# SSR in the Republic of Moldova:
# Strengthening Oversight of the Security Sector

Erik Sportel and Sami Faltas, editors

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The Centre for European Security Studies (CESS) is an independent institute for research, consultancy, education and training, based in the Netherlands. Its aim is to promote transparent, accountable and effective governance of the security sector, broadly defined. It seeks to advance democracy and the rule of law, help governments and civil society face their security challenges, and further the civilized and lawful resolution of conflict.

CESS is international, multidisciplinary and collaborative. Its work is part of the European quest for peace and security both within and outside Europe. CESS encourages informed debate, empowers individuals, fosters mutual understanding on military and other security matters, promotes and sustains democratic structures and processes and supports reforms that favour stability and peace.

## Preface

As this book goes to press in October 2009, the Republic of Moldova is entering a new era, after many months of political turmoil. A new government of parties formerly in the opposition has come into power through democratic elections. Its policies on defence and security are not yet entirely clear. However, when these policies are announced, it seems unlikely that the conclusions and recommendations put forward in the present book will be considered out of date. Whoever its rulers, Moldova will need to provide for the human security of its people. The country will need to make up its mind what kind of relations it wants with Russia, the European Union and NATO. If the new government decides to maintain its predecessors' commitment to neutrality and demilitarisation, it will have to explain what it means by these concepts. Finally, it will probably be obliged to develop a comprehensive plan to strengthen its security establishments and make them more democratic. So we would like to invite the new Moldovan government to read this book.

It gives us particular pleasure to publish it. As far as we can tell, it is the very first independent book entirely devoted to security policy and the security sector in the Republic of Moldova. Security-Sector Reform (SSR) may be a fashionable topic elsewhere, but it is still a new and untested idea in Moldova. We believe this needs to change. The twin objectives of SSR are highly relevant for Moldova. First, it will help the state to provide more effective security and justice services to the population. Second, it will make the delivery of these services more transparent and more accountable, and bring them fully under the rule of law.

Our book is all the more noteworthy for having been written mostly by Moldovans. All chapters between the introduction and the conclusion were written by Moldovan experts. And while Polina Panainte is not named among the authors, she made a very important contribution to the quality and scope of this book through her editorial work and research. Not only are these contributors Moldovans, they are also based in the Republic of Moldova. At a time when so many of their compatriots live and work abroad, our Moldovan colleagues have chosen to stay and serve their country. We are most grateful for their contributions.

Many thanks also to our partners in the Republic of Moldova, the European Institute for Political Studies and the Institute for Public Policy. Without the guidance and support of friends and colleagues like Viorel Cibotaru we would have lost our way in the complexities of Moldovan politics. His contribution to

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## Introduction

*Erik Sportel*


Although a small country, Moldova is of great geostrategic importance. Sandwiched between Romania and Ukraine, it borders both the former Soviet Union and the Euro-Atlantic Bloc. In the years after independence, Moldova was ambivalent about its foreign policy orientation. Situated on a geopolitical crossroads, Chisinau could not decide whether to deepen its relations with Russia and the Commonwealth of Independent States (CIS) or to follow a policy of Euro-Atlantic integration. In recent years, the country has clearly chosen the latter option, albeit with the reservation that integration into NATO is incompatible with Moldova's neutral status. First, Moldova pushed for the involvement of the European Union (EU) and the North-Atlantic Treaty Organisation (NATO) in negotiations to find a settlement for the Transnistrian conflict. Second, Moldova intensified its co-operation with NATO within the PfP programme by agreeing upon an Individual Partnership Action Plan (IPAP) in 2006. By signing the IPAP, Moldova expressed its intention to move closer to Euro-Atlantic standards and institutions. Third, the EU-Moldova Action Plan was adopted in February 2005 in the framework of the European Neighbourhood Policy (ENP). Its aim is 'to encourage and support Moldova's objective of further integration into European economic and social structures'.[1] Closer EU-Moldova relations are also evident in the EU's higher visibility in Moldova and in the Transnistrian conflict settlement process. In March 2005, the EU appointed a Special Representative to Moldova, and in October 2005, the EU established a border control mission on the frontier between Moldova and Ukraine (EUBAM). At the same time, the European Commission opened a delegation office in Chisinau.

Moldova's 'western course' implies adherence to European democratic principles. One of the priorities of the EU-Moldova Action Plan is to 'strengthen the stability and effectiveness of institutions guaranteeing democracy and the rule of law'.[2] According to the Action Plan, Moldova will 'ensure the correct functioning of Parliament'[3] and meet European standards. In other words, the EU expects Moldova to acknowledge and put into practice the principles of good governance: openness, participation, accountability, effectiveness and coherence.

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[1] *EU/Moldova Action Plan*, February 2005, pp. 1-2, available from: http://ec.europa.eu/world/enp/pdf/action_plans/moldova_enp_ap_final_en.pdf, Internet; accessed 21 August 2009.
[2] *EU/Moldova Action Plan*, p.5.
[3] Ibid.

Both the EU and Moldova attach great importance to oversight of the security sector in the context of the ENP. Elected bodies and civil society are responsible for exercising such oversight. The national Moldovan Parliament should play a crucial – if not decisive – role in ensuring transparency and in holding the executive to account. Addressing this issue more explicitly and in greater depth will allow Moldova to strengthen its democratic credentials and smooth its path toward closer ties with the EU and NATO. Legislators need to conscientiously and actively perform their role as elected representatives, demanding transparency and holding the political leadership fully accountable in the realm of security, as in all other fields.

Since 2002, the Centre for European Security Studies (CESS) has been assisting Moldova with its democratic reforms in the security sector. CESS started to work in Moldova after its inclusion in the Stability Pact for South Eastern Europe. In 2002, Moldova was included in our Transparency-Building Project for South-East Europe (TBP-SEE). This was an exercise to gauge the extent to which transparency was being practised in the conduct of security sector affairs in eight South Eastern European countries. The project yielded a transparency audit paper on the region.

One year later, CESS initiated a programme on 'Needs and Options for Security-Sector Transparency and Reform in Ukraine and Moldova' (or Nostrum, for short). During this programme, five intensive and highly successful workshops were organised, together with our Moldovan partner, the Institute for Public Policy (IPP). Until that point, international organisations had paid little attention to Moldova's security community. Nostrum changed this situation by organising focused workshops (for instance, on parliamentary oversight of defence and on integrated border management). As a result, international and local organisations began to pay increased attention to defence and security challenges in Moldova.

In 2005, CESS continued with its activities in Moldova through the Starlink programme (Security, Transparency, Accountability and Reform: Linking the Security Sectors of Georgia, Moldova and Ukraine to the European Mainstream). We wanted to follow up on the success of the policy-orientated Nostrum exercise in Moldova by organising training courses for Moldova's security community. These three-day intensive training courses were intended for military officers, and civil servants of the Ministries of Defence, Interior, Foreign Affairs and Finance.

The last endeavour in this long-standing relationship has been the Moldova Parliamentary Programme, a capacity-building project on democratic oversight of the security sector that is intended for key groups in the Moldovan Parliament and civil society. Given that the national Parliament is a crucial player in overseeing the security sector, we decided to develop a programme that would strengthen democratic control and legislative oversight of the security sector. While focusing on parliamentarians and their staff, the

programme also acknowledges the important role that civil society is playing in the democratic oversight of the security sector. CESS regards *democratic control* of the security sector as being exercised by Parliament in combination with civil society, the latter consisting mainly of non-governmental organisations (NGOs), research institutes, think-tanks, universities, pressure groups, the mass media and concerned individuals. *Legislative oversight* of the security sector is a function purely fulfilled by the Parliament. As a part of this programme, CESS and its Moldovan partner institutes, IPP and the European Institute for Political Studies (EIPS), approached Moldovan experts, mostly from civil society, to contribute to a book that would assess the current status of parliamentary oversight of the security sector in Moldova, and make recommendations on how this could be further improved.

So far, Moldovan parliamentarians have tended to take a passive and compliant approach to the field of defence and security, an area that is still shrouded in secrecy. Even when they have tried to assert themselves, the executive has often thwarted their efforts. Moreover, there is the well-known problem encountered by many legislatures in South Eastern and Eastern Europe, whereby individual parliamentarians tend to put party loyalty ahead of their duty to represent the people through holding the Government pro-actively and critically to account. In addition, the Moldovan Parliament has mainly been occupied with its legislative role, and has not been very active in its oversight function. Parliamentarians have been unable – and sometimes unwilling – to assert their 'right to know' about government business. They have also been unable – and often unwilling – to interrogate ministers and officials, or to use other ways of scrutinising defence and security policy, such as involving civil society and independent media. Moreover, they have little or no experience in prompting and monitoring security sector reform. If Moldova is as serious about meeting EU standards as it says it is, then it needs to take up these matters with some urgency.

It is not very difficult to understand why Moldova has not addressed these issues so far. Located at a crossroads between South Eastern Europe and Ukraine, Moldova has been somewhat neglected by western institutions. Whereas neighbouring Romania joined the Stability Pact for South Eastern Europe from its inception in 1999, and became a full NATO and EU member, Moldova only later joined the Stability Pact, and has only recently found western institutions to be interested in closer co-operation. Moldova's other neighbour, Ukraine, has received a lot of attention from western institutions, thanks to its sheer size. Especially after the Orange Revolution, the West gave a large amount of financial and other support to Ukrainian reform programmes. By contrast, Moldova was mostly ignored; indeed, until a few years ago, it was a forgotten country. The current climate, in which the EU and NATO are working more closely with the Moldovans on reform, has created momentum for further reform.

For almost a year now, Moldova has been preoccupied with elections. The initial election of April 2009 made that since November of 2008 Moldovan politicians and their staff have been mostly engaged in electoral preparations and campaigning. The fact that the newly-elected Parliament could not decide on a new President made new elections necessary. Consequently, the issue of reform was once again pushed into to the background. All in all, this resulted in delays to the necessary reforms, both in the security sector and elsewhere. Now the time has come for the new Government to take this issue up again and make headway with Moldova's reform efforts. The book addresses the situation up until the beginning of 2009, and offers starting points and recommendations for improving oversight of the security sector in Moldova. The new Government has also put orientation towards the EU firmly at the centre of its political agenda. As mentioned, this implies an adherence to European democratic principles. Reform is an ongoing process, which deserves every possible form of support. This book hopes to make a contribution to this end.

# 1. Reforming Moldova's Defence and Security Sectors: The Role of Parliament

*Vitalie Lungu*

### 1.1 The development of the Moldovan Parliament

The Moldovan Parliament is responsible for defining, executing and monitoring the Republic of Moldova's defence and security policy. The parliamentary system was designed in the wake of a number of permanent changes that were made to Moldova's political system, values and priorities, following the country's declaration of national sovereignty in 1990. The efficiency of the various stages of the reform process in the field of defence and security was greatly determined by the development of the parliamentary institution. This underwent a number of important stages, marked by an active process of consolidating the principles that lay at the basis of Parliament's authority.

In the spring of 1990, the first parliamentary elections were organised in line with the Republic of Moldova's new political principles. While they lacked genuine political pluralism, the elections were based on a system of proportional representation. This event proved to be the country's first genuine electoral competition, and had considerable influence on subsequent developments. The first Parliament oversaw a transition from a parliamentary to a presidential system of governance, when the position of the President of the Republic was established, and presidential elections were held.

On 3 September 1991, the first President of the Republic of Moldova issued Decree no.193 on the Establishment of the Armed Forces.[4] Consisting of the national army, border guard troops, and carabineers, the armed forces were charged with defending Moldova's sovereignty and integrity, and the rights and interests of its citizens. Lacking a normative basis in which to ground the state's new military policy, Decree no.193 was based on the Republic of Moldova's Declaration of Independence.

With the armed forces thus established on a brand new foundation, the process of creating a legislative framework for effective parliamentary oversight of the country's security and defence apparatus could begin. The first military-related piece of legislation to be passed by Parliament was the Law on Alternative Service, which recognised a citizen's right to undertake civilian

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[4] *Decree no. 193 on the Establishment of the Country's Armed Forces* [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=289448; Internet; accessed 5 October 2009.

service in lieu of military training.[5] This made military service compatible with citizens' rights to freedom of thought, conscience, religion and the holding of pacifist convictions. By means of this law, which provided citizens with an opportunity to freely express their civic beliefs, the Moldovan Parliament laid the foundations for reforming national military policy and demilitarising Moldovan society.

At first, the reorganisation of the armed forces and national defence structures took place in the absence of any basic concepts or strategies relating to national security, the military structure of the state, or how these could be systematised and coordinated with key national interests. In the absence of proper legislation or civilian expertise on security- and defence-related issues, parliamentary oversight was conceived and created in a sporadic manner that lacked any continuity, interspersed with periodic open confrontations between civilian and military decision-makers.

By March 1992, the Moldovan Parliament had already adopted three pieces of legislation that together laid the foundations for national military policy: the Law on Defence, the Law on the Armed Forces, and the Law on Military Obligation and Military Service by the Citizens of the Republic of Moldova. These three pieces of legislation established the basis for the organisation of and responsibility for national defence, and determined how citizens should perform their constitutional duties for the defence of the state.

The development of the Moldovan Parliament took a further step on 27 February 1994, when the country's first multi-party parliamentary elections were held. The most significant event to occur during the subsequent parliamentary term was the adoption on 29 July 1994 of the Constitution, the country's supreme law.[6] This document set out the basic principles governing civilian and democratic oversight of the armed forces. In this way, the armed forces were subordinate to the will of the people, in order to guarantee Moldova's sovereignty, independence, unity, and territorial integrity, and its system of constitutional democracy.

As the supreme body representing the people, and the only state body to hold legislative authority, Parliament reserved the right to oversee executive power. As a result, the following military areas became subject to parliamentary approval: key tenets of domestic and foreign policy; the state's military doctrine; the general structure of and restrictions on military personnel; approval and monitoring of the state budget; the declaration of partial or general mobilisations, and of states of emergency, siege and war; and the decision to include

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[5] *Law no. 1116 on Alternative Military Service*; [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=297672; Internet; accessed 5 October 2009.

[6] *Constitution of the Republic of Moldova* [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311496; Internet; accessed 6 August 2009.

Moldovan military contingents in international peacekeeping operations. At the same time, a semi-presidential form of governance was established that gave important prerogatives to both Parliament and to the head of state, the President of the Republic.

Once the Constitution had been adopted, the process of bringing the entire body of legislation into compliance with its principles was launched. During this period, the Moldovan Parliament adopted the key normative acts that regulated the system of agencies responsible for national security and their competences, and the armed forces and the security services were embedded in a proper constitutional and legislative framework.

The National Security Concept, passed by Parliament on 5 May 1995, had a defining influence on the process of establishing national security policy, the optimisation of administrative structures and the activities of the agencies responsible for national security, the establishment of national principles and priorities, and the identification of threats to the Republic of Moldova's security. [7] It also defined Parliament's responsibilities with respect to the protection of national security, such as the adoption of legislation relating to national security, and direct control over its implementation by the authorities empowered to do so.

The Foreign Policy Concept, which was passed by Parliament in the same year, defined the Republic of Moldova's political and military roles on the international stage. The document set out the priorities, principles, key directions and strategic goals of Moldovan foreign policy. More precisely, it addressed Moldova's participation in the building of a new Europe; its integration into new European security structures as an equal partner, while maintaining its constitutional status of permanent military neutrality; and the creation of a system of relations between Moldova and other states that would ensure long-term stability.

The Military Doctrine, meanwhile, set out priorities for Moldova's military policy.[8] This document defined the necessary military measures to be taken to uphold state security. The Doctrine enshrined democratic control over defence as the basic principle of the new civilian-military relationship. It reasserted the

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[7] *National Security Concept of the Republic of Moldova* [on-line]: available from http://lex.justice.md/index.php?action=view&view=doc<=1&id=328010; Internet; accessed 10 August 2009. Here and elsewhere in this report, the Moldovan term 'Concepție' is translated as 'Concept' (written with a capital letter). This term is used in Moldova to describe a conceptual document that sets out general and detailed future strategic directions. As such, the term is a legacy of the Soviet period ('Концепция'), when it was used to refer to a strategy or explanation of a strategy. The Moldovan authorities also use the term in the country's Individual Partnership Action Plan (IPAP) with NATO. The reader should thus be aware that the Moldovan understanding of the term is by no means identical to the English meaning.
[8] *The Military Doctrine of the Republic of Moldova, Political Military Aspects*, Official Monitor of the Republic of Moldova, no. 38-39/429, 14 July 1995.

principle of representative civilian control over the military, and recommended that a civilian should hold the post of Defence Minister.

A particularly important event for the development of the Moldovan parliamentary system occurred on 5 July 2000, when constitutional reforms transformed the country's semi-presidential governing system into a parliamentary one. The parliamentary plenum assumed responsibility for electing the President of the Republic, while the Government assumed responsibility for achieving its programme of activities under the supervision of the Parliament. Early parliamentary elections were held on 25 February 2001, leaving the Party of Communists of the Republic of Moldova (PCRM) with 71 out of a total of 101 parliamentary seats.

During the subsequent parliamentary term (the XVth legislature), a number of positive changes were made to political, economic and social aspects of the state, the most important being the achievement of political stability in Parliament. In turn, this had a positive effect on the development of the country's entire military sector. During this term, Parliament improved legislation relating to economic revitalisation, consolidated state institutions, and launched a programme to combat corruption and organised crime. Several important codes were adopted, including: the Civil Code; the Code of Civil Procedure; the Criminal Code; the Code of Criminal Procedure; and the Labour Code. Furthermore, a number of military- and security-related laws were adopted, namely: the law on Training for Mobilisation and Demobilisation; the Law on the Armed Forces' Reserve Troops; the Law on Citizens' Training in Defence of the Homeland; the Law on the Status of Foreign Military Forces in the Republic of Moldova; and the Law on the State of Emergency, Siege and War.

On 26 July 2002, the Moldovan Parliament approved the Military Reform Concept. This consisted of a set of ideas, objectives, directions, principles, tasks and mechanisms for developing a system to ensure the state's military security. Indeed, by this time, it had become clear that such reform would be necessary. First, previous parliaments had lacked trained civilian personnel with experience in establishing national security and defence systems. As a result, past legislative acts on military affairs had been inadequate, and even contradictory in nature. This endangered the proper functioning of the state's military and security structures. Second, the Republic of Moldova was encountering a period of deep economic and financial crisis. This created instability in Moldova's political institutions, and undermined the country's military potential and that of its armed forces. Third, the Military Reform Concept was also shaped by the need to create a brand new foundation for the country's military, complying with the defence needs imposed by recent geopolitical developments.

Keenly aware of this situation, Parliament gave its support to the Government-proposed Concept. This entailed a radical restructuring of the

entire system for planning, financing, administering and organising the defence sector. Implementation would take place in three successive stages, planned over a 12-year period (2002-2014). The first stage of military reform (2002-2004) mainly covered activities related to the development and improvement of the legal basis for the security and defence system, in compliance with the relevant constitutional provisions and new economic, political and social realities. During this phase, particular attention was paid to optimising the system of military administration and improving mechanisms for democratic control of the armed forces, and in particular, delineating the responsibilities held by civilian and military decision-makers.

This process continued into the second stage of reform (2005-2008), which comprised a transition towards a new organisational structure for the armed forces. This included a detailed delineation of competences for the political, administrative and military management of the armed forces; completion of the system for training military personnel in domestic and foreign military institutions; and launching the process of equipping the armed forces with new armaments and military techniques.

## 1.2 The XVIth legislature

Parliamentary elections were held on 6 March 2005, and the PCRM again won a majority of the votes. In a historic step that was indicative of the country's growing political maturity, during its first plenary session on 24 March 2005, the Moldovan Parliament adopted by consensus a Declaration Concerning the Political Partnership for the Fulfilment of Objectives Related to European Integration.[9] This declaration set out the main strategic directions for the country's development over the XVth legislature.

Due to this partnership, this parliament succeeded – unlike its predecessors – in taking important steps towards ensuring transparency in the legislative process. The decision was taken to broadcast Parliament's plenary sessions live on TV and radio, and to publish the minutes of plenary sessions, draft laws, and the daily agendas of plenary sessions and permanent committees on the official website of the Parliament. The Government was also tasked with ensuring citizens' free online access to all legislative and normative acts that came into force after 23 July 1990.

On the initiative of the then Speaker of Parliament, Marian Lupu, legislators launched the Concept on Cooperation between Parliament and Civil

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[9] The Parliament of the Republic of Moldova, *Declaration Concerning the Political Partnership for the Fulfilment of Objectives Related to European Integration* [on-line]; available from http://www.parlament.md/news/02.02.2006/; Internet; accessed 6 August 2009.

Society.[10] This established the legal basis for permanent, open and efficient cooperation between the legislative body and the non-governmental sector. Parliament aimed to achieve the following objectives:

- objective assessment of the problems faced by Moldovan society;
- greater representation of citizens' opinions in Parliament;
- increased efficiency in participatory democracy and decision-making processes;
- encouraging civic initiatives;
- widening and developing the legislative framework by encouraging more voters to participate in the process.

