

## Deterioration of EU-Moldova dialogue and calculations of Moldovan government, OP-ED



### Op-Ed



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The Moldovan authorities fulfilled all the procedures for invalidating the Chisinau early mayoral elections that were won by the representative of the extraparliamentary opposition Andrei Nastase. The final point, at procedural level, was the decision by the [Central Election Commission by which the elections were nullified \(June 29, 2018\)](#). Consequently, Moldova's capital city remained without a mayor with a full term in office until the ordinary local elections of the first half of 2019. About 240,000 votes (approximately 40% of the voters in Chisinau) and 14 million lei spent on the elections held in two rounds were wasted. The invalidation of elections repeatedly highlighted the massive distrust in the integrity of the judicial system that is accused of incompetence, political servilism and, respectively, political corruption. The created situation amplified the internal criticism ([opposition, civil society](#)) and external distrust in the government that continues to associate itself with the West, and generated new political opportunities for revitalizing the extraparliamentary opposition.

The invalidation of elections represents the apogee of interference in the democratic exercise and fuels concern that electoral democracy in Moldova can become fully dysfunctional. The voter turnout in elections has already decreased (from [67.5% in 2001 to 57.2% in 2014, with a reinvigoration to 63.3% in 2010](#)), while the introduction

of the mixed electoral system and the annulment of elections in Chisinau municipality can intensify electoral absenteeism. The mixed electoral system has an enormous potential to discourage political competition, representativeness of elections and participation in elections owing to the 51 single-member constituencies where one round of voting is to take place.

The high corruption perception rate and the politicization of the public sector (state institutions, public enterprises, etc.) and of the judiciary also multiply the factors that alter the authentic will of the population. This fully explains the conviction reaction of the extraparliamentary opposition and the critical messages that come from the foreign partners, in particular the EU ([EU, June 27, 2018](#)) and the U.S. ([U.S. Department of State, June 28, 2018](#)). Alongside the independence of the judiciary, the arbitrary way of interpreting the law was actually the nucleus of foreign concerns as this drastically diminishes public confidence in the principle of equality before the law (rule of law). Moreover, the decision to invalidate the elections lays the foundations of a serious precedent for the upcoming elections in Moldova, starting with the elections of the end of 2018.

### **Position of the government and the “two to blame”**

Given that all the internal and external accusations are aimed at the ruling party, this denied the exertion of any influence on the judicial system. The main argument of the Democratic Party is that it gains nothing of the political crisis generated by the invalidation of elections in Chisinau. Until now, the representatives of the government have shifted the responsibility onto: 1) the current electoral legislation that is insufficiently explicit (for example, the definition of “electoral agitation”), causing consequently interpretations that allow deviations from the electoral process ([Gov.md, July 29, 2018](#)); and, 2) the social networking sites (Facebook) that need to be regulated given that they can influence the behavior of voters and, respectively, the results of elections ([Unimedia, June 21 and June 29, 2018](#)).

Until now (July 1, 2018), the [Democratic Party](#) has published no reaction to deny the accusations about its role in the invalidation of the elections in Chisinau. On the one hand, the government prevented the spread of the accusations through the media outlets it controls, where there is an acute shortage of information about the protests mounted by the opposition. On the other hand, the Democrats, in the public sphere dominated by the opposition, made statements about the irrationality of the accusations made against the government and the necessity of adjusting the legislation so as to prevent a repeat of the election invalidation case.

Using the court decision of June 19, 2018, which legitimatizes the ban on calls to urge the people to vote made on the election day through Facebook, different representatives of the PDM expressed their interest in the initiative to regulate social networking sites in the election period ([Sergiu Sirbu - June 21](#), [Vlad Plahotniuc – June 26](#), [Andrian Candu](#) and [Pavel Filip – June 29](#)). This way, besides the nullification of the democratically cast votes, the invalidation of elections can serve as a pretext for restricting the use of social networking sites (“right to expression”), where the extraparliamentary opposition is more popular than the Democrats and also the Socialists.

The logic of the government can be deciphered by more thoroughly analyzing the interview given by the leader of the PDM, oligarch Vladimir Plahotniuc, which was published the next day after the Supreme Court of Justice passed its final judgement ([Timpul, June 26, 2018](#)).

*First of all*, the interview shows that the government wants to create the perception that the “invalidation of elections” is the combined result of justice and the legislation, without invoking external interference whose traces will lead to Russia. Thus, the Democrats do not invoke at all the Russian factor that was earlier regarded as a potential source of interference in elections and also the threat to the country’s information security ([IPN, December 11, 2017](#)). Nevertheless, the medical coverage of the adoption of the UN resolution on the complete and immediate withdrawal of the foreign military forces [on June 22](#) was aimed at Russia. The vote on this resolution practically coincided, in a surprising way, with the examination of the election invalidation file by the upper courts of law (Appeals Court – June 21, Supreme Court – June 25). However, the Russian factor was anyway exploited, but with the aim of distracting the attention of the foreign partners and partially of the public in Moldova from the protests initiated by the extraparliamentary opposition.

