



USAID | **MOLDOVA**
FROM THE AMERICAN PEOPLE

An Analysis of the State of Democracy and Governance in Moldova

December 2012

This document draws from a November 2012 DG Assessment in Moldova conducted by USAID's Center of Excellence on Democracy, Human Rights, and Governance.

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ACRONYMS AND ABBREVIATIONS

AEI	Alliance for European Integration
CDCS	USAID Country Development Cooperation Strategy
CEC	Central Electoral Commission
CIA	Central Intelligence Agency
CIS	Commonwealth of Independent States
CNP	National Participation Council
COA	Court of Accounts
CPP	Citizen Participation Program
CSO	Civil Society Organization
DG	Democracy and Governance
DS	Freedom House Democracy Score
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECHR	European Court for Human Rights
EDCI	Emerging Donor Challenge Initiative
EG	Economic Growth
EU	European Union
FY	Fiscal Year
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German Society for International Cooperation)
GOM	Government of Moldova
ICMS	Integrated Case Management System
ICS	Integrated Country Strategy
ICT	Information and Communication Technologies
IDIS Viitorul	Institute for Development and Social Initiatives “Viitorul”
INL	Bureau of International Narcotics and Law Enforcement Affairs, US Department of State
IOM	International Organization for Migration
IPP	Institute for Public Policy
IPR	Implementation and Procurement Reform

LCD	Local Capacity Development
LGBT	Lesbian, Gay, Bisexual, and Transgendered
MCC	Millennium Challenge Corporation
MOJ	Ministry of Justice
MOC	Moldovan Orthodox Church
MP	Member of Parliament
NGO	Non-Governmental Organization; <i>see also CSO</i>
NIJ	National Institute of Justice
NORLAM	Norwegian Mission of Rule of Law Advisers to Moldova
NSB	National Statistical Bureau
NSD	National Strategy for Decentralization
NSJSR	National Strategy for Justice Sector Reform
OSCE	Organization for Security and Cooperation in Europe
PCRM	Party of Communists of the Republic of Moldova
PDM	Democratic Party of Moldova
PL	Liberal Party
PLDM	Liberal Democratic Party of Moldova
PMO	Prime Minister's Office
PSRM	Party of Socialists of the Republic of Moldova
SAF	Strategic Assessment Framework
SCM	Superior Council of Magistrates
SCSD	Strategy for Civil Society Development
SIS	Intelligence and Security Service
UN	United Nations
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USG	United States Government
USSR	Union of Soviet Socialist Republics
VAT	Value Added Tax

EXECUTIVE SUMMARY

The purpose of this Analysis of Democracy and Governance (DG) in Moldova is to support USAID/Moldova's DG team in developing a strategic focus for its assistance work over a three-to-five-year period. This focus plan, embodied in a Country Development Cooperation Strategy (CDCS) for Moldova, will in turn feed into an Integrated Country Strategy (ICS) for the Embassy, providing a shared foundation for various USG representatives to work toward common goals.

CURRENT TRENDS IN MOLDOVA

Moldovan politics after independence from the Soviet Union in 1991 was characterized during the first decade by a fierce struggle for power but also by what has been labeled “pluralism by default,” in which no one group was able to monopolize power. The Party of Communists of the Republic of Moldova (PCRM), which came to power in 2001, weakened but did not destroy this pluralism. Support for the PCRM and for President Vladimir Voronin diminished as economic problems accumulated, the country drifted in foreign policy, and hundreds of thousands of citizens voted with their feet by seeking jobs and opportunities abroad.

A contested parliamentary election in April 2009 put an end to PCRM dominance. In September, in the wake of a second election, Voronin ceded power to a cabinet and interim president put forward by an Alliance for European Integration (AEI), consisting of four Western-leaning parties. The AEI, streamlined to three parties – the Liberal Democratic Party of Moldova (PLDM), the Democratic Party of Moldova (PDM), and the Liberal Party (PL) – continued to control the Government of Moldova (GOM) after a third election in November 2010. A protracted crisis over selection of a president by the national parliament was resolved in March 2012 by the appointment of a career judge, Nicolae Timofti, to a four-year term. With parliamentary elections not on the horizon until late 2014, Moldova is likely to experience an interval of calm in which reforms can be advanced and the possibilities for cooperation with external partners will be high.

Moldova in 2012 is considered, in the view of the assessment team, a *borderline and unconsolidated democracy*. Manifesting some of the attributes of a democracy, it is stable in the near run, yet falls far short of the democratic ideal. The short-term trend is one of *halting improvement*, as changes for the better come about in disjointed fashion and corruption and clientelism live on. The GOM leans heavily on external resources and motivation and has a history of broad declarations over concrete actions. Externally sponsored reform will be difficult to sustain politically unless it affords much greater tangible dividends to the people of Moldova than it has hitherto.

DISTILLING THE KEY DG CHALLENGES IN MOLDOVA

Research for this report considered five analytical variables from USAID's Strategic Assessment Framework (SAF):

- *Consensus*: Is there basic consensus on questions of national identity and the fundamental rules of the game, and is the political contest played by those rules?
- *Rule of law*: Is there ordered liberty? Is political, economic, and social life bound by a rule of law?

- *Competition and Political Accountability:* Is there ordered competition and accountability of state to society?
- *Inclusion:* Are there problems of inclusion or exclusion for some segments of the population?
- *Government Effectiveness:* Are public institutions effective in carrying out decisions arrived at by elected officeholders?

Moldova in medium-term perspective must be judged a DG success story by the standards of the neighboring former republics of the USSR. It is more freely governed than nine of the twelve former Soviet states other than the three Baltic countries, which are by now consolidated democracies. There is some good news to report, in differing degrees, on all five defining elements of its political system.

There is, however, disquieting news as well. From Moldovans themselves, the assessment team heard a preponderance of criticism over praise. This is partly a reflection of elevated expectations. It was widely hoped and believed that the AEI alliance would move Moldova much more decisively toward greater democracy, prosperity, and Euro-Atlantic integration than the PCRM government that preceded it. These expectations have been widely disappointed within Moldova and to a lesser extent among foreign donors, although there is no denying the changes for the better in some domains. Underpinning the mood of frustration are realities that cannot be brushed aside. Pluralism by default is alive and reasonably well, but taking the country to another level in its transition will require significant new steps so as to remedy nagging problems.

Of the five elements in USAID's SAF framework, the assessment group concluded that two are relatively low in severity and two are relatively high. The two less pressing DG elements are consensus and inclusion, which are both about the boundaries of the political community. The assessment team is mindful of the difficulties encountered with national unity and the inclusion of minorities, in particular, and that elite and mass expectations of improvement on both consensus and inclusion are modest. But the assessment team sees no emergency concerning either consensus or inclusion and believes that headway on these chronic problems is unlikely to be more than incremental in the coming years.

The two more pressing areas of challenge are rule of law and government effectiveness, which are about the workings of the state apparatus and relations between state and citizenry. On both scores, high subjective expectations of reform have not been met; and in some particulars (corruption, to name one) there has apparently been deterioration in the objective situation, too. In both these fields of activity, the AEI has made eloquent rhetorical commitments to reform, in concert with international partners, and has delivered some betterment but far less than it pledged to deliver. What is more, the assessment team emphasizes rule of law and government effectiveness because they see these factors as cornerstones of the political system. If they are absent or grossly deficient in a modern country, no regime, whether it is democratic or authoritarian, has a chance of consolidating fully.

The last of the five key elements in the SAF framework is competition and political accountability, where recent Moldovan performance has been spotty. The assessment team treats it differently from the other four categories. The assessment team proposes to privilege one facet contained within it – accountability – and generalize it away from the election-centered approach which prevails in this segment of the SAF guidelines. The assessment team's central claim is that unaccountability and a pervasive lack of effectual linkages between the ruled and the rulers amount to a systemic deficiency of Moldovan politics, and that this failing, unless remedied, will doom any future attempts to make improvements with respect to the key concerns of rule of law and government effectiveness. The problem statement is as follows:

Low accountability and pervasive disconnect between citizens and government in Moldova undermine rule of law and effective government.

This assertion leads to offer recommendations that are not only about rule of law and effective government in a narrow, output-oriented sense. They additionally stress inputs – inputs originating with the citizens, whose voices are not often raised or heeded in contemporary Moldova.

1.0 BACKGROUND AND CHALLENGES

1.1 BACKGROUND

Moldova is a small, underdeveloped, and heterogeneous country in southeastern Europe. Moldova is 14th in size among the 15 former Soviet states and 139th in the world. Its population is estimated by the National Statistical Bureau (NSB) to be 3,559,500 as of January 1, 2012 – 11th among the post-Soviet countries, above only Armenia and the three Baltic states. The Central Intelligence Agency (CIA) *World Factbook* pegs the current demographic trend in Moldova (-1.01/1000) as experiencing the third fastest decline in the world. Population is forecast to drop anywhere from 12 percent to 27 percent by 2050, taking no account of migration.¹

Historically, Moldova was “a classic borderland, fought over and divided by outside powers eager to remake the [inhabitants] in their own image.”² The current Republic of Moldova spans the Nistru River in the east and extends west to the Prut; the indigenous language of the bulk of the population here is a dialect of Romanian.³ This territory from the sixteenth to the early nineteenth centuries was an agrarian vassal of the Ottoman Empire, after which it was annexed by the Russian Empire; it became a province of Greater Romania in 1918. In 1940, Moldova was forcibly incorporated into the Union of Soviet Socialist Republics (USSR) as a delayed consequence of the Ribbentrop-Molotov Pact. In 1941 German and Romanian forces took control; at the war’s end the USSR regained control of the region and used force and deportations to quell all opposition. The Soviet authorities undertook socialistic development policies while also putting the local people under assimilationist pressures, like the tsars before them. To reinforce dependency on Moscow, they transferred Moldova’s Black Sea coast, in the south, to Ukraine. When it gained independence in 1991, the fledgling republic was landlocked and was the least urbanized and industrialized country in Europe, unsure of its identity, and lacking any modern experience of independent statehood or democracy.

Moldova’s major natural resources remain its fertile soil and sunny climate. With much of the republic’s heavy industry located on the left bank of the Nistru in areas not currently under the control of the central

¹ Source: 2009 study by Gheorghe Paladi, Olga Gagauz, Olga Penina, cited in “Migration Profile in the Republic of Moldova: Report” (IOM draft, 2012), p. 5; kindly supplied by Nancy Reiter, USAID/Moldova.

² Charles King, *The Moldovans: Romania, Russia, and the Politics of Culture* (Stanford, CA: Hoover Institution, 2000), p. 6.

³ On how best to characterize the language, which is a political issue in Moldova, see Donald Leroy Dyer, *The Romanian Dialect of Moldova: A Study in Language and Politics* (Lewiston, NY: Mellen, 1999); and Matthew H. Ciscel, “A Separate Moldovan Language? The Sociolinguistics of Moldova’s Limba de Stat,” *Nationalities Papers* 34 (November 2006), pp. 575–97.

government, and with the disappearance of Russian demand for goods from defense-oriented plants on the right bank, undercapitalized agriculture and an inefficient services sector were left as its economic mainstays. Output plunged and recovered to the 1991 level only around 2005. Moldova is reliant on imports, largely from Russia, for 95 percent of its energy needs. A Gross National Income per capita of just below \$2,000 makes it Europe's poorest nation and 130th in the world, toward the bottom of the World Bank's lower-middle-income range. Its UN Human Development Index of .649 is again the worst in Europe and 12th among the post-Soviet countries.

Faced by low wages and a dearth of jobs, hundreds of thousands of Moldovans have “voted with their feet” by emigrating permanently or temporarily to Russia, Romania (which has issued passports to many), other European Union (EU) countries, and elsewhere. The exact numbers are a matter of controversy, but the International Organization for Migration (IOM) estimates that in 2010 almost one-quarter of the economically active population was employed abroad; remittances accounted for approximately one-third of Gross Domestic Product (GDP) and dwarfed foreign trade and investment.⁴ Although net migration has flagged slightly, it still shows by far the biggest negative balance in Europe – estimated by the CIA to be - 10.02/1000. The effects on the Moldovan economy and the social fabric have been much studied: benefits in terms of poverty alleviation and costs in terms of depletion of human capital, a bias toward consumption, and neglect of children and the elderly. Politically, exit in such volumes is a safety valve for public dissatisfaction, but it also threatens the sense of involvement and citizenship that is integral to democracy.

1.2 CHARACTERIZING THE MOLDOVAN POLITICAL SYSTEM

On the eve of the transition from communism, Moldova suffered from poor economic development, serious ethnic divisions within the population, and a gulf separating the population as a whole from the entrenched political elite. Serious opposition to the regime crystallized in the spring of 1989. Responding to grassroots mobilization, the government extended official recognition to the Popular Front of Moldova, which held its first public meeting in June of that year. On August 27, 1989, activists organized a mass demonstration in order to bring pressure on the government to undertake reform. The heavily nationalist appeal of the opposition generated a sharp increase in inter-ethnic tension between the Romanian-speaking majority, the Russophone population concentrated on the east bank of the Nistru, and the Gagauz minority in the south.

The election of a legislature in 1990, in the context of already heightened political mobilization, opened the way for Moldova's post-communist transition. Approximately one-third of the deputies elected to the republican Supreme Soviet were members of the Popular Front and many more were reform-oriented members of the Communist Party. Reform-minded Mircea Snegur was named President of the Supreme Soviet, and the avowedly pro-Romanian Popular Front leader Mircea Druc was appointed Prime Minister. During the August 1991 coup attempt in Moscow, the Moldovan government declared for Boris Yeltsin. Shortly afterward, on August 27, it declared independence.

Politics in the new Moldova was at first a multi-cornered struggle for power among pro-Romanian “unionists,” neo-communists, agrarians, regionalists, and centrist and moderate nationalist groupings. A measure of stability was imparted by de facto secession of Transnistria after the 1992 separatist conflict, adoption of a constitution in 1994, and the ebbing of pan-Romanian sentiment. But volatility persisted at higher levels of the system. From 1991 to 2001, Moldova had two presidents and a carousel of six prime ministers. When the Party of Communists of the Republic of Moldova (PCRM) captured 71 of 101 seats in parliament in the election of April 2001 (the first communist party to win office electorally in the post-

⁴ Paladi, Gagauz, and Penina, “Migration Profile,” p. 9.

