the conflict".

42. At the first sight, the plan should be followed closely by the Council of Europe, as the leading organisation in the field of democracy, human rights and rule of law. The Committee has therefore entrusted us with the responsibility of visiting Kiev, Moscow, Bucharest and Brussels in order to meet the main figures responsible for the Ukrainian plan and get acquainted with all its details. On the basis of this information we will make specific proposals for the Assembly to play an effective part in the plan's progress.

43. A number of questions remain about the implementation of the Ukrainian plan and the conditions set by the Moldovan parliament. However, against the background of all the failed diplomatic attempts, it has one strong advantage. It combines diplomatic efforts with specific measures for democratisation, in Transnistria but also in Moldova, which must serve as an example. The initiative also comes at the right moment, as it coincides with a major strive for democratisation and European integration in the entire region.

44. Not only Moldova, whose territorial integrity and sovereignty have been violated, but Europe as a whole can no longer afford to have this "black hole" on its territory. Transnistria is a centre of all kinds of illicit trade and, in the first place arms trafficking and all forms of smuggling. Political life continues to be dominated by the secret police; fundamental freedom and liberties are curtailed.

45. One of the most difficult elements appears to be the possibility to organise democratic elections in Transnistria. For this the region needs to have freely functioning political parties, media and civil society. The 27 March local elections in Transnistria (to elect village, settlement, city and district councils, as well as the chairmen of village and settlement councils) showed that real strong opposition is still missing. These elections by the way were considered as a test for the scheduled December 2005 elections for the Transnistrian Supreme Soviet.

46. However, there are some interesting developments, especially concerning a group of Supreme Soviet members led by the Deputy Speaker Evgeny Shevchuk. On 29 April this group initiated ambitious draft changes to the Transnistrian "constitution" aiming at reinforcing this "parliament"'s role vis-à-vis the "president" and the executive – for instance by granting it the right to a no-confidence vote on "ministers" and other officials appointed by the "president", or the right to control the work and the spending of the executive. Some more modest changes, as well as a draft law on local administration, stipulating that the chairmen of raion and city councils have to be elected by the councils by secret vote, were adopted on 18 May at first reading. Mr Shevchuk is also promoting a legislative initiative to transform the regional official "TV PMR" into a public broadcasting institution.

47. On 22 June the Supreme Soviet recommended that "president" Smirnov dismiss the "minister" of justice Victor Balala. Balala, who is one of the closest allies of the "president", recently decided to transfer registration functions from his "ministry" to a quasi-commercial "chamber of experts."

48. On 22 July the Moldovan parliament approved in two readings the Law on the Main Provisions of a Special Legal Status for Populated Areas on the Left Bank of Dniestr (Transnistria). The law established an autonomous territorial unit which is an inseparable part of Moldova and – within the plenary powers established under the Constitution and legislation of Moldova – decides on questions within its jurisdiction. The law stipulates that populated localities on the left bank of the Dniester may join Transnistria or secede from it on the basis of local referenda and in conformity with the Moldovan legislation.

### **2.5. Regional context**

49. The regional context has never been so favourable. Romania is expecting to join the EU in 2007. Moldova will then have a common border with the EU. Over the last months President Voronin has maintained very strong ties with the leaders of the "orange" and "rose" revolution, Ukraine and Georgia.

50. On 1 March he and Ukrainian President Victor Yushchenko signed a Joint Declaration confirming their commitment to moving their respective countries towards further European integration. Later they also sent a joint letter to the EU High Representative for the Common Foreign and Security Policy (CFSP) Javier Solana and President of the European Commission José Manuel Barroso requesting assistance to improve customs and border control.

51. Ukraine has also agreed to open new customs posts on the border with Moldova with Moldovan staff, thus putting important obstacles to illicit trade. In the past Ukraine had maintained that foreign customs officers could not operate on its territory.

52. On 2 March president Voronin and the President of Georgia, Mikhail Saakashvili, signed Joint Declarations "On the Supremacy of Democratic Values and Principles," and "Against Black Holes in Europe," condemning the existence of "conflict zones and separatist territories" which were "overtly backed from the outside."

53. Moldova recently also assumed the Chairmanship of GUUAM, a regional organisation comprising Azerbaijan, Georgia, Moldova and Ukraine. At the Summit held in Chisinau on 22 April 2005 the Heads of State signed the Chisinau Declaration "In the Name of Democracy, Stability, and Development," confirming their commitment to the principles of democracy, rule of law, respect for human rights and freedoms, democratic stability and development of economic cooperation among the GUAM states. *Inter alia*, the declaration calls for intensifying the concerted efforts of GUAM states and the international community to resolve separatist conflicts in Moldova, Georgia and Azerbaijan; appeals to OSCE participating states to undertake efforts towards the fulfilment by the Russian Federation of its Istanbul commitments and supports the proposals of Ukrainian President Yushchenko and Romanian President Basescu concerning a Transnistrian settlement.

54. The Presidents of Moldova, Ukraine, Georgia, Azerbaijan, Lithuania and Romania also signed a Joint Statement "Building Democracy from the Baltic Sea to the Black Sea" stressing their commitment to develop policies to protect and promote fundamental European values.

55. It is worth mentioning though, that at a meeting on 3 April in Moscow the Transnistrian "foreign minister" Litskai with his Abkhaz counterpart and the representative of South Ossetia in the Russian Federation planned a summit of the leaders of these self-proclaimed entities. The summit, which was eventually postponed, was originally to coincide with the GUAM summit in order to show these entities' determination to stand by their principles.

### **3. Fulfilment of commitments and obligations**

56. Moldova has fulfilled many of the specific commitments that it undertook upon accession, namely the signature and ratification of various Council of Europe legal instruments. In most of the areas which require large-scale reforms and, in addition, a radical change in the existing practices and mentalities, further progress is needed. The priorities are further transformation along European standards of its democratic institutions and further reform of the judiciary, media regulation and local self government. Other major challenges are the fight against trafficking of human beings, poverty and corruption. It is also vital to find a long-lasting peaceful solution to the Transnistrian conflict.

### 3.1. *Functioning of democratic institutions*

#### 3.1.1. Parliament

57. In Resolution 1303 (2002) on the functioning of democratic institutions in Moldova, the Assembly offered to assist the Moldovan Parliament in revising its rules of procedure. This proposal was motivated by the severe conflicts between parliamentary factions in the parliament in 2002 and the complaints of the opposition that it could not participate on a fair basis in the parliamentary work<sup>3</sup>. Following a written request by the then Speaker Mrs Ostapciuc, an Assembly expert analysed the conformity of the rules of procedure of the Parliament with the norms of the Council of Europe. The text was sent to the Speaker of the Parliament in January 2004 and an expert mission took place in November 2004<sup>4</sup>.

58. As regards the two main criticisms made in the expertise, Articles 43.3 (drawing up of the agenda) and 69 (exceptional procedure), the delegation concluded that it was necessary to make them more explicit and proposed a solution for each of them.

59. The interlocutors in Chisinau were open to dialogue and compromise. The authorities however decided to postpone the adoption of new rules of procedure until the election of a new parliament. During our visit in May we received assurances that the rules would be revised soon and that the expert advice of the Assembly would be taken into account. However, nothing specific has happened yet. We are therefore expecting that the promises will now be followed by concrete results. Any further delay in doing so would be unjustified.

60. Parliamentary immunity and the irrevocability of parliamentary mandate are other issues that need to be urgently clarified in legislation (including by amending the constitution). The Assembly has been insisting on this since 2002, when, following the street protests organised by the Christian Democratic People's Party (CDPP), the parliamentary immunity of the CDPP leaders was lifted. This was done under the terms of the 1994 Law on the Status of Members of Parliament, which allowed an MP to be stripped of his mandate by Parliament. In July 2002 this law was amended in this respect by establishing the competence of the Constitutional Court to withdraw the mandate. The co-rapporteurs did not consider this new amendment satisfactory. Interrupting a member of parliament's term of office in these circumstances is not compatible with western democratic standards.

61. This is why in Resolution 1303 (2002) on the functioning of democratic institutions in Moldova, the Assembly asked the authorities to "guarantee clearly the principle of irrevocability of office for members of parliament in the legislation, and consequently re-amend the revised 1994 law, since this principle must be strictly interpreted and no exceptions can be allowed".

62. Further changes were introduced in March 2003 and the authorities indicated that irrevocability of elected office was henceforth guaranteed by virtue of MP status. Be that as it may, this guarantee of irrevocability should be enshrined in the future Moldovan Constitution<sup>5</sup>.

63. The problem has arisen again. On 8 July the Juridical Commission of the Moldovan Parliament asked the Parliament to lift the immunity of four MPs, so that the Prosecutor General could file criminal cases against them. Three of the parliamentarians are from the biggest opposition faction AMN, including the faction leader Mr Urechean. No decision was taken before the parliamentary break: the rules of procedure require the concerned parliamentarians to be present during the debate, but all of them informed the parliament that they were ill and unable to attend. The case of Mr Urechean has equally affected the composition of the new Moldovan delegation to our Parliamentary Assembly. His right to be a member was contested by the other factions who were claiming that the PACE membership would give him extra immunity. At the time of drafting of the report, the seat is therefore vacant.

<sup>3</sup> Doc. 9772: Implementation of Resolution 1303 (2002) on the Functioning of democratic institutions in Moldova: information report / Co-rapporteurs: Mrs Durrieu and Mr Vahtré.

<sup>4</sup> AS/Inf (2005) 1: Interparliamentary Assistance Programmes - Expertise on the Rules of Procedure of the Parliament of Moldova: Mission report, Chisinau, Moldova, 29 November 2004.

<sup>5</sup> Doc. 9772, paragraphs 46 and 47.

64. A special mention must be made of the new parliament's bold decision of televising all the plenary debates. We know that such a practice can have double-edged effects. It certainly contributes to greater transparency of the parliamentary process. It allows ordinary people to follow parliamentary life and the work of the elected representatives. However, it can make MPs "act for the cameras". This could pose a threat to genuine discussion and work in depth. Bearing in mind the legacy of conflict and deep polarisation of the previous legislature though, for the moment the decision to broadcast parliamentary debates deserves to be supported and commended.