*Secondly*, Vladimir Plahotniuc admits that alternative measures were taken to make sure that Moldova will receive financial assistance from other sources than the European one. Thus, only three days after the invalidation and following the EU’s announcement about the postponement of the macro-financial assistance ([Free Europe, June 27, 2018](#)), the IMF announces that a new tranche of about [US\\$34 million](#) ([IMF, June 29, 2018](#)) will be disbursed to Moldova. So, we can deduce that at least some complications around the elections in Chisinau or even the decision to not validate the elections were planned inside the PDM. Or the taking of precautionary measures by the government after affirming that it fulfilled the first ten conditions for obtaining the EU macro-financial assistance cannot be explained. It should be recalled that the Moldovan authorities modified the budget in order to increase the allocations for the National Integrity Authority, which was a condition imposed by the EU after the May meeting of the Association Council ([IPN, May 7, 2018](#)). The EU was also very close to taking a

favorable decision as to the provision of the first installment in July or in autumn at the latest, before the parliamentary elections.

*Thirdly*, through the interview the leader of the PDM indirectly accuses the EU and other players of exerting pressure on the government of Moldova with the aim of seeing the Chisinau elections validated. It was also reiterated the idea that external forces, together with the opposition, blackmail the Moldovan authorities with the (non)provision of assistance and the punishment of the whole country due to the court decisions. In reality, the foreign partners asked to respect the vote and the political will of the people. A subtle request to the government was to stop influencing the judiciary given the solid conviction that all the institutions in Moldova, including the juridical system, are controlled by the ruling party. Nevertheless, the government substituted the assumption of the own responsibility for discrediting the judicial system with the formulation of accusations of external interference in the decision-making process inside the Moldovan judiciary.

*Fourthly and lastly*, the leader of the PDM underlined the necessity of avoiding the escalation of the situation, which could be exploited by particular forces from outside, without referring explicitly to Russia. Thus, on the one hand, this shows the clear intention of the government to demobilize the protests fueled by the opposition forces. The testing of the opposition's capacity to gather around itself the people and, simultaneously, the using up of the opposition's energy before the elections are among the reasons that can explain the government's motivation to push the courts of law towards the invalidation of elections ([IPN, June 25, 2018](#)). On the other hand, the leader of the PDM transmits a very clear message to the European partners by which he shows he wants the EU to contribute to the moderation of the opposition that is decided to transform the "invalidation of elections" into the key message of the election campaign prior to the parliamentary elections of 2018.

### **What the EU can do?**

From very sharp political statements, the EU is to move towards concrete actions to defend the democratic principles and the rule of law that are defined in the Association Agreement signed four years ago. For now, Commissioner Johannes Hahn announced that the procedures for disbursing the first installment of the a macro-financial assistance were stopped ([Free Europe, June 27, 2018](#)). This led to the annulment of the mission that was to assess the fulfilment of the conditions by the Moldovan authorities. Even if Brussels didn't ask for this expressly, Prime Minister Pavel Filip requested the Ministry of Justice to immediately examine the electoral legislation and identify the existing shortcomings and to submit proposals for improving this for the benefit of the upcoming elections ([Gov.md, June 29, 2018](#)).

The measures the EU can take towards Moldova should be based on at least three reasons. The first reason derives from the EU's need to defend and promote the own values that include the rule of law and democracy. The second reason results from the interest to inspire the extraparliamentary opposition and the pro-European voters, who expect decisive steps from the EU to punish the government for directly or latently contributing to the growth of the judiciary's dependence on the political class. The third reason is to show that the EU can penalize oligarchic regimes involved in pro-EU narratives in the whole region for deviations from the democratic principles incorporated into the Association Agreement.

To begin with, the EU should publicly announce that the provision of macro-financial assistance was postponed until autumn or until after the parliamentary elections for the reason that the political preconditions weren't fulfilled. The "invalidation of elections" paralyzes the manifestation of the multiparty system and erodes the democratic environment. Possibly, the "invalidation" wouldn't have taken place if the EU hadn't tolerated the introduction of the mixed electoral system.

The suspension of the budget support should be the next step. This support, unlike the macro-financial assistance, fully consists of grants, which is money that should not be paid back. Even if this could prevent the implementation of at least four programs related to the public administration and police reforms, regional development and the DCFTA, the suspension of assistance is an exceptional measure for a crisis situation. The money that is not allocated for these programs could be transferred to special funds intended for financing projects submitted by Moldova's civil society.