Soviet space), the country fell under the more disciplined rule of one faction. Vladimir Voronin governed as a strongman president for eight years, working with a single prime minister for most of his two terms.

One astute study portrays Moldova's regime in the 1990s as neither a full-fledged democracy nor an autocracy but instead as "pluralism by default" – a lesser of evils for all concerned, conditioned by historical variables, a weak state, mutual suspicion, and incumbent incapacity.⁵ Although the PCRM leadership abridged some electoral, media, and other freedoms, Moldova did not succumb to outright authoritarianism. The political environment set limits on the concentration of power, and the live-and-let-live ethos of the first decade of independence survived in diluted form. "Despite . . . centralizing tendencies, the Moldovan Communists failed to consolidate the level of political control that characterized the Putin administration's transformation of Russian political life. While marginalized and fragmented, opposition outside government remained relatively robust, providing the basis for [a] democratic resurgence."⁶ Nonetheless, the country was stagnant internally and adrift internationally – no longer a satellite of Russia and not yet a member of the Western community.

A contested parliamentary election in April 2009 rang down the curtain on PCRM hegemony. Public protest in Chisinau against what was seen as a fraudulent vote was spearheaded by well-educated youth impatient with haphazard pluralism and neo-communist rule and desirous of a more "European" future. Four persons died under suspicious circumstances in street altercations on April 7 and 8; parliamentary and presidential headquarters were looted and torched by "lumpen rioters who had joined the protests;"⁷ and police brutality injured many demonstrators and may have killed several. Fortunately, the violence was contained. In September, in the wake of a second election, Voronin resigned and ceded power to a cabinet and interim president put forward by a four-party Alliance for European Integration (AEI). After a third election in November 2010, the AEI, streamlined to three parties, continued to control the Government of Moldova (GOM). A protracted crisis ensued over selection of a president, which requires a three-fifths majority of the members of parliament (MPs), ensued. It ended in March 2012 with the appointment of a career judge, Nicolae Timofti, as the country's fourth head of state by a slender margin of one vote more than the requisite 61. This averted yet another snap election, which the constitution would have required if there had been another failed effort to select a president.

USAID asks DG assessment teams to render a judgment about the broad type into which the country under review fits. It "distinguishes between consolidated democracies on one end and authoritarian states on the other end of a continuum, with new and fragile democracies and semi-authoritarian states at intermediate points" (USAID SAF, 2011, p. 6). Moldova cannot be considered either a consolidated democracy or an ironfisted authoritarian state. Its political system is not new and fragile, and "semi-authoritarian" places emphasis on the wrong end of the spectrum, given tendencies at present.

Moldova in 2012 is considered a *borderline and unconsolidated democracy*. Manifesting some of the attributes of a democracy, it is stable in the near run, yet falls far short of the democratic ideal. Popular involvement in, and control over, the political process remain limited. Business interests use political power to achieve economic favor and limit market competition. Democratic aspects that do exist on the political scene are not buttressed by values concurrence, hardy procedures and norms, or fully valued

⁵ Lucan A. Way, "Weak States and Pluralism: The Case of Moldova," *East European Politics and Society* 17 (August 2003), pp. 454–82.

⁶ William E. Crowther, "Second Decade, Second Chance? Parliament, Politics and Democratic Aspirations in Russia, Ukraine, and Moldova," *Journal of Legislative Studies* 17 (June 2011), p. 164. On Freedom House's Democracy Score, Moldova's most undemocratic FS in the PCRM period was 5.14 (on a scale of 1 to 7 where 7 is least democratic) in 2010 (covering events in 2009, when the PCRM was in power until September). Only Ukraine (4.39) and Georgia (4.93) had better scores at the time among post-Soviet states other than Estonia, Latvia, and Lithuania, which were by then members of the EU.

⁷ Vladimir Socor, "Moldova's Constitutional Crisis: Part 2," http://www.acus.org/new_atlanticist/moldovas-constitutional-crisis-part-2.

institutions. In its latest global regime ratings, Freedom House in its Nations in Transit report for 2012 assigns Moldova a Democracy Score (DS) of 4.89, where 1 stands for maximum democracy and 7 for maximum autocracy; this locates it toward the democratic end of the middle (“partly free”) category. The average DS for all 12 non-Baltic former Soviet states is 5.99; only Georgia and Ukraine (both at 4.82) get better grades.⁸ Moldova’s rating varies extensively across functional areas. Among Freedom House’s seven priority domains, it comes out at 3.25 for civil society development, 4.0 for electoral process, 4.5 for judicial framework, 5.0 for independent media, 5.75 for both national and local democratic governance, and 6.00 for corruption.

All things considered, the assessment team depicts the short-term trend in Moldova as one of *halting improvement*. Freedom House (its DS for Moldova improved from 5.14 to 4.89) and other crossnational ratings detect such changes. The assessment team heard frequent, though not universal, testimony about improvements.

That said, things are not yet radically better, only modestly so. Improvements have come in ragged fashion. The weak state of the 1990s and 2000s, which was typified by corruption and clientelism, that is, a system of patronage, cronyism, and the exchange of favors for political support, lives on. The GOM leans heavily on external resources and motivation. Not a new phenomenon, this has reached new heights since 2009. Formation of the AEI, and its early adoption of a ringing “Rethink Moldova” blueprint, spawned an outpouring of praise from Western governments and offers of technical assistance and financial support from them and international organizations. At Brussels in March 2010, 21 donors pledged \$2.49 billion in assistance by 2013, \$1.3 billion of it in grants and the rest in loans; the largest share was to be given by the EU and its member states. The principals and the new government then signed a pact on development partnership listing 143 “development objectives” in five priority areas. The GOM subsequently opened negotiations with the EU on an association agreement, including a free trade area, and visa liberalization. There followed a multitude of strategies, action plans, expenditure frameworks, partnership roadmaps, and oversight agreements.

In and of themselves, these commitments and the resource sharing they mandate are beneficial to the cause of reform and modernization in Moldova, but they are not sufficient to turn the country around. Donors have tended to focus on linkages, or the lack thereof, between foreign assistance and programming by the host government. Every single donor spokesman with whom the team spoke, and many Moldovan interlocutors, referred to the GOM’s penchant for broad declarations over concrete actions. As one of the local interviewees put it, “Moldova has a strategy for everything,” yet it is the “land of the unimplemented and unfunded mandate.”

As subsequent sections of the report will make clear, the assessment is equally concerned with a second disharmony – between reform objectives and actions, on the one hand, and the needs of the population, on the other. Without a healthy connection between them, there can be no serious talk about deepened democratization in Moldova. In the spring 2012 opinion barometer of the Institute for Public Policy (IPP), a mere 24 percent, asked whether the country was moving in “a right or a wrong direction,” saw it as the right one; 69 percent said it was wrong. Negative evaluations prevailed among respondents in all demographic categories. The 24 percent approval rate was *lower* than that recorded in any tracking poll during the eight years of PCRM rule. The pattern cut across policy spheres and was most pronounced on the bread-and-butter issues that matter most to Moldovans.⁹

⁸ “Nations in Transit 2012,” at <http://www.freedomhouse.org/sites/default/files/2012%20NIT%20Tables.pdf>. The report is based on experience in calendar year 2011.

⁹ Institute for Public Policy (IPP), Barometer of Public Opinion, April–May 2012, pp. 8–10. The IPP has been conducting the Barometer surveys, working with different institutional partners in Moldova, bi-annually since 1998. These polls, which rely on stratified random national samples, have proved highly reliable. The April–May 2012 survey of 1,055 adults was implemented by the Center for Sociological, Political and Psychological Analysis and Surveys.

Externally sponsored reform will be difficult to sustain politically unless it affords much greater tangible dividends to the people of Moldova than it has hitherto. Agents of change ignore this lesson at their peril.

1.3 METHODOLOGY:

This analysis is based on an assessment of democracy and governance in Moldova. The full assessment was designed to facilitate a focused and concise understanding of the primary DG challenge facing the country in order to help the USAID Mission develop strategies to address that challenge and guide resources to areas where investments will have the greatest payoff.

This document includes an analysis of the problems relating to democracy and governance in the country. It takes into detailed consideration five principal elements, which are not fully distinct or mutually exclusive:

- The degree of consensus on national identity and on rules and fundamentals of the political game;
- The degree to which the rule of law prevails;
- The level of competition and political accountability in the system;
- The quality of political inclusion of different segments of the population; and
- Government effectiveness in carrying out decisions arrived at by elected officeholders.

This analysis also includes a political economy analysis of the interests and capacities of key actors that are likely to support or obstruct democracy and governance reforms in key institutional arenas. The goal is to identify how the political game is played; who the allies and potential allies of reform are; and which political, economic, and social interests oppose democratization.

2.0 KEY PROBLEMS WITH DEMOCRACY, AND GOVERNANCE IN MOLDOVA

The current status of Moldova's political system (a borderline and unconsolidated democracy) and the regime trend (halting improvement) were set down in the previous section. Here the assessment team looks at key DG problems in greater depth, analyzing them in terms of the defining elements of consensus, rule of law, competition and political accountability, inclusion, and government effectiveness.

Table 2.1: Key Analytic Elements

Element	Basic questions
Consensus	Is there basic consensus on questions of national identity? Is there consensus about the fundamental rules of the game, and is the political contest played by those rules?
Rule of Law	Is there ordered liberty? Is political, economic, and social life bound by a rule of law? Does the state recognize and protect the rights of its citizens?
Competition and Political Accountability	Is there competition in the system? Are free, fair, and inclusive elections a regular feature of competition? Are there other mechanisms besides elections that ensure the government delivers on its promises and fulfills the public trust? Is there a competition of ideas, a free media, and a vibrant civil society i.e., does the state broadly provide for adequate political rights and civil liberties? Is a healthy set of checks and balances present between branches of government or between levels of government?
Inclusion	Are there problems of inclusion or exclusion? Are parts of the population formally or informally excluded and disenfranchised from meaningful political, social, or economic participation? Is participation in political, economic, and social life high or low?
Government Effectiveness	Are public institutions administered effectively? Do they respond to public needs and provide socially acceptable services? Do robust internal mechanisms exist to hold government institutions accountable and enhance their effectiveness?

The review in each of these areas draws on contextual factors as discussed above; the nearly 120 interviews conducted by the team; analysis of insights provided by experts and participants; on-site field trips; and examination of opinion surveys, press and academic articles, official documents, and analytical reports.

2.1 CONSENSUS

Moldova “is possibly the most politically competitive and culturally complex” among the ex-communist states in Europe, outside the former Yugoslavia.¹⁰ Accordingly, its public life has been marked by dissensus over national identity instead of consensus. Strains over such questions have been recurrent but manageable since the early 1990s and, with the exception of the relatively brief separatist conflict in 1992, inter-communal violence has been largely absent. Lack of consensus over national unity has indeed inhibited democratic consolidation, but it has done the same with various tries at firming up a more autocratic order: “Competing claims over Moldovan territory created a situation in which leaders found it difficult to consolidate *either* a democratic or an authoritarian regime.”¹¹

According to the most recent census figures (2004), 22 percent of people in Moldova, with the exception of the Transnistrian separatist region, belong to minorities, two-thirds of them Ukrainians and Russians. If Transnistria is counted, that fraction goes up to 30 percent.¹² One in four right-bank citizens are native

¹⁰ Matthew H. Ciscel, “Reform and Relapse in Bilingual Policy in Moldova,” *Comparative Education* 46 (February 2010), p. 13.

¹¹ Way, “Weak States and Pluralism,” p. 470.

¹² *Populația după naționalitățile de bază, în profil teritorial* Recensământul Populației 2004, Nation Bureau of Statistics of the Republic of Moldova (Chișinău, Moldova), <http://www.statistica.md/pageview.php?l=en&idc=295&id=2234>.

speakers of a minority tongue and have something other than Moldovan/Romanian (usually Russian) as their language of first use. That ratio is more than one in three if Transnistria is factored in. Disagreements over education, language, history, and foreign relations are common. Minorities and Russophones are more apt to see merit in the Soviet period and favor a close relationship with Russia; ethnic Moldovans and Moldovan/Romanian speakers are more apt to be anti-communist and lean toward the EU and/or Romania.¹³ This is a society still wired with sensitive identity “buttons,” periodically pressed by players who more often than not are hunting for short-term political gains. For example, in July 2012, the AEI coalition parties passed legislation that banned the use of the hammer and sickle, labeling it a badge of totalitarianism. The resolution was put forward by Mihai Ghimpu, the leader of the pan-Romanian Liberal Party (PL) that is the junior partner in AEI, and was unequivocally aimed at the PCRM.

A number of factors have kept identity conflicts from shattering civic peace. Identity communities are seldom organized into, or mobilized by, strong representative organizations. State policy, for its part, has most of the time been moderate in tone. Political leaders in the majority community have been willing to compromise on important symbolic issues in the name of inter-ethnic harmony.

In 1994, the Gagauz minority was granted autonomous status in the region where its population is concentrated, along with the right to secede if Moldova ever renounces its independence (code language for reunification with Romania). On language, Article 13 of the Moldovan constitution “protects the right to preserve, develop, and use the Russian language and other languages spoken within the national territory.” The GOM promotes Romanian language in the schools and universities while offering courses in Russian that are larger in relation to the audience served than the share of Russophones is in the population.¹⁴ Informal accommodations are ubiquitous. Even when young people are not given classes in the language, “the general prestige of Russian is still great enough that many [of them] learn it . . . without instruction.”¹⁵ In the mass media, Russian-language programming (raw, dubbed, or subtitled) is readily available on almost every television channel. PRIME TV is on air in Russian as well as Romanian 24 hours a day, much of the time rebroadcasting Moscow’s Channel One. Its daily reach (persons who watched it at least 15 minutes a day) in June 2012 was 48 percent of the market and its weekly reach 79 percent – considerably higher than any Moldovan/Romanian-language station.¹⁶

Two more factors mitigate identity-based dissensus. One is about issue salience. Nationality, language, and cultural debates matter to most Moldovans, and there is a fundamental lack of consensus on these issues. However, in terms of intensity of feeling they matter to Moldovan elites far more than they do to the populace. In the April–May 2012 IPP barometer poll, a scant 2 percent of respondents volunteered interethnic relations as one of the three problems that most concerned them, putting it far below prices (68 percent), poverty (56 percent), unemployment (47 percent), and corruption (27 percent).¹⁷

The second soothing factor is within-group diversity and ambivalence. As scholars have noted, Moldova is the only post-Soviet state where there are cleavages within the titular group about their standing

¹³ IPP Barometer, April–May 2012, pp. 76–79.