Assisted by international experts, Parliament had substantial success in improving the system for training parliamentarians in supervising the activities of the defence and security sectors.

By decree of the Speaker of the Parliament, several working groups were established to draft legislative acts to ensure the implementation of a number of legislative reform proposals, which had been made by the parliamentary opposition and independent legislators. The working group charged with developing legislation relating to state security was particularly active. This group included representatives from all parliamentary factions, and succeeded in implementing various important legislative initiatives aimed at democratising Moldova's national security institutions and achieving compliance with European standards. These included the following:

- Law no.177 of 22 July 2005, by which Moldova's Information and Security Service (ISS) was prohibited from undertaking preventive detention and carrying out criminal prosecutions.[11]
- Law no.170 of 19 July 2007, on the status of security officers. This set out the conditions of service for security officers, covering discipline, rights, obligations, interdictions, protection and responsibility, and norms of conduct.[12]

The Republic of Moldova's aspirations for European integration were reflected in the launch of the European Union/Republic of Moldova Action Plan (EU/MAP), which outlined how the country would adjust to and implement European norms and standards. The Moldovan Parliament played an active role in this process, approving a timetable for harmonising national legislation with

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[10] The Parliament of the Republic of Moldova, *Concept on Cooperation between Parliament and Civil Society* [online]; available from http://www.parlament.md/download/news/civilsociety/Cooperation%20with%20civil%20society.%20Concept%20 (romanian).doc; Internet; accessed 6 August 2009.

[11] *Law on the Information and Security Service of Moldova* [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312160; Internet; accessed 6 August 2006.

[12] *Law on the Status of the Officer for Security and Information* [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=325623; Internet; accessed 6 August 2009.

that of the EU and reforming the country's security and military services. At the same time, in order to ensure that Moldovan legislation complied with the *acquis communautaire*, a parliamentary decision obliged the Moldovan authorities to send all significant legislative drafts and acts to the Council of Europe, so as to benefit from its expertise.

### 1.3 The status of the Republic of Moldova's Parliament

According to the Moldovan Constitution, Parliament is the supreme body representing the people and the sole state legislative authority. The Parliament is unicameral, composed of 101 legislators, and is elected by means of a universal, equal, direct, secret and free vote for a term of four years. The supreme legislative body's structure, organisation and activities are established in an organic law called the Parliamentary Rules of Procedure, which sets out how parliamentary factions should function.[13] The Parliament's working bodies, in turn, consist of the Permanent Bureau (11 members) and the permanent committees (nine in total). The permanent committees are established at the instigation of parliamentary factions, taking into account their proportional representation in Parliament. According to the Rules of Procedure, there are three types of parliamentary committee: permanent, special and investigatory.

### 1.4 Reforming the defence and security sectors: Parliament's competences

As in any parliamentary democracy, the Moldovan Parliament plays a fundamental role in supervising the activities of public bodies, as set out in the Constitution and in legislation. Parliamentary control of the armed forces and military institutions is exercised in line with Article 66 of the Constitution, which establishes Parliament's pre-eminent role in overseeing the Government. The latter is obliged to respond to requests for information from Parliament and its committees and legislators. As one of the key actors overseeing national security institutions, Parliament exercises a rather wide range of competences. This is primarily due to the fact that Parliament, unlike other public bodies, represents the interests of various social groups and is in permanent contact with the country's citizens. There are also legal aspects to parliamentary control, such as the appointment and dismissal of the Director of the ISS, as provided by Article 13 of the Law on the ISS.[14]

Even though it establishes parliamentary control over the executive, the Moldovan Constitution does not contain direct provisions on the activities of

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[13] *Parliamentary Rules of Procedure* [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=313323; Internet; accessed 5 October 2009.
[14] *Law on the Information and Security Service*.

state security agencies. To a certain extent, other laws address these activities, such as the Law on State Security. For example, Article 9 of this law grants Parliament the following competences with respect to state security:

- exercising legislative powers;
- approving the National Security Concept;
- establishing the legal basis for the creation and activities of those bodies that uphold state security;
- defining the country's borders;
- approving state budgetary allocations for upholding state security;
- ratifying and denouncing international treaties concerned with state security.[15]

In 1999, the adoption of the Law on the ISS represented an attempt to exercise parliamentary control over Moldova's main secret service. This law included an appendix entitled 'Regulation on parliamentary control over the activities of the special services'.[16] According to the Regulation, a special parliamentary committee is responsible for controlling the ISS's activities. The committee's competences include drafting reports and opinions on draft laws and legislative initiatives concerning the establishment, reorganisation and activities of the ISS, and verifying how this service complies with constitutional and legislative provisions.

Current legislation thus contains a number of provisions concerning the exercise of parliamentary control over the state defence and security apparatus. When examining this legislation, several forms of parliamentary oversight can be identified.

*Control exercised through reporting by the leaders of state security bodies.* The legal basis for this form of oversight is provided by the above-mentioned Parliamentary Rules of Procedure and Article 25 of the Law on State Security, which stipulate that the leaders of state security agencies should report to Parliament. Unfortunately, the legislation does not expressly specify when these report hearings should be held in closed sittings. Although the Constitution proclaims the public character of parliamentary sittings, Article 65 of the Constitution provides that 'Parliament may decide which sittings should be closed'.[17]

*Control exercised through questions and interpellations.* This represents the most widespread form of parliamentary control over the defence and security sectors. According to Article 108 of the Parliamentary Rules of Procedure, legislators may request explanations from members of the Government, or from other leaders of public bodies, with regard to the Government's domestic and foreign policy. There are also certain restrictions,

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[15] *Law no.618 on State Security,* Art.9 [on-line]; available from http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311700; Internet; accessed 6 August 2009.
[16] Annex to *Law on the Information and Security Service.*
[17] *Constitution,* Articles 65.1 and 65.2.

however: legislators are not permitted to question the President of the Republic of Moldova, or representatives of the judiciary or local public authorities. The final hour of Parliament's Thursday plenary session is designated for such questions.

Every last Thursday of the month, the second part of this plenary session is reserved for interpellations. These are made in writing, and consist of a request that is addressed to the Government, usually requesting clarification on aspects of executive policy. The Parliamentary Rules of Procedure stipulate that those members of the Government to whom interpellations are addressed are obliged to attend the parliamentary session.

Parliamentary practice in Moldova has shown that this system of questions and interpellations provides the opposition with a real opportunity to pinpoint the executive's weaknesses, and this has had a positive impact on the administration of the defence and security sectors. In response to proposals made by the Permanent Bureau, the permanent committees and parliamentary factions, the Government is questioned on its activities once every parliamentary session. Moreover, in April, the Prime Minister presents an annual report on the Government's activities during a plenary sitting. Legislation also states that other public agencies should submit annual activity reports to the parliamentary plenary. In addition, the Parliamentary Rules of Procedure include other means of exercising parliamentary control over governmental activities, such as motions, and motions of no confidence. Such actions must be supported by at least a quarter of the elected legislators.

The permanent committees are responsible for monitoring the implementation of legislation and determining its efficacy. The committees are supported in this role by Parliament's Legal Affairs Division, and by invited foreign experts. A committee will usually start to monitor a piece of legislation six months after it has come into force, after which it will report its findings to Parliament for approval. The Government or public authority concerned will then be provided with recommendations for improvement, which should be implemented within a reasonable period of time. The parliamentary committee should subsequently be informed about the measures taken.

As a representative institution, citizens also have the right to petition Parliament. According to the Law on Petitions, petitions that concern issues of national security should be addressed to the Parliament, the President of the Republic of Moldova, and the Government. [18] Legislation allows for the examination of anonymous petitions if these contain information concerning national security and public order.

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[18] *Law no. 190 on Petitions* [on-line]; available from http://lex.justice.md/index. php?action=view&view=doc&lang=1&id=311626; Internet; accessed 5 October 2009.

**1.5 The competences of the Parliamentary Committee on National Security, Defence and Public Order**

The most specialised form of parliamentary control is that exercised by parliamentary committees. Until the parliamentary elections of 2009, the Committee for National Security, Defence and Public Order was responsible for overseeing the activities of security agencies. This committee consisted of 13 Members of Parliament (MPs), seven of whom were from the majority faction, the PCRM. For general purposes, the Committee was represented by two female MPs. This was intended to ensure that the committee would take a multi-dimensional approach to security and defence issues, which have traditionally lacked female input. Although the Parliamentary Rules of Procedure do not stipulate that permanent committee members should be appointed on professional grounds, in 2009, the Committee on National Security, Defence and Public Order was mainly composed of experts (three having previously chaired the Parliamentary Committee for National Security, and one having held the post of Deputy Minister of the Interior).

At the beginning of each legislature, the committee's field of activities is determined by a parliamentary decision. During the last legislature, the Committee on National Security, Defence and Public Order focused on the following issues: national security; overseeing specialised structures of executive power designed to ensure national security, public order and traffic security; the defence of national borders, and the competences of public bodies charged with protecting them; reform of the armed forces (the national army, border guards and carabineers); military and civilian service; social and legal protection of military personnel; the customs, prison and emergency services; the protection of state secrets; and the provision of citizen identification documents.

A number of other parliamentary committees also play an important, but more indirect, role in parliamentary oversight of the military and security sectors. The following parliamentary committees play a distinct role in this respect:

- *The Committee on Economic Policy, Budget and Finances*. This examines the state budget, including that related to the armed forces, and monitors public spending.
- *The Committee on Legal Affairs, Appointments and Immunities*. This committee is responsible for examining candidates for the directorship of public agencies (such as the ISS Director and the Prosecutor General).
- *The Committee on Foreign Policy and European Integration*. This committee examines proposals concerning international commitments and treaties needing parliamentary ratification.
- *The Committee on Social Protection, Health and the Family*, which examines the social dimensions of military service.

Subcommittees can also be formed within the parliamentary committees, with their attributes, competences and leadership being proposed by the chairman of the permanent committee concerned. During the last legislature (2005-2009), the Committee on National Security, Defence and Public Order contained three subcommittees responsible for the following areas: national security (the ISS, the State Department for Security and Protection, the Customs Service, the Border Guard Service, the Ministry of Information Development); defence (the Ministry of Defence (MoD)); and public order (the Ministry of the Interior, the Centre for Preventing Economic Crimes and Corruption, the Department for the State of Emergency, and the Department of Penitentiary Institutions).

Members of the parliamentary opposition chair two of the subcommittees for national security and defence, so as to ensure transparency in the parliamentary oversight process. The structure and mandate of the subcommittee that oversees the ISS are set out in the Parliamentary Rules of Procedure. This subcommittee is responsible for overseeing the ISS's compliance with legal commitments to uphold human rights and freedoms and democratic norms. The Rules of Procedure stipulate that a member of the opposition should chair this subcommittee, so as to avoid conflicts of interest. Given that the subcommittee's members potentially have access to secret information, they take a separate vow of confidentiality with each case.

The activities of the various committees and subcommittees are undertaken according to a plan that is approved by the chairperson of each committee at the beginning of each parliamentary session. In response to committee members' proposals, each plan determines which institutions will be supervised, and the terms of accomplishment. As a rule, during one parliament, each committee oversees all of the institutions that are under its supervision. Although the oversight carried out by the committees is of an *a posteriori* nature, the committees nevertheless have the right to undertake fact-finding visits or even to impose unplanned controls if there are signs of flagrant violation of legislation by the institutions concerned.

According to the parliamentary decision regarding the structure of the parliamentary personnel, one public servant is appointed to each of the committees in order to provide organisational and informational support. They prepare and organise the committees' sittings, liaise with the Government and other public agencies that are monitored by the committee, gather information, and contribute to the analysis of this information.

The Parliamentary Rules of Procedure stipulate that the permanent committees should hold working sittings once per week, on Wednesdays. During these sittings, the committees examine draft legislation in order to draw up reports and notices. They then delegate tasks to the committee members, and take decisions on issues related to the committees' competences and activities.

During the last legislature, the important decision was taken, following an amendment to the Rules of Procedure, to allow the Deputy Speakers of the Parliament to join the permanent committees. The Deputy Speakers subsequently joined the Committee on National Security, Defence and Public Order. One of the Deputy Speakers was also elected to chair the subcommittee responsible for parliamentary oversight of the ISS, boosting the Committee's status as a result. In addition, the Committee on National Security, Defence and Public Order's sittings are open to the public and to media representatives accredited to Parliament. The Committee reserves the right to hold closed sittings if the issues to be debated have implications for the protection of national security.

The chairman or vice-chairman of the Committee on National Security, Defence and Public Order participates in the board of the ISS, ensuring effective parliamentary oversight of the state security apparatus. Although this right is enshrined in the Law on the Security Services, the chairman is not an actual member of the board. Rather, the Council's participation in the ISS's board has a supervisory character, allowing the Council to monitor the ISS's compliance with current legislation.

## 1.6 Conclusion

The interests of Moldova's security and defence sectors will always compete with those of politicians, who are concerned with Moldova's economic and political problems, and with social transformation as a whole. Over a relatively short period of time, the Republic of Moldova has adopted new strategic and conceptual documents; has made a number of institutional changes to the country's security apparatus; has embarked on a process of reforming the armed forces; and has established the foundations for creating and implementing new security and defence policies, that in the long-term will reflect the state's vital and strategic interests, and which will take new challenges, international commitments, and resource-related constraints into account. The Moldovan Parliament's efficiency in these areas has largely been determined by the strong judicial culture of its MPs, and their knowledge of security matters, particularly of the roles currently played by the state security agencies.

Within the overall process of Moldova's democratisation and Europeanisation, the assimilation and application of forms of civilian and democratic control of the military and defence sectors has become a national priority. Bearing in mind the challenges faced by Moldova's defence and security sectors, it should be noted that during the last legislature, the relationship between the parliamentary committees and other agencies was not one of 'controller-controlled', but rather one of cooperation. The nurturing of such cooperation has facilitated the identification of legislative priorities, and has stimulated the consensual creation of a joint legislative strategy.

## 2. The Republic of Moldova's Security Sector: The Road Ahead

*Vlad Lupan*

### 2.1 From defence reform to security sector reform

The term 'security sector reform' (SSR) was coined in the late 20th century to reflect the broadening of the concept of defence reform to accommodate the much wider concept of security. The term 'defence reform' (or what is now known as the Defence Review) is not a new one, and has preoccupied military thinkers for many centuries. This chapter will follow the lead of those defence scholars who focus on the strategic reform of the military; something that, *inter alia*, contradicts the popular image of the military as a conservative institution. Indeed, it can be argued that traditionally, all reforms have proved difficult to accept and implement, military or otherwise.

During the 19th and the first half of the 20th century, the army was the main force supporting the institutions of the state, both internally and externally. During this period, the army was a credible institution that possessed significant moral authority. Indeed, it was the only organised force that could be called upon in an emergency; it tended to be loyal (in most cases); and it was quite obedient, in view of the fact that its workers were for the most part unpaid.

Over time, the nature of the army changed to reflect national social trends. The wave of political democratisation that swept the globe during the 20th century had an inevitable impact on the military: democratisation of every sphere of life also entailed democratisation of the army. As a result, armies had to change their way of fighting. From the end of the Second World War onwards, armies were legally bound to engage in so-called 'fair' warfare, in accordance with the 1949 Geneva Conventions.

Ultimately, the term 'new rules of engagement' can be applied to the development of new concepts to enhance the power of armies, while keeping costs within reasonable limits, and to provide the military with effective and strict command and control structures that are accountable to democratically-elected leaders. This approach was influenced by several factors: by the simple desire to perfect things, and by the changing security environment and the lessons that had been learned during the Second World War. One should also note that the West's approach was different from that of the Soviet Union, since western military thinking emerged from free societies and people who thought more freely, including the military.

The 1950s and the 1990s saw new thinking among defence experts who were engaged in military reform. To some extent, the application of this knowledge was limited to within national borders; it was certainly limited by the

arms race, which had negative social effects on both sides of the Iron Curtain. As a result, the notion of democratic control of the armed forces and, later, of the security sector, remained an issue that was mainly discussed and promoted in Western Europe and North America. It seems that due to the direction that the arms race was taking, ideas relating to democratic control of the armed forces tended to remain largely (although not exclusively) confined to western societies, and had less impact in third world countries that were considered to be the West's strategic allies.

It is important to mention, however, that after the Second World War, the victors did not consider their victory to have been a sufficient demonstration of their superiority. The subsequent arms race was not simply about the demonstration of brute force or unchallenged leadership. On the contrary, in western societies, the concepts of military efficiency and democratic control of the armed forces were instantly accepted on the grounds that they were a logical extension of the ways in which society had developed. These concepts henceforth became enshrined in the Defence Review.

In times of change, efficiency often comes first. The fall of the Berlin Wall resulted in a search for viable and efficient defence, policing and judicial systems that would correspond to democratic principles, as well as to military goals and objectives in the new world order. Realising the need for reform in all social spheres, defence reform underwent a necessary transformation. It went from being a purely military concept to one that embraced institutional change – a transformation that was particularly relevant to the states of Central and Eastern Europe. Defence reform was not simply part of the reform of these countries' societies, but rather a process of opening up, of understanding new risks, threats and needs, and ultimately, of taking the path towards democracy and development.


## 2.2 Security sector reform

Since the mid-1980s, there has been a significant shift in security thinking in Central and Eastern Europe. It is now generally accepted that the notion of defence reform is part of a wider process of SSR; that is, the reform of a country's entire security sector in an integrated and coordinated manner. By means of the permanent review process and the ongoing search for improvement, SSR goes beyond military reform, and encompasses other security-related institutions. It groups together the military, the police force, the security services, border guards, and customs officials, and provides them with a structure that ensures comprehensive guidelines, (possibly) training, responsibilities and coordination.

In the Republic of Moldova, it is increasingly recognised that widening the concept of security means involving a broader spectrum of institutions in the nation's security infrastructure. The Ministry of Finance, for example, is

responsible for drafting the state budget, which includes funding for institutions that are targeted by SSR. This, in turn, presumes a rate of economic growth that can cover the required expenses. At the same time, the security services are responsible for ensuring the country's stability and, consequently, a beneficial economic environment that can provide the necessary income to support SSR. This, in turn, requires legal institutions that can provide an effective legal foundation for security institutions, as well as for a well-functioning economy (the rule of law being a vital precondition for economic prosperity and foreign investment).

A transitional state's foreign policy should therefore not only ensure that the state's economic potential and advantages are brought to the fore, but should also ensure an influx of international expertise in key areas, liaison between national institutions and international actors, and even the facilitation of independent 'audits' of a country's policies, laws, economy, finances, and security institutions. This, in return, requires having well-functioning state institutions. SSR in transition countries is thus both complex and deeply related to other areas of reform, and is a process that can bring significant benefits to the state in question. As far as the need for security is concerned, the bottom line is not security in itself, but rather security for development.


## 2.3 The Republic of Moldova and SSR

In the Republic of Moldova, the first steps towards defence reform led to the need for SSR. Initial ideas concerning the rebuilding of the army according to democratic principles were formulated as soon as the Moldovan army was formed. Until Moldovan independence in 1991, there had been no separate Moldovan army. As of 1991, an entirely new army had to be constructed. Although it had some Soviet technical and weaponry heritage, the army was a body that essentially lacked any continuity or theoretical grounding. It was formed on an *ad hoc* basis to respond to military threats, particularly those from the Transnistrian region of Moldova, which was threatening to declare independence.

The need to restructure this nascent national army first became clear in the wake of military defeats during the conflict over the region of Transnistria in 1991 and 1992. Although the discussion started within the military in 1992, the first attempts to reform the armed forces were made in 1998, in response to an MoD initiative to produce a new set of guidelines for army reform. After a period of intense and relatively extended deliberation, the Military Reform Concept was sent to Parliament and approved on 26 July 2002. Notably, this Concept stated that 'democratic command and control of the armed forces' would be a key area of cooperation with other armed forces. The second phase of the reform process (2005-2008) would include the 'creation of a civilian and military

command structure for the armed forces with a detailed delimitation of its attributes in the sphere of political, administrative and military command.'[19]

The Concept was intended to respond to the changing geopolitical situation and to adapt to new realities, risks, threats and military challenges. It recognised the poor condition of the Moldovan armed forces, due to their lack of practical experience in military construction and management, past errors, and inadequate funding. The document also recognised that although current resources were inadequate, it would be essential to take the country's needs, available means, and potential economic development into account. The Concept acknowledged that military reform would not be achievable solely through the efforts of the 'force structures', and that it would also be necessary to make a concerted effort to reform legal and financial aspects.

The Concept only covered part of the Moldovan security apparatus, and did not include any mechanisms for ensuring the necessary financial support. It would be some time before an integrated approach could be developed that would include other security institutions, and provide them with new conceptual and legal guidelines to replace outdated basic security documents.

The discussion about Moldovan defence reform evolved into a discussion about SSR. By 2006, the discussion had resulted in an agreement that would provide the basis for such reform: the Individual Partnership Action Plan (IPAP) between the Republic of Moldova and the North Atlantic Treaty Organisation (NATO).