### 3.1.2. Political parties

65. The law of 1991 on political parties is still in force, although it is outdated and has been amended a dozen times. Some of these amendments raised an outcry. In the co-rapporteurs information report of 3 April 2003<sup>6</sup>, for instance, they had expressed serious reservations as to the amendments that the Parliament adopted in December 2002. They required the parties to "submit to the Ministry of Justice each year between 1 January and 1 March lists of the members of the party or socio-political organisation to corroborate the number of members". The Minister of Justice could ask the Supreme Court of Justice to suspend the activity of a party or other socio-political organisation if such a list was not submitted, or the number of members had fallen below a limit fixed in the law.

66. President Voronin had strongly criticised this initiative and the then Minister of Justice, Ion Morei, had been removed. The parliament then again amended the law, fixing a new period from 1 January to 1 December 2003 within which political parties were to present the Minister of Justice with lists of their members. Finally all these provisions were abolished by the Law nr. 470-XV of 21 November 2003

### 3.1.3. Election legislation

67. The Election Code of Moldova was adopted in 1997 and amended several times since, lastly in February 2003. A serious shortcoming in the election law, as was pointed out in the report of the Assembly delegation monitoring the March 2005 parliamentary elections<sup>7</sup>, was the exceptionally high threshold for parties and blocs to enter parliament (6% for individual parties, 9% for coalitions of 2 parties, 12% for coalitions of 3 or more parties and 3% for independent candidates). This high threshold favours the largest parties and, combined with provisions in the Law on Political Parties, *de facto* prevented any representation of national minority based parties – national minorities make up 30% of Moldova's population – in the Parliament.

68. None of the joint recommendations of the European Commission for Democracy through Law of the Council of Europe (Venice Commission) and the OSCE/ODIHR made in 2001, 2002 and reiterated in June 2004 were implemented before the elections by the authorities, who stated that they wanted to avoid accusations of introducing amendments to a 1997 law enacted before they came to power and amended several times. They did not want it thought that new amendments were in the interest of the ruling party.

69. In his letter Mr Lupu informed us that by virtue of the amendments to the Electoral Law adopted on 22 July, the electoral threshold for parties has been lowered from 6 to 4%, and for electoral blocs composed of two or more parties, to 8%. Changes have also been made to the composition of the Central Electoral Commission; seven of its nine members shall be appointed by parliament, including five by the opposition parties, depending on the number of seats held.

70. We hope that the amendments will be now sent to the Venice Commission and OSCE/ODIHR and will receive their positive assessment. It would also be important to know whether there are other outstanding recommendations that still need to be implemented in the electoral legislation, such as the representation of minorities.

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<sup>6</sup> See Doc. 9772.

<sup>7</sup> See Doc. 10480.

### 3.1.4. Local democracy

71. The situation with local democracy in Moldova is closely monitored by the CLRAE and the 4<sup>th</sup> monitoring report on the country will be presented and a recommendation adopted at its November 2005 session. We will therefore only briefly outline the main problems:

- *Conformity of the legislation with the European Charter of Local Self-Government*

72. The present legislation has serious drawbacks and reminiscences of past Soviet times. Two government draft Laws – on the Status of the Municipality of Chisinau (which would divide the capital into smaller entities and substantially curtail the powers of its Mayor) and on Associations of the Local Authorities (which would impose a sole national association of local representatives, thus excluding local elected representatives who are not favourable to the authorities) were severely criticised by the Council of Europe experts in the summer of 2004. They were subsequently withdrawn.

73. The law on local public finances was adopted in 2003 without taking into consideration the opinion of Council of Europe experts. The Congress has equally revealed serious difficulties with funding at local level. The financial autonomy of local entities appears to be very limited. Not only does this leave them little chances of performing better than the national average in terms of providing better services and social benefits for the local population; it also creates risks of political pressure on the local authorities.

74. On 26 May the co-Rapporteur Mr Kvakkestad visited the autonomous region of Gagauzia. The authorities gave a shy answer when asked whether the level of autonomy was sufficient in financial terms; they conceded however that for the moment their budget was half of what was needed and that the region was not self-sufficient. Apparently several projects, for instance for providing running water, were funded by Turkey.

75. We were assured during our visit that the reform of the legislation in the field of local democracy was amongst the priorities of the new parliament and that one of the ad hoc parliamentary working groups was working to that effect.

- *Opposition mayors*

76. Two cases have become notorious in recent times: the cases of Mr Urechean and of the former Mayor of Comrat.

77. Several criminal proceedings have been initiated against Mr Urechean on charges of abusing his position as a Mayor. Criminal cases were also brought against other municipal officials of Chisinau, including against a close ally of Mr Urechean, Vladimir Sarban. The cases were based on charges of misuse of power and budgetary means; however the BMD interpreted them as a way of putting pressure and intimidating the leaders of the block ahead of the elections. The latest criminal case against Mr Urechean was submitted to the General Prosecutor's Office on 13 May by the Centre for Combating Organised Crime and Corruption. He is charged with abusing his former position in the purchase of 40 ambulances for a municipal hospital.

78. On 23 March 2004, the popular elected Mayor of Comrat, Constantin Taushanji, member of the opposition alliance "Moldova Nostra" was dismissed by a vote of the Peoples' Assembly of Gagauzia. This is incompatible with the principles governing the status of elected members and local self-government. An Assembly does not have such rights. During the co-Rapporteur's visit to Gagauzia, he did not receive a convincing answer as to the reasons for such a move. The region's governor (Bashkan), Gheorghe Tabunshik, said that the mayor had neglected his duties and that, since this power had been given by the people of Gagauzia, it was for the People's Assembly to take it back. The newly elected mayor is from the CPRM.

79. The co-Rapporteur was also informed of the criminal investigation of the Mayor of Ciadr-Lunga, Mikhail Formuzal. After the March parliamentary elections, Mr Formuzal had led the regional opposition protests calling for the resignation of the Communist *Bashkan*. The co-rapporteur was shown local newspapers in which entire articles were devoted to allegations against Mr Formuzal. He did not appear to have been able to exercise a right of reply.

80. Mr Formuzal considers that the criminal investigations have been launched on the orders of the Gagauz authorities. He had come second after Mr Tabunshik in the Bashkan elections in autumn 2002, while in the March 2005 parliamentary elections, the left-wing Electoral Bloc "Patria-Rodina", which he led locally, had won the majority of the votes in Gagauzia (51.5%, compared to 5% nationwide). Mr Formuzal for the moment is the main favourite in the Bashkan elections scheduled for autumn 2006.

81. The Congress has also been alerted to the case of the Mayor of Durlesti Gheorghe Barbaneagra, who was suspended from his position following a criminal case opened against him. Although *de facto* he remained mayor while the investigation was going on, because of the suspension he did not have the right to practice any other paid working activity in order to look after himself and his family. Meanwhile, a Communist member had been appointed *ad interim*.

82. The co-Rapporteurs would not like to take sides in any disputes as these should exclusively be a matter for an independent court. However, the fact that most proceedings are initiated against opposition mayors is in itself disturbing. We will be insisting that the authorities guarantee full transparency regarding any further development of these cases. Together with our colleagues from the Congress we will be also expecting an objective investigation.

### **3.2. Rule of Law**

#### **3.2.1. Bringing legislation in line with European standards**

83. Moldova has largely benefited from Council of Europe assistance programmes, especially those that aim at bringing the legislation of the country in line with European standards. One can name the Targeted Cooperation Programme (2002-2003), as well as the two-year joint programmes between the European Commission and the Council of Europe, which started in 2001. The second joint programme is under way (2004-2006).

84. Unfortunately, it has been difficult so far to put these legislative appraisals into practice. Despite the good will that has always been shown by the Moldovan authorities, a standard practice has been to adopt new legislation (often by rushing it through parliament and not allowing sufficient debate with the opposition and the civil society) and only then to submit it to the Council of Europe experts for appraisal. Hence Moldova now suffers from an illness common of the post-communist countries, whereby new legislation is being constantly amended and re-amended in order to make it acceptable by European standards. Another common problem has been using Council of Europe expertise selectively, by only picking up suitable points and ignoring the really important recommendations that might disturb the political establishment.

85. If this situation is about to change, as the authorities in place claim, they should introduce an effective mechanism which would guarantee that all new legislation is submitted to the Council of Europe prior to adoption. It should also provide a timely feed-back to the Council of Europe on how the experts' recommendations have been incorporated in the drafting and adoption of new laws. Such a mechanism would be mutually beneficial: it would allow much more rational use of the Council of Europe limited resources and it would give the Moldovan legislation a "stamp of approval" which the country really needs as part of its efforts to integrate better in the European structures.

86. In November 2004, the Moldovan Parliament decided to establish a special commission under the Ministry of Justice in charge with coordination of follow-up to recommendations of the CoE legislative appraisals. The commission should make its activities felt as soon as possible.



87. The same applies to the unprecedented use of Article 52 of the European Convention on Human Rights<sup>8</sup> with regard to Moldova. In April 2002 the Committee of Ministers requested an analysis of the compatibility of present and future legislation in Moldova with the ECHR. According to the decision, results systematically had to be made available to the opposition. A number of legal appraisals and training events have since been organised. However, the authorities have failed to provide comments on the follow-up to the Committee of Ministers.

### 3.2.2. Judicial reform

88. Some of the most important commitments that Moldova undertook when it joined the Council of Europe concerned the way justice is delivered in the country. In particular, it had to transform the role and functions of the Prosecutor's Office, to adopt an entirely revised new Criminal Code and Code of Criminal Procedure and to modify Article 116, paragraph 2, of the Constitution in a way which would ensure the independence of the judiciary. The Assembly Resolution 1280 (2002) on the functioning of democratic institutions in Moldova also urged the authorities to speed up legal and judicial reform.

89. Formally, these commitments have been fulfilled, although with delay. The Constitution was amended on 21 November 2002. A new Criminal Code was adopted on 18 April 2002 and amended on 29 May 2003 in compliance with CoE recommendations. A new Code of Criminal Procedure was adopted in March 2003. A new Law on the Prosecutor General's Office is in force since 18 April 2003. A major reform of the judicial system, initiated in 2002 and implemented by law in May 2003, replaced the old court structure with a three-level system.