¹⁴ The constitution of Moldova refers to Moldovan as the state language of the Republic of Moldova. This is the consequence of a political dispute between “Moldovanists,” leaders favoring independence, and “pan-Romanianists” during the early 1990s when the constitution was being written, in which the Moldovanists were victorious. While a strong majority of Moldovans recognize that the language is Romanian, changing its official status would be resisted by minorities who would see it as movement in the direction of unification with Romania

¹⁵ Ciscel, “Reform and Relapse,” p. 22.

¹⁶ Data at http://www.ijc.md/bulmm/2012%20iunie/eng/34_40_MM-June-2012-ENG-12.pdf. The most popular broadcaster in the state language, Moldova 1, had a daily reach of 35 percent and a weekly reach of 66 percent.

¹⁷ IPP Barometer, April–May 2012, p. 16.

apropos a neighboring country in which there is sizable irredentist sentiment toward it.¹⁸ The question of whether the majority is Moldovan or Romanian, in which case unification into a single state would be a logical outcome, flares up from time to time but finds little resonance with the median citizen. Even Ghimpu and the PL see merger as a long-term goal at best. The issue has echoes in the abstruse but highly politicized argument about whether to call the state language Moldovan (as in the Constitution) or Romanian (as the very large majority of people consider it to be).

Nowadays the currency for the largest number of identity entrepreneurs is the appeal of contending economic blocs in Europe and Eurasia. One question put to respondents in the IPP barometer was about the EU, the unequivocal target of choice of the GOM. Fifty-two percent said they would vote for EU accession in a referendum, 30 percent would vote against, and the rest would abstain or were undecided. Sixty percent of ethnic Moldovans favored EU membership, but so did 35 percent of ethnic Russians. Another question asked about the Russia-Belarus-Kazakhstan Customs Union.¹⁹ Remarkably, a slightly larger majority, 57 percent, favored this option, and that included majorities not only among Russians (61 percent) but among ethnic Moldovans (53 percent). Clearly neither grouping is a monolith, and a fair number of citizens, especially in the ethnic majority, are drawn in both directions.

When it comes to elite consensus regarding bedrock rules of the game, over and above national unity, a widely shared code of behavior exists in the Moldovan political class. Mutually policed, it consists mostly of negatives that are shunned because experience teaches the high cost of failing to do so. The pitfalls to be avoided encompass flagrantly unconstitutional activities, egregious cheating in elections, attempts to destroy as opposed to harass a rival political party,²⁰ use of the courts to throw opponents in jail, and intimate prying into fellow politicians' financial activities and connections. The code has not yet reached the point of deep moral belief, but this does not drastically threaten the stability of the political system.

What may be more of a test is the convolutedness of some of the official procedures themselves. During the stalemate that followed the unseating of the PCRM in 2009, and multiple failures to come up with a successor to Voronin, AEI leaders organized a referendum on reinstatement of a directly elected presidency (which had been abandoned in 2000). It failed for lack of the 33 percent quorum, and the Constitutional Court ruled that in any case, the constitution would have to be amended by the mandated two-thirds majority in the legislature – which is an unattainable plateau at present.²¹ The country was in legal limbo, and the legislature at constant risk of dissolution, until the eleventh-hour selection of President Timofti. In an *amicus curiae* opinion on July 4, 2011, the Venice Commission noted the precariousness of rules that require a super-majority to choose a president and parliamentary elections if agreement cannot be reached: “While constitutional provisions . . . should secure the good functioning of constitutional bodies . . . in the present situation they prevent their effective functioning, and open the way to continued constitutional crisis.”

¹⁸ William Crowther, “The Politics of Democratization in Post-communist Moldova,” in Karen Dawisha and Bruce Parrott, eds., *Democratic Changes and Authoritarian Reactions in Russia, Ukraine, Belarus, and Moldova* (London: Cambridge University Press, 1997), pp. 282-329.

¹⁹ The union, the latest in a string of integration plans espoused by Russia and by President Nursultan Nazarbayev of Kazakhstan, came into being in January 2011. Russian President Vladimir Putin has announced that he intends to enlarge the group and convert it into a more broad-gauged Eurasian Union by 2015.

²⁰ The PCRM maintains that recent AEI actions do aim at the party's destruction. The assessment team heard at length about the Communist position during an interview at party headquarters. If the PCRM were to be dismembered or forced out of electoral competition, it would be a sure sign that the rules of the game in Moldova had changed qualitatively.

²¹ “Raport asupra activității Comisiei Electorale Centrale privind organizarea și desfășurarea referendumului republican constituțional din 5 septembrie 2010 [Report of the activities of the Central Electoral Commission regarding the organization and implementation of the republican constitutional referendum on 5 September 2010],” Annex to the decision of the Central Electoral Commission, Democracy.ms, 9 September 2010. <http://www.e-democracy.md/elections/referendum/2010/cec/raport-cec/>

2.2 RULE OF LAW

Rule of law is a sine qua non for democratic governance. Extremely weak rule of law, as the assessment team sees in Moldova, contributes profoundly to a nexus of corruption and unaccountability. Law in such a situation does not sufficiently constrain elite behavior, nor does it provide citizens with recourse if abused.

Although Moldova possesses the general infrastructure for rule of law, its practice is selective. At critical points political leaders have provided a bad example by altering or trying to alter the constitution or disregarding its requirements for reasons of political expediency. Weaknesses are evident throughout the judiciary, the main vehicle for applying the law. Many judges and court personnel are poorly trained. While an adequate framework for administering trials, disciplining judges, and holding them accountable for misdeeds has been put in place, implementation so far has been limp. An integrated case management system (ICMS) and audio recording technology have been made available to all 53 Moldovan courts – and yet, less than half are said to actively use these tools and staff resist implementation due to lack of proficiency with them.²² The assessment team was told anecdotally about case backlogs greater than during Soviet times and frequent non-enforcement of judgments reached.

Unaccountability, non-transparency, and corruption were often linked in testimony offered to the team on the ground. The very same critique is documented in more exhaustive external evaluations. In a 2011 report on the Moldovan legal sector, an EU experts' group concluded that "the core problem is the perceived lack of accountability and transparency among the courts, alongside strong indications of the prevalent corruption among the judiciary."²³ As mentioned in Section 1.2 above, Freedom House in 2012 gave Moldova's judiciary a score of 4.5 on a scale where 7 is the lowest level of democratic development and 1 the highest. The score has been consistent for 10 years.

A malfunctioning justice system affects all aspects of life in Moldova. On the economic front, it handicaps investment, opportunity, and competition. On the political front, justice sector institutions are often seen as tools of political and business elites colluding to gain patronage and preserve their own interests while shortchanging service delivery. Citizens lose trust in the fairness of the courts when they are unable to achieve redress under the law, thereby fraying the social contract with the state.

Judges in Moldova are immune from arrest, investigation, and liability for criminal or administrative offense (minor misdemeanors), except where a very serious crime is concerned, unless consent is given by the Superior Council of Magistrates (SCM), the president of the country, or Parliament. This immunity has harmful effects when the judges who enjoy it are underpaid and often have not internalized the norm of impartiality. Despite widespread recognition of the problem of inappropriate judicial behavior, to date only a handful of individuals have been convicted and none has been imprisoned. The EU review found that out of more than 2,000 disciplinary complaints filed against judges in 2009, only 66 cases were actually examined by the disciplinary board.²⁴ "While various disciplinary sanctions exist in theory, only warnings and other forms of minor reprimand are used as a matter of practice; there have very few (less than 10) dismissals in the last two years."²⁵ There has been no real change since 2009.

²² Source: interviews with judicial officials by members of the assessment team.

²³ Assessment of Rule of Law and Administration of Justice for Sector-Wide Programming, Moldova, September 2011; at http://eeas.europa.eu/delegations/moldova/documents/press_corner/md_justice_final_report_en.pdf.

²⁴ More recent statistics are not available, but the assessment team was told by several judicial officials and analysts that there had been no significant change since 2009.

²⁵ Assessment of Rule of Law, p. 24.

As a precondition to EU accession and visa liberalization, the GOM took steps in 2011 to address some of these concerns. It adopted a National Strategy for Justice Sector Reform (NSJSR), listing among the problems to be solved poorly managed courts; opaque and non-merit based promotion of judges; a defective SCM; inadequate quality of services provided by the justice system professions; lack of working accountability mechanisms; unduly complex pre-trial procedures; disinterest in child-friendly justice; and a perception that corruption is rife throughout the justice arena.²⁶ Many Moldovans with whom the assessment team spoke were skeptical about whether regulations with teeth and adequate funding would be forthcoming and would redress the underlying problem of system integrity.

A thread connecting justice with the full range of institutions is corruption. In Moldova, corruption is endemic and systemic. In 11 fields in which Moldovans were surveyed for Transparency International's 2010–2011 Global Corruption Barometer, in just one (religious bodies) did they rate participants on the clean side of the midpoint of a 1 to 5 scale where 5 indicates extremely corrupt and 1 not at all corrupt. The police were judged the most corrupt institution (at 4.1), closely followed by the judiciary (3.9), political parties and public officials (3.8), and then parliament, private business, and education (all at 3.7). In the same survey, 53 percent of respondents found corruption to be worsening and only 18 percent thought public policy was having any remedial effect on it.²⁷ This perspective was shared by most of the interviewees, who insisted that the advent of the AEI did little or nothing to improve the situation. More than half of them volunteered corruption to be an overriding national concern. Lodged in all sectors and at all levels, corruption is especially troubling in the justice system, because without integrity among judges, prosecutors, and the police there is little hope of progress elsewhere. In the 2012 IPP opinion barometer, only 26 percent expressed trust in the courts, one of the lowest levels of trust in public institutions.²⁸

At peak levels the judicial system is widely seen by Moldovans as manipulated by political and business insiders seeking to subvert competition and lobby their interests. The assessment team sees no reason to quarrel with this judgment. Top institutional positions have been allocated on a partisan basis to the AEI partners (see Section 2.5 below). The spoils include the chief prosecutor and the heads of the Court of Accounts (COA), the Center for Combating Economic Crimes, and Corruption, and the National Committee for Financial Markets. An arrangement like this inevitably compromises the ability of these agencies to hold top officials accountable. As widely reported in the media, the impact of such practices became evident in the wake of the “raider attacks” (fraudulent takeover bids) on banks and other Moldovan companies which made headlines in 2011. Prosecutor General Valeriu Zubco, aligned with the Democratic Party of Moldova (PDM), refused to pursue the most prominent case with vigor. Prime Minister Filat, the head of the PLDM, attempted to secure his dismissal but was unable to do so, as Zubco was defended by parliament Speaker Marian Lupu and Deputy Speaker Vlad Plahotniuc, the two main figures in the PDM.²⁹ This incident is merely symptomatic of the problem. The division of spoils between the parties has created a system of pseudo “checks and balances” that in fact leaves no top officials liable for misbehavior. When corruption cases do reach the courts, frequently they are viewed as selective retribution against opponents.

On human rights, there are signs of some improvement in conditions. Legislation, avidly promoted by the EU, has been passed at the national level to protect minority rights. It is no less clear, though, that there are abiding problems to which the GOM has demonstrated insufficient attention. Amnesty International's 2012 report on Moldova points to inhumane prison conditions, police impunity from prosecution for

²⁶ Strategy for Justice Sector Reform 2011-2015, Moldova Ministry of Justice (document provided to assessment team), p. 5.

²⁷ At <http://gcb.transparency.org/gcb201011/results/>.

²⁸ IPP Barometer, April–May 2012, p. 37.

²⁹ There is an overview of this and related scandals at <http://tribuna.md/en/2012/02/12/top-10-raider-attacks-in-moldova/>.

torture and other ill-treatment, and continued discrimination against religious and other minorities.³⁰ Popular support for protection of pariah groups, such as lesbian, gay, bisexual, and transgendered (LGBT) individuals and the Roma, is tepid and rights infractions continue to occur at the national and local levels.

The European Court on Human Rights (ECHR) in 2011 issued 31 judgments regarding human rights violations in Moldova, finding at least one violation in 29 of them.³¹ Primary issues concerned mistreatment of prisoners, particularly juvenile offenders incarcerated with adult counterparts. Twenty-five percent of the suits brought related to the pivotal issue of the right to a fair trial. The next most significant issues are protection of property (20 percent) and ill treatment (16 percent). Of the 47 countries to ratify the European Convention on Human Rights, Moldova had the 11th highest number of total judgments with at least one violation and, more poignantly, the second highest number of judgments per capita where the ECHR found at least one violation.

In sum, the assessment team concludes that dysfunctional rule of law is a central problem for democracy in Moldova. The formal rules of the political game do not adequately constrain powerful elites. The justice system is one of the weakest institutional sectors in the country. Unable to objectively regulate and to uphold justice, it has become the least legitimate branch of government. Consolidating democracy in Moldova depends vitally upon reducing corruption in all areas and increasing the judiciary's ability and willingness to uphold constitutional norms and serve as a fully operative check on the executive and legislative branches. Transforming the rule of law sector is indispensable to creating genuine accountability and advancing other critical reform efforts.

2.3 COMPETITION AND POLITICAL ACCOUNTABILITY

Moldova has made considerable if sporadic progress on competition and accountability. It performs here considerably better than a number of other former Soviet states. The assessment team identified both strengths and concerns in this area. Competition occurs between well-established elite factions and within more or less recognized rules of the game. But the ability of the citizenry at large to make use of the process to shape policy is limited, as is its capacity to use either formal institutions or the electoral process to make elites accountable for their actions.