## 2.4 Institutional reform and SSR: key documents
The Republic of Moldova has adopted a number of strategies for the renewal of public institutions. These comprise both international agreements with the EU, NATO, the United Nations (UN), and the international financial institutions; and national governmental plans, programmes for reforming central administrative bodies, and so forth. Indeed, the very number of plans might well lead to concern about their implementation. The following section focuses on the two plans that have had most impact on Moldovan foreign policy, society and SSR: the EU/MAP and the NATO-Moldova IPAP.

Negotiations for the EU/MAP took place in 2004, and Moldova began implementing the Plan in 2005.[20] The Action Plan negotiations were held before the Moldovan leadership had accepted the idea of signing an IPAP. The lack of concrete SSR provisions in the EU/MAP created the impression that the EU lacked a clear security agenda at the time, and was reluctant to become

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[19] *Military Reform Concept of the Republic of Moldova* [on-line]; available from http://www.army.md/legi/L_1315.htm; Internet; accessed 24 October 2009.
[20] European Commission, *EU/Moldova Action Plan* (2005) [on-line]; available from http://ec.europa.eu/world/enp/pdf/action_plans/moldova_enp_ap_final_en.pdf; Internet; accessed 24 February 2009.

seriously involved in resolving Moldova's conflicts. On the other hand, in 2004, the Moldovan authorities did not accept the idea of undertaking SSR. While SSR was discussed within civil society, it only received official mention during Partnership for Peace (PfP) Partnership and Review Process (PARP) meetings. As a result, it was not suggested that the EU should play a role in Moldovan SSR. The EU/MAP only made general mention of establishing new relations between Moldova and the EU that would, *inter alia*, ensure greater stability and security.[21] Moldova was invited to develop its political, security, economic and cultural ties with the EU, to intensify trans-border cooperation, and to share responsibility for the prevention and resolution of conflicts.

While it did not address SSR, the EU/MAP focused in detail on overall institutional reforms. According to the EU/MAP, the Republic of Moldova would align its positions with those of the UN and the Council of Europe, and would amend its legislation in line with that of the EU, including on the issue of human rights. Moldova also pledged to cooperate with the EU in the field of foreign and security policy, conflict prevention and crisis management. With regard to foreign and security policy, the EU/MAP mainly focused on cooperation relating to the Transnistrian conflict and regional and international problems, including in the framework of the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE). The EU/MAP stated that Moldova would cooperate with the EU to consolidate global governance by establishing more efficient institutions and multilateral conventions, and would coordinate its approach to security threats with that of the EU.

The lack of any direct reference to SSR in the EU/MAP does raise the question of whether the EU was interested in dealing with this matter. The answer to this question is provided by the 2006 General Report on the EU's Activities.[22] In Chapter Five on 'Europe as a global partner', the fourth section – 'contribution to global security' – focuses on the EU's Security Strategy and Common Foreign and Security Policy and, in particular, SSR. The report informs the public that on 24 May 2006, the Commission adopted a communiqué entitled 'Reflections on the European Community's support for SSR'. This stated that the EU was supporting SSR in over 70 countries. In order to strengthen the European Community's contribution to the global support offered by the EU, the Commission recommended that the policy should be enhanced: SSR should be integrated into national and regional strategy documents and action plans, and specific SSR-development actions adopted,

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[21] The Republic of Moldova and NATO, *Individual Partnership Action Plan,* Preamble [on-line]; available from http://www.mfa.gov.md/img/docs/ipap_ro.pdf; Internet; accessed 25 June 2009.
[22] European Commission, *General Report on the Activities of the European Union* (2006) [on-line]; available from http://europa.eu/generalreport/en/2006/index.htm; Internet; accessed 24 October 2009.

so as to give SSR an important role. This recommendation reveals the importance that the EU attaches to SSR in countries such as Moldova.

The EU's particular focus on SSR also explains the evolution of security-related reform in Moldova. Although the EU was not directly involved in SSR, it could draw upon the local knowledge, expertise and resources of another organisation, NATO, with which it could cooperate on Moldovan SSR. NATO had established contact with Moldova as early as 1991, and had included the country in the framework of cooperation within the North Atlantic Cooperation Council (which in 1997 became the Euro-Atlantic Partnership Council), and the 1994 PfP initiative. By 1995, Moldova had joined the PARP process, and had begun to hold regular defence evaluations.

Moldova's relations with NATO are defined by its neutral status. Neutrality brings significant responsibilities: a neutral country cannot shelter under a 'security umbrella' to protect it from threats, and must thus be a provider, rather than a consumer, of security. In such circumstances, the discussions surrounding Moldovan defence reform, and the drafting and approval of the Military Reform Concept, were additional indicators of the strength of the need to adapt the military to the country's needs. As mentioned above, the focus of this discussion shifted from defence reform to SSR over time, as the need for an integrated approach to security became increasingly evident to the experts. This was particularly the case after 9/11 and the international events that followed, which continue to have an impact on Moldova's security. The discussion about SSR naturally evolved out of internal discussions concerning defence reform, the need to provide Moldovan citizens with an adequate level of security, and security-related consultations with NATO, particularly within the PARP format.

The discussions on SSR took into account an initiative that NATO launched at the 2002 Prague Summit, to engage interested countries in an extended Action Plan that would address their SSR concerns. As one might note, this initiative coincided with Moldova's adoption of its Military Reform Concept. This also raised the question of how much time would be needed for the Moldovan authorities to transform the concept of defence reform into a comprehensive approach to SSR. Political circumstances eventually made this evolution possible between 2004 and 2006, a period that started with acceptance of the idea of engaging in an IPAP, and ended on 6 July 2006 with its approval (although this was a secret governmental decision at first).

At the same time, the 2004 IPAP discussions with NATO evolved in the direction of Moldova's European integration priorities. The NATO team that visited Moldova in 2004 suggested that the IPAP could be drafted in a manner that would support the Republic of Moldova's strategic goals regarding European integration. In this way, the IPAP would complement the EU/MAP, and would reflect the EU's aim of making SSR an important component of its strategic cooperation documents. From a European perspective, such an

approach to SSR would undoubtedly be intrinsic to Moldova's democratic institutional renewal, in accordance with European standards; it would naturally complete the EU/Moldova Action Plan, in a more detailed way.

The IPAP was thus drafted to reflect the complexity of Moldova's relations with the EU, and also to reflect the need for comprehensive SSR in accordance with European standards. As such, the IPAP became a vast document that stipulated reform and actions across a whole range of internal and external policy sectors, from legal issues, human rights and public administration, to issues related to the reform of the military, paramilitary organisations, and intelligence institutions.

The Moldovan IPAP Presentation Document mentions such objectives as the country's strategic interest in accession to the EU; priorities for cooperation with the UN, the OSCE and the Council of Europe; Moldova's participation in the fight against international terrorism and the proliferation of weapons of mass destruction; the strengthening of Moldova's export control system; and internal policy and economic areas in need of reform, such as strengthening democracy and the rule of law, justice and domestic affairs, civilian/democratic control of the armed forces and security structures, social and economic reform and development, and social and economic policy priorities. As such, the IPAP was an ambitious and extremely large programme of institutional reform that was directed at all levels of the Moldovan state and society.


## 2.5 SSR, the military and human rights: meeting international obligations

Moldova's cooperation with the Council of Europe is an important element of the country's foreign and domestic policy. This cooperation has been reinforced by European integration and Moldova's IPAP, which stipulates that cooperation with the Council should continue, and that the Council of Europe's principles regarding the rule of law, human rights and the democratic functioning of all state institutions should be enshrined. Respect for human rights has always been an important issue for the Council of Europe, as it is a key indicator of the seriousness of a newly independent state's intention to democratise and uphold the rule of law. In the Council's view, the principles of upholding democracy, the rule of law and respect for human rights should apply throughout society. They should thus also characterise the military, albeit in a balanced way that both ensures that rights are respected and does not compromise military missions.[23]

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[23] There are numerous examples of how member countries have modified the laws regulating their military sectors, in line with the European Convention on Human Rights. For example: Austria modified important sections of its code of criminal procedure, as well as instructions concerning treatment of prisoners in hospitals, and its entire legal aid system; France passed a law relating to the secrecy of telephone communications; Germany modified its code of criminal procedure regarding the length of pre-trial

The Council of Europe's Parliamentary Assembly pays particular attention to the protection of human rights in the military. For example, during a hearing on 24 March 2006, the Parliamentary Assembly reviewed a report on this issue,[24] the first two draft recommendations of which were concerned with the balancing of military duties with human rights:

1. The army is the institution which is responsible for protecting the State and defending the community. Combat is its *raison d'être*, the very purpose of its existence, and it is bound by the specific constraints of rules regarding unity, hierarchy, discipline and compliance with orders.

2. The Parliamentary Assembly recalls the many texts which it has adopted on the promotion of human rights in the armed forces and notes their continued relevance and topicality. It considers that members of the armed forces are citizens in uniform who must enjoy the same fundamental liberties, including those set out in the European Convention on Human Rights and the European Social Charter, and the same protection of their rights and dignity as any other citizen, within the limits imposed by the specific exigencies of military duties.[25]

Another recommendation states that the Council of Europe's Parliamentary Assembly:

> regrets that scant attention has so far been paid to military justice and military disciplinary and criminal procedures, and considers that in view of the diversity of legal and judicial systems in the member States it would be useful to conduct a comparative legal survey in order to promote the rights of the military to freedom and safety and to a fair trial.

And with regard to military justice, the report clearly states that the following actions should be taken:

> introduce, where such a facility does not already exist, the autonomous civil institution of military ombudsman responsible for promoting the fundamental rights of members of the armed forces, ensuring respect for such rights, providing legal assistance to servicemen, and receiving complaints of violations of their rights, and to whom military personnel

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detention, and took measures to expedite criminal and civil proceedings; Greece amended its law on provisional detention; the Netherlands amended its military criminal code; and Switzerland completely reviewed judicial organisation and criminal procedures relating to the federal army, and amended its civil code regarding deprivation of liberty in reformatory centres. See further: Council of Europe, *European Convention on Human Rights* [on-line]; available from http://www.humanrights.coe.int/intro/eng/GENERAL/ ECHR.HTM; Internet; accessed 6 August 2009.

[24] Council of Europe, Committee on Legal Affairs and Human Rights, *Human Rights of Members of the Armed Forces* [on-line]; available from http://assembly.coe.int/Main. asp?link=/Documents/WorkingDocs/Doc06/EDOC10861.htm; Internet; accessed 6 August 2009.

[25] Ibid. (under Summary, Chapter A: Draft Recommendations).

> can turn in a confidential manner in cases of employment disputes or other questions arising out of the exercise of military duties.[26]

This objective was neither specifically mentioned in the Moldovan IPAP, nor was it extensively discussed. However, it can be assumed that the introduction of a military ombudsman (MO) falls under the general requirement of adapting Moldovan legislation to comply with EU and Council of Europe standards, an objective that is specifically mentioned in both the EU/MAP and the IPAP.

According to a DCAF background paper, the MO is an institution that acts independently of military command structures.[27] The MO exercises oversight over the defence sector, and helps to ensure that it observes the principles and practices of good governance. Canada, Germany, and the Czech Republic are among those countries that have independent MOs, while others, including Ukraine, Portugal, Lithuania, and Sweden, have opted for a civilian ombudsman that addresses military issues. The latter approach, though more economical, cannot guarantee that the personnel within the civilian MO office have sufficient experience and insider knowledge of the military's problems and particularities. Along with other institutions, the MO is responsible for ensuring democratic control of the armed forces. On this point, one should note that authoritarian and failed states are characterised by their lack of oversight or accountability of the military.[28]


## 2.6 Two state plans for Moldovan SSR?

Despite the fact that the IPAP provides a solid basis for Moldovan SSR, the future of the reform process rests on more than straightforward implementation. As suggested above, one of the key security issues facing the Republic of Moldova is that of the Transnistrian conflict. Attempts to resolve this conflict have frequently hampered established plans for defence and security reform, and have interfered with foreign policy objectives. 2007 signalled a dramatic change of approach. On 10 October that year, the President announced that Moldova would undergo a full demilitarisation, in the context of confidence-building measures aimed to resolve the Transnistrian conflict.

In an interview, the President explained that by 'demilitarisation', he meant:

1. Both Chisinau and Tiraspol should scrap all their heavy weaponry, for example within six months.
2. At Chisinau's suggestion, unified armed forces would be created on a territorial basis. These would be used to ensure law and order.

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[26] Ibid.
[27] DCAF Security Sector Reform Working Group, *Backgrounder: Military Ombudsmen* [on-line]; available from www.dcaf.ch; Internet; accessed 25 September 2009.
[28] For more a more detailed explanation of the military ombudsman's functions, see *Military Ombudsmen*.

3. Qualitative changes would be made to the armed forces. Military training centres would replace military units, and contract officers would serve in these centres as trainers. Students serving for six-month terms would replace conscripts. Those interested in remaining in the army would be able to sign contracts and continue to serve with training centres. This would significantly reduce the size of the army, and allow funds to be redirected towards more important programmes.[29]

Despite the use of the term 'demilitarisation', it is clear that the Moldovan army would not disappear altogether, but that its functions would be dramatically diminished. The new army's objective would be to serve as a peacekeeping force, in response to requests from international organisations. The training centres would provide the country's citizens with six-month training sessions, to prepare them to participate in peacekeeping operations worldwide.

Some initially concluded that this was a preliminary initiative that would not be implemented in the absence of any response from the Transnistrian authorities. The first reaction from the Transnistrian authorities was not positive, and they rejected the initiative. It was thus agreed that IPAP implementation should continue.

However, this initiative, along with several others relating to the economy and other matters, did lead the Government to establish seven working groups on various issues related to conflict resolution, including demilitarisation.[30] At the same time, the Military Reform Concept and Moldova's IPAP remain valid strategies, and foresee further Government-controlled military reforms.

Despite the initial impression that the President's demilitarisation initiative was merely an offer, the then-governing PCRM included the proposal in its party programme for the April 2009 elections. The PCRM presented the initiative as a unilateral action, without mentioning that implementation of the initiative would require a response from the Transnistrian side. This further complicated the situation, and introduced additional uncertainty as to the future direction of Moldovan SSR.

Moreover, experts from the Ministry of Foreign Affairs and European Integration (MFAEI) in the National Commission on IPAP, possibly together with the Parliament and the Presidency, will have to find a way to formulate these initiatives in key Moldovan SSR implementation documents, despite the fact that they are not members of the working group on demilitarisation. Moldova is currently running behind the IPAP deadline for adopting a modern national

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[29] "The Military Secret of President Voronin." *Izvestia v Moldove*, 10 October 2007 [on-line]; available from http://www.prm.md/press.php?p=1&s=5399&lang=rus; Internet; accessed 15 October 2007.

[30] The working group on demilitarization is led by the Ministry of Reintegration, with participation from the MoD and other interested ministries. Until now, its records have not been made available to the public.

security strategy that covers recent risks and threats. In the absence of this and a national military strategy, no progress can be made with either the IPAP or SSR.

## 2.7 International experiences of demilitarisation: lessons for the Republic of Moldova

About 27 countries worldwide are demilitarised, although one should question the extent to which their situations are directly comparable with that of Moldova. Approximately 20 of these are islands, a few are land-locked, and most are newly sovereign states that remain closely dependent on their former colonial rulers (including militarily).

Europeans are perhaps most familiar with the example of Iceland, which has had no army for over 400 years. Despite its non-militarised status, the country does maintain a Defence Department, and has an annual defence budget (estimated at US$ 26.6 million in 2008). Iceland maintains forces other than a regular army, and is one of the founding members of NATO. It had a military defence treaty with the US, allowing the latter to keep a military base on its territory until September 2006. Since the withdrawal of US forces, there has been a general understanding that the US will continue to protect Iceland (in addition to its NATO commitments). Furthermore, following the departure of the US military, Iceland signed a defence agreement with Norway in 2007, according to which the latter (also a member of NATO) pledged to help defend Icelandic territory.[31] Moreover, a May 2007 Gallup poll had indicated that 68 per cent of Iceland's population would support the creation of an Icelandic defence force.

Like many other so-called demilitarised countries, Iceland maintains troops under other names. It has a well-trained coast guard, a police force, and an air defence system. As suggested above, being a non-militarised country brings significant responsibilities. Iceland cannot afford to only 'consume' security, and therefore maintains a well-trained voluntary expeditionary peacekeeping force, the Icelandic Crisis Response Unit (under the Ministry of Foreign Affairs). This unit has made a significant contribution to global peacekeeping operations, including the Stabilisation Force (SFOR) in Bosnia, the Kosovo Force (KFOR) in Kosovo, peacekeeping operations in Sri Lanka, and the International Security Assistance Force (ISAF) in Afghanistan.

It is important to note that every country has historical reasons for becoming demilitarised. Aside from islands, which do not directly neighbour other countries, many demilitarised land-locked states ban armies as a result of military participation in *coups d'états* (a situation very different from that in the Republic of Moldova). Second, many countries assume a non-militarised status

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[31] "Norway and Iceland to sign defence agreement," *The Norway Post*, 24 April 2007.

as a result of full military and economic dependency on former colonial centres, which are mainly located on their borders.

One example of the first type of demilitarised country is that of Costa Rica, whose ruling regime was overthrown by an armed rebellion in 1948. Immediately after their victory, the rebel leaders dismantled the armed forces, so as to avoid creating a precedent for further *coups*. This is a common problem in states in which political rulers fail to assume democratic control of the armed forces. Indeed, the World Bank has identified demilitarisation as a potential SSR solution for such countries. One World Bank paper suggests that SSR should sometimes be undertaken using existing coalitions (which contradicts the Moldovan Government's current policy of avoiding alliances). Specifically with respect to the case of Costa Rica, the paper states that:

> Abolition of the military does not imply a lack of defence, but rather a redefinition of national security mechanisms. After the Costa Rican army demobilised, a number of emerging conflicts jeopardised the country's territorial and institutional sovereignty […] Costa Rica invoked the Inter-American Reciprocal Defence Treaty to resolve the conflict through international intervention.[32]

According to this paper, in a demilitarised democracy such as Costa Rica, security must be redefined in a way that goes beyond traditional military understandings of the concept. Key elements of this approach include:

- understanding security as a condition for development, not as an end in itself;
- defining security not as a purely military concept, but as an integrated concept that encompasses a variety of factors – economic, social, environmental and political – that together facilitate socially equitable and sustainable development;

and

- promoting this new vision of security as a product of free and peaceful interaction between the state and its citizens, not a mechanism for state control.

This expanded understanding of security calls for alternative security mechanisms, both externally and internally. According to official figures, for example, Costa Rica has a 6,000-strong civil guard (although other sources estimate this figure to be as high as 31,000).[33] Externally, meanwhile, such

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[32] The World Bank, *Conference Summary: The Leadership Challenges of Demilitarisation in Africa, Arusha, Tanzania, July 22-24, 1998*, pp. 10 [on-line]; available from
http://info.worldbank.org/etools/docs/LICUS/2/Completion%20Report%20Summary.pdf; Internet; accessed 25 September 2009.
[33] For example, Revista Envio suggests that in 1992, Costa Rica employed about 31,000 members of the armed forces under the civil guard and the rural guard, and that individual landowners employed some 15,000 additional private security guards. Revista Envio, Nitlápan-Envío Team, *The End of Passivity* (April 1992) [on-line]; available from

mechanisms can include diplomacy, international law, and collective security treaties.[34]

As regards the second type of demilitarised country – that which is dependent on a former colonial centre – one can look to the small number of landlocked European territories that are sandwiched between former dominant centres, such as the Republic of San Marino and the State of the Vatican City. These territories remain deeply dependent on their former centres, both politically and economically, and receive a high level of protection from their respective surroundings. As these countries are not in transition, they have little to offer in terms of lessons for the Republic of Moldova.

Thus despite their status, many non-militarised countries still maintain security forces to uphold their security. These forces either in effect replace the military and perform military functions, or are in fact military forces by another name. As Elio di Rupo, the President of the Belgian French-speaking Socialist Party, put it: 'we cannot ask to be protected against any threat, nor demand that the security of our territory be guaranteed by our partners and at the same time not contribute to it. At the very least we should show a little solidarity'.[35]


## 2.8 Options to consider when planning the road ahead

1. The Republic of Moldova cannot be a permanent consumer of security, and should thus gradually become a more serious provider of security. As Di Rupo argues, no country can expect to be protected without contributing to its protection. In order to become such a provider, Moldova needs properly trained forces. In the first stage, Moldova could contribute to peacekeeping operations, and eventually its non-military, police, judicial and gendarmerie units could take part in operations under the EU's European Security and Defence Policy. This would not contradict the Republic of Moldova's neutral status.

2. Parliament should monitor the implementation of IPAP paragraphs 1.5, 'Democratic control of the armed forces', and 2.1, 'Establishment of structures to conduct reforms'.

   a. Paragraph 1.5 of the IPAP states that:

      The Moldovan Armed Forces serve and secure the democratic development of the state. Thus the commitment to build a

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http://www.envio.org.ni/articulo/2515; Internet; accessed 25 September 2009. The same source suggests that in neighbouring Nicaragua, 40 per cent of the civil and rural guards have been trained by Chilean and Guatemalan special forces and the Israeli security forces.