90. In practice, however, the reform of the judiciary remains one of the priority areas where further reforms are needed. Certain elements of legislation still offer reminders of previous periods or have been reformed in an unsatisfactory way. The priorities are in particular in the fields of civil and criminal procedures, judicial organisation, the status of judges and the strengthening of the independence of the judiciary and the enforcement of judicial decisions. The extended competence of the General Prosecutor's Office remains a subject of concern. There is still a great effort to be made in the field of institutional reform (the Ministry of Justice, the High Council of Justice, the Bar Association). Most importantly, it is necessary to improve the working environment of the judicial professions; to change old practices and mentalities; to guarantee the full independence of the justice, to eliminate corruption within the system and to train magistrates up to the highest standards.

#### – *Independence of the judiciary*

91. Judicial independence is guaranteed by the Constitution. The constitutional amendment of 2002 made judges appointed by the President, upon proposal by the High Council of Magistrates, for an initial probation period and subsequently confirmed for life appointment. This was still leaving broad discretionary powers of the President as regards dismissal, adjournment of the candidacies and appointment of judges.

92. According to Mr Lupu's letter, following the adoption of the package of laws on 22 July, the new version of the Law on the High Council of Magistrates assigns a decisive role in the process of appointing and promoting judges to this main organ of judicial self-government. This body will be composed of 12 members, three of which are *ex officio* members (namely – the President of the Supreme Court, the Minister of Justice and the Prosecutor General), seven judges are elected by secret ballot by the General Meeting of Judges of the Republic of Moldova, and two members – one nominated by the parliamentary majority and one by the opposition – are elected by parliament from among professors.

93. The role of the High Council of Magistrates in the appointment of judges has now been strengthened. It continues to nominate candidates to the posts of judges, chairmen and vice-chairmen of the Courts of Appeal (appointed by the President of the Republic) and the Chairman, Vice-Chairmen and judges of the Supreme Court (appointed by the Parliament). But according to the new amendments, these nominations cannot be rejected by the President of the Republic or the Parliament

<sup>8</sup> Art. 52: "On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention."

"unless there are serious grounds of incompatibility or violations of the legal selection and promotion procedures". A reasoned justification will be required, and in case of repeated proposal from the HCM of the same candidate, the President/ Parliament will be bound to appoint the person within 30 days.

94. Mr Lupu points out that these amendments were adopted by a consensus of the different political forces present in parliament. He hopes that this will lead to "an increase in the responsibility and professionalism of judges, as well as to greater transparency of the judicial system as a whole and more effective protection of human rights and freedoms".

95. Although the scope of the envisaged changes has long been suggested on the occasion of other expertises and recommendations, these amendments have not been subjected to an expertise from the Council of Europe. This should be done as soon as possible. Every effort should be made to provide for a transparent appointment process of judges and prosecutors. The appointment criteria should be clearly defined and objective and should be based on merit, integrity, ability and efficiency, and there should be machinery to monitor the implementation of the experts' recommendations.

– *The Bar*

96. A new legislation on lawyers is also one of the priorities. During our last visit Mr Amihalchioaie, Chairman of the Bar Association, complained of a specific provision in the law that was adopted in 2002 without the expertise of the Council of Europe. Subsequent expert recommendations had not been followed though. In his opinion, the creation of a licensing committee in the Ministry of Justice under the chairmanship of the Vice-Minister of Justice (with 6 barristers and 5 non-barristers as members) had negatively affected the independence of the lawyers' profession. According to him, this licensing committee has taken prerogatives from the Bar Association to accept and release lawyers and even trainees. He complained that there were legal and practical obstructions (for instance by the Ministry of Interior) so that lawyers were not always given the possibility to intervene immediately after an arrest. He also said that in the Centre for investigating corruption the lawyer and the accused person had to talk through a glass barrier and that all the conversations were tapped.

97. The Vice-Minister conceded that 5 non-lawyers in the Licensing Committee was excessive but insisted that no decision could be made without the blocking majority of the lawyers. The Ministry of Justice was ready to transfer the Licensing committee to the Bar Association even before the adoption of a new law but the Bar Association insisted on adopting a new law first.

98. These controversies show to what extent it is important to reform the legislation in a neutral and unbiased way. In a heated political climate, this is one more reason to insist on having Council of Europe expertise before adoption.

– *The functions of the Prosecutor General's Office*

99. A new Law on the Prosecutor General Office, appraised by the CoE experts in 2003, is in force since 18 April 2003. The text appears to be in conformity with CoE standards. However, the Prosecutor General still enjoys broad supervisory powers, as he can suspend/ revoke the decisions of public officials and organs. The most notorious such case happened in summer 2004, when the Prosecutor General cancelled the decision of the Chisinau municipality which had authorised journalists from TeleRadioMoldova to hold a protest action (see also paragraph 135). In our meeting with the Prosecutor General during our visit from 24 to 27 May 2005, he justified this decision by the fact that his office has competence to intervene in decisions that affect public order or national security. He insisted that in this case there had been a breach of the procedure for granting authorisations.

100. Also, according to Article 249 of the Code on Administrative (Minor) Offences, a prosecutor is empowered to arrest a person for up to 10 days for 'clarification proceedings' regarding the person's identity or to clarify the circumstances of the contravention, when the person is not in possession of an identity card (a procedure used when detaining vagrants). Such a decision of the prosecutor cannot, apparently, be appealed to a court of law.

101. During our visit from 30 January to 3 February 2005, we were assured that the activities of the Prosecutor general's office had been reorganised in July 2004 following a decision of Parliament and had been brought into line with European standards. Consequently, the staff of the office was reduced by 30%. The Prosecutor general had presented the first ever public report on his activities for the year 2004. A training centre for future officials of the Prosecutor's office had also been set up.

– *Enforcement of legal decisions*

102. The new Execution Code entered into force on 1 July 2005; however the Parliament excluded from it all regulations regarding the status of the enforcement bodies and bailiffs. Without such regulations, the implementation of the new code will be extremely difficult. The expertise of the Council of Europe therefore is urgently needed in order to draft the law on the status of the enforcement bodies and bailiffs.

– *Training*

103. With all the important reforms in the judiciary under way, the issue of professional training becomes urgent. The Council of Europe has been recommending for a long time to transform the existing Judicial Training Centre into a National School for judges and prosecutors. The latest contacts between the organisation's experts and the Ministry of Justice are promising. A draft law on "the National Institute of Justice of Moldova" is currently being assessed, but amendments of several related laws (High Council of the Judiciary, Status of Judges etc) would also be needed.

### 3.2.3. Fight against corruption

104. Moldova is one of the European countries which has been most affected by corruption. This is not surprising, bearing in mind the severe economic difficulties that the country has experienced and the low wages and social benefits. According to the Group of States against corruption (GRECO) first evaluation report on Moldova, the sectors usually mentioned as being most affected are the judiciary, the police, the customs service, the tax inspectorate and public procurement – key sectors in other words.

105. Moreover, there is a very widespread belief in Moldovan civil society that very close links exist between local organised crime (which is very large in scale and has significant international ties) and certain representatives of the authorities most directly involved in preventing and combating organised, economic and financial crime. Such links are sometimes acknowledged by representatives of certain public institutions. The openness with which certain illegal activities (trafficking in women and drugs, tax evasion, smuggling and so on) are carried out is often mentioned by the media and civil society in support of their belief that close links exist between organised crime and the public authorities<sup>9</sup>.

106. Moldova has ratified the Council of Europe Criminal and Civil Law Conventions on corruption. The authorities have undertaken various legislative and institutional reforms, but despite some success, most have been slowed down or blocked by the very limited financial resources.

107. In November 2004 the government adopted an Anti-corruption Strategy and Action Plan with the expert support of the Council of Europe. It envisages the setting up of an institutional mechanism which would ensure the coordination, monitoring and day to day management of the Strategy and Action Plan, consisting of:

- the (already existing) Coordinative Council headed by the President of Moldova, who is personally committed to this fight,
- a Monitoring Group comprising the main stakeholders (including civil society and the business community), and
- the Centre for Combating Economic Crime and Corruption (hereinafter CCCEC) as the Secretariat.

<sup>9</sup> First Evaluation Round, Draft Evaluation Report on Moldova adopted by GRECO at its 15<sup>th</sup> Plenary Meeting, (Strasbourg, 13-17 October 2003).

108. The Council of Europe supports the putting into practice of this strategy through a special PACO Moldova project, funded by the European Commission and Switzerland with the CCCEC as the main counterpart. 2005 is a test year which has to show how feasible the Strategy and the Action Plan are in practice.

109. The main concern for the moment is the functioning of the CCCEC, which is vested with considerable powers in theory but whose independence, transparency and accountability are rather limited. According to the Council of Europe experts, the different institutions involved in the fight against corruption – the Ministry of Internal Affairs, the General Prosecutor's Office and the CCCEC – are competing in a duplicative and inefficient way, rather than complementing each other. For instance, none of these institutions tries to pass investigations to the most relevant one; they manage to keep them within their sphere of influence, since the Prosecutor General's Office, on grounds of efficiency, allocates the work of criminal investigation to the institution that has referred the case, even if it does not have the mandate or the expertise required. The Anti-corruption Office of the Prosecutor General also has competencies that are either already included in the powers of the Centre or are not typical of a public prosecutor (for instance, corruption prevention).

110. The CCCEC, which was created as the leading institution in the fight against corruption, should be given the possibility to fulfil its mandate. Furthermore, it should focus on that anticorruption role and should not deal with cases that have no connection with corruption (for instance tax evasion, thus duplicating the Ministry of Finance).

#### 3.2.4. Trafficking in human beings and organs

111. Moldova sadly remains associated with one of the highest rates of migration connected with trafficking in human beings, mostly of women and children. According to the Moldovan Office of the International Organisation for Migration (IOM), girls as young as five are sold into sexual slavery and boys as young as 11 are strong-armed into militias to serve as child soldiers or to perform forced labour. But the prime risk group is the 100,000 women and girls in Moldova aged between 16 and 24. The NGO La Strada<sup>10</sup> defines the main purposes of trafficking as begging, pornography, domestic work and agriculture. According to the IOM, the traffickers force their victims into submission through the cruellest and most inhumane forms of intimidation and humiliation: rape, torture, death threats, beatings, imprisonment and starvation. Victims are sold multiple times as modern day slaves for prices ranging from \$200-\$20,000 and up<sup>11</sup>.