The electoral environment, where structured competition mainly occurs in a democracy, is generally positive in Moldova. A legal framework is by now institutionalized and sufficient to provide access. Recent elections have been efficiently administered on a non-partisan basis. Complaints of infractions have been relatively few. The Central Electoral Commission (CEC), the recipient of major assistance from foreign donors including USAID, has greatly improved its work since 2009. Parliamentary elections in November 2010 and local elections in June 2011 were considered by international observers to be generally free and fair, and were run on a non-partisan basis.³² Some issues require work, particularly regarding validation of voter rolls and setting up a digital voter registry. Registration issues are not of such a magnitude as to undermine the legitimacy of the electoral process.

As already discussed (see Section 2.1), Moldovan society is divided along a number of crosscutting lines, which creates a highly complex competitive environment. In addition to ethno-linguistic politics and a separate cleavage between anti-communism and nostalgia for communist days, a number of entrenched elite factions contest control over political and economic resources. Programmatic right/left ideological

³⁰ At <http://www.amnesty.org/en/annual-report/2012>.

³¹ Assessment of Rule of Law, p. 24.

³² Republic of Moldova Early Parliamentary Elections 28 November 2010 – OSCE/ODIHR Election Observation Mission, Final Report (2011); at <http://www.osce.org/odihr/75118>.

competition, while real, does not play a defining role. Competition between each of the elements is evident in Moldovan politics and thus far none has been excluded from the electoral game or from public discourse. Parties are free to organize and promote their agendas. Interest groups and civil society organizations (CSOs) enjoy decent access to parties and the media.

A dominant axis of partisan competition arrays the PCRM against non-communists, chiefly the three parties currently organized as the AEI – namely, the PLDM, the PDM, and the PL. Particular elite individuals and groups are associated with each of the parties and seek influence over economic resources through the political process. A highly restricted top group exercises disproportionate control over the parties and through them, over parliament and the GOM. Therefore, the parties as presently constituted are not on the whole an effective channel of representation through which citizens can exercise control over elites.

Moldovan civil society is pluralistic, limited in scope, and ill-developed. Citizens are free to organize and have access to the government and the mass media. Since 2009, the GOM has developed institutional channels, such as the National Participation Council (CNP), through which government-selected CSOs can express their opinions to decision makers. CSO leaderships monitor the government and in their own way encourage transparency. Business associations, such as the American Chamber of Commerce and the Association of Private Information Technology Companies, are playing a more active role in representing the interests of their members to the government. Most CSOs, highly dependent on funds from external donors and active primarily in the capital city, lack organizational infrastructure and roots in society.³³ CSO representatives complain that the access they have been granted to government in recent years is at times formalistic – they are informed late in the decision-making process and can express opinions but not affect outcomes. The legal system is impractical as an avenue of redress for civil society.

Dominance of the national-level executive branch is of concern for the progress of accountability. Decision-making power is concentrated in the PMO, the cabinet, and the upper levels of the ministries. Control over particular departments falls to the parties that make up the AEI coalition and many positions are dispensed on a party basis. When disputes arise between ministries, they are resolved by negotiation among the coalition party leaders. In well-functioning democracies, the legislature plays a central role both in democratic discourse and in overseeing government. Moldova's remains markedly passive and its oversight work has languished (see Section 3.3 of this report). While CSOs do have access to parliamentary committees, they testify that their ability to affect decisions through the legislature is limited.

The GOM exercises disproportionate control over regional and local authorities (see also Section 3.5). Their budgets are for the most part on the center's books and the national ministries are responsible for many services delivered locally. Local public authorities are legally responsible for a large number of mandates determined in the capital, for which they have neither the personnel nor the resources to meet the commitment. A National Strategy for Decentralization (NSD), passed after two years of debate in April 2012, has met with resistance. This will continue to be a problem as long as national elites maintain control over the distribution of resources, which provides them with influence over the local political scene.

Also problematic from the point of view of competition and accountability is the business environment. International indicators show that the regulatory environment is positive but substantial problems remain. High concentration of ownership limits opportunity and market competition while distorting the political

³³ USAID's 2011 CSO Sustainability Index notes a slight improvement in Moldova, but the country's CSOs still depend on external donors for 87 percent of their funding. *2011 CSO Sustainability Index for Central and Eastern Europe and Eurasia, 15th Anniversary Edition* (United States Agency for International Development, Bureau for Europe and Eurasia, Office of Democracy, Governance and Social Transition). http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/reports/2011/2011CSOSI_Index_complete.pdf

process. The Heritage Foundation/Wall Street Journal Index of Economic Freedom places Moldova at 124 among all countries in the world in 2012 (between India and Niger), with a score of 54.4. The rating mentions corruption and poor protection of property rights as weak points, along with non-tariff barriers and prolix international trade regulation.³⁴ Underinvestment, concentrated ownership, and restricted opportunities produce and reproduce extensive poverty and inequality. Poverty is particularly widespread in the villages and is a primary cause of the high levels of emigration. The Moldovan GINI index is .38.

Without effective and independent judiciary and mass media, it is hard to hold those in power to account. In recent years, the regulatory environment in Moldova has improved and government interference in the media has decreased (see also Section 3.8). The broadcast media, however, particularly television, are reported by most of those interviewed to be in the hands of a small number of individuals associated with political parties. Partisan reporting and self-censorship by reporters and media producers seem widespread.³⁵ The revocation of the NIT television station's operating license in April 2012 by the Audiovisual Coordinating Council (CCA) for refusing to comply with requirements for plurality of opinion also raises flags³⁶. Members of the CCA are appointed by parliament in a process generally seen as partisan. While the revocation was generally considered to have been legal, NIT is closely associated with the PCRM and was its most effective media outlet. Supporters of the Communists thus saw the move as politically driven. Journalists' access to politically sensitive information is also problematic. Legislation in place calls for decisional transparency and substantial freedom of information. Journalists report that it is nearly impossible to obtain information if it could be damaging to political leaders. This covers financial disclosure data and property ownership records which are necessary for monitoring conflict of interest, bribe taking, and misappropriation of funds. The lack of meaningful disclosure, despite laws requiring it, both obstructs efforts to reign in corruption and undermines public confidence public institutions and leaders.

To summarize, the electoral system in Moldova is largely satisfactory, competition occurs between elite factions, and freedom of expression is generally respected. Immense problems persist, however, with regard to the accountability of political and economic elites. It is clear that the parties are responsive to a small number of senior leaders; the rank and file plays little role in formulating policy and does not constrain leadership decisions. Therefore, even if citizens have access to parties and elections are free and fair, parties do not constitute vehicles through which broad citizen representation occurs. Through the parties, elites control the central government that overshadows both the legislature and local administration. The mass media, while pluralistic, are for the most part under party control. Journalists do not effectively provide the public with the sort of information necessary to hold public officials accountable. A corrupt and ineffective judiciary, as discussed in Section 2.2, cannot make elites subject to the rule of law. Finally, civil society is as of yet insufficiently developed to provide an effective check on government.

2.4 INCLUSION

Issues of inclusion relate to the ability of all segments of a population to participate in political and economic opportunities. The experience of exclusion often coincides with various forms of vulnerability and can result from overt discrimination or subtle inattention, leading affected populations to feel that

³⁴ At <http://www.heritage.org/index/country/moldova>.

³⁵ Susan Coughtrie "Moldovan Mass Media outlets adopt New Code of Ethics" *Moldova Azi*, May 4, 2011, at <http://www.azi.md/en/story/18141>.

³⁶ "Controversies over the closure of TV channel in Moldova: UN urges authorities to restore NIT's license," *Moldova.org*, (April 9, 2012) <http://politicom.moldova.org/news/controversies-over-the-closure-of-tv-channel-in-moldova-un-urges-authorities-to-restore-nits-license-229661-eng.html>.

they remain outside the system or to make choices that leave them outside. Exclusion can silence the voices of specific interest groups, create an environment of ignorance or intolerance, foster conditions of poverty, and reinforce tendencies towards apathy. It can also stoke resentment and at times conflict. Among the DG challenges facing Moldova, issues of inclusion do not reign paramount. To the degree that they remain significant, they derive more from other key elements – in particular, consensus, accountability, and effective government – rather than stand as a root cause on their own.

The most commonly conceived notion of inclusion in the Moldovan context concerns the status of the Russian minority, and in particular, the use of the Russian language. This assessment finds that these concerns more closely relate to consensus, and especially, to perennial debates on Soviet history and communist legacies, and a lack of agreement on what constitutes Moldovan identity. Language barriers persist – in daily communication between citizens and in larger contexts with regard to some public services. However, it is not necessarily the linguistic issues themselves, but rather the political significance with which they are infused, and the conflation of Russian with communist, that give the issue its staying power. A reductionist approach to ethnicity, language, and political affiliation further serves to obscure the possibility of separate concerns or interests of other minority groups – like Ukrainians and Bulgarians – which are either defined by use of their mother tongue or subsumed under Russophones.

Formal participatory mechanisms, such as the option of ethnic-based parties, are inhibited by a wholesale election threshold of 4 percent. This prevents groups such as the Roma and the Gagauz from organizing effectively towards direct representation at the national level.³⁷ Gagauz dissatisfaction with their autonomy – including questionable harmonization between local and republic laws and perceived prejudice towards the community – and the unresolved question of official state languages will likely complicate any eventual effort towards the reintegration of Transnistria.³⁸

Over and above the complexity of these issues, the assessment finds a larger and less conventional concern with regard to inclusion: that is, a gaping disconnect between national elites and ordinary people. Conversations with politicians, government officials, and civil society leaders at the central level demonstrated a startling lack of dialogue with, and regard for, the needs, concerns, and interests of citizens. A number candidly acknowledged that the two strata have different agendas and were dismissive of the average citizens' focus on survival and their ability to comprehend or care about other matters. Few leaders pursue active engagement with any kind of defined constituency, seeing legalistic formalities – such as the requirement to make draft legislation available online for comment – as a primary and sufficient consultation method. These conversations were mirrored at the local level, where interviewees confirmed the perception that political figures care about their own interests rather than a greater public good. Polls indicate similar findings: in the April–May barometer of public opinion by the IPP, 76 percent of respondents answered “no” to the question “Does the people’s will rule in the Republic of Moldova?”³⁹

³⁷ There is a Roma Movement of the Republic of Moldova, founded in March 2010, which fielded candidates in the most recent parliamentary election, in November 2010. But it took only 2,394 votes, or 0.14 percent of the total, which was far short of the 4 percent threshold. The movement attracted almost 2 percent of the votes in Vatra district, near Chisinau where a considerable number of Roma reside. For a rich background report, see Sorin Cace, Vasile Cantarji, Nicolae Sali, and Marin Alla, *Roma in the Republic of Moldova* (Chisinau: UNDP, 2007); at <http://www.undp.md/publications/roma%20report/Roma%20in%20the%20Republic%20of%20Moldova.pdf>. The report notes (p. 15) that “Roma are represented very poorly in the structures of local administration and there is insignificant evidence of a Roma being a member of any political party.” See also Roma National Center (a human rights group supported by the Soros Foundation–Moldova, Report on the situation on Roma Rights, Republic of Moldova (Chisinau, 2011); at http://www2.ohchr.org/english/bodies/cerd/docs/ngos/RNC_Moldova78.pdf.

³⁸ Oleg Protsyk, “Gagauz Autonomy in Moldova: The Real and the Virtual in Post-Soviet State Design,” in Marc Weller and Katherine Nobbs, eds., *Asymmetric Autonomy and the Settlement of Ethnic Conflicts* (Philadelphia: University of Pennsylvania Press, 2010)

³⁹ IPP Barometer, April–May 2012, p. 46.

The relationship between economic inclusion – when seen through the lens of poverty and low living standards – and political inclusion – if seen as weak government responsiveness to such citizen concerns – feeds into Moldova’s high rates of migration. Chances are, an individual who wants to leave the country will be less inclined to engage with it, and an individual who is less engaged will be less likely to want to stay. With estimates of as many as one in five Moldovans residing abroad, a significant portion of the population remains not only economically and politically excluded, but also physically so (though a number of recent measures seek to keep emigrants connected to, and therefore included in, the country, whether through options for voting abroad, matching investment schemes, or discussions on the establishment of a Diaspora Ministry). Patterns of migration often cut across various aspects of inclusion, including language and gender: for example, Russian-speaking laborers more commonly seek work in Russia, while service-oriented women tend to seek opportunities in Western Europe. The most excluded populations within Moldova may be the most vulnerable to trafficking and other forms of exploitation, such as victims of domestic violence and children from the Roma community.

The extent of Moldova’s migration phenomenon may also create conditions that reinforce the exclusion of other vulnerable populations, particularly the youth and the elderly.⁴⁰ Neither of these groups is significant on the agenda of national-level politics. The number of working-age people outside the country leaves a large cohort of school-age children growing up in divided families, without the care of two parents present in the home. Under such conditions, children – particularly in rural areas without access to constructive extra-curricular activities – may be left vulnerable to truancy, poor academic performance, and at-risk behaviors. These risks may further undermine Moldova’s human capital should they lead to low confidence, weak labor skills, continued poverty, and migration later in life. While many children may be raised by grandparents, interviewees often dismissed such help as adequate solely for the simplest of needs. Few acknowledged the further challenge of how to care for aging parents whose children are abroad, with a tendency instead to view older populations in limited political terms as blinkered Communist voters, dwelling in the past and focused on pensions.

As a more positive conclusion, the assessment finds that while women may not enjoy equal economic and political inclusion in Moldova, the extent of their exclusion is not severe. A traditional perception of women’s place in the home as wives and mothers continues to inhibit women’s ability to advance to higher levels of political participation, particularly when the electoral system remains organized around party lists; at the same time, women disproportionately occupy positions in the lower levels of public administration. Women’s relegation into lesser-paying roles is compounded by challenges such as sexual harassment on the part of superiors or lack of access to child care that would meet the needs of full-time working mothers. Domestic violence remains the most pressing concern with regard to women’s status, including a lack of understanding of its criminality.