[34] The World Bank, *Conference Summary*.

[35] Quoted in Gareth Harding, *Analysis: Does Belgium Need an Army?* (14 February 2006) [on-line]; available from http://www.upi.com/Security_Terrorism/Analysis/2006/ 02/14/ analysis_does_belgium_need_an_army/3197/; Internet; accessed 25 September 2009.

viable capability for the security of the nation is possible under comprehensive democratic control of the Armed Forces. Strengthening the role of civilian decision-makers in the framework of the entire national security system and civilianisation of military institutions, as well as implementing NATO standards in restructuring the Armed Forces and improving access of the media and public to defence and security matters are particular steps to be taken in this regard. In this field, the Republic of Moldova will review and, if necessary, will improve the legal framework regarding the sharing of responsibilities between the supreme state bodies. The best international experience in this domain will be implemented. The Moldovan authorities will gradually increase the number of civilian personnel at the Ministry of Defence and will encourage civil society involvement in defence and security issues.[36]

Following this, there is a detailed description of the specific actions that should be taken to implement those objectives. Parliament has to play a role in overseeing the implementation of the IPAP, since monitoring its implementation is already a key aspect of democratic control of the armed forces.

b.    Paragraph 2.1 of the IPAP, 'Establishment of structures to conduct reforms', stipulates that:

The Republic of Moldova intends to undertake a reform of all its security and defence structures in order to build a viable capability for the security of the nation and to have the capacity to contribute to international operations on an appropriate scale. In this regard Moldova considers as essential the development of a National Security Concept, a National Security Strategy, and a National Military Strategy. Based on these main documents, a Strategic Defence Review will be conducted, under the supervision of its Supreme Security Council.[37]

In 2008, the MoD embarked on a new Strategic Defence Review (SDR), by creating a State Commission for SDR. Its progress primarily depends on the existence of the basic guiding documents mentioned above (the National Security Strategy and the National Military Strategy). Given the absence of these documents, a UK Security Sector Development Advisory Team visited Moldova in 2008, and worked with experts from the Commission's working group.

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[36] *Individual Partnership Action Plan,* Annex 1, table, paragraphs 1.5 and 2.1.
[37] Ibid.

3. The actors involved in SSR should continue their work within the IPAP National Commission, the Coordinating Committee, and the specialised working groups in a manner that focuses on national needs and priorities. The IPAP is first and foremost a national plan, and without it, there will only be partial implementation of European standards and partial European integration. The fact that the EU and NATO hold coordination meetings on how the Alliance can assist Moldova with IPAP implementation should be a sufficient signal to all parties involved in the process.

Despite the fact that the IPAP National Commission exists and is essentially in charge of IPAP implementation, Parliament should recognise that this is only a temporary situation. The IPAP National Commission can in no way serve as a substitute for permanent public institutions that offer guidance to and oversee the security sector. SSR is a continuous process. However, there are institutions in Moldova that are supposed to address SSR. The functioning of these institutions, along with that of the entire security sector, should be improved to enable future challenges to be met.

## Annex: The Republic of Moldova's Individual Partnership Action Plan: Selected Objectives and Actions[38]

| Objectives and actions | Moldovan objectives: specific national measures | Timeline | NATO/NATO nations, consultation and/or supporting cooperative activities |
|---|---|---|---|
| 1.5.1 | **Develop effective and transparent arrangements for the democratic control of defence activities, including reviewing the roles and responsibilities of key state institutions.** | | **PAP DIB 5.1**<br><br>**PARP PG G 0020** |
| Action1 | In the framework of a new National Security Concept, review the roles and responsibilities of the Supreme Security Council, the President, the Parliament and the Government in defence and security matters to improve efficiency, accountability, transparency, and democratic control of the armed forces. | 2006-2008 | NATO: information sharing/consultations.<br><br>Relevant Euro-Atlantic Partnership Work Plan (EAPWP) activities.<br><br>Nations: information- and experience-sharing. |
| Action 2 | Ensure that civilian personnel, covering defence matters at all levels, are trained appropriately. | 2007-2009 | NATO: information-sharing and advice, relevant EAPWP and training programmes. |
| Action 3 | Take steps to improve information or awareness and training of parliamentarians and their staff. | Ongoing | NATO: information-sharing/consultations. Parliamentarians invited for briefings at NATO HQ.<br>NATO International Secretariat participates as expert in parliamentary staff training programmes. |

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[38] *Individual Partnership Action Plan.*

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|---|---|---|---|
| **1.5.2** | **Develop effective and transparent measures to promote civilian participation in developing defence and security policy, cooperation with non-governmental organisations and arrangements to ensure appropriate public access to information on defence and security issues.** | | **PARP PG G 0020**<br><br>**PAP DIB 5.2**<br><br>**PARP PG G 0020** |
| Action 1 | Gradually increase the number of civilian personnel at the MoD by identifying military posts. | 2006-2009 | NATO: information-sharing and advice. |
| Action 4 | Encourage civil society involvement in defence and security issues. | Ongoing | NATO: information-sharing/consultations.<br><br>Nations: cross-reference objective 3.1.1 |
| Action 5 | Take necessary measures to improve access of the media and the public to defence and security matters and involve civilians, including think-tanks and university experts, in the formulation of security policies. | 2006-2009 | |
| **2.1.1** | **Development of National Security Concept, National Security Strategy (NSS) and National Military Strategy (NMS).** | | **PAP-DIB 5.4**<br>**PARP PG G 0001** |
| Action 1 | Develop a National Security Concept that will revise threat assessment and address national security system. | 2006 | NATO<br>Nations<br>**PARP PG G 0016** |

| Action 2 | Develop a NSS using a revised threat assessment that will address the entire security sector of the Republic of Moldova. | 2006-2007 | NATO Nations **PARP PG G 0016** |
|---|---|---|---|
| Action 3 | Based on the NSS, the MoD supported by appropriate experts and representatives from other governmental institutions will develop a NMS. | 2007-2009 | NATO Nations **PARP PG G 0001** |
| **2.1.1** | **Development of National Security Concept, NSS and NMS.** | | **PAP-DIB 5.4** **PARP PG G 0001** |
| Action 1 | Develop a National Security Concept that will revise threat assessment and address national security system. | 2006 | NATO Nations **PARP PG G 0016** |
| Action 2 | Develop a NSS using a revised threat assessment that will address the entire security sector of the Republic of Moldova. | 2006-2007 | NATO Nations **PARP PG G 0016** |
| Action 3 | Based on the NSS, the MoD supported by appropriate experts and representatives from other governmental institutions will develop a NMS that broadly defines the mission of the armed forces. The NMS will also define the orientation of the reforms of the armed forces. | 2007-2008 | NATO Nations **PARP PG G 0001** |

| 2.1.2 | **Conduct of the Strategic Defence Review (SDR).** | | **PAP-DIB 5.4** |
|---|---|---|---|
| Action 1 | The Supreme Security Council headed by the President of state is responsible to guide the reform process. The Supreme Security Council will establish a State Commission which will be entrusted with the coordination and daily management of the SDR and the implementation of approved plans. This Commission will be supported by expert groups and when required should be the body making proposals to the Supreme Security Council. The Republic of Moldova will ask the Allied states to send specialised experts and provide necessary assistance for SDR process. | 2007-2008 | NATO: information-sharing.<br><br>Nations: experience-sharing.<br>**PARP PG G 0001**<br><br><br>Cross-reference<br><br>objectives 1.1.3, 1.1.4 |
| Action 2 | The State Commission in charge of conducting SDR will prepare the Terms of Reference for the conduct of a complete SDR, including assumptions and limitations, and will propose it for approval to the Supreme Security Council. | 2007 | NATO: International Secretariat (IS) provides advice.<br>Nations: sharing experience, assistance. |

# 3. The Need for a Defence and Security Sector Review

*Iurie Pintea*

For more than a decade, the issue of democratic oversight of the security sector has been on various actors' agendas in the Republic of Moldova. Discussions about the issue have occurred in a political environment that is strongly supportive of the democratisation of Moldova's systems of governance. Over time, most of the theoretical aspects of democratic oversight have been addressed, such as the general concept of democratic control, Moldova's security environment and its impact, the roles and missions of the main actors in the security sector, implementation mechanisms, monitoring and evaluation criteria and tools, and so forth.

In view of this, it would be reasonable to expect some improvement in democratic control over the sector, and the establishment and validation of at least some democratic practices in national systems of governance. It would also be logical to expect the Republic of Moldova to have a clear security policy that has been approved by Parliament, and that is understood and supported by the executive and the majority of population. Moreover, one would expect the Moldovan Government to have detailed plans for implementing this policy, and to regularly report to Parliament and the general public on outcomes, opportunities and future activities. It would also be logical to expect Moldovan civil society to have developed a better understanding of key security sector issues, and that there would be a continuous and substantial open dialogue on major issues of national concern.

Unfortunately, reality falls far short of such expectations. Democratisation in Moldova has proved to be a slow and erratic process. The country still has a long way to go towards the real implementation of basic principles and mechanisms of democratic oversight of the security sector. Moreover, democratic control of the security sector has not become an issue of major concern, either for the executive or legislative branches of the state, or even for civil society.

It is regrettable that this issue sporadically appears on the Moldovan political agenda only at the initiative, and with the assistance, of international development and security organisations. At the same time, inadequate attention has been given to the issue, and no significant improvements have been made.

In fact, this situation reflects the deficient and erroneous approach taken by state actors and civil society towards the security sector, as well as the mistakes that have been made by both local stakeholders and external partners in the development and implementation of various security-related assistance programmes. First, when dealing with the security sector, international

development and security organisations have focused heavily on the military and, in many cases, have ignored (or have been unable to involve) other security agencies.

Second, the foreign assistance provided to Moldova often takes the form of training programmes. While such training can indeed be useful, there is a serious lack of concern about the implementation or effects of democratic governance, responsibility, and accountability, as well as participative processes in project implementation. To date, most assistance has been offered in the absence of clear evidence, from the outset, of ownership and leadership among key stakeholders, and has not been followed up with adequate monitoring and evaluation.

As far as national stakeholders are concerned, the problems are much more complex. They stem from an erroneous approach that reflects an inadequate overall understanding of the concept of democratic oversight, its objectives, and the urgency of democratisation; and from erroneous perceptions of national priorities that are often limited to economic objectives. The result has been poor, deficient and irresponsible implementation.

## 3.1 Democratic oversight: a concept 'lost in translation'

What do Moldovan politicians mean when they speak of democratic control over the security sector? Reviewing political statements on the issue leads one to the conclusion that for the most part, democratic oversight has been understood in a very simplistic manner. Emphasis has been given to the supervisory and control functions that derive from the primary semantic meaning of the term 'to control', revealing an unsophisticated understanding of what is in fact a relatively complex concept.

One aspect of the problem is that from the very outset, the terms 'democratic oversight' and 'democratic control' have been translated and promoted in a very simplistic manner, in the absence of any rigorous definition. In fact, in discussions of 'democratic oversight' or 'democratic control' of the security sector, the term 'oversight' has been rarely been explained or promoted to mean 'permanent, competent, valuable, responsible, watchful care, concern, attention', all these meanings being equally valid in the original concept.

This erroneous interpretation has been promoted over the years, and democratic control over the security sector is today mainly a one-way, top-down process. In this process, the Moldovan Parliament's role is purely a law-making one, and its laws are only considered to be 'good' and 'adequate' once experts have judged them from the perspective of European practices and norms. In fact, the tradition has become entrenched in Parliament that approved laws are not brought back for assessment and revision. Once a law has been approved, Parliament no longer considers its implementation to be a relevant issue. Furthermore, Parliament is unable to engage in any extended activities, and its

capability is limited to occasionally requesting general, official reports on overall implementation processes or results.

When Parliament does not have the necessary capacity, expertise, or political will to revise and assess the Government's implementation reports, the relations between Government and Parliament become a 'convenient and shared irresponsibility'. The legislature is not responsible for incorrect decisions, or for mandatory decisions that have never been taken. The executive, meanwhile, is neither responsible for nor (more importantly) willing to go beyond legislation and budget approval.

Such erroneous relations are hardly conducive to developing an environment of mutual trust and efficient cooperation. Furthermore, such relations cannot facilitate the consolidation of the rule of law, democracy and economic development. In fact, the so-called 'political consensus' that has dominated Moldovan politics since 2001 conceals numerous traps and unresolved discrepancies related to the legitimacy and functioning of Moldovan governance, revealing a significant deviation from the genuine implementation of the principles of democratic governance.

With a view to this, even more complex problems are revealed in the security sector. Despite the fact that this sector has a key role to play in the effective functioning of the state and the rule of law, as well as ensuring the necessary preconditions for continuous and sustainable development, the Communist majority has consistently blocked Parliament's involvement in security policy or the activities of governmental institutions and agencies with responsibilities in this field, thus granting the President great freedom of action. The *de facto* situation in the Republic of Moldova is that a single individual defines the risks, threats, priorities and responses that relate to national security. This situation offers solid evidence for allegations that the Republic of Moldova has became an autocratically-governed state that has derogated from the principles of democratic governance. Indeed, not even the 'professional technocrats' that the executive had to recruit to lead key sectors, who hold no obvious political affiliations, have been able to influence strategic decision-making processes or promote crucial reforms.

Since 2001, numerous and significant failures have resulted from these deficiencies. The most important of these relate to the implementation of the Military Reform Concept and the IPAP, both of which should be understood as SSR-initiation programmes. The Parliament and the Government have only superficially addressed the implementation and approval of these major documents and initiatives, since they were given the 'green light' by the President. No concerns or indications of disquiet were expressed during the period in which general organisational issues were discussed, and a relevant legal framework developed. Even more revealing has been the widespread disillusionment during the implementation phase, and the executive's lack of ownership, commitment, capacity, and even understanding. Thus, practice has

proved that 'good laws' are not sufficient for the real implementation of security policy, and democratic control over the security sector that is limited to law-making is highly inadequate; it is like making new traffic rules without ever enforcing them.


## 3.2 A 'foreign and imported' concept

The failure to effectively implement democratic control over the security sector also stems from erroneous understandings of the concept and its goals, as well as European states' main reasons for promoting its implementation. In fact, the message emphasising the need for democratic control, a key element of international security, has largely been linked to the idea of removing military threats, primarily those from the former Communist block.

As a result, at no stage has democratic control over the security sector been perceived as an internal need that corresponds with national interests and internal state objectives. Instead, democratic control has tended to be perceived as an 'imported' concept that has been imposed as part of the state consolidation process, and one that needs to be adjusted to fit the national context and national interests.

Attempts to address democratic control over the security sector have therefore mostly focused not on the sector's efficiency or effectiveness, but on establishing imperative barriers and limits to prevent the sector from going 'out of control', or becoming a 'state within the state' that guides state security according to the particular interests of security actors.

Finally, it should be recognised that the Moldovan Government and Parliament have rarely initiated debates about the necessity, nature and implementation of democratic oversight of the security sector, as a starting point for developing or reforming elements of the sector. Democratic oversight has never been discussed as something that is vital to the future of the Moldovan state, or as a fundamental condition for well-being and sustainable economic, social and political development.


## 3.3 A comprehensive approach to a complex concept

No state can achieve democratic consolidation, poverty reduction or sustainable development without adequate security. The ultimate goal of national security policy is not an abstract term or feeling of security, but the practical creation and maintaining of favourable conditions for sustainable economic growth and national development. Security policy, as a policy of crucial importance, cannot be isolated from other national policies, strategies and priorities. The state has to formulate its security policy in a comprehensive way that is linked to broad national policies and agendas, national goals, and relationships between different institutions and groups.

The formulation of security policy is a highly political process that must be placed within its specific national and regional context. Political commitment, basic consensus and coordination among national actors, and national ownership in the form of wide-ranging consultation, are prerequisites for successful security policy. Ultimately, the process of formulating security policy will only succeed if it is nationally-led and inclusive, and actively engages national and local authorities, law-makers, and civil society organisations (CSOs).

Thus, when addressing security policy, it is necessary to view the security sector as a complex system of institutions, roles, mechanisms and relations. It is generally accepted that the sector includes defence-, law enforcement- and intelligence agencies, as well as institutions responsible for border management, customs and emergencies. Furthermore, the security sector includes actors that play a role in managing and overseeing the design and implementation of security policy, such as ministries, legislative bodies and CSOs.

In this context, a comprehensive approach to democratic control over the security sector has to encompass the following core elements:

- A legal framework that is consistent with democratic practices, that provides roles and responsibilities for all of the sector's actors and beneficiaries, as well as rules for the legitimate and accountable use of force in accordance with universally-accepted human rights norms and standards.
- An institutionalised system of governance and management for the security sector, including mechanisms for direction, coordination and oversight, financial management and review, and the protection of human rights.
- Relevant capacity for providing effective security, including personnel, equipment, resources and infrastructure.
- A state security ideology and institutional culture that promotes respect for values, integrity, discipline, impartiality and respect for human rights, that shapes the manner in which security actors carry out their duties.

The complexity of the security system and its constitutive elements imposes particular requirements when addressing issues such as democratic reform, appropriate mechanisms and procedures, the quality and complexity of the approach taken, and so forth. In fact, dealing efficiently with the functioning of the security sector is an extremely complex exercise that cannot be undertaken sporadically and unsystematically, or by individuals alone. Today, this capacity is lacking at the national level within Parliament and its Standing Committee for National Security, Defence and Public Order, within the National Security Council and its shrunk apparatus, and within the Government. In order to be successful, the approach has to be coherent, methodical, thorough, permanent, cyclic, and institutionalised, and conducted jointly by civil society and

specialised institutions possessing the necessary capacities, experience, and institutional memory.


**3.4 The need for a clear and comprehensive security policy**

The Moldovan Parliament will only be able to oversee the security sector if there is a common understanding of what the Government is trying to achieve in the sector, and how. The same is true for CSOs, which need a clear framework in order to be able to contribute practically to civilian democratic control. In practical terms, this means having a clear national security policy or a framework that describes, monitors and assesses how the security of the state and its citizens can be provided for.

In general, the legal framework for national security policy primarily consists of a national security strategic document (a strategy, concept, or doctrine) that outlines core national interests, internal and external threats, and sets out guidelines for addressing current and potential threats and opportunities. This document also seeks to establish the roles of the various actors and security agencies, enabling them to ensure national security and respond to interests and threats in an integrated and coordinated manner.

As suggested in the introduction, at the present time, the traditional understanding of security – which focuses on military responses to military threats – is being redefined. In the modern world, security policy no longer focuses exclusively on ensuring protection from military threats, but on creating a secure environment that facilitates a country's overall development, poverty reduction, and democracy.

The objective of security policy has thus broadened to encompass national stability, well-being, and development, while military defence is only seen as one of its elements. As a result, the institutional framework for security policy now allows for both security and development objectives, and for other relevant factors that were neglected in the past. This means that the strategic security document approved by Parliament has to be – by definition – a very complex one, including a wide variety of analyses, objectives, and guidelines.

In this context, the Moldovan experience has been both positive and negative. On the negative side, actual Moldovan security policy lacks an adequate legal basis. The National Security Concept that was approved by the Moldovan Parliament in 1995 has since been recognised as a sterile, academic, inapplicable and (to all intents and purposes) useless document. Furthermore, major changes that have occurred at the national, regional and global levels have left the juridical aspects of this document obsolete, and a new strategy is clearly needed.

In 2007, a national commission that included representatives from the Government and from civil society drafted a new National Security Concept. This commission aimed to develop a political document, that would assess the

security environment for the Republic of Moldova at the national and international levels, establish national security goals, basic guidelines for national security, the values and common principles that have to be promoted and protected by the state, and restate the irreversibility of the country's choice to pursue European integration.[39]

The Concept allegedly offers a comprehensive approach to national security, stating that the multidimensional and interdependent nature of security is not only determined by political and military conditions, but also by economic, social, cultural, ecological and energy-related factors. In order to affirm the comprehensiveness of this approach, the national security system is described as 'a complex of concepts, strategies, politics, means, regulations and administrative structures of the state, as well as the complex of institutions of the Republic of Moldova, that have as their role the implementation, protection and promotion of the national interests of the Republic of Moldova'.[40]

This Concept is regarded as the basis for the development of state policy relating to national security, the improvement of the national security system, and the delimitation of roles and responsibilities in this field. The National Security Concept, which was adopted by the Moldovan Parliament on 22 May 2008, states that a National Security Strategy will be elaborated and approved, which will describe the ways of ensuring national security; cooperation mechanisms for the components of the national security system; coordination tools for the national security sector's and institutions' activities, with responsibility for separate security dimensions; financing procedures for the national security system; and the stages of reform of the national security system of the Republic of Moldova.[41]

Next, after the approval of the National Security Strategy, a National Military Strategy and other sectoral documents relating to national security shall be developed. Furthermore, the National Security Concept stipulates that in order to enhance and develop its defence system, the Republic of Moldova will carry out a comprehensive and strategic analysis of national defence.[42]

The National Security Concept thus expresses the intention to define a comprehensive national security policy that contains complex approaches, elements and mechanisms. Unfortunately, however, not all of the strategic documents that are described in the National Security Concept have been elaborated. To date, parliamentary approval of the National Security Strategy is pending, while the National Military Strategy has yet to be developed. The absence of these strategies has created a lack of clarity regarding potential threats and adequate responses and, most fundamentally, lack of clarity

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[39] *National Security Concept,* Paragraph 1.2.
[40] Ibid.*,* Paragraph 3*.*
[41] Ibid., Paragraph 4*.*
[42] The State Commission for Strategic Defence Analysis was later created for this purpose.

regarding the strategic direction of the country's foreign, military and domestic policy.