112. The traffickers are often part of large international and mafia criminal organisations. The IOM states that each criminal network can employ up to 40 people, who deal with all the aspects and stages of trafficking, such as offering fake employment, forging passports, smuggling people through the borders in cargos and running brothels. Police and customs officers are also involved.

113. The Moldovan Prime Minister told us that almost all the traffic of human beings goes through Transnistria. According to the IOM, destination countries include the Balkan countries (Macedonia, Bosnia, Albania and Kosovo), but also Western Europe, Russia, Turkey, the United Arab Emirates and Israel. In the Balkans, the demand is fuelled by locals, but also by foreign troops stationed on peace-keeping missions. La Strada also mentions Saudi Arabia, Lebanon, Pakistan, Egypt and the Caucasus countries.

114. It is impossible to give a precise estimate of how many people are affected, as most of them leave the country illegally. Many of the victims of this trade simply vanish after they have left the country.

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<sup>10</sup> The International Center "La Strada" is a part of the international network of Prevention of Trafficking in Women in Central and Eastern Europe that includes 9 organizations in 9 countries (that are countries of origin as well as the destination ones) implementing the La Strada Program Prevention of Trafficking in Women in Central and Eastern Europe (The Netherlands, Poland, the Czech Republic, Bulgaria, Ukraine, Moldova, Belarus, "the former Yugoslav Republic of Macedonia", Bosnia & Herzegovina).

<sup>11</sup> [http://www.iom.md/faq\\_ht.html](http://www.iom.md/faq_ht.html).

115. The main reason why young people leave Moldova is poverty, unemployment and lack of brighter prospects for the future. Many victims come from villages without running water and indoor sanitation, with high unemployment and many children not attending school. Most women are lured by adverts in the newspapers, offering jobs abroad, or by family acquaintances promising a better future in a foreign country. Often they do not realise that they are going to be misused.

116. It is clear that this scourge cannot be stopped unless Moldova is capable to offer better prospects for the future of its young people. But legal mechanisms and government structures also need to be reinforced.

117. Several ministries – of internal affairs, foreign affairs, labour, public health, education, justice etc., as well as the General Prosecutor's office – deal with different aspects of the problem. The coordination is in the hands of the National Committee for Combating Trafficking in Human Beings, which was set up by the Government in 2001. Several Moldovan NGOs are active in the field of counteracting trafficking in human beings. There are established mechanisms for the collection and exchange of information between governmental agencies and NGOs – for instance, the Prosecutor General assured us that his office cooperates with more than 10 NGOs active in the field of protection.

118. The country is also receiving substantial international assistance, for instance through IOM, OSCE, UNICEF and many others. Joint operations have been launched with foreign countries. The government officials whom we met are hoping to establish a centre with regional competencies in combating human trafficking.

119. Concerning the legal framework, the Criminal Code and the Code of Criminal Procedure provide for criminal liability for human trafficking; there is also a law on protection of traffic victims. In February 2005 the Moldovan parliament ratified the so-called Palermo Protocol<sup>12</sup>. Moldova actively contributed to the definition of a common strategy and the drafting of the new Council of Europe Convention on Action against Trafficking in Human Beings. It signed it 16 May 2005. We are expecting the Moldovan parliament to ratify it soon.

120. However, the country needs a comprehensive legal framework on this issue, which would provide a good balance between prevention, prosecution and protection. The Council of Europe, the OSCE mission to Moldova and the OSCE/ODIHR are advising the authorities on the drafting of such a Law to Combat Trafficking in Human Beings. It was adopted unanimously in the first reading in June and should be finalised as soon as possible. What impact it will have, though, will mostly depend on the way it is implemented.

121. The government officials assured us that over the last 2 years the number of cases and persons brought to justice has increased three-fold.

122. However, there are still serious difficulties. The representatives of La Strada complained that assistance to the victims was only provided on the condition that they testified in court. But their protection was not adequate and therefore many girls were scared of appearing as witnesses. Those who returned had to face again the same poverty and hopelessness, further aggravated by serious psychological traumas and poor health. Another problem concerns destination countries which, according to La Strada, only treat trafficked persons as illegal immigrants and refuse to grant them the status of victims. Therefore they cannot benefit from any assistance before they are deported.

123. In our discussions with the authorities, we met a reasonable degree of understanding of the problems. The Prime Minister, the Minister of Interior and the General Prosecutor acknowledged that the protection of the victims giving testimony in courts was not good enough, but pointed out to the insufficient material resources. The current legislation provides for special mechanisms for testifying in courts which could guarantee the anonymity of the witnesses but, in general, protection was difficult in a small country where people know each other. We had nevertheless the feeling that the authorities placed much of the responsibility on the destination countries which, in their opinion, could co-operate

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<sup>12</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the UN Convention Against Transnational Organised Crime.

better and also enforce stricter legislation on the consumption of services provided by victims of human trafficking. We cannot investigate this part of the problem in the present report. The important thing for Moldova now is to adopt appropriate legislation and strengthen all state structures which have to deal with human trafficking.

124. At the same time, the authorities seemed to be playing down the magnitude of another horrible traffic that Moldova has become notorious for – that of human organs. They said that the issue had been highly politicised and that only two well-founded cases can be quoted for the last 5 years.

125. However, a report on trafficking in organs in Europe by our colleague Ruth-Gaby Vermot-Mangold (Social, Health and Family Affairs Committee) revealed some shocking facts. In October 2002 she interviewed a number of kidney "donors", all young men between 18 and 28 years of age. Poverty had driven them to sell their kidney for a sum of 2,500 to 3,000 USD, while recipients are said to pay between 100,000 and 200,000 USD per transplant. Following the operation, the "donors" state of health generally deteriorated in the medium term due to the absence of any kind of medical follow-up, hard physical work and an unhealthy life style with inadequate nutrition and high consumption of alcohol.

126. As the report revealed, most "donors" will be forced in time to live on dialysis or await in turn a kidney transplant. Both treatments are hugely expensive and, in the end, delve even deeper into the already limited Moldovan budget.

127. It is clear that trafficking in human organs, by its trans-national nature, is not a problem that Moldova can solve on its own. However, the authorities should better acknowledge the existence of the problem and seek actively international cooperation and assistance.

### **3.3. Human rights**

#### **3.3.1. Death penalty**

128. Moldova introduced a *de facto* moratorium on executions in 1990, the year in which the last execution was carried out. The death penalty was abolished *de jure* in 1995 by amending the Criminal Code, the Code of Criminal Procedure and the Code on the execution of Criminal sentences. However, capital punishment remained in Article 24 of the Constitution. According to press reports, the Moldovan government recently adopted a draft law amending paragraph 24 of the Moldovan Constitution, thus abolishing death penalty completely.

129. However, capital punishment has been retained in Transnistria, in the Criminal Code approved on 15 May 2002. Six crimes are punishable by death: murder, attempt to murder a state or public official, armed rebellion, attempt to murder a magistrate or investigator, attempt to murder a law enforcement agent and genocide.

#### **3.3.2. Freedom of expression and functioning of the media**

##### **– media pluralism**

130. As of 3 January 2005, 41 terrestrial TV channels and 116 cable operators were registered with the Audiovisual Coordinating Council (CCA), in charge of overseeing the broadcast media. Six are public channels: the national broadcaster *Moldova 1*, the Chisinau station *Euro TV*, *TV Gagauzia* and three local TVs. The nation-wide available *Pervi kanal v Moldove (The first channel in Moldova)* which retransmits the Russian channel ORT and locally produced news and talk shows, has the highest ratings; the public service broadcaster *Moldova 1* comes second. Other channels with relatively high ratings are the private stations *NIT*, relaying programmes from different Russian channels and *Pro TV Chisinau*, which retransmits the programmes of the Romanian Pro TV, both offering also locally produced news, analytical programmes and talk shows.

131. However, Moldova still has to make serious efforts in order to guarantee genuinely pluralistic environment in the electronic media. The monitoring of the news coverage of the parliamentary elections of March 2005 showed heavy bias in favour of the ruling party by the main TV channels. Only the news bulletins of the Chişinău stations *Euro TV* and *Pro TV* showed a more balanced coverage of the airtime dedicated to politics<sup>13</sup>.

132. The country boasts a wide and diverse spectrum of press publications; various media NGOs are also very active and highly competent. Until recently, though, two of the newspapers with the largest circulation were still state-owned – according to OSCE reports - although they did not receive direct funds from the state, they benefited from free office space, obligatory subscriptions by state institutions and advertisements channelled to them by the government. During our visit, we received assurances that the government had put an end to this situation.

– *TeleRadio Moldova (TRM)*

133. The restructuring of the state channel TeleRadio Moldova (TRM) into a national public service broadcaster has been a difficult and sometimes dramatic exercise, as well as a major source of concern. The law on TRM, adopted in July 2002 and amended in March 2003, envisaged the transformation of the institution through its liquidation. This meant that before TRM began to function as a public service broadcasting institution (on 8 August 2004), all journalists had to be laid off and appointed through a new recruitment procedure, which started in February 2004.

134. This procedure was seen by many journalists as a cover for getting rid of those who were not loyal enough to the authorities. A "committee for the defence of human and professional dignity (CADUP)", chaired by Corina Fusu, started protest actions in front of the Radio House and Parliament during August-September and for 26 days, several journalists and representatives of civil society went on hunger strike. Protesters were contesting the modalities of the recruitment procedure, its results as well as the composition of the selection commission. They also called upon the Moldovan Parliament to amend Article 13 of the law on TRM with respect to the composition of the Supervisory Board, so as to increase the representation of media professionals within it.

135. On 1 August the police stepped in to pull down the strikers' tents, in defiance of the authorisation granted by the (opposition) municipal council to set up a strike picket in front of the broadcasting headquarters. Several persons were injured and hospitalised. Ten days later, the office of the State Prosecutor announced that the municipal council's authorisation was revoked (see also paragraph 98).