As Moldova continues to strive towards European integration, other issues may rise to the surface, for example, the relationship between Roma inclusion, migration, and visa liberalization. Bitter debates surrounded the adoption of the 2012 Law on Ensuring Equality, a watered-down version of an anti-discrimination bill pushed through with minimalistic standards under EU pressure.⁴¹ This incident accentuates the future challenges to be faced by more marginalized communities, such as LGBT persons, whose political participation has been targeted by a number of local councils. The limited spectrum of Moldovan values and identity – and the intersection with religion and political affiliation – was similarly

⁴⁰ One study showed, for example, that the “additional physical and psychological burdens” assumed by emigrants’ elderly family members “lead to a high degree of . . . depression and helplessness.” EC–UN Joint Migration and Development Initiative, *Staying Behind: The Effects of Migration on Older People and Children in Moldova* (Chisinau: HelpAge International, 2010), p. 30.

⁴¹ *Towards Equality: Discrimination in Moldova*. Amnesty International (London: Amnesty International Publications, 2012), <http://www.amnesty.org/en/library/asset/EUR59/006/2012/en/b362a0ad-2996-4947-b77a-04997050d982/eur590062012en.pdf>

echoed in a 2011 controversy over the efforts of a CSO representing Moldova's small Muslim community to register for official recognition. Such questions of inclusion in Moldova reflect its struggle to understand and protect social or political deviation from an accepted norm. As a leading political party representative told the assessment team, those who are different are expected to conform.

2.5 GOVERNMENT EFFECTIVENESS

Government effectiveness in Moldova is low. This is an omnipresent problem and a chronic one. It crops up in all responsible analyses of Moldovan politics and in local political discourse. Interviewees told the assessment team repeatedly about a “system” of government in which most services are administered inefficiently; poor implementation and enforcement are rampant; and government officials routinely disregard input from below and from elected representatives. To date, the AEI coalition has made only limited headway against this challenge.

The GOM has committed itself verbally to an ambitious set of goals, pulled together in its “Moldova 2020” development strategy, and in a series of sector plans. The motivation for these efforts has been partly to deliver on electoral promises and partly to further Euro-Atlantic integration and gain donor funding. A range of legislation has been passed to advance these reforms. In case after case, though, the implementation of these grand strategies is lacking.

This is not to say there are not pockets of good performance. The assessment team learned of a number of them, some dealing with sensitive questions of political process. The CEC, for instance, has been well led and has administered successive, largely fair elections. The Ministry of Justice (MOJ) has drafted ambitious judicial reform plans on tight deadlines and incorporated foreign advice into its strategy. The COA has applied best-practice standards to the external auditing of public accounts and earned a positive reputation internationally. The Ministry of Agriculture has launched several innovative programs to stimulate investment in high-value crops.

Scanning the horizon broadly, though, the assessment team finds a disconcerting picture. In a democracy, an apt yardstick for effective government is satisfaction on the part of the governed. By this criterion, governmental performance in present-day Moldova is poor to abysmal, especially on the economic issues that most grip the population. In the spring 2012 opinion barometer by the IPP, respondents evaluated public policy in twelve areas, seven of them economic and five non-economic. On not a single issue did a majority indicate they were relatively or fully satisfied with performance; on only a pair of non-economic issues (education and culture) did more than 30 percent say so. On all economic issues, dissatisfaction was at 80 percent or higher, with living standards, jobs, and wages faring worst (barely under 90 percent). As on the overall question of whether the nation is headed in the right direction, dissatisfaction on the particulars of government is now more pronounced than it was prior to the transfer of power in 2009 or during the PCRM's eight years in office.⁴² If anything, the confidence of the people of Moldova in their national government is in decline.

This ineffectuality can to some extent be traced to longstanding resource shortages. Members of the civil service are often undertrained, overburdened, and, most pressing for many, underpaid. The average monthly salary in public administration in 2011 was 3,419 lei (roughly \$275).⁴³ Bureaucrats moonlight and, reportedly, take advantage of corruption and rent-seeking opportunities to make ends meet. Government managers' flexibility in matching personnel with tasks has been limited by staffing caps imposed by the IMF, which stand in the way of hiring in priority areas.

⁴² IPP Barometer, April–May 2012, pp. 9, 87.

⁴³ NSB data at http://www.statistica.md/public/files/publicatii_electronice/Moldova_in_cifre/2012/Moldova_in_cifre_2012_en_fr.pdf.

Overcentralization is another enduring pattern. Deference to higher authority is ingrained in the Moldovan bureaucracy. Despite all manner of declarations about reform, projects for devolution to local authorities – and stimulation of the capacity to solve problems on the spot – remain on paper. There has been no fiscal decentralization; unspent balances at the end of the fiscal year revert to central ministries.

Within national institutions, the circumstances of rule by a multiparty coalition have exacerbated government effectiveness. Behind the scenes, Prime Minister Filat principally negotiates many important decisions with the leaders of his PLDM's coalition partners. Cabinet ministers and administrative experts often get short shrift. Parliamentary Speaker Lupu plays an outsize role because he leads the PDM. In day-to-day relations among peak-level politicians, policy concerns typically take a back seat to political ones.

An ongoing challenge to democratic governance in Moldova is a lack of public accountability. One recent example of non-consultative policy making, among many volunteered to the assessment team, concerns the decision to raise the VAT on agricultural production from 8 percent to 20 percent, effective in 2013. The Ministry of Finance did not consult the poorly organized farmers, who are already hard pressed during a damaging drought and do not trust promises to refund the difference as subsidies to the sector. In response, spontaneous strikes and protests have broken out in several rural areas.⁴⁴

Plans to improve government effectiveness by increasing citizen access and officials' accountability have had mixed results at best. Citizens may in theory seek to raise governance concerns through the GOM-appointed CNP or economic concerns through the National Business Agenda or larger associations like the American Chamber of Commerce. CSO representatives vary in their estimation of how much the government values and responds to input through these channels. Some well-established organizations like IDIS Viitorul get a respectful hearing, and a number of prominent CSO representatives have moved into leading government positions under the AIE. But other organizations have been boxed out and there is a fear that CSOs have been prone to cooptation by political leaders.

Moldova's asset disclosure law and its regulations (#1264/2002 and 2004 amendment) cover officials including the president, ministers, MPs, and senior civil servants. But its inconsistencies have been confusing to many and the Central Control Commission, which has the authority to levy fines and administrative sanctions, fails to penalize individuals who do not submit declarations or do so with obvious flaws. A more recent effort, the establishment of the parliament-appointed National Integrity Commission (NIC) to oversee the declaration of public officials' income and property, has been hamstrung by political disagreements over its leadership.

To summarize, the assessment team views inadequate government effectiveness as a critical problem in Moldova. The causes can be grouped into two broad categories. The first of these is lack of capacity. Low salaries, insufficient personnel, over-centralization, and political infighting all hamper policy making and policy implementation. Second, and no less important, is the lack of government responsiveness to the citizenry. In order to function effectively, government must respond to the expressed needs of the population and to feedback on its performance. Multiple conditions insulate GOM officials from popular influence at the same time as there are compelling incentives for them to respond to the requirements of top leaders.

2.6 DISTILLING THE DG PROBLEMS

Moldova in the medium-term perspective must be judged a DG success story by the standards of the neighboring former republics of the USSR. By conventional indicators, it is more freely governed than

⁴⁴ "Over 200 Moldovan farmers go on strike against vat increase from 8% to 20%," Infotag, July 31, 2012, at <http://www.allmoldova.com/en/moldova-news/1249053883.html>.

nine of the twelve erstwhile Soviet states other than the three Baltic countries, which are by now consolidated democracies. There is some good news to report, in differing degrees, on all five defining elements of its political system.

There is, however, disquieting news to report as well. During the assessment team's three weeks in the country, the assessment team heard a preponderance of criticism over praise. This is partly a reflection of elevated expectations. It was widely hoped and believed that after 2009 the AEI coalition would move Moldova much more decisively toward greater democracy, prosperity, and Euro-Atlantic integration than the PCRM government that preceded it, although most observers concede, and the assessment team has conceded in their detailed analysis, that there have been detectable changes for the better in some domains. Undergirding the mood of frustration are realities that cannot be brushed aside. There undeniably *are* big DG problems across the board in Moldova. Pluralism by default is alive and reasonably well, but taking the country to another level in its transition toward democracy will require significant new steps so as to remedy nagging problems.

In the first area of interest, there is a dearth of basic consensus on questions of national identity, and Moldova remains riven over identity issues. Agreement about rules of the political game is mainly over negative proscriptions rather than positive prescriptions. In the second area, rule of law and constitutionalism, the country by now has in place much of the required general infrastructure, but it is put to productive use all too rarely. In particular, corruption thrives in defiance of legislation and rhetorical reform programs; the justice system's checks on officialdom are weak; frequently, in the eyes of the public and of experts, the judiciary and other officers of the law act as an instrument of political and business insiders. In the third area, the assessment team finds that there is exemplary competition in Moldovan politics through elections that are on the whole free, fair, and inclusive. But other competitive mechanisms are far less strong, including mass media that are semi-free and a civil society that is functioning but less than vibrant. In the fourth area, inclusion, frictions surrounding linguistic and ethnic minorities persevere, and vulnerable groups receive relatively little attention or protection. Finally, in the area of government effectiveness, the assessment team sees overwhelming evidence of inefficiency and lack of capacity and little evidence of accountability to the people.

This is not to say that these five problems are of equal magnitude. The assessment group concluded that, of the five elements in USAID's SAF framework, two are relatively low in severity and two are relatively high.

The two less pressing DG elements are consensus and inclusion, which are both about the boundaries of the political community. The assessment team is mindful of the difficulties encountered with national unity and the inclusion of minorities, in particular, and that elite and mass expectations of improvement on both consensus and inclusion are modest. There is, in other words, no emergency concerning either consensus or inclusion, and headway on these irksome problems is unlikely to be more than incremental in the coming years.

The two more pressing elements of the original five are rule of law and government effectiveness, which are about the workings of the state apparatus and relations between state and citizenry. On both scores, high subjective expectations of reform have not been met; and in some particulars (corruption, to name one) there has apparently been deterioration in the objective situation, too. In both these fields of activity, the AEI has made eloquent rhetorical commitments to reform, in concert with international partners, and has delivered some betterment but far less than it pledged to deliver. What is more, the assessment team emphasizes rule of law and government effectiveness because they see these factors as cornerstones of the political system. If they are absent or grossly deficient in a modern country, no regime, whether it is democratic or authoritarian, has a chance of consolidating fully.

The last of the five key elements in the SAF framework is competition and political accountability, where recent Moldovan performance has been motley. The assessment team treats it differently than the other

four categories. The assessment team proposes to privilege one facet contained within it – accountability – and generalize it away from the election-centered approach which prevails in this segment of the SAF guidelines. The assessment team’s central claim is that unaccountability and a pervasive lack of effectual linkages between the ruled and the rulers amount to a systemic deficiency of the Moldovan regime, and that this failing, unless remedied, will doom any future attempts to make improvements with respect to the key concerns of rule of law and government effectiveness. The problem statement is as follows:

Low accountability and pervasive disconnect between citizens and government in Moldova undermine rule of law and effective government.

This assertion will lead the team in due course to offer recommendations that are not only about rule of law and effective government in a narrow, output-oriented sense. They will additionally stress inputs – inputs originating with the citizens whose voices are not often raised or heeded in contemporary Moldova.

3.0 KEY POLITICAL ACTORS AND INSTITUTIONS

This section of the assessment moves from DG problems to how they can be alleviated. It focuses on key actors and the institutional environments in which they operate, with the aim of identifying potential stakeholders in the reform process and the incentives which might be used to gain their attention, support, and involvement. Analysis in Step 2 “seeks to re-examine the priority DG problem(s) identified in Step 1 in light of the political feasibility of resolving or mitigating the DG problem(s) through reform that is supported by DG assistance” (USAID SAF, 2011, p. 20). Now that the assessment team has designated rule of law, government effectiveness, and generalized accountability as the central DG challenges in Moldova, the assessment team will focus on the actors and institutions most relevant to forging ahead on those challenges.

3.1 THE EXECUTIVE

The executive is indisputably the predominant branch of government in Moldova. Executive authority is partitioned between the PMO and the cabinet on the one hand and the presidency on the other. For much of the post-communist period the president was preeminent. Since 2009 the balance of power has gravitated in the direction of the PMO. This was an unintended consequence of the extended vacancy in the presidency caused by the inability of parliament to elect someone to this position and, after many months of trying, the legislative leaders finally deciding to fill the post with a candidate from outside the inner circle of political leaders. Interim presidents from 2009 to 2012 allowed the prime minister to carve out a more forceful role. Judge Nicolae Timofti’s election as president in March 2012 may have opened the way to a new equilibrium in relations between the top executive positions.

Obstacles to democratic governance are very much in evidence at the level of the central government. First, there are serious staffing issues. Since wages are low across the range of executive institutions, turnover is high, many positions go unfilled, and the quality of personnel leaves much to be desired. Competent and qualified individuals regularly migrate to the private sector or to international organizations which pay much higher compensation. Second, politicization of the bureaucracy runs counter to efficient administration and accountability. As already noted, under the current coalition GOM ministries and other executive agencies are allocated as patronage fiefs to the ruling parties. While some version of this practice is normal for multiparty governments everywhere, in the Moldovan context ministers appear to be more responsive to party bosses than to the prime minister, which hampers coordination. A number of institutions (for example in the justice sector) which would normally be nonpartisan are also allocated politically and give every appearance of being employed for partisan purposes. Third, parliamentary supervision, which can correct for some executive excesses, is weak in Moldova. The framework for it, well established legally, is often rendered inoperative by rifts within parliament, the hegemony of party leaders, and the lack of an established culture of governmental responsibility.