This policy of 'wilful ambiguity' means that Moldova continuously lurches between 'eastern' and 'western' policy directions, while the country's internal and external stakeholders still have to contend with ambiguous expectations regarding Moldovan security policy. This has led to disappointment among external partners, and has considerably undermined the Republic of Moldova's international credibility.

On the other hand, this ambiguous policy has had a negative and discouraging internal effect, particularly on the security sector. Lacking a well-defined security policy and, indeed, any clear development strategies and programmes that might be approved, supported, and implemented responsibly at the national level, Moldovan security institutions remain 'disoriented' about future perspectives. They are extremely vulnerable to the political conjuncture and, *de facto*, are greatly dependent on the perceptions and objectives of a single leader. As a result, the sector's institutions, particularly the army and public order forces, are suffering from a profound moral and professional crisis, and lack credibility and authority at both the national and the international levels.

The Republic of Moldova's permanently neutral status has also had a negative impact on the development of the National Security Concept. Permanent neutrality hardly motivates local strategists to pay more attention to the security sector. The opinion has been forcefully expressed that any security forces that Moldova could afford, especially the national army, would not be 'able to withstand possible military aggression'. This idea culminated with the declaration by the President of the Republic and the Supreme Commander of the Armed Forces concerning the need for total demilitarisation of the Republic of Moldova, on the grounds that 'the national army is useless'.[43]

No radical changes occurred to the *status quo* in 2008; those responsible continued to have little incentive to develop, approve and implement the vital documents. In 2009, the internal situation was dominated by elections. The authorities preferred to focus on other priorities than a framework document that would only initiate an extremely complex, long-term process that would be of no immediate benefit to voters. The implementation of this document instead requires a permanent focus, effort, and significant resources.

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[43] "The Military Secret of the President Voronin". Interview with the President of Moldova in "Izvestia v Moldove" newspaper, 10 October 2007 [on-line]; available from http://www.prm.md/press.php?p=1&s=5399&lang=rus; Internet; accessed 25 September 2009.

## 3.5 From defence reform to the Defence and Security Sector Review

In their domestic and foreign policies, states must contend with changing political, military, economic, financial, informational and energy-related circumstances. This implies the continuous evolution of risks, threats and conditions, and methods of response, capacities and actions. In order to reflect these profound changes in national security policy, it is necessary to have a permanent and cyclic process in place that consists of the following main phases: evaluation, conceptualisation, decision-making, implementation and monitoring.

Each of these phases is a complex process that contains rules, mechanisms, approaches, actions, and methods. Having an efficient and high-quality cycle depends on the contents, quality and efficiency of each phase. At the same time, each phase is closely connected to the last, and is based on the quality and results of previous actions.

In Moldova, the National Security Concept was elaborated as part of the process of military reform. This process has suffered from a range of problems relating to quality management and the incapacity to generate new ideas and initiatives, and to make the mandatory decisions. It also suffered from not being able to go through the entire cycle within an adequate time frame.

An analysis of the military reform process reveals that the reforms were initiated in the absence of a methodological and detailed assessment of the current state of the military security system. Those driving the reform process were more concerned about achieving certain political objectives than they were about analysing existing capabilities, and capacities to achieve new objectives.

In fact, from the outset, military reform was an internal MoD initiative. It focused specifically on reforming the national army, and the MoD did not manage to attract other security institutions. Some of its original ideas and visions have already been overtaken to a considerable degree as the situation has evolved, with regard to events, practices, implementation procedures, and so forth. In order to get back on track, this process must be radically streamlined and implemented in an accelerated fashion.

Over the years, little reform has actually occurred, while the Republic of Moldova's security system has continued to evolve. This evolution has not been determined by strategies, concepts, or innovations, but by the changing political situation, the momentary ambitions of various leaders, inter-departmental competition and internal capacities, and the role and influence of various stakeholders involved in the security field.

As a result, real progress in defence reform has only been registered in legal documents, while conceptual, institutional and practical changes, as well as serious reforms, have been neglected. Moldova's failure to successfully develop a model of SSR is now clearly evident, as the entire process has been reduced to the periodic downsizing of the national army.

Under such conditions, the resumption of a normal cycle of continuous security sector modernisation calls for an integrated review, focusing on existing capacities and achieved results, and the correspondence of forces and resources with established objectives and missions. In order to be efficient, this review must be jointly initiated and supported by the executive and by Parliament, and must involve significant CSO participation. Second, this review, like SSR, 'should be a nationally owned process that is rooted in the particular needs and conditions of the country in question'.[44]

## 3.6 The critical need for a Security Sector Review

There is a clear need for a thorough Security Sector Review in Moldova. In 2003, during the PARP, NATO experts had advised Moldova to undertake a Defence Review, or a detailed review of the military and other forces ensuring national security. It was suggested that in order to be effective, the Defence Review should be an annual exercise and should involve the MoD, the General Staff, and other ministries and departments responsible for defence and security. The Review should aim to provide as comprehensive a picture as possible. It should not only focus on defence, but on the security sector in general, and should establish a coherent resource-allocation system that could serve as a basis for future decision-making processes.

If Moldova embarks on this process in the absence of an approved National Security Strategy, then it will be necessary to reassess the full range of military and non-military potential threats to the country's security. Next, the Security Sector Review will have to assess the objectives of the country's national security policy, and the missions, tasks and capabilities of existing ministries and security sector institutions. This will facilitate the *de facto* assessment of security threats, the management of these institutions, their professional strengths and weaknesses, and the extent of their ability to protect the state and its citizens against aggression, internal conflicts, criminality, and other security-related problems.

The Security Sector Review will have to proceed from a clear and realistic understanding of what is financially, operationally and logistically viable, in order to assess the relative affordability of security institutions in the light of other state priorities, having taken into consideration the real risks and dangers. The 'failure to incorporate the expertise of national economic actors, such as ministries of finance and economy and parliaments, in needs assessment and planning can result in the establishment of capacities that may become unsustainable over the longer term'.[45]

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[44] UN Security Council, *Securing Peace and Development: The Role of the United Nations in Supporting Security Sector Reform* (Report of the Secretary General, 23 January 2008).
[45] Ibid.

One of the Security Sector Review's main points of focus should be the democratic governance of the security sector. The Review should look at how successful and efficient such governance has been in achieving appropriate levels and forms of security; assess the efficiency of democratic oversight of the security sector; and the extent of the sector's accountability to democratically-elected, representative political institutions.

If conducted in an adequate manner and according to a clear methodology, the Security Sector Review would promote strong cooperation between governmental institutions and good civil-military relations, and would develop the capacity within institutions and civil society to understand and fully participate in national security policy. In addition, the Security Sector Review would provide evidence of ownership and accountability in Moldovan governance and society regarding security policy and its implementation, and would contribute to the creation of a new, long-term planning approach grounded in strategies and concepts.

The main conclusion and recommendation resulting from the above analysis is thus that the Moldovan Parliament's role with respect to democratic oversight of the security sector must be revised. This should ensure an adequate cyclic and permanent sector review process; legislative and executive accountability vis-à-vis national security policy; and efficient decision-making processes. In order to achieve this, the relevant parliamentary capacities and tools must be significantly improved.

## 4. Implementing the EU/Moldova Action Plan

*Igor Botan*

### 4.1 Introduction

On 22 February 2005, the EU/Moldova Cooperation Council held its seventh meeting in Brussels. At this meeting, the EU and Moldova signed an official document that launched the implementation of the previously-agreed EU/MAP. Vasile Tarlev, the then Prime Minister of Moldova, signed the document on behalf of the Republic of Moldova; while Jean Asselborn, Luxemburg's Deputy Prime Minister and Minister for Foreign Affairs and Immigration, signed the document on behalf of the EU. The negotiation process to agree the EU/MAP had lacked transparency, and had not involved widespread consultation with different layers of Moldovan society.

For the Republic of Moldova, the EU/MAP is a strategic document, and one of the key pillars of the country's regional security. The EU/MAP states that 'Moldova is invited to enter into intensified political, security, economic and cultural relations with the EU, enhanced cross border cooperation and shared responsibility in conflict prevention and conflict resolution. One of the key objectives of this Action Plan will be to further support a viable solution to the Transnistria conflict'.[46]

The EU and Ukraine signed a similar plan in February 2005. One of the most important provisions in this Action Plan refers to developing 'possibilities for enhancing EU-Ukraine consultations on crisis management; enhanced cooperation in the field of disarmament and non-proliferation; and enhanced cooperation in our common neighbourhood and regional security, in particular working towards a viable solution to the Transnistria conflict in Moldova, including addressing border issues'.[47]

On 24 March 2005, the Parliament of the XVIth legislature convened for its first session. Immediately after the parliamentary factions had been established and the Chair of the Parliament had been elected, all 101 MPs voted in favour of the 'Declaration of political partnership in achieving the objective of EU accession'. With this, the foundations of the national consensus regarding Moldova's twin strategic goals – European integration and resolving the Transnistrian conflict – were laid. The Moldovan Government, the European Commission, and Moldovan civil society were to be jointly responsible for monitoring progress with the EU/MAP's implementation.

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[46] *EU/Moldova Action Plan*, 1.
[47] Ibid., 3-4.

**4.2 Perceptions of the European Neighbourhood Policy**

In 2004, the biggest wave of enlargement in the history of the EU commenced with the accession of five Central European countries, the three Baltic States, and two Mediterranean countries.[48] The wave ended in 2007 with the accession of Romania and Bulgaria. As a result of this enlargement and prospective political-geographical changes (namely, the possible accession of the Balkan states and Turkey), the EU has acquired 'new neighbours' along its borders.

The EU drafted the European Neighbourhood Policy (ENP) as a means of administering its relations with this heterogeneous group of countries. The Action Plans signed with new neighbours became the policy's main operational tool. In the context of this policy, the ENP aimed to extend the benefits of European enlargement to its neighbours, consolidate security, stability and neighbouring states' welfare, and to prevent new divisions occurring across the European continent.[49] The EU initially agreed Action Plans with seven countries,[50] and later with another five.[51]

Some regard the ENP as a compromise solution to the EU's 'existential dilemma'.[52] In this view, the EU should manage the risk of its geographical over-enlargement to the point that it is unable to work in parallel with the negative effects arising from the deliberate exclusion of some European countries from the integration process. Other authors think that the objectives of the ENP are too vague to encourage the implementation of some of the ambitious reform packages.[53] Of course, the ENP's ultimate impact on neighbouring countries depends, for the most part, on its contribution to these countries' economic development, and in this context, there are more reasons for scepticism than for optimism. The fear remains that the EU adopted the ENP due to reservations about assuming some of the obligations that might arise from the integration of countries such as Moldova or Ukraine. Indeed, some diplomatic statements made by representatives of core EU member states, either during elections or

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[48] Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia

[49] European Commission, *European Neighbourhood Policy* [on-line]; available from http://ec.europa.eu/world/enp/pdf/strategy/strategy_paper_en.pdf; Internet; accessed 10 March 2009.

[50] The Palestinian National Authority, Jordan, Israel, Moldova, Morocco, Tunisia and Ukraine.

[51] Armenia, Azerbaijan, Egypt, Georgia and Lebanon.

[52] Michael Emerson, *European Neighbourhood Policy: Strategy or Placebo?*, CEPS Working Document, Centre for European Policy Studies, Brussels, 1 November 2004.

[53] Susanne Milcher and Ben Slay, *The Economics of the 'European Neighbourhood Policy': An Initial Assessment*, CASE Network Studies and Analyses [on-line]; available from http://www.case-research.eu/strona--ID-1421,publikacja_id-4932470,nlang-710.html; Internet; accessed 19 October 2009.

under difficult political circumstances, have done nothing but fuel such suspicions.[54]

The ENP did represent a new approach, however, that went beyond the EU's traditional cooperation with its neighbouring countries. The implementation of the Action Plans promised deep integration in many areas, and progressive participation in a series of community policies and programmes. These included youth and education policies, research, technological development and innovation, cultural policies, and audio-visual issues. Via the ENP, the EU promised to provide technical and financial assistance for bringing policies and national legislative systems into line with European standards. Implementation of the European Neighbourhood and Partnership Instrument (ENPI) was planned for the beginning of 2007. This would lead to increased financial and legislative assistance and improved trans-border cooperation.

Provided that the neighbouring countries successfully implemented the priorities identified in the Action Plans, the next step in the process of approaching the EU was to be the signing of several 'European Neighbourhood Agreements'. Neighbouring countries envisioned that these agreements would provide a clear opportunity for deeper commercial integration and wider participation in a series of community policies. Moldova expected to obtain such an agreement. However, many felt that Moldova should be pressing for association as a first step towards full integration, rather than the perpetuation or formalisation of its neighbouring-country status.

The ENP does not stipulate the awarding of membership to neighbouring countries, but neither does it explicitly rule out this possibility. The Action Plans that the EU signs with its new neighbours are largely similar in this respect, but they also envisage country-specific problems. The actions that were (or are) implemented within these plans fall into the following categories:

- Political reforms (consolidation of democracy, human rights and good governance);
- Economic reforms, including the creation of a favourable environment for investment and business;
- Market, commercial and regulatory reforms (with regard to this, partner countries are awaiting EU support to develop their foreign trade);
- Cooperation in the area of justice, freedom and security (including justice, emigration and human trafficking, which is a major problem in Moldova);

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[54] In particular, the then French Prime Minister Dominique de Villepin told an international conference on European integration in Salzburg in January 2006 that certain countries, such as Moldova or Georgia, should never be offered the prospect of EU membership. "French Prime Minister called for "slow" EU enlargement" [on-line]; available from http://www.newsru.com/world/28jan2006/rashi.html; Internet; accessed 24 February 2009.

- Modernisation of infrastructure (transport, energy, communications) and environmental protection;
- Inter-human contacts (education, culture, research and technological development, and civil society).


## 4.3 The EU/MAP: Moldova's expectations

Some Moldovans have argued that the EU/MAP reflects the EU's terms, rather than Moldova's priorities or expectations. To be sure, the EU/MAP is a serious commitment for Moldova; the agreement is a 'condensed' version of the Copenhagen criteria, to be implemented within one decade. The EU's failure to meet Moldovan expectations was related to two factors: first, the EU needed to digest the cost of the recent wave of enlargement; and second, the EU's lack of certainty regarding the firmness of Moldova's commitment to the European project, and whether its European ambitions were due to political circumstance or to ideals. Despite its pro-European rhetoric, Moldova still had to demonstrate that European integration was a truly national strategic objective, and not one that would be modified if internal or external political circumstances were to change.

Contrary to widespread belief in Moldovan society, the EU/MAP is not a substitute for a Partnership and Cooperation Agreement (PCA) between Moldova and the EU. The Moldova–EU Cooperation Council that signed the EU/MAP is a body that was set up by the PCA. Moreover, according to the EU/MAP's signatories, EU/MAP implementation is intended to contribute to the fulfilment of the provisions stipulated in the PCA.

The EU/MAP is a deliberately ambiguous document. It makes no reference to Moldova's integration into the EU, but neither does it exclude such a possibility. The EU recognises Moldova's European aspirations, and the document stipulates that the partnership is intended to provide a basis for cooperation between Moldova and the EU in the legislative, economic, financial and cultural fields.[55] The Moldovan political elite and CSOs have identified a number of positive aspects of the EU/MAP that can be capitalised upon:
- EU enlargement has deepened the political and economic ties between Moldova and the EU;
- EU/Moldova relations can develop into 'cooperation', manifest in significant economic integration and the deepening of political cooperation;

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[55] Moldovan Ministry of Foreign Affairs and the European Commission, *Partnership and Cooperation Agreement,* Art.1, p.3 [on-line]; available from http://www.mfa.gov.md/ img/docs/apc.pdf; Internet; accessed 10 March 2009.

- The EU/MAP recognises the creation of a strategic partnership between Moldova and the EU, and acknowledges that the implementation of this partnership will constitute a new political relationship;
- The nature of this future relationship will depend on Moldova's commitment to European values, and its capacity to effectively fulfil the priorities established by the different parties;
- The readiness of both parties to go ahead with the future relationship will entirely depend on Moldova's efforts and accomplishments in honouring its commitments.

In December 2008, the European Commission launched its 'Eastern Partnership' proposal. This new initiative aims to deepen political and economic relations between the EU and six ex-Soviet neighbouring countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.[56] It requires a high level of political commitment from the states involved, including the signing of Association Agreements with the EU; gradual integration into the EU's economy; facilitation of travel to the EU, once certain safety requirements had been met; the establishment of more concrete procedures to ensure energy security, which should be advantageous for all the parties involved; and increased financial support from the EU. Again, the extent to which Moldova benefits from this partnership will depend on its progress with reforms.[57]


### 4.4 Monitoring the implementation of the EU/MAP

In order to implement the EU/MAP efficiently, the Moldovan Government drew up a national programme.[58] This set out the measures that needed to be taken, and identified the institutions responsible and the terms for their realisation. For this purpose, four inter-ministerial commissions and corresponding coordinating institutions were established in August 2005:
- The Commission for Law and Security Issues (coordinating institution: Ministry of Justice);

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[56] European Commission, *Eastern Partnership, Communication from the Commission to the European Parliament and the Council* (December 2008) [on-line]; available from: http://ec.europa.eu/external_relations/eastern/docs/com08_823_en.pdf; Internet; accessed 12 March 2009.

[57] Implementing the Eastern Partnership agreements will stimulate internal reform in Moldova, via the creation of four multilateral political platforms related to democracy, good governance and political stability; economic integration and convergence with EU policies; energy security; and interpersonal contacts to further support individual reform efforts. Note that Moldova and the European Commission also elaborated a Country Strategy Paper for 2007-2013.

[58] Government of the Republic of Moldova, *Decision on the implementation of the EU/Moldova Action Plan No. 889 of 3 Aug 2006* [on-line]; available from http://www.csj.md/content.php?menu=1355&lang=4; Internet; accessed 19 October 2009.

- The Commission for Social-Economic Issues (coordinating institution: Ministry of Economy and Trade);
- The Commission for Infrastructure Issues (coordinating institution: Ministry of Transport and Road Management);
- The Commission for Cultural and Humanitarian issues (coordinating institution: Ministry of Education, Youth and Sport).

According to the MFAEI, reports on the implementation of the EU/MAP are produced on a monthly, quarterly and biannual basis by the coordinating ministries, while the MFAEI undertakes general monitoring at the governmental level. Nevertheless, the Moldovan authorities have failed to issue all of the required reports. While some have been issued quarterly, most reports have been issued only at the end of each year. In 2005, only the annual report was published.[59] In 2006, four reports in Romanian were made public, including one general appreciation document from the European Commission.[60] 2007 saw the publication of more detailed reports, including reports from all of the national institutions concerned.[61] The MFAEI's last report to date consists of the 2008 Annual Report plus reports on collaboration with civil society.[62]

These reports provide detailed and extensive information about the Moldovan authorities' activities. One should note a number of problems, however. While the reports provide a useful resource for observing the dynamics of the EU/MAP implementation process, they are mainly suitable for specialised institutions and individuals with backgrounds in public policy. Given that the documents are very extensive and are meant for the general public, the inclusion of introductory, concluding, and summary sections would facilitate their comprehension by a wider audience. With one exception, the reports lack introductions, conclusions and summaries.

Another shortcoming of these reports is their biased portrayal of the Moldovan Government's actions. Only ten critical remarks can be found in the sections dedicated to the political aspects of the EU/MAP implementation process – and all ten are mentioned in just two of the reports. Of these, only three criticisms refer to problems relating to the Moldovan authorities'

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[59] Ministry of Foreign Affairs and European Integration of Moldova, *Report on EU-Moldova Action Plan Implementation* (2005) [on-line]; available from http://www.mfa.gov.md/integrarea-europeana/2005/; Internet; accessed 10 March 2009.
[60] Ministry of Foreign Affairs and European Integration of Moldova, *Report on EU-Moldova Action Plan Implementation* (2006) [on-line]; available from http://www.mfa.gov.md/integrarea-europeana/2006/; Internet; accessed 10 March 2009.
[61] Ministry of Foreign Affairs and European Integration of Moldova, *Report on EU-Moldova Action Plan Implementation* (2007) [on-line]; available from http://www.mfa.gov.md/integrarea-europeana/2007/; Internet; accessed 10 March 2009.
[62] Ministry of Foreign Affairs and European Integration of Moldova, *Report on EU-Moldova Action Plan Implementation* (2008) [on-line]; available from http://www.mfa.gov.md/integrarea-europeana/2008/; Internet; accessed 10 March 2009.

responsibilities, [63] while the other seven shift the responsibility onto the Transnistrian and Russian authorities. [64] The criticisms of the Moldovan authorities, meanwhile, refer to problems in the judicial system and deficiencies in the fight against corruption.[65]

Assuming that implementation of the Action Plan is to be extended, having an objective monitoring process would substantially aid rigorous EU/MAP implementation and, subsequently, the process of meeting European standards in various policy fields. Governmental monitoring of the EU/MAP implementation process should therefore be enhanced. At the same time, the conclusions of CSOs and European institutions monitoring EU/MAP implementation should be taken into account.

