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Moldova's 'wannabe democracy' is worth rescuing

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Abstract

The consequences of the post-electoral impasse in which Moldova finds itself after the parliamentary elections on 5 April 2009 are immense for the EU's relations with Moldova and for the success of its European Neighbourhood Policy (ENP) and Eastern Partnership (EaP). Despite many problems, Moldova is considered one of the 'frontrunners' as regards ENP implementation and is poised to negotiate an Association Agreement and a deep and comprehensive free trade agreement in the coming months. Yet the violent protests that rocked the Moldovan capital, Chisinau, on 7 April 2009, and the authorities' subsequent violent arrests and beatings of protesters, journalists and opposition figures, may have negative repercussions on Moldova's European integration efforts. The reversal in Moldova's transition to a Western-style democracy may accelerate, failing a resolute response by the EU. This policy brief argues that first, the EU should put pressure on Moldova to stop its crackdown and investigate human rights violations, and second, the EU should make an attractive offer of increased cooperation and assistance if Moldovan authorities seek an agreement with the opposition and show progress in implementing democratic reforms. Failing this, the EU may witness yet another undoing of democratic reforms by one of its Eastern neighbours.

Three scenarios for Moldova

In Moldova's April parliamentary elections, the ruling Communist Party won 60 out of the 101 seats (61 votes are needed to elect the president). Following the call of opposition parties and civil society activists, notably through the Internet (the protests have also been dubbed Moldova's 'twitter

revolution'), which accused the Communists of electoral fraud, around 15,000 persons turned up to protest in Chisinau's main square. The protests soon turned violent with the demonstrators setting the evacuated presidency and parliament buildings on fire. Emerging evidence would suggest that among the demonstrators there were provocateurs who had infiltrated the protest and who instigated the crowd to violence. In subsequent days, the government cracked down on peaceful protestors, bystanders, journalists and some opposition figures. There are already three confirmed deaths, probably following torture and ill treatment at the hands of the Moldovan police, and several hundreds have been arrested.¹ Many local and foreign journalists have been intimidated or forced to leave Moldova.

The significance of this for Moldova should not be underestimated. Moldova has been credited since its independence in 1991 for being among the select few post-Soviet states where elections have been relatively free and fair. Notwithstanding the administrative abuses, intimidation of the opposition and their restricted access to the media during the 2009 electoral campaign, in its preliminary election-monitoring report the OSCE suggests that these elections were without major violations of European electoral standards.² The overwhelming victory of the Communists (49.48%) is all the more surprising

¹ See a list of persons compiled by Chisinau town hall who have been arrested and suffered ill treatment, 16 April 2009 (retrieved from <http://www.chisinau.md/news/?nid=59a800d13f6f8167b80df94c6a3c6e4c>).

² See the "Statement on preliminary findings and conclusions" by the International Election Observation Mission during the parliamentary elections in Moldova on 5 April 2009 (retrieved from http://www.osce.org/odihr/item_12_36406.html).

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given that they lost the 2007 local elections to the opposition and public support had been on the wane after the party's eight years in power. The three main opposition parties that made it into parliament have requested a verification of the electoral lists, which are thought to contain many names of ineligible, deceased or expatriated voters. Nevertheless, the president only agreed to a recount of the votes. The recount was validated by Moldova's Constitutional Court on 22 April 2009, but it does not change the election outcome. In the meantime, the opposition parties continue to record cases of electoral fraud on electoral lists. A reassessment of the election results and post-electoral violence, under the supervision of the OSCE and the EU, is therefore a necessary and urgent matter.

Most importantly, the 2009 elections have disrupted a tradition of peaceful and regular transfers of power from the government to the opposition in competitive elections, which Moldova has enjoyed since independence. The same trend has been present in other Central and Eastern European states, now EU members, and it has turned Moldova into a good democratic performer in the post-Soviet space where elites usually cling on to power indefinitely. Moreover, if the Communist Party is not strongly condemned for its abuses, it may fall into the hands of hard-liners, who have been arguing in favour of a Belarus scenario and an outright ban of the opposition from public politics. Even if such a scenario is unlikely, the disruption of legitimate channels of communication between the government and opposition and the gradual elimination of an independent media and judiciary already taking place will lead Moldova onto a path of authoritarianism. This is a second possible scenario and it will likely follow the pattern of Ukraine in the later years of former President Leonid Kuchma: building up a police state, pushing the opposition onto the streets and strengthening ties with similar authoritarian regimes.