Granting that the quality of the national-level executive is grounds for serious concern with regard to democratic governance, pockets of reform do exist within it and should be germane to USAID’s DG strategy. A number of reform-minded ministers and enlightened and well-traveled junior officials are in place and seek to move the country forward, and to make personal sacrifices in doing so. Collaboration

should therefore be selective and combined with strong conditionality. The election of a president also presents opportunities to advance the reform agenda, particularly in the justice sector which President Timofti knows best.

3.2 SECURITY SERVICES

Moldova, bound constitutionally to “permanent neutrality” in international affairs, has about 5,000 personnel in its armed forces and a military budget of \$20 million (143rd in the world in 2010). Internal security and counterintelligence are handled by a separate Intelligence and Security Service (SIS), and there is a small Border Guard Service.

These agencies are all underfunded, habitually keep a low political profile, and are under firm control by the executive leadership. The Ministry of Defense is the most apolitical department in the group. There is no tradition of military involvement in politics, as is true in all the post-Soviet states. Perhaps because the army mostly shies away from political issues, it has relatively high levels of public trust.⁴⁵

Under the PCRM from 2001 to 2009, the SIS was tightly bound to the president and cabinet and faced few restrictions on the methods it used to conduct surveillance of the population. It and the border guards were both assigned to PL tutelage in 2010. A new, PL-affiliated acting head has announced the need to develop a “modernization strategy” for the SIS and launched a public discussion. The respected IPP think tank is calling for measures to insulate the service from party-political influence and warning of the danger of it being caught up in inter-party competition.⁴⁶

The security services are unlikely to play a significant political role in the years ahead. On their own, they are of little substantive relevance to reform prospects or to USAID planning. If a role does emerge, it can be expected to be at the initiative of politicians and not of the services themselves.

3.3 THE LEGISLATURE

The unicameral Parliament of the Republic of Moldova is made up of 101 MPs elected in a single national constituency on closed party lists. Authority is concentrated in its standing bureau, consisting of representatives of the party factions, and in the factions themselves. There are 10 standing committees. Leadership positions are allocated proportionally to all of the parties represented, including those in opposition.

Parliament has been negatively affected by rancorous partisan divisions. During the period of PCRM ascendance from 2001 through 2009, decisions were largely taken either in the office of the president or in the PCRM party faction, and then implemented by a majority vote of Communist deputies in the committees and the plenary sessions. Opposition MPs regularly complained of being sidelined.⁴⁷ Since the transfer of power to the AEI, the gulf between Communists and non-Communists has remained deep. PCRM representatives argue that they have been allocated less leadership positions than the number to which they are entitled. Protesting that it is now disenfranchised, the PCRM faction obstructs proceedings

⁴⁵ In the latest IPP opinion barometer, 14 percent of Moldovans said they greatly trusted the army and 42 percent had some trust in it. The survey asked only about “the police” in general, by which most Moldovans would understand the Carabinieri in the Ministry of the Interior. Thirty-six percent trusted them in full or part.

⁴⁶ See Iurie Pi ntea, “Necesitatea, oportunită ț ile ș i provocările procesului de reformare a Serviciului de Informa ț ii ș i Securitate,” at <http://www.ipp.md/libview.php?l=en&idc=170&id=599&parent=0>.

⁴⁷ “Moldova’s Transition from Semi-presidentialism,” in Robert Elgie, Sophia Moestrup, and Yu-Shan Wu, eds., *Semipresidentialism and Democracy* (London: Palgrave, 2011).

as it can and often boycotts legislative sessions (including the one that selected Timofti as president in March 2012).

Parliament's development as an institution has been hindered by a string of factors. Turnover among deputies has been high. In the July 2009 election 65 percent of MPs entered it for the first time. Among the parties in the ruling coalition the legislative experience of MPs is even less. Minority representation is concentrated in the PCRM, which accounts for more than half of the 22 females and 19 of 21 ethnic minority MPs. Legislators' commitment to parliament is minimal in comparison to their commitment to their parties. A majority of MPs are not deeply engaged in lawmaking, participate pro forma, and in their votes fulfill the instructions of the faction. For many MPs, experience with and understanding of the legislative process is limited. Staff positions are often filled on the basis of patronage rather than expertise, and staff turnover is high. Staff is in short supply, mostly unprofessional, and politicized.

Decision making in parliament is concentrated in the leadership of the party factions that make up the ruling coalition. Although it is normal in democratic legislatures around the world for MPs to be bound by party discipline, in Moldova the space for them to influence leaders' decisions is by all accounts tremendously limited. Consequently, the committees, which should optimally be forums for developing consensus on the basis of expert opinion, in practice are of limited importance in the decision-making sequence. The oversight function of the legislature is also enervated. Ministries do not necessarily provide committees with the information needed to perform the task effectively. While committees have the right to call on ministers and functionaries to appear at hearings, they are often snubbed without consequences. Party leaders shelter members of the executive branch who are associated with their organizations, employing their control over MPs to so that individuals will not be subjected to politically damaging oversight.

Parliamentary supervision of the executive is weak. The legal framework for it is well established. However, rifts within parliament, the hegemony of party leaders, and the lack of an established culture of governmental responsibility come together to chip away at oversight. Cooperation is also poor with local leaders, who lament national officials' fixation on top-down control and partisanship.

Finally, links between the Moldovan legislature and the grassroots are weak. This problem is exacerbated by an electoral system based on a single national electoral district, proportional representation, and closed party lists. This system insulates MPs, the large majority of whom reside in the capital, from voters, the majority of whom reside elsewhere. Abundant sources say that MPs routinely purchase their places on electoral lists in order to pursue economic gain. Whether that is their motive or not, on entering parliament they are beholden to the party leaders who decide which names make it onto the closed lists. The well-publicized visits that MPs representing the party factions make to all of the administrative districts in the country appear to be perfunctory.

For all these reasons, Moldova's parliament is not a propitious candidate for being a conspicuous stakeholder in a pro-reform coalition. A United Nations Development Program (UNDP) project on building parliamentary capacity, in place since December 2009 goes some way toward satisfying the existing need in the legislative sector.⁴⁸

⁴⁸ The UNDP program, to be sure, has recently been cut and is somewhat changing its objectives. Nonetheless, it is a significant effort. The assessment team was in any case not convinced that Parliament represented an appropriate priority for programming under current circumstances.

3.4 THE JUDICIARY AND LEGAL PROFESSIONALS

The judicial sector must play a significant role in any future reform efforts, given the criticality of rule of law to advancing democracy in Moldova and the need for the courts to do their part in establishing checks on the dominant executive branch.

Moldova's legal system consists of 53 courts comprising approximately 510 judges, 740 prosecutors, 2,400 attorneys, and 1,500 court administration staff. Judicial institutions are shorthanded and those who work for the courts lack sufficient capacity to manage their case loads and effectively carry out judicial proceedings. Recent legislation was passed to give each judge an assistant, which will boost court staff to 2,000. However, doing so without an increase in organizational capacity will if anything worsen existing problems related to judicial proceedings. Meanwhile, the MOJ, the National Institute of Justice (NIJ), and the SCM get by with 113, 25, and 25 staff members respectively.

Moldova has engaged in justice reform efforts for the last several years, including the creation of the NIJ and dissolution of the economic courts. Thus far these efforts demonstrate some progress but remain inadequate. The most notable recent effort, as mentioned above, began in 2011 with passage of the NSJSR in which, to facilitate Euro-Atlantic integration and qualify for EU assistance, the GOM committed to ambitious restructuring.⁴⁹ Recognizing the need for a holistic approach, the strategy noted “the overall objective of the strategy is to build a justice sector which is affordable, efficient, transparent, professional and accountable to society, that meets European standards, ensures the rule of law and the observance of human rights, and contributes to safeguarding society's trust in justice.”⁵⁰ The strategy singled out seven components of reform and adopted a four-year timeline with task-oriented assignments to multiple agencies. Following its release, the European Commission (EC) announced the intent to commit 58 million euros to judicial reform in Moldova, primarily as budget support. The first disbursement has been delayed due to EU administrative processes and likely will not be available until early 2013, which will inhibit the initial implementation of the four-year strategy. While the first tranche of funds will be unconditional, future payments are provisional on Moldova achieving regular reform benchmarks.⁵¹

While this reform effort is EU-driven, some elements in the GOM and other actors have seized the opportunity to promote improvements. The key proponent within the bureaucracy is the MOJ, which is tasked with leading these efforts. Other donors, among them the Norwegian Mission of Rule of Law Advisers to Moldova (NORLAM), USAID, the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL), UNDP, and the Soros Foundation, have extended significant support. Likewise, CSOs active in the legal sector have joined the effort to champion and monitor implementation of the reform efforts. Business associations and the media have been largely omitted so far but do potentially have a significant role to play as reform advocates and watchdogs. The confluence of current reform efforts and emerging will among political and governmental heavyweights create a window of opportunity for steps toward transformation of this sector.

On the GOM's part, actual efforts to carry out justice sector reform have been tentative. One concern is that at present it has committed no budgetary resources to implementation and relies entirely on

⁴⁹ *LEGE pentru aprobarea Strategiei de reformare a sectorului justitiei pentru anii 2011–2015* [Law approving the justice sector reform strategy for the years 2011–2015], Ministry of Justice, http://www.justice.gov.md/file/proiectul_strategiei/SRSJ%20Remis%20Guvernului%20spre%20examinare.pdf.

⁵⁰ Strategy for Justice Sector Reform 2011–2015, p. 1.

⁵¹ In mid-2012, the EC announced additional support of 94 million euros to continue reforms under the European Neighborhood and Partnership Instrument. Some of these funds will go to the justice system, and there will be new efforts on local and regional development, vocational education and training, and preparing the ground for new bilateral agreements with the EU.

international donors to fully fund the reforms. EU commitments, as mentioned, currently sum to 58 million euros; estimates for the total cost for the implementation of the Justice Sector Reform Strategy start at about 125 million euros.

A second concern is that the motivation for these efforts is for the most part a response to requirements from EU stakeholders, while internal resistance to reform remains considerable. It can hence be expected that implementation will be inadequate. Efforts to address judicial corruption have thus far produced contradictory results. Legislation to increase judicial salaries has passed, but a law requiring judges to provide asset declarations has been challenged by the Constitutional Court. Lack of genuine commitment to reform is evident in the current status of the ballyhooed NIC, which is supposed to check public servants for conflicts of interest. Parliament adopted an enabling law on the NIC in December 2011; since then, politicians have dallied with execution by failing to appoint a chairman. One interviewee referred to the NIC as “born dead.” Moldovan reform skeptics comment that lackadaisical regulation helps perpetuate the collusion between political and insider business interests.

According to the interviewees, full implementation of the justice sector strategy would necessitate as many as 10 changes to the 1994 constitution. However, constitutional revisions require a two-thirds majority vote in parliament, and sources in the Constitutional Court were pessimistic in interviews about any judicial reform–related amendments passing in the next three to four years. And it was the court itself that struck down legislation on declaration of assets for judges. Moreover, implementation of the reforms requires intergovernmental cooperation with a variety of ministries and offices that are controlled by different members of the AEI coalition, which may not demonstrate the same political will to challenge vested interests.

In its programming directed at the judiciary and legal professionals, USAID must be alert to the gap in Moldova between lip service to reform, which produces textbook examples of reform strategy, and follow through, which is frequently inadequate or non-existent. Nonetheless, there are reasons to be hopeful that this time around strides will be made with rule of law reform. Given the multiple actors participating in the sector and the large commitment made by the EU, USAID’s manageable interest is to focus on the gaps in the reform efforts, most notably to support CSOs in monitoring the reform efforts and engaging the public in them. Currently, there is good donor coordination and collaboration between EU and USAID, which plans to maintain a focus on “pillar 1” of the reform strategy, the court system, and improving legal education for judges and others in the judicial system.

3.5 LOCAL GOVERNMENT

Local government is material to the improvement of governance in Moldova because it is closest to citizens, who largely feel disenfranchised. The existing balance of power, where a strong central state towers above feeble local actors, dates back at least to the Soviet period. Moldovans would prefer to see this imbalance rectified: in the 2012 IPP opinion barometer, 58 percent of citizens trust their local governments, twice as many who have confidence in the central government.⁵² Local officials are generally well known within their home areas and maintain close community ties. Local governments value increasing government effectiveness, given their responsibility for providing public goods and services at the grassroots. This offers an opportunity for USAID to engage successfully.

In April 2012 the GOM adopted its NSD decentralization strategy in recognition of the clear need to reform local public administration. The strategy seeks to enable local self-government following the European Charter of Local-Self Government, to which Moldova adhered in 1997. Decentralization has fiscal, political, and copious administrative elements. Fiscal and administrative delegation, reassigning

⁵² IPP Barometer, April–May 2012, p. 37.

responsibility for the provision of basic services to subnational governments, is a key component of the AEI's European integration approach – not least because Brussels insists on it.

Moldova has two layers of subnational government with a huge number of units: a first tier of 898 urban municipalities and rural communes and a second tier of 32 raions or districts, along with three municipalities and the Gagauz autonomous region, with second-tier rights. Fragmentation results in the majority of rural public authorities, in particular, bearing representational responsibility but being denied the wherewithal to assure proper services. Eighty-six percent of all local governments have fewer than 5,000 residents and almost 30 percent have fewer than 1,500. Not surprisingly, financial resources often suffice for only barebones staffing.

It is generally believed by Moldovan experts on the subject that the division of responsibilities between the first and second tiers is unclear. Earlier legislation transferred nominal responsibility for some functions without considering the local governments' economic situation or capacity carry out their assigned tasks. The NSD acknowledges that second-tier local governments have continued to be subject to excessive intervention by the central government and the first-tier ones to be handcuffed in managing financial resources. The deputy mayor of one municipal area, in a meeting with team members, noted recent examples of "deconcentration" of responsibility while simultaneously maintaining the same reporting arrangements to central functionaries. CSOs and others interviewed noted that a similar problem is found between the second- and first-tier local governments: the second level imposes clientelist, non-transparent relationships on the first in the negotiation and distribution of budgets.