136. On 1 October 2004, the Heads of Diplomatic Missions in Moldova, the OSCE Mission to Moldova and the Special Representative of the Secretary General of the Council of Europe (SRSG), made a joint statement, expressing the view that the process of transformation had not been carried out in accordance with guidelines issued on public broadcasting and urged everyone involved to engage a constructive dialogue to find a mutually acceptable solution of this problem.

137. The tension was gradually released; some of the most critical journalists found jobs in other media. However, TRM was criticised both by national NGOs and by international observers for its heavily biased coverage of the elections. According to opposition leaders whom we met in May 2005, the situation had further deteriorated: during the elections, they had been given air time while afterwards they were not invited to TRM at all (for instance, Mr Diacov).

138. During our visit in May 2005, we convened a meeting between Mrs Fusu and the Director of TRM, Ilie Teleşcu, as well as with the Chairman of the Supervisory Board, Iurie Tăbîrţă.

139. Mrs Fusu stated that the crisis had not been resolved: the transformation of TRM had only been a window-dressing exercise for the international community. Nothing had really changed, although several new Directors had come and gone. Censorship was still practiced directly by a deputy Director. There were no real, pluralistic political debates and the opposition did not have access.

<sup>13</sup> OSCE final monitoring report elections. See also monitoring report by carried out by the Independent Journalism Center (IJC), Center for Analysis and Sociological, Political and Psychological Investigations (CIVIS), the Association of Independent Press (API), and the London-based Article XIX. It is part of the activity plan of "Coalition 2005," a group of more than 150 non-governmental organizations, which have united to ensure that the elections in Moldova are free and fair.

140. Mr Teleşcu denied allegations of censorship in TRM. Mr Tăbîrţă added that there was no censorship, "only badly trained journalists ready to do anything in order to get noticed". Both seemed rather satisfied with TRM's coverage of the elections and with its present performance. If there were problems, in their opinion, they were mainly of a technical and financial nature. The law concerning TRM should be modified in order to introduce a licence fee and make the institution more independent vis-à-vis government funding. Our question about the claims of the opposition that it had no access to TRM, provoked visible confusion and was given the answer that TRM might have not reached perfection yet...

141. We fully subscribe to the idea that the financial independence of TRM has to be strengthened. It is not normal that the national public service broadcaster should only have 12 hours of broadcasts a day, with only 5 hours of original programmes. However, the problem with the independence of TRM is clearly not purely financial, but also, and above all, political. The legislation needs to be changed in order to guarantee a more independent composition of the Supervisory Board. But, above all, the mentalities and the practices need to be changed. The political leadership of the country has to give very clear signals, not only that it will not interfere with the independent operating of the public broadcaster, but also that journalists do not need to apply self-censorship.

– *legislation in the audiovisual sector*

142. There is an urgent need to improve the legal framework concerning the audiovisual sector in general (the regulation of the audiovisual sector as a whole, as well as the activity of private broadcasters), and also public service broadcasting (national and local):

- the current Law on the Audiovisual dates back to 1995 and no longer corresponds to the needs of the sector;
- the Law on the national public service broadcaster "TeleRadio Moldova" was to a great extent assessed positively by the Council of Europe experts. However, the events of the last year have clearly demonstrated the need to improve the regulation (Art. 13) concerning the composition of the Supervisory Board. Furthermore, after several amendments, the law has become eclectic, so ideally it should be redrafted;
- the Law on local public service broadcasting, adopted in December 2003, was only subsequently submitted to the Council of Europe for expertise. Its conclusions were devastating, clearly stating that "the law cannot be regarded as compatible with some of the basic principles upon which public service broadcasting, human rights and democracy are based" (problematic points are the way in which Supervisory Boards are appointed, the intervention of the local authorities in the activity of the broadcasters, etc).

143. At the time of our visit, there were two main sets of draft laws proposed to the Parliament respectively by:

- Alianta Moldova Noastra (AMN) who supports 3 drafts prepared by the Electronic Press Association APEL, respectively, on public service national broadcaster TeleRadio Moldova; on local public service broadcasters and on the audiovisual sector in general and private broadcasters in particular. Similar APEL drafts have been positively assessed by CoE experts in the past;
- PPCD (Christian-Democrats) who have proposed an Audiovisual Code covering the audiovisual sector in general, public and private broadcasters included.

144. During our last visit Ion Mihailo, Chairman of the Audiovisual Coordinating Council, insisted on the necessity to organise a broad public discussion with media professionals and to seek the expert advice of competent international organisations, including the Council of Europe, prior to adoption. He also conceded that in its present composition, the CCA does not correspond to the standards of the Council of Europe.

145. A special working group was created in parliament on the audiovisual reform. The timetable for the completion of the work on the new drafts is this autumn.



– Defamation

146. Moldova has to be commended for abolishing criminal defamation. In May 2004, the Parliament, following-up on an initiative of the President, abrogated Article 170 of the Penal Code. The President also suggested re-introducing into the Civil Code upper limits for fines concerning moral damage in civil defamation. The absence of such a ceiling continues to be a serious problem for Moldovan journalists, as astronomical fines are an easy way of stifling economically vulnerable media outlets. The more so, according to local experts, because only 3 to 4% of cases on defamation before the courts are won by journalists.

147. During our visit we learnt that the relevant provision had been used by the CDPP leader Mr Rosca. He had filed a complaint against three newspapers for damaging his honour and dignity, claiming around 50,000 Euros damages from *Timpul de dimineata*, 62,000 Euros from *Journal de Chisinau* and nearly 31,000 Euros from *Val Butnaru*.

148. Mr Rosca subsequently withdrew his complaint. He explained to us that on the one hand, he did not believe that the judiciary was independent in order to deliver a fair judgement; on the other hand, he agreed that a ceiling for damage claims was indeed necessary.

– Access to information

149. A group of media NGOs has expressed fears that last year, the Information and Security service had drafted a bill on the State and Professional Secrets, approved by a government decision and transmitted to the parliament in total secrecy. It aimed at replacing the current Law on the State Secrets and introduced a number of provisions, such as the concept of "professional secret", contrary to the constitution and international standards.

150. Another text relating to access to information, recently prepared by the Ministry of Informational Development and submitted for opinion to the ministries, departments and other public institutions, is the draft Law on access to information. A number of media and human rights NGOs claim that this draft law aims at replacing the current Law on access to information, a text which was elaborated with the help of the Council of Europe according to the standards of the Organisation. They believe that the draft would threaten the right to access to information.

151. We are not able to take position on this claim other than to insist again that all new media and information legislation has to be prepared in a spirit of transparency and public debate, and in consultation with the Council of Europe experts.

### 3.3.3. Detention

152. A welcome new development is that on 27 May the Moldovan parliament amended the Criminal Code, making any use of physical torture by the police and prison staff a criminally punishable offence.

153. Hopefully this will improve conditions of detention, although it is necessary to accompany the legal provisions with awareness raising and training. It appears that ill-treatment of detainees subsists mostly in temporary detention facilities (ISO) and in police custody, which are subordinated to the Ministry of the Interior. According to the latest Amnesty International report on Moldova "Conditions in temporary holding facilities, where detainees can be held for up to 30 days, remained well below international standards. All such facilities were underground, inadequately ventilated and detainees did not have access to adequate toilet facilities"<sup>14</sup>. The situation is apparently better in prisons, which have been transferred to the Ministry of Justice.

154. Another serious problem is the management of prisons and the treatment of prisoners in Transnistria. For instance Prison No. 8 in Bender forms part of the penitentiary system of Moldova, but is located in an area which is under the control of the Transnistrian administration. According to the Committee for the Prevention of Torture, the Bender municipal authorities cut off the supply of

<sup>14</sup> <http://web.amnesty.org/report2005/mda-summary-eng>.

electricity and water, claiming that the establishment should be vacated because of a tuberculosis outbreak. The Moldovan position, which should be supported by the Council of Europe, is that settlement of disputes by imposing hardship on prisoners is unacceptable.

155. The recently adopted Council of Europe Action plan for further prison reform focuses in particular on the management of specific categories of prisoners such as juveniles or lifers and other long-term prisoners, as well as the question of probation and training of prison staff.

#### 3.3.4. Security Service

156. According to the letter the co-Rapporteurs received from Mr Lupu, following the amendments to the Law on the Information and Security Service, this body no longer has the right to run pre-trial detention facilities or to conduct criminal investigations. The Law on the Adoption of the Rules of Procedure of the Moldovan Parliament has been amended on similar lines, with the setting up within the Committee on National Security, Defence and Public Order of a sub-committee for parliamentary scrutiny of the activity of the Information and Security Service.

#### 3.3.5. Police

157. The Council of Europe "Police and Human Rights Programme – Beyond 2000", together with the Moldovan Ministry of Interior, organizes a series of seminars on human rights standards and teaching methods. The other priority area is police ethics. The latest seminars have had good attendance and positive outcome. Council of Europe experts are equally providing assistance in updating a code of ethics for policemen and discussions on transformation of the code of ethic into binding legislation.

#### 3.3.6. Rights of minorities

##### – *General*

158. The Second Opinion on Moldova, given by the Advisory Committee of Framework Convention on National Minorities (FCNM), was adopted on 9 December 2004. It commended the country for the supplementary measures it had taken to improve the situation of persons belonging to national minorities in various areas affecting preservation of their culture, language and traditions. Nevertheless, according to the study, significant problems remain in connexion with the unsolved issue of Transnistria or the discrimination, social exclusion and marginalisation of the Roma.

159. The opinion also advocated: reinforcing the multicultural and intercultural dimension of education; better teaching in minority languages; a stronger presence of minority languages in the media and in the relations with the administrative authorities; enhanced participation of the representatives of national minorities in decision-making.

##### – *Language issues*

160. Language issues remain sensitive. The 1991 Declaration of Independence of the Moldovan State proclaims Romanian as the state language. According to the Constitution the state language is 'Moldovan', whereas the Law on the functioning of languages recognises Moldovan and Romanian languages as being identical. The language is described as 'Romanian' by the Academy of Science. This problem is at the root of the political differences between certain parties.

