

Invalidation of elections in Chisinau, government scenarios and EU reaction, OP-ED



Op-Ed



Dionis Cenușa

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The political struggle in Moldova started to take a new shape after the results of the early mayoral elections were invalidated by the ordinary court. The June 3, 2018 runoffs ended with the victory of the candidate of the extraparliamentary opposition Andrei Nastase, who polled 52.7% of the vote (129,432 votes). The court intervened after the Party of Socialists' candidate Ion Ceban, who won 47.43% of the vote, filed a challenge. The reason to not validate the elections invoked by the court was Andrei Nastase's campaigning on the election day through social networking sites ([Youtube, June 3, 2018, starting with 6th minute](#)), which would have substantially influenced the behavior of voters.

The given decision powerfully shook the Moldovan political arena and additionally fissured the credibility of the judicial system that was already considered a political instrument of the government by the opposition. The reasons used by the court to argue its judgment to invalidate the elections are controversial and annul the vote of over 240,000 people, but also set a dangerous precedent for the parliamentary elections of 2018.

The invalidation of elections is a real “political shock” ([IPN, June 20, 2018](#)) for the extraparliamentary

opposition, [representatives of civil society](#) and foreign partners, in particular the European Union. These criticized the court's decision for the fact that it seriously violates the right to vote and undermines the people's will. The leader of the Democratic Party Vladimir Plahotniuc is suspected of aiming to prevent Andrei Nastase from taking control of the capital city by exerting influence on the judiciary. Contrary to these suspicions, the Democrats, through the voice of Prime Minister Pavel Filip, deny the government's intention to influence the court's decision ([TRM, June 20, 2018](#)), because it would affect the interests of the government. Nevertheless, the extraparliamentary opposition engaged the population in large-scale protests (June 24, 2018) so as to demand that the elections be validated ([Tribuna, June 23, 2018](#)), while the foreign partners promised to monitor closely the election invalidation case and requested the authorities to ensure the independence of the courts of law.

The decision to not validate the elections arouses a number of issues because this brings political costs for the government in a crucial electoral year for its political survival.

First of all, the court's decision caused harsh condemnation reactions among the local players and concern among the foreign partners, primarily the EU and the U.S. The intensity of these reactions was highly superior to that expressed in 2017 against the introduction of the mixed electoral system. *Secondly*, this revitalized the agenda of the extraparliamentary opposition, which, based on this reason, can mobilize the own voters and can attract new voters before the parliamentary elections of 2018. *Thirdly*, by invalidating the election outcome by court decision, the political pre-conditions concerning the functionality of the democratic institutions are practically violated. As a result, the first installment of the EU macro-financial assistance that is set to be disbursed in July could be postponed until autumn or later. These costs are substantial for a ruling party, especially if the popularity of this at home and abroad is very low. It is not yet clear if the Democrats' goal is to only remove Nastase from the mayoralty or these pursue distinct objectives.

Position of European players

The messages transmitted by the European partners had a different intensity and connotation. The first message was made public by the Head of the EU Delegation Peter Michalko (June 20, [6:33am](#)) through social networking sites. Later, their positions were stated by the European People's Party (June 20), the European External Action Service (June 20, 7:34pm), the European Parliament (June 21, midday) and the Eastern Partnership Civil Society Platform (June 21). Thus, at least two European institutions discussed and warned the public opinion about the court's decision to not validate the early mayoral elections held in Moldova's capital.

The following conclusions derive from the reactions of these players.

First of all, there is a very powerful perception that justice is controlled by the central administration of Moldova. The European People's Party is the most trenchant one in its message and accuses Vladimir Plahotniuc and Igor Dodon of the fact that they used the politically controlled justice system to invalidate the elections ([EPP, June 20, 2018](#)). In the same tonality, the European Parliament's Committee on Foreign Affairs describes the court's judgment as political interference in the judiciary, which is contrary to the European standards to which Moldova subscribed as a party of the EU-Moldova Association Agreement.

The second aspect that the European players tended to underline is the fact that by invalidating the elections, the Moldovan authorities violate the political preconditions related to the macro-financial assistance. This way, the functionality of the mechanisms of democratic institutions is not ensured, in particular a multiparty system. The parliamentary committee noted that both the court's decision and the electoral system reform (introduction of the mixed electoral system) are deviations from the political preconditions ([European Parliament, June 21, 2018](#)).

The third idea that derives from the messages is that the EU should no way provide financial assistance until the political preconditions are not fulfilled. The European People's Party demanded that the EU should not offer financial assistance to the regime in Chisinau, which is characterized by it as a "cartel" between Vladimir Plahotniuc and Igor Dodon. The Eastern Partnership Civil Society Platform calls on the European institutions to go beyond political statements and include a serious reassessment of the financial assistance to Moldova, defending thus the fundamental principles of democracy ([EaP Civil Society, June 21, 2018](#)).

The fourth dimension to which attention is drawn is the respecting of the election results and, respectively, of the people's vote ([EEAS, June 20, 2018](#)). The Head of the EU Delegation said the respect for the people's will is a feature of democratic societies and a [European value](#).

Ultimately, *the fifth idea* that derives from European players' reactions is the assumption of the commitment to closely follow the political developments in Moldova, especially in the context of the 2018 parliamentary elections.