The think tank IDIS Viitorul estimated in 2007 that first-level authorities administer on their own less than one-half of 1 percent of the total consolidated state budget of Moldova – five times less than the national customs service alone.⁵³ Little seems to have changed as of this juncture.⁵⁴ Local governments still have limited say over local taxes and fees, which constitute less than 15 percent of the local budget. It is not only a matter of absolute funding but of the arbitrariness in which central transfers, when granted, arrive, with the actual subventions often departing from the GOM's own centrally-dictated distribution parameters.

Moldovan citizens have been quite passive in the local decision-making process. Some are preoccupied by more immediate economic and other concerns or discouraged by the constrained resources and inexperience of the local government staff or by inadequate accountability mechanisms. Several interviewees also mentioned the problem of local community members being poorly informed regarding the time and venue of local council meetings. Vulnerable groups such as the poor, single parent or no-parent managed households, the disabled, and linguistic and religious minorities (especially Roma), may have special difficulty accessing local public services.

It remains to be seen whether the political will can be mustered to implement the NSD. A UNDP official close to the situation commended the GOM, particularly the State Chancellery's departments for local administration and decentralization, for their good intentions. However, leading CSOs, politicians, and others interviewed agree that the chances were slight that political leaders would proceed before the next parliamentary elections in 2014, or even the next local elections in 2015. The archaic inherited system enables politicians to direct resources to local authorities in exchange for political support. Most sources agree that national party leaders are unlikely to relinquish control over such levers in the near term. The Congress of Local Authorities of Moldova, which represents elected local officials, has strenuously

⁵³ IDIS Viitorul, "Policy Brief: Local Finances Decentralization," May 2007.

⁵⁴ Figures exactly comparable to those in the 2007 IDIS Viitorul study were not made available to the assessment team, but members were informed repeatedly by analysts and officials that there had been no fundamental change.

pointed out in public (and said to the assessment team) that there have been multiple statements of intent about decentralization in past years, and as of yet, from their perspective, virtually no real progress.⁵⁵

In sum, the main resources that subnational governments bring to the table are their responsibility for many public works and local services and some credibility with citizens on community issues. They can enhance their authority by building on mechanisms already at their disposal – such as promoting constituent input, airing citizen grievances through public hearings, and speaking out against central abuses. If fiscal decentralization does occur and administrative decentralization is completed, mayors and councilors stand to benefit by gaining control over a limited yet useful source of funding, which in turn will situate them better to institutionalize mechanisms for citizen engagement and inclusive decision making.

3.6 POLITICAL PARTIES

Parties are central to political competition in Moldova. While there are a large number of registered parties, four currently predominate. They are the PCRM and the three main non-Communist groupings that have banded into the AEI coalition: the PLDM, the PD, and the PL. The ruling parties are pitted against the PCRM in parliament and in the court of public opinion. However, competition within the threesome is also fierce and has had baleful consequences for democratic governance.

Since competing in its first legislative election in 1998 the Communist Party has played a pivotal role in Moldovan electoral competition. With support ranging from a low of 30.01% to a high of 50.07% of the vote, it has been the most successful party in each of the six legislative elections held from 1998 to the present. The PCRM's dominant position has structured political competition for more than a decade. At the height of its popularity, from 2001 through 2009, the PCRM formed a single-party government and simultaneously controlled the Presidency, effectively marginalizing its opponents. During the two periods when the Communists have been out of power (1998–2000 and 2009–2012) unstable coalitions made up of parties with little common interest other than their opposition to the PCRM have governed the country. During both of these periods, coalition governments suffered from high levels of conflict between coalition party leaders and substantial policy deadlock.

This longstanding pattern of party competition appears to be in the process of changing. In the course of the past year seven members of the PCRM legislative faction formed in 2010 have left the Party. Former PCRM stalwart Igor Dodon and three of his colleagues found a home in the Party of Socialists of the Republic of Moldova (PSRM). They have joined forces with previous defector Vladimir Turcan and his United Moldova Party.⁵⁶ Dodon's PSRM has begun the process of forming a bloc of left-wing parties with the intention of competing directly with the PCRM for the support of its core electorate. If this effort is successful, the longstanding dynamic of a consolidated far left vying for power with a fragmented center right may well be at an end.

All of the Moldovan parties, including the Communists, are best understood as clientelist organizations. Power is concentrated in the hands of a small set of leaders who are the primary source of party financing. Many of these leaders, in all of the parliamentary parties, are also influential business figures, whose business and political activities tend to overlap. It is widely believed, and was reported to the assessment team in Chisinau, that party leaders are responsible for deciding which individuals will be provided with

⁵⁵ *Avizul CALM asupra proiectului Strategiei de Descentralizare*, *Congresul Autorităților Locale din Moldova* [The Opinion of CALM regarding the proposed Strategy for Decentralization], *Congresul Autorităților Locale din Moldova*, Chișinău, Republic of Moldova, http://calm.md/docs/avize/Aviz_Strategia_descentralizarii.pdf.

⁵⁶ Cristina Buzovschi, "Turcan și Dodon își unesc forțele: Partidul „Moldova Unită” se alătură Partidului Socialiștilor," *Unimedia*, October 8, 2012. <http://unimedia.info/stiri/urcan-i-dodon-ii-unesc-forele-Partidul-Moldova-Unita-se-alatura-Partidului-Socialitilor-53013.htm>.

positions on the parties' electoral lists and allocate them either to their allies and clients or for financial considerations. As a result these leaders exercise a great deal of control over the parties and are able to use them as vehicles to pursue their political and private interests. Throughout the post-communist period, individual leaders have recurrently changed parties, or left existing parties to form new ones of their own, taking with them their political and economic resources and coteries of supporters. This weakly institutionalized and unsettled environment provides constituents with little policy certainty.

With the exception of the PCRM, which was founded in 1993 but rests on Soviet-era foundations, local party organization has been anemic. This picture, too, is beginning to change. The governing parties, now working with Western donor agencies and the European party family structures, have made some steps in the direction of institutionalization. Central party offices have become more effective and improved their ongoing operations at the level of the regions. This is particularly true of the PLDM, which is clearly attempting to match the Communists' mobilizing efforts in the localities. However, organizational weakness, especially at the local level, remains evident. As noted above, the reliance of the electoral system on closed national lists retards the development of links between constituents in localities and elected MPs. Once an election cycle is over and MPs are safely in office, party efforts and constituency services languish.

The reputation of political parties within civil society and the general population is quite low. Representatives of CSOs interviewed by the assessment team expressed negative views of their performance and integrity. Parties participating in the governing coalition were often described as self-interested and averse to cooperation in order to achieve common goals. In public opinion polls parties are consistently ranked at the bottom among all public institutions, and currently are perceived by the population to be no better than they were on average before 2009, when the PCRM was the governing party.⁵⁷

3.7 CIVIL SOCIETY

Civil society both presents promise as a constructive actor in Moldova's democratization and still requires support for its own collective and individual development. For the most part, CSO representatives demonstrate a stronger commitment to reform than do their governmental counterparts and a better understanding of the difficult issues reform will need to tackle. The sector boasts a number of full-bodied organizations with research skills and articulate leaders. Over the last few years, they have built an improved relationship with the government. Areas of potential include the National Participation Council (CNP), which serves as a formal platform for CSO input into the legislative process, and a jointly drafted Strategy for Civil Society Development (SCSD), which among other elements provides for mechanisms that aim to bolster the possibilities for financial sustainability.

Despite these positive indications, civil society remains weak overall. Over the course of the assessment, stakeholders – including leaders of civil society themselves – often displayed what seemed to the team as a limited understanding of the sector, primarily construed as a handful of Chisinau-based think tanks. Policy-oriented CSOs seem to have a low opinion of service provision organizations, particularly those uninterested in advocacy activities, as well as business and industry associations, which are often dismissed as having interests separate from those of civil society. There also appears to be little outreach to or solidarity with organizations at the local level, with established national-level organizations instead serving as a kind of non-elected elite without a link back to citizens or any particular constituency.

⁵⁷ IPP, Barometer April–May 2012, p. 92.

In part as a result of the Law on Transparency in Decision Making, opportunities for advocacy at the national level have increased.⁵⁸ The new law requires the disclosure of public government information, ensures transparency in government decision making processes, and requires ministries to cooperate with civil society. While the passage of this law is a step in the right direction, the skills and tactics on both the government and civic sides remain embryonic. Members of the CNP – a 30-member body appointed by the GOM – appear mostly optimistic about the access the mechanism now affords them, though it is too early to fully determine its effectiveness and authenticity. There is some risk that the council may become a pro forma body that will allow the government to claim it has lived up to an obligation to consult civil society, without substantively doing so. Others express concern that civil society lacks sufficient expertise to provide the concrete input the government may need, or that such proximity to the GOM may inhibit an equally important watchdog role. The CNP already appears to be undercutting the pre-existing NGO Council, a more representative body elected from civil society members of the non-governmental NGO Forum. Efforts to advocate for a governmental office for cooperation with civil society, which would oversee implementation of the SCSD, would further stretch a sector already thin on both human capital and financial resources.

The financial resource deficit remains civil society's greatest challenge. Information suggests that 85 to 90 percent of organizational funding still comes from outside donors. This dependency results in a number of distortions. It creates an unbalanced sector, in which subject specialty is defined by donor interest, and leads to mission creep for organizations that shift their focus in response to donor trends. The tendency for almost all donors to fund activities that support their own implementation goals, rather than build capacity of individual partners or the sector at large, leaves few opportunities for CSOs to improve financial, management, and other vital skills.⁵⁹ This further saps the accountability of civil society, rendering organizations responsive to the donors that fund them rather than to the beneficiaries they may serve or a greater public on whose behalf they should advocate. It also leaves most organizations operating on a project-to-project basis, without the ability to plan long term or hire full-time, qualified staff. CSOs at the local level particularly struggle in their efforts to survive.

There is awareness of the need for resource diversification, and a number of legislative initiatives are afoot to provide for greater opportunities. The proposals cover a variety of tax incentives, such as deductions for individuals and businesses for philanthropic contributions; a percentage law, which would enable individuals and business to direct 1 or 2 percent of their income taxes to an organization with public-benefit status; and refund on VAT for CSOs. Other efforts would include frameworks for social entrepreneurship, which embodies a private-sector model toward civil society goals; public contracting, which would enable the government to outsource key social services to civil society providers; and state funding programs, which would allocate grants to CSOs. The SCSD not only provides for the legal and fiscal changes necessary for all these measures but recognizes the importance of promoting these concepts in order for them to be effective. This would include efforts to implement the Law on Volunteering (2010), which currently suffers from low participation, as well as encouragement of corporate social responsibility, including in-kind donations and community involvement.⁶⁰

The implementation of such measures could hold multiple benefits for the sector. Allowing for greater diversification of funding resources would provide for greater stability and independence of CSOs. Placing more of an emphasis on securing local funding sources such as public fundraising and service

⁵⁸ "Hotărâre cu privire la acțiunile de implementare a Legii nr.239-XVI din 13 noiembrie 2008 privind transparența în procesul decizional [Ruling on the implementation of Law No. 239-XVI of 13 November 2008 concerning transparency in decision-making], No. 96," *Monitorul Oficial nr.30-31/161*[Official Monitor No. 30-31/161], 26 February 2010

⁵⁹ The USAID Moldova Civil Society Strengthening Program and work by the Swedish International Development Agency (SIDA) are the exceptions to this rule. Both have provided resources for core capacity development.

⁶⁰ Hanna Asipovich, "Country Report: Moldova," *The International Journal of Not-for-Profit Law* 12 (November 2010).

provision, would encourage organizations to be more transparent and accountable to the local actors who support them. With basic survival less of a concern, CSOs would be better positioned to fulfill their own missions, identify and support the needs of their constituents, and serve as effective partners in reform efforts.

3.8 MEDIA

Consistently over the course of the assessment, interviewees identified the media sector as an area of improvement, with primary focus on greater objectivity within the public service broadcaster and the pluralism afforded by the appearance of two new national-level television stations. The media enjoy a high level of trust within society, with 75 percent of respondents in the IPP barometer ranking it second only to the church,⁶¹ and anecdotal information suggesting that citizens at times view the media as an actor that can advocate on their behalf. Television is also the most frequented source of information, with 82 percent of Moldovans watching it on a daily basis.⁶² Despite positive indications, limited attention appears to be paid to the constructive role media can and should be playing in Moldova's reform process, in areas such as public education, investigative journalism, and other watchdog activities.

The media's ability to play this role remains hampered by a number of shortcomings, including the degree to which various media holdings are affiliated with various political parties. This problem is compounded by the lack of a prohibition on the concentration of ownership and cross-ownership, which enables political actors to amass a number of outlets in television, radio, print, and online. At least nine separate outlets are influenced by the PCRM, says one source, and another five are linked to the PD, including two television stations with national reach, and the country's main advertising agency.⁶³ With financial viability the main guarantor of editorial independence, control of the advertising market renders media tied to the political, economic, and personal interests of their benefactors. A Moldovan broadcasting code that only requires disclosure of founders, not owners; a regulatory body unwilling to revisit the boundaries of its mandate; limited advocacy towards the need for stronger legislation on transparency of ownership; and denial of access to information on key subjects, such as declarations of assets, keep these murky interests shrouded in open rumor and leaves the media sector as another playground divided and manipulated by people in power at the expense of the public.

Pressure on the media extends to outlets not under alleged party control. Interviews with current and past media organization directors suggest that political figures maintain expectations that public service broadcasters – Teleradio Moldova and Teleradio Gagauzia – bend to their wishes for favorable coverage. Direct budget funding, rather than subscription fees or other financing models, particularly compromises the ability of these broadcasters to remain independent.⁶⁴ Other techniques have targeted commercial media. A 2011 court decision ordering investigative newspaper *Ziarul de Garda* to pay steep damages to two prosecutors for reporting on their alleged involvement in corruption would have had a chilling effect on freedom of the media had it not been overturned by the Supreme Court in 2012.⁶⁵ The 2012 license revocation of television station NIT, carried out on legalistic grounds following repeated warning of bias

⁶¹ IPP Barometer, April–May 2012, p. 38.

⁶² Ibid., pp. 23–26.