161. In the education system, the State language is taught as a second language to non-native speakers. Russian is the only language of minorities which is obligatory for all, currently from grade 5. The attempt in 2002 to introduce Russian from grade 2 led to street protests by the opposition, and was suspended.

162. Minorities (Ukrainians, Bulgarians, Gagauz and others) generally choose Russian rather than the State language as the language of instruction, either by their own will or because there is a shortage of teachers and materials in the State language. Only a small number of experimental classes (rather than entire schools) have one of these minority languages (Ukrainian, Bulgarian, and Hebrew) as a language of instruction. For them, the State language is taught as a subject.

163. The situation in Gagauzia clearly demonstrates the problem. Although the movement towards autonomy in the early 1990s led to a stronger focus on the Gagauz language (close to Turkish) in the media and education, the language has not developed sufficiently as a tool for teaching/learning in certain domains. As the authorities acknowledged during Mr Kvakkestad's visit in May 2005, the attempts in 1997 to create schools in Gagauzian have failed. Russian therefore is the language of instruction, although Gagauzian can be learnt in all the schools. The authorities justified the choice of Russian with the strong historic links with Russia and with the will of the interested parties (parents etc.) They conceded that, in the long term, the entire population needed to have a good command of the State language; however, they said that the necessary conditions were not in place yet.

164. The Ministry of Education attaches great importance to the development of communication skills in the major European languages. However, the present educational situation implies that if a child wants to learn, for example, good English, French or German, each of them would, at best, only be the third language. In the case of a representative of a minority group such as Gagauz, Ukrainian or Bulgarian, it would be the fourth language. Even with the best educational methods in the world, it is difficult to ensure good language proficiency in the major European languages, other than Russian, for the majority of the population.

– *Latin script teaching schools in Transnistria*

165. The "Transnistrian Moldovan Republic" ('TMR') does not have a *State* language, but three *official* languages: Moldovan, Russian and Ukrainian. Russian is the universal language of communication. As far as the State language is concerned, 'TMR' sees itself as preserving the 'Moldovan' language 'in its pure historic form and Cyrillic script, and considers that the language is 'Romanian' when it uses the Latin script. The Deputy "Minister" of Education explained during Mr Kvakkestad's visit to Transnistria in May 2005 that children in schools have their tuition in one of the three languages and have to learn one more out of the three. In addition, they can learn other European languages, including Romanian. What seem paradoxical to us – that in order to learn Moldovan (Romanian) in Latin script one has to follow a different course in Moldovan in Cyrillic script – was explained by the authorities by saying that the two languages – Moldovan and Romanian – were different.

166. A few schools on the territory of Transnistria teach Moldovan in the Latin script. They are considered by the authorities in Tiraspol as private establishments teaching Romanian. A crisis broke out during the summer holidays last year, when the Transnistrian administration closed six Moldovan schools and seized their buildings and equipment. A boarding school for orphans in Tighina was left without regular access to running water, gas or electricity and during the month of August Transnistrian militia was even preventing the delivery of food to some eighty children staying there at the time. The crisis escalated even further when the Moldovan Minister of Education, who wished to discuss the school situation with the Transnistrian side, was arrested and deported. The Moldovan government then introduced a trade embargo while Tiraspol blocked the export of electricity and railway links (see press statement by the Monitoring Committee of 5 October 2004 demanding from Tiraspol that harassment of children be stopped and that the schools be allowed to function until a long-term solution could be reached).

167. Four of the Moldovan schools in Transnistria were temporarily registered in 2004 for one year (until 28 September 2005), as the most crucial articles of the schools' statutes were excluded.

168. After a long freeze in communications, talks between the central and the Transnistrian authorities resumed on 28 February and continued all through the following months. They were hosted by the OSCE and included high-level representatives and experts from the Education Ministry in Chisinau and the education "ministry" in Tiraspol.

169. The Transnistrian authorities explained to the co-Rapporteur that every school on their territory had to be registered (for tax and auditing purposes) and hold a licence (infrastructure, teachers' qualifications and so on), both being compulsory, and needed an accreditation, which was optional. They had objections to the curriculum with regard to history teaching, geography and literature. Indeed, most Moldovan history books are entitled "History of Romanians". The Transnistrian authorities also felt that literature books concentrated too much on Romanian writers and poets; there were, according to them, also differences in the geographical names of places. They insisted on greater diversity in the teaching of these subjects and a stronger focus on personalities, facts and data that unify rather than divide.

170. Finally, on 1 July 2005 the local Transnistrian authorities gave a permanent registration to the four Moldovan schools which were temporarily registered last summer: These schools are subordinated to the Ministry of Education in Chisinau, and use the curriculum of the Republic of Moldova.

171. Further negotiations have to continue in September. Remaining questions to be solved are common curricula for disputed subjects, and requests to obtain licenses and accreditations from local authorities.

### 3.3.7. Sexual minorities

172. During our last visit to Chisinau, representatives of the gay and lesbian NGO Genderdoc-M complained that the city's municipal authorities had refused to authorise a peaceful demonstration. The aim of the gathering was to demand legislation to prohibit discrimination against sexual minorities. According to the NGO representatives, the interim mayor of the city had given as the reason for his refusal the fact that Moldova already had legislation to protect national minorities. The Genderdoc-M representatives also referred to the existence of a police "vice squad". The authorities whom we questioned on this said that they were unaware of the refusal to authorise the demonstration and denied the existence of such a police department. Pending a satisfactory response, we wish to point out that democratic governments are required to respect the fundamental rights of all their citizens and that discrimination against sexual minorities is inadmissible.

## 5. **Conclusions**

173. During the last months, the political leadership of Moldova has sent strong signals, both to its own people and to the international community, that there is a strong will for reforms. Pressure to produce concrete results is building up, both because of the need to preserve the fragile partnership with part of the opposition, as because of the country's international commitments and the regional political realities.

174. Moldova is not alone in its endeavour to achieve a better presence on the European scene and do away with an international reputation which is now not in its favour. The Council of Europe, the European Union, the OSCE and large number of other international specialised bodies are doing their best to assist the process.

175. To be successful, however, this has to be a relationship of mutual trust. Moldova needs to understand that its membership in the Council of Europe is not some sort of an examination, where good marks matter more than the content of what has been achieved in order to receive them. When our organisation issues political statements and provides expert advice, it does so in the best interest of the Moldovan people. Recommendations need to be fully implemented in a spirit of good faith and constant dialogue. This has not always been the case in the past, when narrow political interests have often conflicted with declared commitment to European values.

176. We were told many times during our last visit that it was time for the monitoring procedure with respect to Moldova to come to an end. We fully agree – but this is in the hands of Moldova itself.

**APPENDIX I**

**Letter to Ms Josette DURRIEU,  
Senator,  
Co-rapporteur of the  
Committee on the Honouring of Obligations and Commitments by Member States of the  
Council of Europe (Monitoring Committee)  
Parliamentary Assembly of the Council of Europe**

29.07.2005

Dear Ms Durrieu,

During your last visit to Chisinau, we discussed, among other things, the drawing up of a timetable for the legislative reforms to be introduced by the Moldovan Parliament. Following our agreement to submit this timetable to you before the end of the parliamentary session, I am pleased to inform you of the adoption by parliament of a series of laws drafted by the ad hoc working groups set up after the parliamentary elections last March. These laws are set in the context of the honouring of the commitments which the Republic of Moldova has entered into vis-à-vis the Council of Europe and deal with such important issues as the operation of the justice system, electoral legislation, the Information and Security Service etc.

In particular, parliament adopted, on 22 July, amendments to the following laws: the Law on Judicial Organisation, the Law on the Supreme Court of Justice, the Law on the Status of Judges, the Law on the High Council of the Judiciary, the Electoral Law, the Law on the Information and Security Service, the Law on the Court of Auditors, and the Law on the Adoption of the Rules of Procedure of Parliament.

The amendments made to the first four laws, relating to the justice system, are intended to improve the legislation dealing with the organisation of the judicial system in order to secure and increase the independence of the judiciary. The basis of the proposed amendments is the assignment of a decisive role in the process of appointing and promoting judges to the main organ of judicial self-government, the High Council of the Judiciary.

The new version of the Law on the High Council of the Judiciary states that this body will henceforth include, in addition to its ex officio members, seven judges elected by secret ballot by the General Meeting of Judges of the Republic of Moldova, and two members – one nominated by the parliamentary majority and one by the opposition – elected by parliament from among professors.

It should be noted in this connection that the amendments referred to were adopted by a consensus of the different political forces present in parliament and will lead to an increase in the responsibility and professionalism of judges, as well as to greater transparency of the judicial system as a whole and more effective protection of human rights and freedoms.

Amendments and additions have been made to 35 articles of the Electoral Law, relating, generally speaking, to the introduction of certain new elements in the nomination procedure, the places where election posters may be displayed, the principles governing the setting up of the Central Electoral Commission, changes to the ballot paper and the voting procedure, and, of course, as also required by the Venice Commission, a lowering of the electoral threshold for parties from 6 to 4%, and for electoral blocs composed of two or more parties, to 8%. Article 6 of the Electoral Law stipulates that, of the nine members of the Central Electoral Commission, seven shall be appointed by parliament, including five by the opposition parties, depending on the number of seats held.

Following the amendments to the Law on the Information and Security Service, this body no longer has the right to run pre-trial detention facilities or to conduct criminal investigations. The Law on the Adoption of the Rules of Procedure of the Moldovan Parliament has been amended on similar lines, with the setting up within the Committee on National Security, Defence and Public Order of a sub-committee for parliamentary scrutiny of the activity of the Information and Security Service.

Parliament has also made major changes in the Law on the Court of Auditors, relating to the definition of a number of auditing concepts, the exact definition of the responsibilities of the Court of Auditors, the obligations of audited institutions, the procedure for appointing the members of the Court,

and the management of public funds. A new rule has been introduced relating to the composition of the Court, under which the opposition is to be represented by four members and the parliamentary majority by three. This amendment will enable the Court of Auditors to operate independently, uninfluenced by the ruling party.

The working group set up to draft proposals for amendments to the legislation on broadcasting and the media and those responsible for amendments to the legislation on the Procuratura and local public administration are endeavouring to complete packages of amendments by the autumn for subsequent adoption.