A third scenario would imply salvaging Moldova's shattered, pluralist political system and would require stronger EU involvement in solving the political crisis. As Moldovan society remains deeply divided and conflict-prone, for the sake of stability the Communist authorities need to reach out to other groups in Moldovan society and engage in political dialogue with the opposition, which in the event of EU pressure may be favoured by moderate Communists. The EU can play a crucial mediating role here. Growing proof of large-scale election fraud may be used by the EU to mediate a power-sharing arrangement between the Communists and the opposition. It is possible to envisage the formation of an interim government including the

Communist and opposition parties, which would be in charge (for no longer than a year) of running current government affairs and preparing for new elections. The EU could promise financial assistance for the new elections and a massive election-observation presence. The EU could be a persuasive mediator by using the carrots and sticks at its disposal. Opening negotiations on a new Association Agreement may be such a carrot. The EU could also use negative consequences, for instance the threat of withholding ENPI funding or suspending agreements such as those on visa facilitation and the ATP regime. The aim should be to convince the main political contenders that only a legitimate government could bring the much-needed political stability and prosperity to Moldova.

Good neighbour, bad neighbour?

Furthermore, by directly accusing neighbouring Romania of attempting nothing less than a coup d'état, Moldova risks unnecessarily complicating its relations with the EU. During the protests, Moldova reintroduced a visa regime with Romania and expelled dozens of Romanian citizens (including most journalists) along with the Romanian ambassador. Initially, Romania strongly condemned these steps, but stated that it would not retaliate and that it would continue to support Moldova's European integration efforts.³ It is indeed imperative for Moldova that Romania is not alienated and that it remains a genuine 'advocate' of Moldova's EU integration efforts. Romania has substantial expertise on Moldova for the EU to draw upon and can assist Moldova's EU integration efforts in a variety of ways.

Still, Romanian President Traian Basescu poured fuel on the fire on 14 April when he announced the speeding-up of the process of granting Romanian citizenship to Moldovans so that it will take a maximum of five months. One day later the Law on Romanian citizenship was simplified,⁴ which applies to Moldovan applicants whose (great-)grandparents were dispossessed of their Romanian citizenship under the former Soviet Union (currently over 800,000 Moldovans have applied). Such a hasty move comes at a bad time and seems ill considered for a number of reasons. First, it provides further arguments to the Communist

³ See the press statement of the Romanian Ministry of Foreign Affairs regarding the decisions of the authorities in Chişinău on 8 April 2009 (retrieved from <http://www.mae.ro/index.php?unde=doc&id=13290&idlnk=2&cat=4>).

⁴ The law was modified by a government emergency decree on 15 April 2009, but it still needs the approval of the Romanian parliament.

authorities and other states seeking to blame Romania for undermining Moldova's statehood and sovereignty. Second, Romania actually may not have the administrative capacity to process such a huge number of applications in under five months and many Moldovans may become disillusioned. Third, Basescu's response may also be viewed as a pre-electoral manoeuvre ahead of Romania's presidential elections later this year. The Romanian president has been advocating such a measure ever since coming to power four years ago, but until April had not taken steps to implement it. Why do so now, in the midst of a diplomatic crisis with Moldova, when all eyes are fixed on the region? Finally, the EU is also frowning upon the move, dreading the appearance of a million or so EU citizens in an undemocratic state with a separatist conflict on its territory, on the EU's eastern border. The implications would be huge for the EU's enlargement policy, the ENP, the resolution of the Transnistrian conflict and for EU relations with Russia. Most EU member states are also fearful of another wave of migrant workers, this time EU citizens. Hence, there is a chance that Romania's tit-for-tat measure may amount to nothing more than a bluff.

'Eastern neighbourhood' in the balance

Apart from having severe consequences for Moldova's future, the present situation also has serious implications for the EU's ENP and EaP. As the EaP is being put into place, all Eastern neighbours are experiencing setbacks in their democratic transitions and in the worst cases they are being taken over by creeping authoritarianism. Ukraine's domestic reforms have stalled because of political infighting between the president and the prime minister; Georgian President Mikhail Saakashvili has used repression to silence the opposition and media; the ruler of Azerbaijan, Ilham Aliyev, won a referendum that enables him to stay in power for a lifetime; and the election of Serzh Sargsyan as the president of Armenia was followed by demonstrations, which led to the deaths of 10 persons at the hands of the police. None of these leaders has experienced any negative consequences on the part of the EU for their undemocratic behaviour. To add to the confusion, Belarus has received an invitation to the EaP, despite making only token improvements to its authoritarian record. The EU's ambivalence may have sent the wrong signals to Moldova's president, who is hoping to get away with repression and abuses. Should the EU fail to act, the credibility of the ENP and EaP as soft power tools for integrating the EU's Eastern neighbourhood will be at stake if yet another

Eastern neighbour slips further away from the EU's declared values on democracy and human rights.