⁶³ *Media Landscapes of Eastern Partnership Countries* (Yerevan: Yerevan Press Club, 2011), p. 78; link at <http://www.eap-csf.eu/en/news-events/articles-analytics/media-landscape-of-eastern-partnership-countries/>.

⁶⁴ The state also still directly owns the news agency MoldPress, and a number of publications at the local level have yet to be privatized.

⁶⁵ Media NGOs statement regarding the sanctioning of *Ziarul de Garda* for defamation, "Centrul pentru Jurnalism Independent (August 3, 2011). <http://www.azi.md/en/statement/20004>

towards the PCRM, created controversy that the closure was politically motivated. Individual journalists have also come under attack, physically and otherwise, often when covering sensitive stories.

Moldova's media sector will continue to shift over the coming years, the upshot both of political and of technological changes. The country lags behind in its preparations for digitalization – in which analog signals for terrestrial broadcasting will be switched off in 2015 following a conversion to digital platforms – presenting regulatory, financial, and access challenges for both media and citizens. Without an appropriate legal framework, a rational action plan, and stronger assurances for the independence of oversight bodies, license allocation will be vulnerable to corruption and an already oversaturated market flooded with unsustainable competition. The costs to stations to upgrade their equipment and capacity as required will favor the better-funded (and likely politically connected) stations, and leave smaller, local stations at particular risk of closure. The expense for citizens to purchase digital converters or new television sets will mean that large sections of poorer populations may find themselves losing access to their primary source of information.

Moldova's print sector – already hurt by low readership (only 8 percent read newspapers on a daily basis) and a near-monopolistic distribution system – will likely continue to lose ground as the Internet waxes in popularity. Thirty-four percent already use the Internet on a daily basis (with significantly higher rates among urban users [60 percent] and youth [67 percent]), and 17 percent rely on the Internet as their first source of information.⁶⁶

Though currently underutilized (by not only media, but also civil society and other actors), the Internet and related opportunities – including a mobile penetration rate of over 100 percent and a significant World Bank investment in establishing an E-government Center at the national level – hold great promise for promoting transparency, connecting with citizens, and engaging the diaspora. To paraphrase one leading analyst: “If you want to help Moldova, invest in broadband.”

3.9 PRIVATE SECTOR BUSINESS INTERESTS

The private sector of the Moldovan economy has developed dramatically but unevenly in the post-Soviet period. This has had a major influence on the development of private interests and the quality of democratic governance. In essence, diffuse interests at lower levels in the society are as yet underdeveloped while concentrated interests of a small number of actors play a pernicious role.

The economy experienced a traumatic collapse at the beginning of the 1990s and was very slow to recover. Agriculture, which held sway during the communist period, was disrupted by the breakup of the Soviet production system and the privatization process. Large scale industry suffered from the loss of Soviet connections, the end to subsidized energy, the Transnistrian secession, and limited market access. These difficulties were magnified by ill-advised and badly implemented state policy.

As in many other post-Communist countries, the transition to market capitalism in Moldova provided opportunities for the transfer of state property into private hands. As in many other places, a small number of individuals took advantage of the opportunities afforded and gained control over a highly disproportionate share of the country's wealth. This early pattern of concentration has been reinforced in more recent years by weak rule of law, intertwining of economic and political power, and the heavy hand of the state generally in the economy. “Oligarchs,” so called, are by now a conspicuous and well-entrenched presence on the economic and political scene.

Thus far, this pattern of private sector business interests has distorted the Moldovan political process to the detriment of democratic governance. The major parties are financed by and in many cases led by the

⁶⁶ IPP Barometer, April–May 2012, pp. 23–24.

most influential business leaders in the country. The political influence they wield is employed to achieve economic advantage and restrict competition. Conversely, political ascendancy can be translated into economic gain by using the state to transform public wealth into private assets.

While recognizing these problems, the assessment team feels that possibilities exist to make use of dynamism in the private business environment to enhance democratic governance. If the current trend continues, international investment grows, and small and medium size businesses become more prevalent, the assessment team expects business associations, which have thus far been largely overlooked, to emerge as a significant force among CSOs.

Although the competitive environment remains difficult, medium and small size firms are emerging and are beginning to more effectively organize to articulate their interests to the state. More coherent and vigorous farmers' organizations, such as various representatives of the wine industry, and the effective work of the American Chamber of Commerce and the Association of Private Information Technology Companies are beginning to have an impact on policy. Increasingly, active business lobbying in the information and communication technologies (ICT) sector points to the possibility of less oligopolistic business interests emerging and counterbalancing the unhealthy concentration of political and economic power. These changes constitute an opportunity that should be taken advantage of in the DG strategy.

3.10 OTHER NON-STATE ACTORS

A number of the possibilities in this category – principally, armed rebels, private militias, and customary or tribal leaders – are not pertinent to Moldova.

Organized criminal groups certainly do exist in the country, but in their most intimidating form, as private protection rackets substituting for an enfeebled state, reached their apogee in the 1990s. There is potentially an insidious role in politics when their activities intersect with legitimate business and with elected representatives. The corporate raiding scandal in 2011, the details and legal outcome of which are at this time murky in the extreme, seems to point in this direction. Drug trafficking is a significant problem in Moldova, as three major shipment routes cross the national territory. As in many policy areas, governmental response is inadequate. International assistance efforts continue to address the challenges of trafficking in persons, for both sex and labor, and IOM data indicate some progress has been made.

Religious leaders play a limited part in Moldovan politics. Most believers are affiliated with the Moldovan Orthodox Church (MOC), which has operational autonomy within the Moscow Patriarchate. Its relations with the much smaller Metropolis of Basarabia, under the Romanian Orthodox Church, are perennially strained. The MOC favors international cooperation with Russia and other CIS states; the Metropolis of Basarabia is strongly oriented, culturally, toward Romania. During the PCRM's time in power the party, despite its Marxist-Leninist roots, cultivated friendly relations with the Orthodox hierarchy. The AEI alliance "does not have a clear strategy of interaction with the church," partly out of jealousies within the coalition.⁶⁷ The MOC metropolitan of Chisinau has strongly opposed legal protection of religious and sexual minorities. In debates over the 2010 Law on Ensuring Equality, he and a number of other clergy made common cause not only with the PCRM but with the PL fraction within the AEI caucus, and were aligned against international organizations and domestic rights activists.

The MOC, though, has neither the vision nor the resources to exercise wider influence in the political system. In USG and USAID planning terms, it is unlikely to play a consequential role in the reform process.

⁶⁷ "Is Moldova Headed Toward a Socio-Religious Conflict?" (June 20, 2010), at <http://imedia.md/libview.php?!=en&id=1429&idc=255>.

3.11 INTERNATIONAL AND GLOBAL ACTORS

Owing to its small size, geographic location, and lack of resources, Moldova is bound to be subject to significant international forces and pressures. Its chosen policy of neutrality exempts it from much of the tugging and hauling over security alignment which has in the recent past so affected post-Soviet countries such as Georgia and Ukraine. Only one major political party (the pro-Romanian PL) advocates a revision of this policy and a bid to join the NATO alliance. There is barely any public support for such a shift, or for the alternative of joining the Russian-led Collective Security Treaty Organization (CSTO), and no movement toward signing on to any military bloc. The Organization for Security and Cooperation in Europe (OSCE) has had a mission in Moldova since 1993 and is chiefly occupied with the Transnistria problem.

The residual relationship with Russia still counts for a lot in Moldova. Russian troops guard the gates to Transnistria (about which more in Section 5.8.2). Moldova is a cooperative member of the Commonwealth of Independent States (CIS) to which Russia and 10 post-Soviet neighbors belong. Russian media and cultural products are plentiful everywhere in the country. Numerous Moldovan migrants work in Russia, and the Russian Orthodox Church is a major presence in the spiritual sphere. CIS countries accounted in 2011 for 41 percent of Moldovan foreign-trade exports (two-thirds of that to Russia) and 33 percent of Moldovan imports (half of that from Russia). All of these connections matter, but none gives the Kremlin much by way of direct influence over Moldovan politics and government. The PCRM might have seemed a natural ally, but Vladimir Voronin's relationship with Moscow never recovered from his last-minute rejection in 2004 of the "Kozak Plan" for settlement of the Transnistria conflict through federalization.⁶⁸

For the post-2009 GOM, the EU and not Russia or the CIS is the key international partner and Euro-Atlantic integration is its highest foreign-policy objective. The theoretical possibility of EU membership is the carrot that motivates its reform endeavors across many sectors – admittedly on what is often a superficial level. It currently appears as if a Deep and Comprehensive Free Trade Agreement will be signed in the fall of 2013 and that freer trade should spur Moldova's economic competitiveness. Visa liberalization is also the subject of extended negotiations. Just under half of Moldovan foreign trade is with EU countries. The EU's financial clout and the willingness of its leaders to bring Moldova into the European community in some fashion give it indirect influence over the Moldovan scene and, on some issues, direct influence over political actors. Local leaders do not always listen to the EU's advice. In two recent controversies – over the closing of the NIT television channel and the banning of the hammer and sickle – EU representatives made no secret of their disapproval of GOM actions. Moldova has a unique relationship with Romania, with which it has close linguistic and cultural affinities. Bilateral trade has grown by leaps and bounds,⁶⁹ and under President Traian Basescu Bucharest has extended Romanian citizenship to tens of thousands of Moldovans.

Moldova benefits from comparatively lavish funding from international sources. Out of 1.9 billion euros pledged for 2011–13, 49 percent was from international organizations such as the IMF, the World Bank, the European Bank for Reconstruction and Development (EBRD), and the UN and its agencies. The EC's contribution summed to 28 percent and that of individual EU countries, led by Romania and the German GIZ, to 10 percent.⁷⁰ Moldova is the second-ranking recipient of EC funding under the EU Eastern

⁶⁸ President Voronin was initially supportive of the plan but had a change of heart and vetoed it. President Putin was en route to Chisinau to sign the agreement when he was told the news.

⁶⁹ Romania is now the second largest market for Moldovan exports, after only Russia, but is still third as a source of imports, behind Russia and Ukraine.

⁷⁰ Donor Mapping Report (document provided to the assessment team).

Neighborhood policy, adopted in 2005. The EU is the primary donor for justice sector reform and supports rural development, Transnistrian projects, and multiple undertakings in other domains. Its assistance in 2012 comes to \$124.4 million – per capita the highest of the six Eastern Neighborhood countries.⁷¹

The USG is one of the largest bilateral donors to Moldova. USAID alone has since 1994 invested about \$315 million, up to and including FY 2012. The biggest single assistance line is the \$262 million committed by the Millennium Challenge Corporation (MCC) in 2010, mostly to roads, rural irrigation, and high-value agriculture. INL maintains a major presence, occupied with law enforcement, criminal justice, and trafficking in persons.

Strictly speaking, the Moldovan diaspora is a transnational rather than an international actor, but it should not be left out of the equation. The IOM reports that a half-million or more Moldovans are at present out of the country pursuing economic and other opportunities (GOM and other data vary widely). This has relieved poverty but also strongly inhibited Moldova's development – through “brain drain” in the private sector and the state service, lessened competitiveness strictly by wages since 2009, remittances that go to consumption but not investment at home, and impact on villages and families – especially the children and elderly kin of migrant workers. The Moldovan diaspora is a possible agent for change within the homeland. Efforts to harness its energy, skills, and capital for domestic transformation are only beginning.

3.12 FACTORING IN POLITICAL ACTORS AND INSTITUTIONAL ARENAS

Moving in the assessment exercise toward policy recommendations, the team looked for areas of Moldovan government and politics where there existed the potentially fruitful combination of a permissive institutional environment and a critical mass of reformist-minded political actors. The assessment team thinks of foreign donors and partners as being in a *sui generis* category. Many are heavily committed in Moldova. While they contribute to the local elite's will to reform, they cannot turn things around without synergy with forces from within the domestic system.

Some domestic action areas failed completely to meet the assessment team's test, in particular those occupied by the security services, parliament, and a number of non-state actors. That is, they lack either an institutional environment that would be conducive to change, or they lack a core group of leaders who could be expected to act as effective partners in the reform process. In a pair of other important areas – the executive branch of government and the political parties – the assessment team took note of conditions and of existing programming and came to the view that, whereas some suitable targets for reconfigured DG assistance might be found, these would have to be precisely identified and strict conditionality would be required.

Other considerations aside, the assessment team sees the greatest action potential in players falling into three broad categories. In the first category the assessment team finds local government, the justice sphere inhabited by the judiciary and legal professionals, and the private business sector. These are located either within or in proximity to core institutions of the state. Local government has been downtrodden and deprived of resources, but it has a positive reputation with the population and a dose of decentralization might do wonders for performance here. In the judicial sector, there has been rapid progress in formulating new laws and regulations, but insufficient implementation of the noble ideals embodied in them. Although some participants, including many judges, will resist radical reform, a head of steam has been built up in this sphere and it is hard to see how the status quo can hold much longer. There are

⁷¹ Data at http://eeas.europa.eu/delegations/moldova/eu_moldova/political_relations/eu_moldova_relations_deliverables/index_en.htm.

encouraging signs of distancing from government in some emerging segments of the private economy and of new vitality among business associations.

In the second category are found civil society and to a lesser extent the media. This is a bottom-up category. Key actors are neither part of nor directly symbiotic with the state apparatus. The assessment team asserts that they must be brought more centrally into the effort to support democracy, human rights, and governance in Moldova. While civil society remains weak and unduly imitative of and a ward to foreign benefactors, resource diversification would strengthen the potential of CSOs to represent and respond to constituencies. In the traditional media, the intersection of political and private business interests in commercial broadcasting, growing but still limited independence of public service broadcasters, and a weak print sector pose challenges for further independence. But individual investigative journalists, active media support organizations, and the explosive growth of the Internet and of social media will open up new possibilities for lateral communication and the raising of citizen voices in the political agora.

Thirdly, and crucially, it is the voices of *citizens* that are most muted and most ignored in Moldovan politics. Democracy, human rights, and good governance come down to the governed having the final word on who governs, and in whose interests. This assessment ultimately advocates for more audible citizen voices, listened to more attentively by those who rule in the name of the people.