At this stage, I welcome, and I congratulate my fellow parliamentarians on, the fruitful co-operation between the ad hoc groups and their efforts geared to creating a legislative base consistent with the requirements of European standards.

However, it is absolutely essential to mention that, very recently, on the initiative of the President of the Republic, Mr Vladimir Voronin, the Moldovan Parliament adopted the Law on the basic provisions of the special legal status of localities on the left bank of the Dniestra (Transnistria). This law contains certain basic provisions of the special legal status of the above-mentioned localities as an inalienable part of the Republic of Moldova, relating in particular to the representative body, ownership, the legal entity etc, which form the basis for the drafting and subsequent adoption of the Law on the Special Legal Status of Transnistria.

Ms Durrieu, I am very pleased to see the results of this parliamentary work, and hope that the examination of these legislative packages will have a positive impact on the image of the Republic of Moldova and will help to increase transparency, and what is more important, my country's prospects of completing the monitoring process.

I am certain that your attachment to Moldova and its citizens, the advice you give us, your own efforts and also those of your colleague, Mr Andre Kvakkestad, will continue in the same spirit, occasionally severe, but always objective, which is extremely beneficial and useful to our country.

Ms Durrieu, I take the liberty of expressing my conviction that you remain the true friend, as we know you, and the ally on whom our country will always be able to rely in its efforts to consolidate a democratic society having European aspirations and functional democratic institutions, contributing directly to the realisation of the Council of Europe's recommendations and the implementation of the Republic of Moldova-European Union Action Plan.

I look forward to meeting you and talking with you during the October session of the PACE.

Yours sincerely,  
Marian LUPU

## APPENDIX II

**Declaration  
by the Parliament of the Republic of Moldova  
on the initiative of Ukraine regarding the settlement of the Transnistrian conflict**

Defining the peaceful and democratic solution of the Transnistrian conflict, the restoration of territorial integrity of the Republic of Moldova, as well as the achievement of reunification of the people as an indisputable priority of the country's internal development,

Proceeding from the understanding of the importance of achieving a broad internal and international consensus on the matter of identifying ways of settling the Transnistrian conflict,

The Parliament of the Republic of Moldova welcomes the initiative by President of Ukraine Mr. Victor Yushchenko to support the aspiration to reintegrate the Republic of Moldova and views the Ukrainian proposal as an important step designed to strengthen the territorial integrity of our state and appreciates highly the efforts toward a most rapid elimination from the Transnistrian zone of the separatist, authoritarian, and criminal regime which undoubtedly constitutes a threat to regional security.

The Parliament of the Republic of Moldova states that the proposal by Ukraine contains a new and efficient approach toward Transnistrian settlement – *achieving settlement through democratization*. Such an approach is capable of consolidating the international effort by democratic states in solving the conflict and activating the civil society of the Transnistrian region in the achieving of its fundamental rights and freedoms.

At the same time the Parliament of the Republic of Moldova notes that the Ukrainian initiative does not reflect some principles of settlement, including those that deal with:

- the withdrawal of Russian troops;
- demilitarization, the principles and conditions of the region's democratization;
- the establishing of a transparent and legal control over the Transnistrian segment of the Moldovan-Ukrainian state border;

The Parliament of the Republic of Moldova proceeds from the fact that these issues have to be resolved based on additional efforts by the international community entailing active efforts on the part of Ukraine.

The Parliament of the Republic of Moldova also notes that a series of provisions in the plan may infringe upon the sovereignty of the Republic of Moldova and raise doubts regarding the efficiency of some elements of this plan. These are the issues pertaining to the co-participation of the Transnistrian zone in the conduct of foreign policy of the Republic of Moldova, as well as the proposal to create the so-called conciliation committee. At the same time, the Parliament of the Republic of Moldova expresses hope that some contentious points will be solve based on the norms of the Constitution of the Republic of Moldova and international law, within the framework of a constructive dialog with new democratic leaders of the Transnistrian zone.

The Parliament of the Republic of Moldova believes that the plan for the settlement of the Transnistrian conflict proposed by Ukraine constitutes a proof of the openness and a positive start for a development of a constructive international dialog on this issue at a level of new quality.

The Parliament of the Republic of Moldova expresses its hope that the initiative of Ukraine will become a major factor in the achievement by Moldova of its territorial and civil unity, as well as for the European prospects of our country.

**APPEAL of the Parliament of the Republic of Moldova concerning the Principles and Conditions of the Demilitarisation of the Transnistrian Zone**

Reaffirming the commitment of the Republic of Moldova to observe international acts in the field of security, weaponry and disarmament control,

Proceeding from provisions of the Declaration of the Parliament of the Republic of Moldova on Political Partnership to Achieve the Objectives of the European Integration of March 24, 2005 and, in particular, from principles concerning the peaceful, democratic and definitive resolution of the Transnistrian problem,

Understanding that the military factor of the Transnistrian problem is defiance to the national and regional security that needs to be solved immediately,

The Parliament of the Republic of Moldova requests the assistance of the OSCE, EU, CoE, the USA, Russian Federation, Ukraine and Romania in order to remove the threats represented by the military factor of the Transnistrian conflict through demilitarisation of the zone by concerted efforts of the international community.

Proceeding from provisions of Article 11 of the Constitution of the Republic of Moldova, the Parliament reaffirms that the territory of the Republic of Moldova, as a neutral state, cannot be used for dislocation of the armed forces of other states.

Basing on this constitutional provision, as well as being sure of the special interest of international community in a speedy settlement of the Transnistrian conflict, the Parliament of the Republic of Moldova stipulates the following indispensable conditions for the demilitarisation of the Transnistrian zone:

1. The Russian Federation shall finish the withdrawal and liquidation of Russian military arsenal, as well as the withdrawal of Russian military forces from the territory of the Republic of Moldova by the end of 2005.
2. The Russian Federation and the Republic of Moldova shall recognize that the military units dislocated under the Moldovan-Russian Agreement of July 21, 1992 in the security zone of the Republic of Moldova achieved their provided purposes, following to be reduced gradually and removed completely from the territory of the country till December 31, 2006. Simultaneously, within the mentioned period, after a request made by the Republic of Moldova to the OSCE, it shall be performed the gradual and full transformation of the existent pacifying operation into an international mechanism of military and civil observers that will act with the OSCE mandate, and the Moldovan-Russian Agreement of July 21, 1992 losing its relevancy. The International Mission of Military and Civil Observers with the OSCE mandate shall operate in the Republic of Moldova up to the full political settlement of the Transnistrian conflict.
3. The Republic of Moldova assumes the obligation to propose within the NATO Program "Partnership for Peace" and to achieve through the International Mission of Military and Civil Observers the dissolving of military formations in the zone, the liquidation of weaponry and military technique, as well as social rehabilitation and requalification of persons that belong to the staff of so-called Transnistrian military formations.
4. In its turn, after the fulfilling by the Russian Federation of its obligations assumed within the Istanbul OSCE Summit (1999) on full, undelayed and transparent withdrawal of army and weaponry from the territory of the Republic of Moldova, including the contingent and armament under the Moldovan-Russian Agreement of July 21, 1992, the Parliament of the Republic of Moldova expresses its availability to ratify the adapted Treaty on Conventional Armed Forces in Europe, which represents a fundamental element of the European security.

The Parliament of the Republic of Moldova adopts this appeal and submits it to the OSCE, EU, CoE, the USA, Russia, Ukraine and Romania in order to obtain their support for fulfilling effectively the demilitarisation of the Transnistrian zone of the Republic of Moldova in the proposed variant, as well as in view of unifying the efforts to strengthen regional security, stability and sustainable democratic development in this part of Europe.



**APPEAL of the Parliament of the Republic of Moldova "On promoting the criteria of democratization in the Transnistrian region of the Republic of Moldova"**

Re-confirming its adherence to international conventions regarding fundamental human rights and freedoms;

Taking into view the principles of the Declaration of Republic of Moldova's Parliament of 24 March 2005 regarding political partnership towards achieving the objectives of European integration;

Defining the peaceful and democratic restoration of the Republic of Moldova's territorial integrity as the most important priority, that serves as a guarantee for its stable and lasting development;

Believing that the existence of a separatist, authoritarian regime in the Transnistrian region of Moldova, which has deprived the population of fundamental human rights and freedoms, and which openly ignores the standards and criteria of the UN, OSCE and CoE, is intolerable in a modern Europe;

Taking into consideration the fact that this "frozen conflict" constitutes a breeding ground for regional instability;

Being aware of the fact that the absence of control on the part of the Republic of Moldova's central state authorities over part of its territory and over a segment of the state border is incompatible with the European option of the Republic of Moldova;

Welcoming the initiatives of Ukraine's President Victor Yushchenko, aimed at the final and lasting settlement of the Transnistrian conflict;

Underlining the importance of the provisions, included in Ukraine's initiatives, concerning the necessity of democratizing the Transnistrian region as an indispensable condition for the restoration of the supremacy of law in the zone, for the creation of conditions which would guarantee the rights and freedoms of all citizens, regardless of nationality, beliefs and religious denomination, and, as consequence, for the fair and lasting resolution of this conflict;

**The Parliament of the Republic of Moldova adopts the present Appeal:**

The organization of free and democratic elections in the Transnistrian region is impossible in conditions where the norms of Republic of Moldova's Constitution and international democratic standards are ignored, in absence of political pluralism and freedom of expression, suppression of any manifestation of attitude different from the one imposed by force;

The Parliament of the Republic of Moldova proceeds from the fact, that in order to uproot the abovementioned abuses it is necessary to impose a large-scale and comprehensive process of democratization of the zone with control and monitoring on the part of the international community, which, among other aspects, should include the following measures:

- abolition of the political police (the so-called Ministry of State Security), that suppresses any manifestation of liberty and eliminates political opponents of the current separatist regime, which makes the preparation and organization of free and democratic elections, in accordance with OSCE and CoE standards, impossible;
- reforming the so-called judicial branch of the Transnistrian region;
- freeing political inmates who are illegally imprisoned in the jails of the Transnistrian region, in accordance with the CEDO decisions of 8 July 2004;
- removing the impediments for the free activity of political parties from Republic of Moldova on the territory of the Transnistrian region;
- removing the impediments for the unobstructed activity of national and local mass-media outlets on the territory of the Transnistrian region;

- removing the impediments for the unobstructed activity of nongovernmental organizations and development of civil society as an important element of the public realm in a democratic state;
- conducting elections in the Transnistrian region of Republic of Moldova under the exclusive aegis of an International Election Commission, mandated by OSCE, with the largest possible representation of its member-states within its composition;
- exercising the right to participate in the zone's electoral process only on basis of confirmation of citizenship of Republic of Moldova;
- monitoring of international standards must be carried out by the International Election Commission at least five months before the date of elections;
- the international monitoring of democratic standards in the Transnistrian region, as well as the organization of the electoral process by the International Election Commission, may not result in any consequences regarding the recognition of this entity on the basis of international law.