### 4.4.1 Monitoring by civil society

CSOs have been reporting on EU/MAP implementation since 2005, with the aim of independently and objectively monitoring the implementation process. The actions undertaken by the signatory parties to the EU/MAP (the Moldovan Government and the EU) are monitored every trimester. ADEPT (the Moldovan Association for Parliamentary Democracy), Expert Grup, the Soros-Moldova Foundation and IDIS-Viitorul (the Moldovan Institute for Development and Social Initiatives) are among the organisations that systematically monitor EU/MAP implementation.

The EU/MAP is a complex document that consists of seven chapters and contains about 300 actions. Being unable to monitor the entire contents of such a complex document, CSOs have focused on key actions, in line with established priorities.[66] These actions relate to the following key areas:

1.    Democratic institutions;
2.    Cooperation in resolving the Transnistrian conflict;
3.    Consolidation of administrative skills;
4.    The judiciary;
5.    Economic and social development;
6.    International trade;
7.    Regulatory reforms and business climate;
8.    Border control;
9.    Combating organised crime, particularly human trafficking;
10.   Migration management.

In doing so, CSOs have identified what they regard to be key achievements and failures. However, this does not mean that the scope or depth of the reporting

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[63] *Report on EU/Moldova Action Plan Implementation, 2005 and 2006.*
[64] *Report on EU/Moldova Action Plan Implementation*, 2006.
[65] *Report on EU/Moldova Action Plan Implementation*, 2006, 9.
[66] *EU/Moldova Action Plan*, 3. As mentioned above, the EU/MAP is an ambiguous document, and represents a (unfinished) strategy rather than a proper action plan. The list of indicators formulated to monitor implementation of thus remains open to debate.

has been limited. For every field, a list of qualitative and quantitative indicators was devised in order to assess progress, in consultation with independent experts. The qualitative indicators were taken from official statistical sources and other national and international reports, and were quantified in consultation with experts. Every indicator was evaluated on a scale from -2 to +2, with -2 indicating a major regress; -1 a moderate regress; 0 indicating no change; +1 indicating moderate progress; and +2 indicating major progress. Each outcome represents a simple average of the assessments given by experts, and the progress achieved in each domain is indicated in a corresponding grid.

*4.4.2 European Commission reports*
On 4 December 2006, the Commission released its first progress report on EU/MAP implementation, generating a lot of interest within Moldova.[67] The document gave the Commission's opinion on the extent to which Moldova had honoured its commitments towards the EU between February 2005 and November 2006. The report highlighted progress made and problems encountered. It indicated important and moderate progress in specific fields, such as the management of the Moldova-Ukraine border, cooperation with the international financial institutions, and poverty reduction; in reforming the research, development and innovation sector ('good progress'); Moldova's entry into the EU's Generalised System of Preferences Plus ('GSP+'); achievements in the fight against organised crime and human trafficking; 'progress' in joining the Bologna Process; and 'some progress' in Moldova-EU cooperation with respect to particular foreign policy challenges and the creation of a better investment climate.[68]

On the other hand, the main problems included: inadequate implementation of reform strategies; insufficient freedom of the press; widespread corruption; government interference in business; unclear regulation with regard to parliamentary immunity; lack of clear priorities for action; lack of optimal conditions for starting-up and managing businesses; insufficient respect for human rights; limited independence of the judiciary; and the extended and indefinite prerogatives held by the Prosecutor General's Office. The Commission did not rank these problems in order of severity, but the wording suggests that it considered the first four to be the most serious.

In its *Progress Report on Moldova,* the European Commission recommended that the Council increase financial assistance to Moldova. This

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[67] European Commission, *Communication from the Commission to the Council and the European Parliament on Strengthening the European Neighbourhood Policy*. ENP Progress Report Moldova, Brussels, 4 December 2006 [on-line]; available from http://ec.europa.eu/world/enp/pdf/sec06_1506-2_en.pdf; Internet; accessed 27 October 2009.
[68] More information on the Bologna process is available online from http://ec.europa.eu/education/higher-education/doc1290_en.htm.

would be used to improve governance, encourage democratisation, promote regulatory reform, and reduce poverty. The Commission recommended the introduction of a flexible assistance regime for Moldova and a gradual increase in financial allocations, starting from 2007. Indeed, Moldova expects to be allocated 210 million euros in 2007–2010, via the ENPI. An additional 45 million euros will be allocated to cover the current account balance.

The Moldovan authorities were relatively satisfied with the European Commission's assessment. In general, the progress report represented a positive appraisal for Moldova. At the same time, comparing Moldova's progress report with that of Ukraine reveals clear reasons for dissatisfaction. Throughout 2007, on various occasions, Commission officials continued to praise Moldova for making progress.


## 4.5 New directions in foreign policy and national security

In compliance with the provisions of the EU/MAP and two presidential decrees, national commissions composed of high-ranking state officials were due to draft Moldova's National Security and Foreign Policy Concepts by 1 March 2006.[69] These documents were to replace previous parliamentary decisions, namely decision no. 445-XIII of 5 May 1995, and decision no. 368-XIII of 8 February 1995. After more than a decade, it has become clear that these earlier documents both miscalculated and ignored actual threats to the Republic of Moldova, and therefore established faulty priorities. The events of recent years mean that it is now necessary to re-evaluate potential threats to Moldovan security.

At the present time, the Republic of Moldova's major priorities include: ensuring the country's territorial integrity; promoting social-economic reforms; improving the population's welfare; and state-building based on the rule of law, in a manner that complies with international legal and human rights norms. While in 1995, Moldova's internal objectives had to be fulfilled against a background of integration into the Commonwealth of Independent States (CIS), now Moldova's goals must be achieved within the framework of the ENP, with ongoing ambiguity surrounding the exact conditions that might determine Moldova's entry into the EU.

Given that Moldova's domestic political stability is strongly influenced by its foreign relations, it seems that the Moldovan authorities have neglected to provide adequate legal support for its new situation. This is despite the fact that citizens' perceptions of the country's foreign relations have changed since Moldova signed the EU/MAP, and since the March 2005 parliamentary elections.

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[69] Namely the decrees of 22 December 2005 (no. 374-IV) and 16 January 2006 (no. 414-IV).

Although the documents mentioned were drafted and delivered to the head of state in due time, at present, it seems that the Moldovan authorities are no longer concerned with adopting new security and foreign policy strategies. Indeed, it was hinted that the new security and foreign policies should not be made official, on the grounds that they would limit Moldova's room for manoeuvre in its foreign relations, and would merely result in more rounds of useless talks.

## 4.7 Moldovan attitudes towards Europe, 2000-2008[70]

Between August 2000 and October 2008, Moldovan strategy took a European turn. This section examines Moldovan 'Euro-optimism', and highlights the criteria that divide public opinion on European integration. The analysis is based on Barometers of Public Opinion (BPOs) that were commissioned by the Moldovan Institute for Public Policy (IPP).[71] These surveys were used for a number of reasons:

- BPOs measure adherence to the European idea in Moldova;
- BPOs are conducted systematically, allowing one to track the evolution of public opinion on European integration;
- BPOs are relatively complex, detailed and objective.

Between August 2000 and October 2008, 17 BPOs were conducted (two per year). Every BPO was conducted using a sample of at least 1,000 respondents. The surveys are representative of the adult Moldovan population, with the exception of Transnistria, and have a maximum error margin of three per cent.

The BPOs contain two basic questions that aim to measure the extent of pro-European opinion in Moldova, namely: 'In your opinion, what foreign policy direction should Moldova follow?' (this question was asked in BPOs conducted between August 2000 and May 2004); and 'If next Sunday, a referendum on Moldova's accession to EU were to take place, how would you vote?' (this question was asked in BPOs conducted between April 2003 and October 2008). The answers to these questions are shown in Diagrams 4.1 and 4.2, see overleaf.

Diagram 4.1 indicates people's opinions towards two directions in Moldovan foreign policy: first, EU integration, and second, integration into or staying within the CIS. If the August 2000 BPO is taken as a reference point, the number of respondents who opted for EU integration increased by 8.9 percentage points between August 2000 and May 2004.[72]

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[70] See further Sergiu Buscaneanu, "Evolution of European Option in Moldova," *ADEPT E-journal* 96, 31 May 2007.
[71] Institute for Public Policy, *Barometer of Public Opinion* [on-line]; available from http://ipp.md/barometru.php?l=ro; Internet; accessed 15 March 2009.
[72] At the same time, it is worth noting that the compromise option, 'integration within the CIS *and* within the EU' was available in August 2000, and was chosen by 32 per cent of

*Diagram 4.1*[73]    **In your opinion, what foreign policy**
**direction should Moldova follow?**
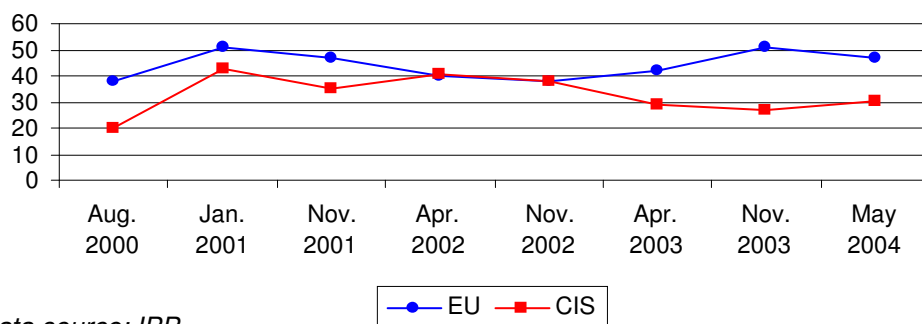


*Data source: IPP*

Table 4.1 below complements Diagram 4.1, and shows the correlation between
the factions in power and foreign policy options between August 2000 and May
2004.

*Table 4.1*    **In your opinion, what foreign policy**
**direction should Moldova follow?**

| Authorities & Options | Aug. 2000 | Jan. 2001 | Nov. 2001 | Apr. 2002 | Nov. 2002 | Apr. 2003[74] | Nov. 2003 | May 2004 |
|---|---|---|---|---|---|---|---|---|
| Govern- ment | Braghis | Braghis | Tarlev | Tarlev | Tarlev | Tarlev | Tarlev | Tarlev |
| Parliament | ADR-PPCD[75] | ADR-PPCD | PCRM | PCRM | PCRM | PCRM | PCRM | PCRM |
| President | Lucinschi | Lucinschi | Voronin | Voronin | Voronin | Voronin | Voronin | Voronin |
| EU | 38 | 51 | 47 | 40 | 38 | 42 | 51.3 | 46.9 |
| CIS | 20 | 43 | 35 | 41 | 38 | 29 | 26.6 | 30.4 |

*Data source: IPP*

respondents. One can speculate that if this option had not been available in 2000, the
numbers of people favouring EU or CIS integration might have been higher. From
January 2001 onwards, respondents were no longer offered this compromise option. The
January 2001 BPO is thus a better reference point for measuring the evolution of the
European option than the August 2000 BPO, on the grounds that the same
questionnaires were used between January 2001 and May 2004.
[73] After the May 2004 BPO, this question was no longer included in the questionnaires.
[74] Multiple answers could be given to the question. See Ibid.
[75] ADR stands for Alliance for Democracy and Reform; PPCD stands for Christian-
Democratic People's Party.

When taking the January 2001 BPO as a starting point for measuring the evolution of pro-European opinion, one can see that between January 2001 (Braghis Government) and May 2004 (Tarlev I Government), the number of people opting for the EU decreased by 4.1 per cent. By comparison, the number of respondents who opted for the CIS in the same period decreased by 12.6 per cent.

The May 2004 BPO was the last to include this question on Moldova's future foreign policy direction. Between April 2003 and October 2008, support for Europe was measured on the basis of whether respondents would vote 'for' or 'against' in a hypothetical referendum on Moldova's accession to the EU. The responses to this question are shown in Diagram 4.2.

*Diagram 4.2*

**Were a referendum on Moldova's accession to the EU to take place next Sunday, how would you vote?**
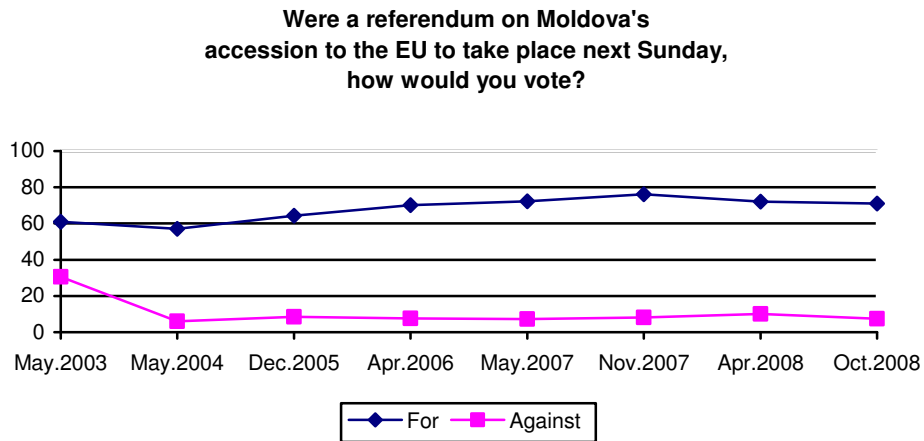


*Data source: IPP*

Diagram 4.2 shows public opinion on EU integration in surveys conducted between May 2003 and October 2008. The diagram shows that the number of people who would vote in favour of EU accession grew by 11.2 percentage points between April 2003 and May 2007. At the same time, the number of people who would vote 'against' increased by 1.2 per cent. Between December 2005 and May 2007, the number of respondents choosing 'for' increased by 7.9 per cent, and the number of respondents who would vote 'against' dropped by 1.3 per cent. One should note that this was also the period in which the EU/MAP was being implemented.

The October 2008 BPO indicates that 71 per cent of respondents would vote 'for' in a referendum on Moldova's accession to the EU. In line with the concept developed in the 1970s to explain early public support for the European integration process, this figure represents a 'permissive consensus' among the Moldovan people towards European integration.

The results of the surveys conducted between August 2000 and May 2007 were classified according to the following criteria: (1) gender; (2) residential area; (3) age; (4) nationality; (5) education; and (6) socio-economic status. The findings of an in-depth analysis of these results are as follows:

1. Although most women are 'Euro-optimistic', the share of pro-European women is smaller than that for men. At the same time, more men than women opted for 'integration/stay within the CIS' between August 2000 and May 2004, and chose 'against' in the referendum question posed in the surveys conducted between April 2003 to October 2008. More women than men answered 'don't know' to both questions.

2. The majority of respondents from urban areas are 'Euro-optimistic', but their share is lower than in rural areas. More respondents in urban areas voted for the 'integration/stay within the CIS' option than rural respondents in the BPOs conducted between August 2000 and May 2004, and 'against' in surveys conducted between April 2003 and October 2008. A greater number of urban-dwelling respondents answered 'don't know' than respondents from rural areas.

3. The degree of 'Euro-optimism' or 'Euro-scepticism' is directly related to a respondent's age. The BPO results are classified according to the following age categories: 18-29; 30-44; 45-59; and 60 years and older. The younger a respondent is, the more 'Euro-optimistic' they are likely to be. An equal number of respondents from the 30-44 and 45-59 age categories would vote in favour of EU accession in a referendum. There is an inverse relationship for the answers, 'integration/stay within the CIS' and 'against'. In other words, the older a respondents is, the more likely he or she is to have opted for one of these answers.

   At first glance, one might first assume that public support for European integration will grow concomitantly with the change of generations, as suggested by the data presented in Diagram 4.2. This hypothesis might be refuted in the long term, however. Experience suggests that the older people become, the less supportive they are of the European project. As states advance in the European integration process, the 'permissive consensus' is gradually eroding.

4. Romanian-speaking Moldovans are more 'Euro-optimistic' than individuals from minority groups.[76] The data for August 2000-May 2007 suggest that individuals from the Russian minority are more 'Euro-pessimistic' than respondents with ethnic Ukrainian backgrounds. It is interesting to note that more ethnic Russians than ethnic Ukrainians chose 'for' in the period between April 2003 and May 2007, as regards a hypothetical referendum on Moldova's accession to the EU. This

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[76] Only the answers given by representatives of the Russian and Ukrainian minorities were analysed; the BPOs did not study other minorities.

finding is explained by the fact that a significant number of Ukrainians answered 'don't know'.

With regard to the question on Moldova's foreign orientation, which was included in BPOs between August 2000 and May 2004, most Romanian-speaking citizens opted for EU integration, while most Russian- and Ukrainian-speaking citizens chose 'integration/stay within the CIS'. The evolution in opinion among ethnic minority groups is indicated by the fact that between 2003 and October 2008, more than three quarters of the ethnic-minority individuals surveyed would vote for EU integration.

5. The degree of support for Europe is directly related to a respondent's level of education. The more educated an individual, the more likely it is that he or she supports Moldova's integration into the EU, and *vice versa*.

6. A similar relationship exists with regard to a respondent's socio-economic status. The higher an individual's social-economic status, the more 'Euro-optimistic' they are likely to be, and the less likely they are to answer 'don't know'.

The findings with regard to criteria (1), (3), (5) and (6) do indeed confirm general trends in perceptions of EU integration. Men, young people, those people with college- and university educations, and people with higher living standards tend to show more support for European integration and enlargement.[77]

An in-depth analysis of the BPO findings reveals further details about the profile of 'Euro-optimistic' individuals, for the period between August 2000 and October 2008. If there were 100 'Euro-optimists' in Moldova, then the breakdown of this category would be as follows: 52 individuals would be men, and 48 women; 54 would be from villages, compared to 46 from towns; 30 individuals would be aged between 18 and 29, 27 between 30 and 44, 26 people would be aged between 45 and 59, and 17 would be over 60; 45 would be Moldovan, compared to 55 individuals from minority groups; 30 individuals would have received higher education, 28 would have graduated from high- or secondary schools, 24 people would be graduates of technical schools, and 18 would not have completed secondary education.[78]

Overall, differences in respondents' educational levels are the biggest factor dividing public opinion on Moldovan integration into the EU, while gender differences are responsible for the smallest discrepancy in individuals' responses.

These results suggest that if the Moldovan authorities were to try to raise levels of support for EU integration in Moldova, they should focus on less-

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[77] Simon Hix, *The Political System of the European Union*, 2d ed. (Basingstoke: Macmillan, 2005).
[78] The socio-economic profile of 'Euro-optimistic' citizens was not included, as not all BPOs covered such indicators.

educated individuals, the elderly, and ethnic minorities. Any informative or communicative strategy on Moldova's European integration should take these groups into account.[79] At the same time, the urban population should learn from 'Euro-optimists' in rural areas, and men and women should learn from each other. Increasing the amount of official communication on this issue is both necessary and desirable.


**4.8 Conclusion**

Internal and external monitoring of the implementation of the EU/MAP has resulted in a number of important revelations about Moldova's progress and the obstacles it faces. The establishment of internal and external monitoring and assessment criteria by the European Commission was mainly based on common sense. Therefore, viewed in a regional context, Moldova's progress with implementation has to be compared with that of Ukraine. Attention should also be paid to the progress made by Moldova's eastern and western neighbours in their bilateral relations, noting the crucial role played by Ukraine in maintaining the stability of the EU's border regions.

Ukrainian political behaviour leads to the conclusion that the country's 'European course' is tightly correlated with its 'Euro-Atlantic course'. The Euro-Atlantic perspective enhances Ukraine's pro-European aspirations, and encourages reactions and answers from the EU. From this point of view, Moldova is more of an 'enclave' than a conscious and active player, guided by clear and concrete goals. One explanation for this lies in the still-unresolved Transnistrian conflict, and the Russian Federation's involvement in this.

Turning to domestic developments, monitoring the EU/MAP's implementation has revealed a pronounced dip in the initially-inflated expectations among the Moldavian authorities and political classes, regarding the Action Plan's mobilising potential and impact on subsequent developments. This attenuation occurred despite a promising start, in the form of Parliament's 'Declaration on political partnership for the implementation of European integration objectives' on 24 March 2005, a month after the EU/MAP was signed. It is unfortunate that a good opportunity for consolidating the ideal of European integration, and transforming it into a central pivot for political debates, was lost; and instead, it became a central pivot for political battles, with each side trying to demonstrate that they could promote European integration more effectively than the other.