On the one hand, the EU is apprehensive about criticising some of these states, being aware that it may push them further away and into Russia's arms. But some states, like Azerbaijan and Armenia, may simply drift towards Russia owing to the attractiveness of the Russian-style 'sovereign democracy' and 'illiberal capitalism'. Georgia is already using the Russian threat as a pretext to build a strong (authoritarian) state, thereby moving in the same direction as Azerbaijan and Armenia but under pro-Western slogans. Hence, there is no point in fearing a pro-Russian backlash, since positive EU measures would not necessarily prevent Moldova's rapprochement with Russia. Similarly, as the Georgian case proves, a pro-Western orientation is not a guarantee that democracy will prevail. Thus, the Eastern neighbours tend to sustain their authoritarian regimes by choosing to cooperate with either the EU or Russia at convenience. This leads to another point: the EU should take the developments in its Eastern neighbourhood at face value and act more in accordance with its own norms and values. The EaP should be adapted so that it is possible to reward and sanction these states with greater flexibility.

On the other hand, the EU has often found itself incapacitated by the concerns of member states that EU activism in its Eastern neighbourhood would be opposed by Russia, which considers the post-Soviet states to be an area of its 'special interest'. Indeed, the Russian reaction to the Moldovan post-electoral violence has been swift and straightforward. On 8 April, the Russian Ministry of Foreign Affairs and Duma sustained that the Moldovan elections were "in full correspondence with democratic and legal norms". Moreover, they accused some unidentified internal and external actors of purposefully undermining the "socio-economic stability" and "balanced foreign policy" in Moldova, as well as its "independence and sovereignty".⁵ Nevertheless, there are grounds to believe that the EU's more active support of democracy in Moldova would not come with the same complications as it does for instance in Ukraine (where Russian interests are huge), in Georgia (a US ally with strategic importance for Russia), in Azerbaijan (where oil resources are courted by Russia) or even Armenia

⁵ See the statement "On the events in Moldova" by the Russian Ministry of Foreign Affairs, 8 April 2009 (retrieved from http://www.mid.ru/brp_4.nsf/sps/9B0F3ACDA3E8B52CC3257592002C3EB8); see also the statement "On the events in the Republic of Moldova" by the Russian Duma, 8 April 2009 (retrieved from <http://www.duma.gov.ru/>).

(whose allegiance lies with Moscow), not to mention Belarus. Moldova does not have a common border with Russia, Moldova's non-alignment with military blocks is enshrined in the Moldovan constitution, and it has rather limited strategic importance for Russia in terms of political, economic or military cooperation. Furthermore, given Russia's long-term obstruction of the conflict-resolution process in Transnistria, the Moldovan elites would most probably be among the most reluctant Russian 'clients'.

Finally, other factors argue in favour of a stronger EU involvement in Moldova. First, the strong cultural and linguistic links with Romania will inevitably keep Moldova deeply connected to the EU. Second, many Moldovans work and study in the EU and over 70% of Moldovans living in the country support European integration. Third, Moldova is a very poor country and relies heavily on EU assistance and expertise, including that on solving the Transnistrian conflict. Fourth, the EU has become Moldova's main trade partner, partly owing to the introduction of the system of Asymmetric Trade Preferences (ATP) and partly owing to Romania joining the EU. The EU is now a threefold larger trading partner than Russia. Against this background, the EU can easily rely on the use of conditionality and socialisation to induce democratic reforms in Moldova. Most importantly, coming to the rescue of Moldova's democracy may be beneficial not only for Moldova itself, but may also contribute to ensuring the success of the ENP/EaP, particularly ahead of the EaP's launch scheduled on 7 May 2009.