The Parliament of Republic of Moldova expresses its conviction that without the preliminary assurance of the abovementioned conditions it is impossible to guarantee the rights of citizens from this zone of Republic of Moldova to free expression of will as a key element for the free and democratic resolution of the Transnistrian conflict, as well as makes impossible the creation of representative bodies in the Transnistrian region.

In this context, the Parliament of Republic of Moldova requests the CoE, OSCE and EU to actively include themselves in the process of democratization of the Transnistrian region and hopes to find the support of these European institutions in the realization of the abovementioned criteria regarding the democratization of this zone as an essential element in the political settlement of the Transnistrian conflict.

## APPENDIX III

**Visit to the Republic of Moldova of the Monitoring Commission delegation of the Parliamentary  
Assembly of the Council of Europe (PACE)  
(May 24th – 28th, 2005)**

<b>PROGRAMME</b>
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**Members of the delegation of PACE:**

Co-rapporteurs: Mrs Josette Durrieu (France, Socialist Group)  
Mr Andre Kvakkestad (Norway, European Democrats Group)

Secretariat Mrs Bonnie Theophilova-Permaul

**Tuesday, May 24th, 2005**

- 15:20** Meeting of Mr. A. Kvakkestad at the airport  
*MA6124*
- 16.30** Meeting of Mrs. Josette Durrieu and Mrs. Bonnie Theophilova-Permaut at  
*OS 655* the airport;  
Accommodation at hotel „Dedeman”
- 18.00** Meeting with representatives of NGO's  
*Responsible: Mr. V. Philipov, SRSG of CoE in Moldova*
- 20.00** Dinner offered by H. E. Mr. Edmond Pamboukjian, Extraordinary and  
Plenipotentiary Ambassador of France in Moldova  
*Responsible: the Embassy of France in Moldova; Mr. V. Philipov,  
SRSG of CoE in Moldova*

**Wednesday, May 25<sup>th</sup>, 2005**

- 8:30-11:00** Meeting with:  
*room 300*
- Mrs. Victoria Iftodi, Minister of Justice
  - Mr. Victor Pușcaș, Chairman of the Constitutional Court
  - Mrs. Victoria Șterbeț, Chairwoman of the Supreme Court of Justice
  - Mr. Valeriu Balaban, Prosecutor General
  - representatives of the Judges' Association
  - representatives of the Bar Association
  - the Center for Human Rights of Moldova
- 11:15- 13:15** Meeting with:  
*room 300*
- Mr Andrei Stratan, Viceprime-Minister, Minister of Foreign Affairs of the Republic of Moldova
  - Mr Vasile Șova, Minister of Reintegration
  - Mr Victor Țvircun, Minister of Education, youth and Sports
- 13:30-14:30** Lunch offered by Mr. Sergiu Stati, Chairman of the Parliamentary committee on  
*Rest. of Parliam.* foreign policy and European integration
- 14:45-15:15** Meeting with Mr. Serafim Urechean, Chairman of the parliamentary faction of  
*room 300* “Alianta “Moldova Noastra”

- 15:25-16:05**  
*room 300* Meeting with Mr. Iurie Roșca, Deputy Chairman of the Parliament and with Mr. Vlad Cubreacov, Chairman of the parliamentary faction of the People's Christian Democrat Party
- 16:15-16:45**  
*room 300* Meeting with Mr. Dumitru Diacov, Chairman of the parliamentary faction of the Democrat Party of Moldova
- 17:00-17:40**  
*room 300* Meeting with Mrs. Maria Postoico, Deputy Chairwoman of the Parliament and with Mrs. Eugenia Ostapciuc, Chairwoman of the parliamentary faction of the Communist Party of the republic of Moldova
- 17:50-18:30**  
*room 300* Meeting with Mr. Marian Lupu, Chairman of the Parliament of the Republic of Moldova
- 19:00-20:30**  
*Rest. of Parliam.* Dinner offered by Mr. Marian Lupu, Chairman of the Parliament of the Republic of Moldova

**Thursday, May 26<sup>th</sup>, 2005**

- 8:30-9:20**  
*room 300* **Meeting with:**
- Mr Ilie Teleșcu, Director of the National Public Institution of the Broadcasting the Company Teleradio Moldova and with members of the Supervisory Board;
  - Mr Iurie Tăbîrță, Chairman of the Broadcasting Coordinating Council
- 9:30-10:30** Continuation of the meeting, including with representatives of NGO's dealing with mass media
- 10:45-12:45**  
*room 300* **Meeting with:**
- Mr Vasile Tarlev, Prime-Minister of the Republic of Moldova;
  - Mr Gheorghe Papuc, Minister of Internal Affairs of the Republic of Moldova
  - Mr Valeriu Lazăr, Minister of Economy and Trade
  - Mr Valerian Revenco, Minister of Healthcare and Social Protection
  - Mr Valentin Mejinschi, Director of the Center for combating economic crimes and corruption
- 13:00-13:50**  
*Rest. of Parliam.* Working lunch
- 14:00-15:00**  
*Presidency* Meeting with H.E. Mr. Vladimir Voronin, President of the Republic of Moldova
- 15:10** Departure of Mrs. J. Durrieu to the International Airport of Chișinău
- 16:15** Take off for Budapest
- 15:10** Departure for Comrat (Găgăuzia)
- 16:30-17:30** Meeting with Mr. Gheorghii Tabunșic, Bașcan of Găgăuzia, Mr. Stepan Iasir, Chairman of the National Assembly and with members of the local public administration
- 18:30** Return to Chișinău

**Friday, May 27<sup>th</sup>, 2005**

9:00 Departure for Transnistria

15:00 Return from Transnistria

16:00 Departure of Mr. A. Kvakkestad and of Mrs. B. Theophilova-Permaul to the International Airport of Chişinău

17:30 Take off for Vienna  
OS 656

*Reporting committee:* Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).

*Reference to committee:* Resolution 1115 (1997).

*Draft resolution and recommendation* unanimously adopted by the committee on 7 September 2005.

*Members of the committee:* Mr György **Frun**da (Chairperson), Mrs Hanne **Severinsen** (1<sup>st</sup> Vice-Chairperson), Mrs Naira Shakhtakhtinskaya (2<sup>nd</sup> Vice-Chairperson), Mr Mikko **Elo** (3<sup>rd</sup> Vice-Chairperson), Mr Pedro **Agramunt**, Mr Bakhtiyar **Aliyev**, Mr René André, Mr Giuseppe Arzilli, Mr David Atkinson, Mr Jaume Bartumeu Cassany, Mrs Mertixell Batet, Mrs Gülsün **Bilgehan**, Mr Rudolf Bindig, Mrs Mimount Bousakla, Mr Luc **Van den Brande**, Mr Patrick Breen, Mrs Beáta Brestensktá, Mr Milos Budin, Mr Mevlüt **Çavuşoğlu**, Mr Jonas Čekuolis, Mr Doros Christodoulides, Mr Boriss **Cilevičs**, Mr Georges Colombier, Mr Joseph Debono Grech, Mr Juris Dobelis, Mrs Josette **Durrieu**, Mr Mátyás Eörsi, Mr Eduardo Ferro Rodrigues, Mr Jean-Charles Gardetto, Mr József **Gedei**, Mr Marcel Glesener, Mr Stef Goris, Mr Andreas **Gross**, Mr Alfred Gusenbauer, Mr Michael Hagberg, Mr Michael **Hancock**, Mr Andres Herkel, Mr Jerzy **Jaskiernia**, Mr Erik **Jurgens**, Lord Kilclooney of Armagh, Mr Evgeni **Kirilov**, Mr Shavarsh **Kocharyan**, Ms Synnøve Konglevoll, Mr Konstantin Kosachev, Mr André **Kvakkestad**, Mrs Darja Lavtižar-Bebler, Mrs Sabine Leutheusser-Schnarrenberger, Mr Eduard Lintner, Mr Mikhail Margelov, Mr Dick **Marty**, Mr Frano Matušić, Mr Miloš **Melčák**, Mr Neven **Mimica**, Mr Azim **Mollazade**, Mr Zsolt Németh, Mr Ibrahim **Özal**, Mr Theodoros **Pangalos**, Mrs Sólveig Pétursdóttir, Mr Leo Platvoet, Mr Christos **Pourgourides**, Mr Dumitru Prijmireanu, Mr Anatoliy Rakhansky, Mr Dario Rivolta, Mr Armen Rustamyan, Mrs Katrin **Saks**, Mr Kimmo Sasi, Mr Adrian Severin, Mr Vitaliy **Shybko**, Mr Leonid **Slutsky**, Mr Jerzy **Smorawiński**, Mr Michael Spindelegger, Mrs Maria Stoyanova, Mr Qazim Tepshi, Mrs Elene **Tevdoradze**, Mr Tigran Torosyan, Mr Miltiadis **Varvitsiotis**, Mrs Birutė **Vėsaitė**, Mr Rudolf Vis, Mr Oldřich Vojtíš, Mrs Renate **Wohlwend**, Mr Marco Zacchera, Mr Emanuelis **Zingeris**.

*N.B. The names of those members who were present at the meeting are printed in bold.*

*Head of the secretariat:* Mrs Ravaud

*Secretaries to the committee:* Mr Gruden, Mrs Odrats, Mrs Theophilova-Permaul.