Both the external and internal reasons for Moldovan society's unresponsiveness to EU policies are well known. In contrast with the actions

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[79] Ministry of Foreign Affairs and European Integration, Republic of Moldova, *Strategy on Information and Communication for Moldova's European integration* [on-line]; available from http://lex.justice.md/viewdoc.php?action=view&view=doc&id=326654&lang=1; Internet; accessed 15 March 2009.

and incentives included in the European Agreements made with Central and Eastern European countries, Moldova received encouraging and consolidating messages couched in diplomatic language and placed in the context of EU intentions to 'strengthen' and 'revive' the ENP. Implicit EU messages concerning the assessment of progress in implementing the EU/MAP were unmistakable, however. No exceptional analytical skills are required to interpret statements such as: 'the implementation level of the EU/MAP is the stage experienced by common citizens of Moldova'; 'before invoking the need for new documents to sanction Moldova's relations with the EU, it should be realised that self-perfection within the EU/MAP is limitless'; 'the Republic of Moldova has achieved important progress in all areas, except for the independence of the judiciary, freedom of the media, respect for human rights, the fight against corruption, and building an attractive investment climate'; 'Moldova has adopted good laws, but it has a poor enforcement record,' and so forth.

In the light of such evidence, one is forced to conclude that the Republic of Moldova continues to have very weak administrative skills. How else could one explain poor enforcement of good laws? Indeed, the only other explanation is that there is no political will to implement current legislation in an appropriate manner; but on the other hand, there is clearly interest in behaving inconsistently towards pro-European policies. How else to interpret remarks made by European officials and observers that indicate the extent of political influence over the judiciary, political control over and manipulation of the media, and the political undermining of fair electoral processes? Indeed, the general conclusion with respect to the Government's engagement with ENP implementation must be the following: the goal of holding onto power has to date prevailed over the general objective of taking an efficient approach towards the adoption of EU norms. Perhaps this, in turn, has reduced the potential of the European integration ideal as a basis for national consolidation.

In spite of the challenges and obstacles mentioned above, implementing the EU/MAP did offer numerous opportunities for the Government to publicly engage with, and take responsibility for, the promotion of concrete goals, and having its progress monitored by civil society groups and international institutions. In spite of many difficulties, Parliament and the MFAEI did improve cooperation with civil society groups, although the process revealed the extent to which CSOs lack the ability to engage effectively. Civil society's preference for acting as a 'watchdog', rather than as an equal and competent partner, probably stems from its lack of experience and qualifications for such a role.

EU/MAP implementation has certainly involved modernising Moldova, and overall, the document has had a positive impact (if an inadequate one). With a view to this, the representatives of the Moldovan political class who signed the 'declaration on political partnership' should continue to reform and modernise Moldovan society, in order to meet EU standards. The discrepancy

between the current extent of Moldova's modernisation and the minimum standards required by the EU demands that Moldovan political forces reconsider their priorities, and focus on pressing needs rather than doctrinal subtleties. From this perspective, the primary imperative of the democratic political struggle should be optimising the speed and the efficiency with which these shortcomings can be overcome.

# 5.  Security Sector Budget Oversight: The Role of Parliament and the Court of Accounts

*Veaceslav Palade*

## 5.1 The role of the Courts of Accounts in a democratic state

Budget control is a key element of parliamentary and executive oversight of the security sector. Most western democracies have developed systems for efficiently and continuously carrying out this duty. There are a number of ways to exercise effective budget control, and in the West, the norms governing this type of oversight differ from country to country. However, it is widely thought that a security sector budget oversight mechanism is efficient if it provides correct and timely information to parliament and the executive regarding the effectiveness of the allocation and use of security sector funds.

Transparency and accountability are the most important constitutional requirements in western democracies, and this is especially true for national- and security sector budget processes. The principle of budget control is based on the assumption that parliamentarians can achieve effective oversight through active participation in and monitoring of the four main phases of the budget cycle: preparation, approval, execution, and audit (review).

In the *budget preparation* phase, the executive proposes funding for security sector programmes. In western and some transitional democracies, parliamentarians contribute to this process through various formal and informal procedures. Usually, they conduct both informal consultations and hold official meetings with security sector executives to discuss budget preparation issues.

In the *budget approval* phase, parliamentarians scrutinise and determine public interest in funding allocations and may, in certain contexts, complement security sector-related appropriations with specific guidelines. This phase requires participation by highly-qualified specialists, and discussions within parliamentary committees. During this phase, parliamentarians, particularly members of the relevant committees, can ask security sector executives to explain the financing rationale for certain programmes. Hearings usually take place within the committees responsible for oversight. If the justifications are unsatisfactory, parliamentarians can call on the executive to defend security sector budget propositions during an open parliamentary session, or during closed meetings with representatives from security sector, budget, appropriation, financial, and economic committees.

During the *budget execution* (spending) phase, parliament reviews and monitors governmental security sector spending, and may request that additional measures are taken to increase transparency and accountability.

Active participation in this phase allows parliamentarians to remain familiar with current security sector programmes and funding processes. However, in practice, parliaments are not really involved in the execution phase, and security sector executives are given broad powers to manage security sector funds. Parliament's ability to oversee the security sector budget thus lies in reviewing security sector agencies' budgets when proposed (budget preparations), and subsequently deciding what should be approved (budget approval).

In order to become fully informed about the propriety of security sector expenditure, parliament can call for audits and additional reviews, during or after the budget execution process. This is known as the *budget audit* (or review) phase. Parliamentarians determine whether the money allocated to the security sector has been used appropriately. Parliament should periodically evaluate the entire security sector budget so as to ensure accountable, efficient and accurate spending. For this reason, many western and transitional democracies have national audit offices – specialised institutions with statutory powers of access to information, staff and budgets – in order to monitor public spending, including in the security sector. Parliament should appoint an auditor general, and this office should have the resources to function independently. As a rule, the auditor general should have the authority to report any suspicious expenditure to parliament, or to its budget and security sector oversight committees.

## 5.2 Security sector budget oversight: international practice

In western democracies, it is recognised that a modern audit office should use three criteria to ensure the proper use of public funds: 1. value for money (to ensure that resources are put to optimal use, both qualitatively and quantitatively); 2. effectiveness (to measure the extent to which objectives are met); and 3. efficiency (to measure whether resources are used optimally to obtain given results). Based on these criteria, the auditor general can approve or disapprove security sector funding. The essence of these budget audits is that they help parliaments to oversee and, if necessary, change a government's security sector policies and budget allocations. Furthermore, an effective audit and security sector budget oversight process can occur if parliament requires all security sector expenditure to be presented in a single, consolidated budget document. The principle of periodicity in the Generally Accepted Accounting

Principles[80] (GAAP) also suggests the need to specify the time period in which security sector allocations should be spent.[81]

To ensure better audit and budget control, every item in a budget should be numbered and described, resulting in a clear overview of a government's expenditure. Some western parliamentary systems (including those of Germany and the Netherlands) initiate hundreds of budgetary amendments each year and review budget proposals in immense detail, including those related to the security sector. In other democracies (such as in Denmark and Luxembourg), parliament is provided with information on line items in military and security sector budgets. In France, Greece and Poland, parliamentary committees on security and defence are the only actors to receive information on security sector budget items. In Argentina, Canada, South Africa, South Korea and the UK, meanwhile, no prior notification is required for members of parliamentary security sector oversight committees to check budget expenditures. In the US, in turn, security sector programme spending is depicted in classified security sector budget annexes. All Members of Congress, as well as authorised staff sitting on oversight committees, have access to this information (although they must make special arrangements to have access).

*5.2.1 The US Government Accountability Office*
The US Government Accountability Office (GOA) is an independent agency in the legislative branch of state that is headed by the Comptroller General. It performs audits of executive agencies and departments to ensure accountability of funds appropriated by Congress. GOA staff also collect, test and analyse data, and provide oral briefings, testimonies and written reports to congressional committees. The work of GAO auditors covers compliance, operational, and financial audits. Their assignments include audits of any governmental agency, including security sector organisations, to determine whether spending is in line with Congress's intentions, and operational audits to evaluate the effectiveness and efficiency of selected security sector programmes. The auditors also conduct examinations of corporations holding Government contracts to verify that the Government's contract payments have been executed properly. One of the GOA's main operational elements, the National Security and International Affairs Division (NSIAD), performs studies and analyses, and issues reports on a broad range of programmes concerned with national security, and the US's international political, economic, and military

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[80] Generally Accepted Accounting Principles (GAAP) is the term used to refer to the standard framework of guidelines for financial accounting used in any given jurisdiction. GAAP includes the standards, conventions, and rules accountants follow in recording and summarising transactions, and in the preparation of financial statements.
[81] Gheorghe Costachi and Irini Iacub, "Public audit: a new form of state financial control," *Moldovan Magazine of the National Law*, no. 6 (June 2007).

interests. NSIAD's evaluators support congressional security sector oversight through system-oriented budget reviews of a wide range of security and defence sector contracts. They review the accuracy of estimates, the continuing validity of assumptions, the appropriateness of contract modifications, and adjudicate bid protests. The Division also undertakes performance-oriented, broad management reviews of entire security sector agencies.

In the US, each organisation within the security sector has an inspector general, either administrative (appointed by the agency) or statutory (established by law), who is responsible for ensuring that funds made available to that organisation are used properly. Under the auspices of this inspector general, inspections, investigations, and audits of the security sector activities are undertaken. Large security sector elements, including the Central Intelligence Agency (CIA), have their own inspector general, while smaller agencies fall under the inspector general of their parent organisation. Several security sector components of the Department of Defence have their own inspector general and also fall under the responsibility of the Department of Defence's inspector general.

The Intelligence Reform and Terrorism Prevention Act of 2004 provided the newly-established Director of National Intelligence with the authority to establish an inspector general within the Office of the Director of National Intelligence (ODNI). This inspector general is charged with planning, conducting, supervising and coordinating 'inspections, audits, investigations, and other inquiries relating to the programmes and operations of the ODNI and the authorities and responsibilities of the Director of National Intelligence'.[82] The office is also charged with 'detecting fraud, waste, and abuse; evaluating performance; and making recommendations to promote economy, efficiency, and effectiveness in the ODNI and the IC [Intelligence Community]'. [83] In addition, within the White House, the President's Security Sector Oversight Board 'conducts independent oversight investigations as required and reviews the oversight practices and procedures of the inspectors general and general counsels of security sector agencies'. [84] The 9/11 Commission also recommended that in order to enhance security sector budget oversight, it would be necessary to 'expand the independent authority of the Government Accountability Office over the security sector community, particularly the CIA,

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[82] US Director of National Intelligence, *An Overview of the United States Intelligence Community,* 2009 [on-line]; available from http://www.dni.gov/overview.pdf, Internet; accessed 8 April 2009.
[83] Ibid.
[84] Hans Born, *Democratic and Parliamentary Oversight of the Intelligence Services: Best Practices and Procedures* (Geneva, 2 May 2002); [on-line]; available from http://www.isn.ethz.ch/dossiers/ssg/pubs/Working%20Papers/20.pdf; Internet; accessed 9 April 2009.

and increase the coordinative power among relevant Inspectors General improving their reporting capabilities to Congress, where needed.'[85]

### 5.2.2 The UK National Audit Office
In the UK, the National Audit Office (NAO) monitors security sector spending. The NAO responds to parliamentary requests for information on the security sector budget, and produces reports for public consumption. The NAO monitors all security sector-related areas of UK governance, and submits separate annual reports to Parliament for each area, including defence (the Army, the Navy, and so forth), intelligence, and law enforcement. The NAO is totally independent of the Government and has the statutory authority to report to Parliament on the economy, efficiency and effectiveness with which departments and other bodies have used their resources. According to the NAO, it monitors at least £1 in every £8 spent, saving the taxpayer millions of pounds every year.[86]

### 5.2.3 The Ukrainian Accounts Chamber
Ukraine has a parliamentary system for security sector budgeting and oversight. The Ukrainian Parliament (the *Verkhovna Rada*) has adopted special legislation to oversee the activities and budgets of security sector agencies. Statutory rules also allow the Ukrainian Parliament to monitor security sector budgets at each stage of the budget cycle. The Parliamentary Committee for National Security and Defence is the main parliamentary body that oversees the tasks, policies and appropriations of security sector agencies. During the security sector budget process, this Committee coordinates its budget oversight functions with the Budget Committee, which is empowered to control security sector expenditure within the system of national budget planning and development. In order to enhance security sector oversight, this committee actively participates in international conferences, learning from best practice in western and transitional democracies. Moreover, the Ukrainian Accounts Chamber can also review security sector expenditure. This body can be authorised by the relevant parliamentary committees to assume executive control over security sector expenditure. According to an amendment to the Law on the Accounting Chamber, the Chamber, 'if authorised by parliamentary committees, shall verify the appropriateness of spending national funds and over-the-budget funds by executive bodies'.[87]

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[85] Congressional Research Service, *Intelligence Spending: Public Disclosure Issues*, Richard A. Best Jr. and Elizabeth Bazan (15 February 2007).
[86] See reports on UK financing of military units, *National Audit Office* [on-line], available from www.nao.org.uk; Internet; accessed 9 April 2009.
[87] Accounting Chamber of Ukraine, *Law on the Accounting Chamber* [on-line]; available from http://www.ac-rada.gov.ua/achamber/control/en/publish/article/main?art_id=35928&cat_id=32823; Internet, accessed 9 April 2009.

In addition to its constitutional powers, the Law on the Security Sector Agencies states that the Accounting Chamber is responsible for overseeing security sector budgets and expenditure. A specially authorised Chamber department is responsible for oversight: the Defence and Law Enforcement Audit Department (DLEAD). The head of the DLEAD is a governmental official, who is subordinate to the Board of the Accounting Chamber. This official manages the Chamber's operations with respect to defence, law enforcement, and security sector agencies. Having the highest level of state clearance, the head of the DLEAD has the right to be present at the meetings of all parliamentary committees, state bodies, and local government bodies. He also has the exclusive right to attend special meetings of the boards of the central executive bodies to which Ukrainian security sector agencies belong.

### 5.2.4 International practice: conclusions

Any system that aims to oversee the security sector budget must require the executive to disclose information on expenditure, including classified security sector programmes. In general, an effective parliament will enact laws and procedures that lead to the creation of oversight mechanisms, allowing parliamentarians to enforce norms of transparency and accountability.

National legislation should give parliamentarians the power to oversee the security sector budget, as well as access to classified information. Parliament should ensure that all appropriate budget documents are available to the relevant parliamentary committee. Members of this committee should also have access to classified budgetary appendices that relate to the security sector community.

Security sector budget oversight will only be successful if parliamentarians have an incentive to participate in developing systematic approaches for the evaluation and approval of security sector budget proposals. In order do this effectively, parliament should participate in each stage of the security sector budget cycle: budget preparation, approval, execution and review.

Legislators, government officials and the public need to know whether security sector executives are managing public resources and using their authority properly, in compliance with laws and regulations; whether security sector programmes are achieving their objectives and desired outcomes; and whether security sector executives are being held accountable for their use of public funds. In western and some transitional democracies, parliamentary committees for the security sector can demand that external governmental auditors review security sector budgets and the sector's spending. This information also helps parliamentarians to appropriate or amend budgets (allocating funds), as well as to approve or disapprove any supplementary budget proposals presented by security sector executives.

Common problems that can undermine the effectiveness of such oversight include a lack of accurate and complete information regarding security sector budget expenditure, inefficient legislation, and limited time for scrutinising

the security sector budget. To avoid such problems, transitional and emerging democracies should establish statutory procedures and a time frame for budget scrutiny. For better oversight, it is also important that all security sector budget items have a clear structure and are presented in one single document that can be understood by parliamentarians. Moreover, security sector spending should not be concealed in other national budgets.

These principles of security sector budget oversight are adhered to in most western democracies, and could be adopted by emerging and transitional democracies. Overall, the essence of budget oversight of the security sector is that parliament should oversee and, if necessary, change a government's policies regarding security sector activities by adjusting the budget. By amending governmental budget proposals and by conducting hearings, parliament can redefine security agencies' priorities. As such, parliaments can block the security services from engaging in certain activities by denying, qualifying or limiting funds.

## 5.3 Moldova's Court of Accounts: an overview

According to the Constitution of the Republic of Moldova and the 1994 Court of Accounts (State Audit Office) law,[88] the Court of Accounts (CoA) is an independent state body that exercises financial oversight. The CoA is not authorised to exercise state powers or to impose punishments. Rather, its function is to assist the Moldovan Parliament and Government by conducting audits, performing its duties, and providing the public with information concerning public sector spending.

It should be noted that the Moldovan CoA is currently undergoing a process of reorganisation. A development strategy for the institution has been devised with the aid of technical support and expertise from international donors. The hope is that from 2010, the reorganised CoA will be more efficient, more professional, and more capable of overseeing state expenditure, including that related to the security sector.

### 5.3.1 Institutional and legal framework

Moldova's CoA was created in 1994, replacing the State Control Department (which had been active since 1991). During its 16-year existence, the CoA's activities have been determined by a series of laws and regulations, some of which have been abrogated, and others of which are still in force today. Since its establishment as the country's supreme financial oversight institution, the CoA has undergone a series of reforms. These have aimed to increase the CoA's efficiency, and adjust its approach to conditions in Moldova, as well as bring it into line with

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[88] *Law on the Court of Accounts of Moldova* [on-line]; available from http://www.ccrm.md/file/Acte_leg/L%20E%20G%20E_312.pdf; Internet; accessed 9 April 2009. This law was adopted in 1994, with a series of modifications.

existing European and international standards. As a result, the CoA's current financial control activities are grounded in the following principles: legality, responsibility, integrity, objectivity and independence, competence, perseverance and transparency.

*5.3.2 Organisation and structure*
The CoA consists of seven members, with its executive functions being carried out by a chairman and vice-chairman. According to Moldovan law, Parliament is in charge of establishing the CoA's structure and staffing.[89] In response to a proposal by the Parliamentary Speaker, Parliament appoints the chairman of the CoA for a five-year term. The CoA's chairman formally puts forward candidates for the CoA and the post of vice-chairman, and these are also appointed by Parliament. The chairman, in turn, is responsible for appointing the CoA's members of staff.

The process of appointing the CoA's members is as follows. First, parliamentary factions recommend candidates. The CoA's chairman then proposes these candidates to Parliament. Finally, Parliament selects and appoints the members. It should thus be emphasised that the chairman can only put forward those candidates who have been recommended by parliamentary factions, meaning that the chairman's role is a purely ceremonial one. Indeed, this severely limits the chairman's ability to promote representative, internal candidates with proven competences and experience. By law, Court members and staff may not be politically affiliated or undertake political actions for any political party. The ethical code of the CoA's controller also stipulates political neutrality. Therefore, it is not clear what the essence of the appointment procedure is, what it is aiming at, and how it might improve the CoA's activities. Second, it is evident that Parliament's involvement exceeds acceptable limits, on the grounds that it directly affects the independence and impartiality of the CoA. The relationship between Parliament and the CoA, as determined by existing legal provisions, thus potentially puts the objectivity of CoA at risk.

According to current legal provisions, Parliament can discharge the CoA's chairman and members from their functions prior to the expiration of their due terms, if they fail to fulfil their duties, break the law, abuse their powers, or if their dismissal is approved by a majority of the deputies. Moldovan legislation provides additional grounds for dismissal, namely: non-fulfilment of duties and failing to respect the Constitution; failing to inform superiors of potential conflicts of interest; any activity incompatible with the professional dignity of a CoA member; and violation of confidentiality. A number of legal amendments have resulted in additional grounds for dismissal: a court conviction; the loss of Moldovan citizenship; holding another country's citizenship (even though Moldovan legislation allows for dual citizenship); health reasons; and reaching the age of 65. It is hard to defend this latter reason, as certain individuals of this age would clearly

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[89] *Law on the Court of Accounts.*

be able to contribute significant energy, experience and knowledge to the work of the CoA.

### 5.3.3 Functional responsibilities

According to Moldovan law, the CoA's functional responsibilities can be divided into two major categories, those of control attributions and other functions. The flaws in current legislation quickly become apparent: while the CoA's control functions are clear enough, a series of questions can be raised about the CoA's 'other functions'. These include responsibilities relating to advice/notice, internal organisation, sanctioning and collaboration. While the CoA's sanctioning functions, for example, are not clearly defined in the law on the CoA, they are set out in other legislative acts that address other fields. It would thus be advisable to harmonise these two sources of legislation.

The CoA's financial control responsibilities are regulated by law. The CoA exerts control over the formation, administration and use of public financial resources, whether by public or private companies and/or institutions, as well as the ways in which the public patrimony is managed. By exerting its control functions, the Court is obliged to apply principles of efficiency and efficacy to the management of public financial resources.

### 5.3.4 Reporting and recommendation/noticing functions

The Moldovan Constitution states that the CoA should present annual reports to Parliament on the administration and use of public financial resources. Moldovan law also stipulates that the CoA is obliged to present its annual report to Parliament by 15 July each year.