The third step could be the setting of political conditions that the Moldovan authorities should adopt for the EU budget assistance to be unfrozen. There is the precedent of 2015, when the EU decided to suspend the budget support owing to the banking fraud and imposed a set of conditions for resuming the financial assistance ([such a proposal was already formulated by the Eastern Partnership Civil Society Forum, June 29, 2018](#)). The list of priority demands should include the elimination of the mixed voting system or at least the introduction of the second round of voting in single-member constituencies and the transparent and effective investigation of the banking fraud.

Owing to the money from the IMF, the Democrats feel safe, but the EU's budget support, besides the macro-financial assistance, will affect the activity of the Government (Ministry of Economy, Ministry of Finance, etc.).

Moreover, the suspension of the EU assistance imposes a new reality where the government's position will be more fragile given that this fuels its legitimacy with the pro-European rhetoric. Ultimately, by suspending the budget support the EU will actually strengthen the extraparliamentary opposition's approach, while the PDM will fall into disgrace whose length will depend on the fulfillment of the imposed conditions.

### **Instead of conclusion...**

The invalidation of elections in Chisinau cannot be tolerated by the EU whose actions should cover the problems in the juridical system that are a cause and a consequence of the current government as well. Or the EU will repeatedly tolerate a deviation from the democratic principles, as it happened when the mixed electoral system was introduced in 2017.

The suspension of budget support is among the most robust reactions that the EU can have, repeating practically the situation of 2015, when the European assistance intended for Moldova was for the first time frozen.

Civil society and the extraparliamentary opposition of Moldova have increased expectations of the EU as the government's legitimacy depends on the dialogue with Brussels. The EU's position should always exactly reflect the situation of political crisis experienced by the country after the invalidation of elections in Chisinau.

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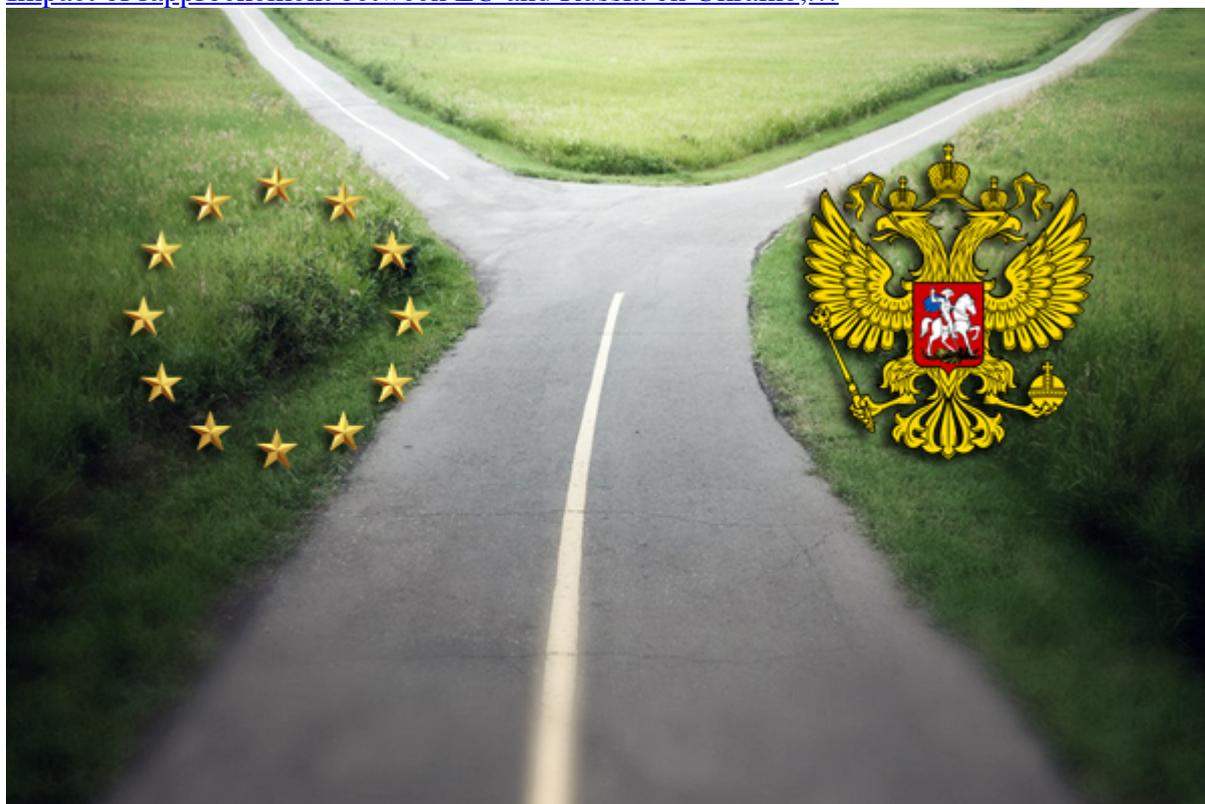
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