Scenarios related to (in)validation of elections

Based on an ordinary cost-benefit analysis, we see that the invalidation of elections affects the immediate interests of the Democrats. This also contradicts Vladimir Plahotniuc's affirmations that Andrei Nastase's victory shows that there are several poles of power in Moldova, which would annul the state capture thesis ([Tribuna, June 11, 2018](#)). After the court passed the invalidation judgement, the Democratic Party (PDM) actually returned to the image capital level of 2016 and could lose the macro-financial assistance for which it recently made additional effort following the EU's requests concerning the National Integrity Authority ([IPN, May 7, 2018](#)). For these reasons, at least two scenarios that can explain the political calculations around the election invalidation should be considered.

The scenario: "Invalidation of elections up to the end". If the Supreme Court of Justice also does not confirm the election outcome, a new decline in democracy will be witnessed. Nevertheless, the government will obtain both advantages and disadvantages.

The first advantage resides in the non-admission of Andrei Nastase to his first public post and thwarting of the possibility of obtaining political capital by managing the capital city. The second advantage is that the Democrats, after the protests launched by the extraparliamentary opposition, could test their social mobilization capacity and the people's receptivity to protests. The third advantage is the distraction of attention from the mixed electoral system, which loses topicality amid the crisis around the election invalidation. Last but not least, the upholding of the invalidation will enable the government to test the EU's firmness as regards the fulfillment of the political preconditions.

The disadvantages include the risk that the EU macro-financial assistance would be put off not only until autumn, but even until after the parliamentary elections, and the repeated discrediting of the government before the foreign partners to whom they try to show that they promote the European course. At the same time, the PDM will have to face new protests that can contribute to the opposition's visibility in the capital city and outside it namely before the legislative elections.

The scenario: "Validation of elections". There is a high probability that the government does not intend to worsen its relations with the foreign partners and to fuel the protest spirit in society. In this case, by exerting political influence or by stopping to exert this, the upper court will validate the elections and, respectively, Andrei Nastase will become mayor.

Such a positive scenario for the extraparliamentary opposition will generate particular benefits for the government too. First of all, this will have more chances of obtaining the EU macro-financial assistance in July or in autumn at the latest. The validation of elections can serve as a proof that the Democrats do not control justice. Moreover, amid the debates on the election validation, an initiative can be proposed to regulate the use of social networking sites for electoral agitation during the election day ([which was suggested in public by Democratic MP Sergiu Sirbu](#)). This way the government could minimize the political risks that can result from the use of social networking sites or electoral purposes in the future. For now, with minimal resources, the representatives of the extraparliamentary opposition are more efficient in the online sphere than the PDM, which maintains different websites, trolls, commentators, etc. Also, the validation of elections will enable to shrink the protests initiated by the opposition. Ultimately, based on European players' reactions as regards the inviolability of the people's vote, the Democrats would obtain additional guarantees that the results of the parliamentary elections will be accepted regardless of the vote distribution.

The disadvantages for the Democrats that derive from this scenario include the management of the capital city by Andrei Nastase, who will gain instruments to promote his own image and the image of his party, and

the promotion of an anti-corruption agenda, which will always be interconnected with the cracking down on corruption nationwide, through Nastase's presence at the City Hall.

Table. Advantages and disadvantages of (in)validation of elections in Chisinau for government

<i>Scenario: "Invalidation of elections up to the end".</i>	<i>Scenario: "Validation of elections".</i>
<p><u>Major advantages:</u></p> <ol style="list-style-type: none"> 1. Prevention of Andrei Nastase from occupying the post of mayor. 2. Testing of the opposition's capacity to mobilize the citizens and the people's receptivity to protests. 3. Distraction of attention from the mixed electoral system. 4. Testing of the EU's toughness on the political preconditions. <p><u>Major disadvantages:</u></p> <ol style="list-style-type: none"> 1. Postponement of EU macro-financial assistance. 2. Massive discrediting before the European partners. 3. New anti-government protests. 	<p><u>Major advantages:</u></p> <ol style="list-style-type: none"> 1. Obtaining of macro-financial assistance in July or in autumn at the latest. 2. Introduction of the initiative to regulate electoral agitation on social networking sites. 3. Shrinking of anti-government protests. 4. Obtaining of guarantees for respecting results of parliamentary elections by the European partners. <p><u>Major disadvantages:</u></p> <ol style="list-style-type: none"> 1. Controlling of the City Hall by one of the leaders of the extraparliamentary and anti-oligarchic opposition. 2. Improvement of the visibility of the anti-corruption agenda in the public sphere and its correlation nationwide.

Instead of conclusion...

The invalidation of elections became a new negative episode for the country's image, which confirmed that justice is a priority sector that should be reformed to protect democracy. When there is the perception that the country is controlled vertically by the Democrats, the suppositions that the court's decisions are a simple coincidence are practically groundless.

The reaction of the European partners and of the foreign partners in general was massive and practically immediate. Most of the European voices suspect political interference in the court's decisions and urge to obey the people's option in the mayoral elections held in Chisinau.

The EU is obliged to take this case into account when it assesses Moldova's preparedness to receive macro-financial assistance. The given situation creates a new opportunity for the EU to make use of the political preconditions that were overlooked when the government introduced the mixed-member electoral system.

Dionis Cenușa

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