Recommendations

The EU has been very cautious in responding to events in Moldova in relation to the tools at its disposal and in relation to Moldova's importance for the success of the EU's neighbourhood policies. In the days following the elections, the EU issued several statements calling for calm and dialogue and sent the EU special representative (EUSR) for Moldova to Chisinau on 7 April for talks with the authorities and opposition parties. Several weeks after the elections, on 22 April 2009 Czech Prime Minister Mirek Topolánek (holding the EU presidency) went to Moldova and met with President Vladimir Voronin and the opposition. Topolánek urged the authorities to start a dialogue with the opposition and to set up a new investigation commission, including the opposition and European Commission officials, to look into allegations of human rights violations. Still, there has been no clear EU condemnation of the human rights violations perpetrated by the outgoing government nor has there been one on the fraudulent nature of

the elections. Crucially, the EU has to think of an attractive offer for the new government, conditional upon a political agreement with the opposition and implementation of further democratic reforms. A deeper political agreement with the EU, which may include the promise to start negotiations on an Association Agreement or a visa-free regime, may help put the new government back on the reform track. Paradoxically, the economic crisis could also come in handy here. As Moldova is badly in need of financial assistance, it may show itself more amenable to EU, IMF or World Bank demands on democratisation. Overall, an EU response to Moldova's crisis has to include a set of immediate actions, coupled with a set of mid-term policies vis-à-vis Moldova, as outlined below.

Immediate actions

- **Condemn the human rights violations.** The EU should formally condemn the human rights violations and use formal and informal channels to apply pressure on Moldova to ensure that the new government will strictly adhere to democratic principles and human rights.
- **Send a fact-finding mission.** The fact-finding mission should 1) establish whether the elections were indeed free and fair; and 2) document and investigate the cases of arrests, physical abuse and other human rights violations. If enough evidence on electoral fraud is gathered to warrant new elections, the EU should provide financial assistance and a large election-observation mission.
- **Actively mediate between the authorities and opposition.** The EUSR should receive a strong mandate to actively mediate between the Communists and the main opposition parties in order to arrive at a political agreement on whether to recognise the elections or to organise new elections following a power-sharing deal and more generally to cooperate within Moldova's constitutional framework.
- **Ask for a number of guarantees.** These should include that all the persons arrested will be granted amnesty and released (except where cases of violence or vandalism are actually proven). All officials found guilty of administrative or physical abuse or harassment of the opposition media and activists during the election campaign should be sanctioned. All journalists, whether foreign or local, should be allowed to work unhindered.

Medium-term actions (after the formation of a new government)

- **Insist on reforms.** The EU should urgently invite the government to introduce several reforms that would improve future elections. In particular these should entail lowering the electoral threshold from 6 to 3% in line with the recommendations of the Venice Commission, reforming the Audiovisual Council, making the public broadcaster truly independent and resuming TV broadcasting of the parliamentary debates (interrupted in 2007), and prolonging the TV license of the main independent ProTV, etc.
- **Improve Romanian–Moldovan relations.** Moldova should refrain from launching serious accusations against an EU member state without offering evidence. Romania should currently refrain from actions that further escalate the diplomatic row such as granting passports en masse to Moldovan citizens. Relations could be normalised by agreeing on the terms of a basic treaty and a border treaty. The EU should condemn Moldova’s introduction of a visa regime for Romanian citizens and the arrests and expulsions of EU citizens (mostly Romanian).
- **Make use of conditionality.** The EU should clearly state that the start of negotiations on an Association Agreement, free trade agreement or visa-free regime are conditional on the new government making a satisfactory effort to bring its policies in line with European norms and mending the consequences of the post-electoral breakdown. Negative consequences, such as withholding ENPI funds or suspending a number of agreements can also be considered (i.e. the visa-facilitated regime and the ATP system).
- **Consider sending an EU rule-of-law mission.** Such a mission should have a strong mandate to help reform the police and the general prosecutor’s office and to second EU officials across law-enforcement institutions.
- **Assist with a package to address the economic crisis.** The European Commission might assist the new government to develop a proper economic reform programme that would include the international financial institutions (IMF and World Bank).

Since coming to power in 2001, the Moldovan Communist Party has succeeded in putting into place a democracy in name only – a ‘wannabe democracy’ where elections serve as a cover for perpetuating an authoritarian regime. The authorities’ human rights violations in the aftermath of the elections seriously put into doubt any future commitment to European norms and values. Following the failure of the coloured revolutions and the recent events in Moldova, the regional context increasingly shows that unstable authoritarian systems are more often the norm than the exception in the EU’s Eastern neighbourhood, despite the existence of the ENP framework and the hundreds of millions of euros already disbursed by the EU. It is therefore time for the EU to put in place a ‘democracy alert’ mechanism that would detect signs of authoritarian backsliding and would ensure that the EU acts in time to counter such tendencies. Indeed, the EU cannot continuously bolster its ENP offer to its neighbours without also ensuring that the latter share a real and lasting commitment to the EU’s values on democracy and human rights.

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