The CoA's annual report is presented to Parliament during a special sitting. Fifteen days prior to this, the Court submits its text for revision. This allows parliamentarians to review the text, and to comment on its findings. This amendment once again indicates the growing importance of the CoA. The CoA's reporting functions are supplemented with the stipulation that parliamentary factions can request the CoA to provide additional reporting on particular issues considered to be of importance by certain parliamentary commissions. The CoA therefore has to submit, on request, specific reports to Parliament, parliamentary commissions, or individual MPs.

Concerning the CoA's recommendation/notification functions, the CoA reviews the state budget and provides recommendations. More specifically, it revises the budgets for state social insurance and obligatory insurance. It should be noted that the revision of budgets related to the security sector, such as those for the military or the intelligence services, is not expressly stated in any law relating to the CoA's financial oversight. By comparison, in other states, such as Romania, financial control institutions are responsible for revising special budgets in addition to the general budget, including those for the military and intelligence sectors.

## 5.3.5 Sanctioning attributions

According to statutory regulations, the CoA has two main sanctioning attributions: administrative, in those cases where fault is found with the formation and use of public resources by public institutions; and financial, in those cases in which frauds is committed in the use of public finances to sub-contract services and goods from a third party. When a controller identifies a fraud or similar fault in connection with the formation and use of public funds, he or she is obliged to analyse the situation carefully, identify the persons responsible, compile a special protocol, and submit this to the CoA's directorate and/or to other institutions concerned, such as the Office of the Prosecutor General.

## 5.3.6 Functional relations with Parliament

According to Moldovan legislation, relations between the CoA and Parliament are based on the principle of the independence of the supreme financial oversight institution. The key organisational aspect of the relationship, meanwhile, lies in the selection and appointment of the CoA's management and members. As mentioned above, Parliament can request the CoA to undertake additional controls, besides those explicitly stipulated by law.[90] Other types of relations are created in the course of submitting annual reports to parliamentarians, who are supposed to review them, provide recommendations, and initiate debates. In practice, however, hearings on CoA reports are limited to special sittings that are organised to discuss the CoA's activities during the preceding budgetary period. Unfortunately, parliamentarians generally show little interest in discussing the results of the controls undertaken by the CoA, and no information is currently available regarding MPs' official responses to the CoA's findings. Specific amendments to current legislation are thus needed, in order to clarify and reinforce Parliament's role in examining and adopting the CoA's annual and other reports.

## 5.3.7 The CoA's oversight of the security sector: conclusions

- The legal framework that regulates the CoA offers a relatively broad scope for controlling and monitoring the security sector and related budgets. The CoA can monitor all public institutions, as well as private institutions that use public funds.
- There is still a need to substantially improve some aspects of the legislation, especially with regard to the CoA's ability to independently appoint staff, its sanctioning power, and harmonisation with other legislative norms and acts. This would enhance the CoA's performance, effectiveness and efficiency.
- The law on the CoA explicitly states that there should be compulsory oversight of social assistance and obligatory medical insurance funds.

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[90] Irina Iacub, "The Court of Accounts of Moldova: past and present. Summary version in Romanian," *Legea şi Viaţa*, no. 6 (2006).

- Legally-created parliamentary factions can ask the CoA to undertake individual controls of any institution that uses public funds. In this way, factions can directly participate in security sector budget oversight, by requesting the CoA to monitor the spending of any security sector institution, including the military and the defence and intelligence services. Despite this, over the past five years, Parliament has not once requested that the CoA undertake specific controls with regard to the security sector budget.
- The Moldovan CoA has no specialised department for dealing with security sector issues (comparable, for example, with the Ukrainian Accounts Chamber's DLEAD).

*5.3.8 Moldovan parliamentary and CoA oversight of security sector financing: deficiencies*

The Moldovan system for security sector budget oversight is far from being completely efficient or fully operational. While the powers for conducting oversight are enshrined in Moldovan law, in practice, a number of problems affect the whole system of oversight. These can be summarised as follows:

- According to data on the public budget, almost all components of the Moldovan security sector, and the defence sector in particular**,** are chronically underfinanced in the state budget. A rough analysis shows, for instance, that the Moldovan army receives approximately 50-70 per cent of the total amount that it actually needs. For many years, there has been almost no financing for the modernisation, reconstruction or capital renovation of the army. The current budget is used mainly for the armed forces' immediate needs, such as remuneration, food, and clothing. In such circumstances, real parliamentary oversight, in its classical definition, is hardly applicable.[91]
- The effectiveness of the Parliamentary Committee for National Security, Defence and Public Order is undermined by the fact that it has to deal with various secondary issues that are unrelated to the security sector, even though it is mandated to mainly address issues that are only related to national security. Only a small number of the Committee's deputies are responsible for oversight. Furthermore, the number of experienced staff that the Committee has at its disposal is not adequate for carrying out such an important duty.
- Parliament is unable to exert full control over the security sector budget process. The Committee sends its recommendations to relevant agencies at the beginning of the budget cycle. However, there is no evidence that the Committee and its sub-committees are able to control

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[91] Court of Accounts, Moldova, *Activity Reports for the Years 2004, 2005, 2006 and 2007* [on-line]; available from http://www.ccrm.md; Internet; accessed 9 April 2009.

security sector budget development before the Cabinet of Ministers submits its proposed budget to Parliament. Before this law is submitted, Parliament only has limited information about the proposed security sector budget.

- The Committee and the CoA have failed to inform the public about the results of parliamentary hearings and audits related to the security sector. It is not known whether these hearings and audits make any difference to the behaviour of security sector agencies and their budget choices. The lack of public information concerning the results of the hearings organised by the Committee for National Security, Defence and Public Order and the Committee for Economic Policy, Budget and Audits raises questions about the impact of these activities, or whether they even have taken place at all.

- The Moldovan parliamentary system for security sector budget oversight is inefficient in certain respects. Recent events have demonstrated, however, that the system as a whole is operational and workable. Parliamentarians have some ability to anticipate events occurring within the sector, and to stay informed about expenditure. This awareness would be further enhanced if the parliamentary security sector oversight system were to work more closely with the Moldovan Government.

## 5.4 Security sector budget oversight: common problems

*5.4.1 Lack of information on security sector expenditure*
One common problem associated with security sector budget oversight is a lack of transparency and information regarding security sector expenditure. This, in turn, often results from having archaic budget designs or poorly defined objectives. It is also related to a lack of multidisciplinary expertise in national statutory audit organisations, weak constitutional requirements for the release of information to the public, and a bureaucratic attitude that prefers confidentiality to accountability.

In order to increase transparency in security sector expenditure, in 1998, US parliamentarians established three classification levels for security sector budgets:

General budget information presented to Congress; classified capital and operating expenditures, which may be scrutinised by a special oversight subcommittee; expenditures relating to higher levels of military classifications, which may be scrutinised by a representative group of members of a scrutiny committee. The scrutiny committee should be given access to classified documents according to established procedures set out in a national secrecy

act.[92]

Transitional democracies could adopt this three-level classification system as a useful disclosure and control tool for security sector expenditure. The system should be in line with the law, especially that pertaining to freedom of information. This would help countries to find an appropriate balance between secrecy and transparency. This technique would also allow countries to avoid having negative public debates concerning security sector budgets, and would provide an appropriate means of substantiating information without placing the security sector's sources or operational activities at risk.

Some security sector budget oversight problems are related to the difficulties that can arise when trying to obtain information about security sector expenditure, which may be 'hidden' in non-security sector budgets. Security sector spending on infrastructure, transportation and logistics is often transferred to the budgets of other government agencies and ministries, such as welfare, housing, acquisition and supply. In some democracies, these concealed appropriations can distort the security sector's budget, and can hamper parliament's ability to make valid assessments regarding real security sector expenditure.

Finally, in some countries, complex security sector budget structures can result in parliamentarians being unable to determine the exact amount of money dedicated to security sector agencies. In this case, parliamentarians must base their decisions on the final appropriations on mixed data relating to defence and security sector allocations. Such complexity raises doubts about whether parliamentarians in western or transitional democracies can actually cast effective votes on the entire security sector budget.

*5.4.2 A lack of clear legislation*
How to find the right balance between secrecy and transparency is not debated as part of security sector budget oversight in western and transitional democracies. By law, western parliaments have a key role to play in adopting and overseeing budgetary provisions related to the security sector. In practice, however, many parliaments are poorly equipped to exert any decisive influence on security sector budgets, and their action is 'further hampered by secrecy and opacity in relation to certain security allocations and spending'.[93] Having a poor budget oversight framework makes it difficult for parliamentarians to exercise oversight. A few countries do have clear legislation on this issue, including the US, Canada, Australia, Norway, Belgium, Argentina and Poland. In some transitional democracies, however, the relevant legislation is very poor and far from efficient.

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[92] *Intelligence Spending: Public Disclosure Issues.*
[93] *Democratic and Parliamentary Oversight of the Intelligence Services.*

*5.4.3 Limited time for scrutinising the security sector budget*

Many parliaments do a poor job in overseeing security sector budgets, due to having limited time for scrutiny. Parliaments tend to be pushed into following general-accepted budgetary routines under time pressure, making it difficult to investigate complex budget details. Most western and transitional countries have a one-year budget cycle. In theory, this provides parliament with sufficient time to undertake all national budgetary procedures and analyse security sector budgets in particular. However, in some countries, national budgets are presented to parliament for further scrutiny at the very end of the fiscal year, when prompt decisions are needed on new spending allocations. In such situations, the minimal time frame 'forces' oversight committees to accelerate the process of budget authorisation and appropriation, while compounding the problem of analysing recent and future expenditure. The result is that some parliaments fail to obtain a clear understanding of security sector budgets, thus diminishing their capacity to use the budget to provide appropriate policy guidance.

Due to the limited time available for scrutiny, in some western and transitional democracies, security sector budget oversight focuses almost entirely on 'eloquence,' with 'efficacy' left to security sector executives and the national audit office. Moreover, some parliamentarians have neither the competence nor the qualifications to evaluate the security sector budget, and time constraints further hamper their understanding. Thus, it is crucial for parliaments to enhance parliamentary expertise in security sector budget oversight by hiring professional staff with the relevant education, advanced knowledge and personal experience.

## 5.5 General recommendations

- The legislative framework should ensure that the organisational, management, personnel and budgetary structures of security sector agencies are clear for parliamentarians. In this regard, the Moldovan Parliament should improve the capabilities and qualifications of the parliamentary committee for security sector issues. This committee should have broader powers over the security sector and the funding it receives. Committee members should be granted the highest level of state clearance, and should have guaranteed access to the information that they need. In addition to this, the number of qualified experts supporting the people's deputies should be increased.
- The Budget Committee and other committees should consider amending the Law on the Budget Code of Moldova to give parliamentarians more time to oversee and scrutinise security sector budgets in general, and individual budget items in particular. The Committee should play a more active role in budgeting for intelligence. It should pay much more attention to controlling the intelligence budget

at each stage of the budget process (preparation, authorisation, appropriation and execution).

- The Budget Committee and the CoA should also enhance their cooperation and participation vis-à-vis the budget process for the intelligence services in general, and the budget's authorisation and execution stages in particular. The CoA should be prepared to conduct compliance audits of the security sector, and report the results of its work.
- Drawing on international best practice, the Moldovan legislature should consider amending the law on the CoA to modify its structure, by introducing a special unit to deal with monitoring and control of security-sector related fields. One or two additional security-sector related issues could be added to the two expressly stipulated areas of compulsory control.
- The factions in the Moldovan Parliament should be encouraged to file requests to the CoA to undertake specific monitoring of security sector expenditure.
- When seeking to enhance its effectiveness, the CoA should be guided by international best practice. However, international practices should be analysed and adapted to the Moldovan situation, before being implemented.
- In order to carry out an effective audit of security sector expenditure, Parliament should seek the opinion of experts from specialised audit offices on the security sector budget. This means that all security sector budget documents should have a user-friendly structure. It is clear that security sector spending audits and budget oversight will be more effective if experts are involved in the process, and report to Parliament. However, achieving a user-friendly budget structure should not place the security community's sources and methods at risk.

# 6. The Deployment of Troops and Parliamentary Oversight

*Veaceslav Bugai*

## 6.1 Introduction

When the Republic of Moldova joined the UN and the OSCE in 1992, the country assumed responsibility for contributing to the maintenance and enhancement of international security. By participating in various arrangements and implementing agreed treaties in line with its capabilities, Moldova committed to help to control conflict-ridden outbreak areas, prevent armed conflicts, and strengthen international peace and security. Participating in peacekeeping operations would be a key aspect of assuming this responsibility. Peacekeeping represents an efficient tool for eradicating conflicts all over the world, and for establishing and maintaining peace in former conflict zones.

By joining the PfP Programme in March 1994, Moldova clearly demonstrated its intention to develop its peacekeeping capacity. In the PfP Programme, Moldova obtained an efficient tool for training its armed forces to participate in peacekeeping operations. At the same time, as part of its IPAP, Moldova committed to undertaking reforms that would bring its armed forces up to NATO standards, allowing them to participate in peacekeeping operations under the auspices of NATO and the UN. Due to budget constraints, the Moldovan armed forces have not yet been able to fully achieve this goal. However, assistance provided by partners in the PfP Programme, especially the US, has helped the Moldovan army to achieve a certain level of interoperability within its forces, allowing it to contribute officers to UN and OSCE missions. The contingent of military troops sent to Iraq in 2003 was Moldova's first contribution to an international peacekeeping mission.

## 6.2 Moldova's participation in peacekeeping operations: legal framework

When analysing the legal framework governing the Moldovan military's participation in peacekeeping operations, the starting point should be the Moldovan Constitution. Article 8 of the state's supreme law states that the 'Republic of Moldova pledges to respect the Charter of the United Nations and the treaties to which it is a party; to base its relations with other states on the unanimously recognised principles and norms of international law'.[94]

Moldova's Military Doctrine also makes reference to participation in peacekeeping operations. In the context of enhancing international security, the Doctrine states that the prevention of wars and armed conflicts by means of

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[94] *Constitution*, Article 8, Title I.

international law is one of the main goals of Moldovan security policy. [95] In this way, Moldova reasserts that military means for settling armed conflicts will only be used in accordance with the norms and principles of international law, as set out in the UN Charter, the Universal Declaration on Human Rights, the Helsinki Final Act, and other official UN and OSCE documents.

To improve the legal framework relating to peacekeeping, and with the aim of regulating Moldova's participation in international peacekeeping operations, in 2000, the Moldovan Parliament adopted the Law on the Participation of the Republic of Moldova in International Peacekeeping Operations. [96] This Law established the principles underlying Moldovan participation in peacekeeping operations; the composition of its forces; legal principles and decision-making processes; training and financial support for the armed forces; and the social and legal protection of personnel.

The Law on National Defence, which was adopted in 2003 as part of the reform of the armed forces, also offers legal provisions for participation in peacekeeping operations. Article 6 of this organic law states that:

> the Republic of Moldova can participate in international peacekeeping or humanitarian operations in accordance with the Law on the participation of Moldova in international peacekeeping missions and in accordance with other normative regulations, in the interest of maintaining peace, stability and strengthening international security according to the obligations assumed by Moldova under international treaties. [97]

As such, this law clearly defines the legal framework governing Moldovan participation in humanitarian and peacekeeping operations.

The international legal framework consists, first and foremost, of the UN Charter, paragraphs V-VII, and other UN documents referring to the regulation of national and international conflicts. In addition, the Republic of Moldova adheres to the OSCE's principles and obligations, as set out in the Helsinki Final Act of 1975 and in other OSCE documents. Moreover, as explained above, when Moldova signed the PfP Framework Document in March 1994, the country reconfirmed its international commitment to contributing practically to the enhancement of international security and stability, through participation in peacekeeping, search, rescue and humanitarian operations. [98]

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[95] *The Military Doctrine.*

[96] *Law no. 1156-XIV of 26 July 2000 on the Participation of Moldova in International Peacekeeping Missions*, Official Monitor of the Republic of Moldova, no. 149-151/1106, 30 November 2000.

[97] *Law no. 345-XV of 25 July 2003 on National Defence*, Official Monitor of the Republic of Moldova, no. 200-203/775, 19 September 2003.

[98] NATO, *Partnership for Peace: Framework Document* [on-line]; available from http://www.nato.int/docu/comm/49-95/c940110b.htm; Internet; accessed 15 April 2009.

The Republic of Moldova thus possesses a good legal framework for the participation of military troops in UN- or OSCE-mandated peacekeeping and humanitarian missions. Current national legislation does not yet permit the Moldovan military to participate in peace enforcement operations, however.

## 6.3 Moldovan participation in international operations: the *status quo*

Until 2003, only individual Moldovan officers (as opposed to military contingents) participated in international missions. The Moldovan military participated in the following OSCE missions:

- OSCE Assistance Group to Chechnya: two officers in the period 1997-1999
- OSCE Kosovo Verification Mission: three officers in the period 1998-1999
- OSCE Spillover Monitor Mission to Skopje: two officers in the period 2001-2002
- OSCE Mission to Georgia: eight officers in the period 2000-2007

Between 2002 and 2004, Moldovan army officers also formed part of the NATO Stabilisation Force in Bosnia and Herzegovina (SFOR). During that period, a total of eight officers performed six-month rotations as staff officers within American forces serving under SFOR.

The Republic of Moldova made its first contribution to UN peacekeeping efforts in 2003, when it sent its first military observers to UN missions in Africa. Moldavian military observers are currently serving in the following missions:

- UN Mission in Côte d'Ivoire (MINUCI): 12 observers in the period 2003-2007
- UN Mission in Liberia (UNMIL): 12 observers in the period 2003-2007
- UN Mission in Sudan (UNMIS): four observers in the period 2005-2007
- UN Observer Mission in Georgia (UNOMIG): one observer in 2007

Currently, Moldova has ten observers in UN missions. Attempts were made to prepare and send a peacekeeping contingent to a UN mission, but these failed for a number of reasons, including a lack of funding and insufficient equipment capacity. Moldova has not contributed troops to the UN Standby Forces High Readiness Brigade.

In response to requests from the US and Iraqi Governments, in September 2003, the Parliament of the Republic of Moldova authorised the deployment of a 42-person military contingent in Iraq. This contingent comprised an infantry platoon, an explosive ordinance de-mining team (EOD team), and a staff officer. This was the first deployment of a Moldovan military contingent to an international peacekeeping operation. One should note that transportation to Iraq and full logistical support during the mission, as well as for those that followed, were covered by American and coalition forces.

In total, five Moldovan military contingents have participated in the international coalition to re-establish peace and security in Iraq:

- Contingent I, 42 personnel, September 2003 – March 2004
- Contingent II, 12 personnel, July 2004 – February 2005
- Contingent III, 11 personnel, January – July 2006
- Contingent IV, 11 personnel, July 2006 – January 2007
- Contingent V, 11 personnel, June – December 2007

With the exception of the first contingent, these consisted of an EOD team and staff officers.

## 6.4 Approving troop deployment: internal procedure and parliamentary oversight

Parliament holds the exclusive right to send a military contingent abroad. Parliament makes this decision in response to a proposal by the President, who is the Commander in Chief of the Armed Forces. As stipulated by Moldovan law, 'The proposal is forwarded for examination by the President to the Parliament and has to contain data about the territory where the deployed contingent will act; tasks and personnel; subordination; time period of the mission and its modality of extension; personnel rotation order and conditions for returning to the country'.[99]

When taking the decision to send troops abroad, the Moldovan Parliament should be guided by the country's fundamental interests and international commitments. Moreover, the following conditions need to be met: the parties involved in the conflict must have consented to receive international peacekeeping forces; there must be a clear and applicable international mandate; and the forces in question must be fully prepared for the particular peacekeeping mission at hand.[100]

In practical terms, the decision-making process for deploying a military contingent in a peacekeeping operation proceeds as follows. The Ministry of Foreign Affairs and the MoD examine the international request for Moldovan participation in an international peacekeeping operation, addressed through diplomatic channels. The MoD forwards a set of documents containing the necessary information and proposals to the Supreme Security Council. The Supreme Security Council, which is a consultative body chaired by the President, examines the case, and may preliminarily approve the deployment of troops abroad. If the Supreme Security Council has given its approval, then the Government forwards the proposals to Parliament. If Parliament gives its approval, a parliamentary decision is made, followed by a governmental decision.

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[99] *Law no. 1156-XIV,* Article 5, paragraph II.
[100] *Law no. 1156-XIV,* Article 2.

Parliamentary oversight over peacekeeping operations is only exercised during the process of deciding whether to deploy a contingent (in this case, to Iraq). As part of this decision-making process, a number of preliminary hearings occur within parliamentary fractions and commissions, including within the Committee on National Security, Defence and Public Order. During these hearings, MoD representatives provide information and answer parliamentarians' questions. During the four years that Moldova has participated in post-conflict operations in Iraq, the MoD has only twice participated in these plenary sessions, and only then as part of more general reporting. Holding such hearings on a regular basis would bring all of the actors involved together in a permanent dialogue, and would enhance the quality and transparency of the deployment of military contingents abroad.

## 6.5 Current problems and recommendations

What are the most relevant problems currently affecting the decision-making process for deploying troops, and for participating in peacekeeping operations in general? To answer this question, we need to examine the most important segments of the decision-making chain related to participation in peacekeeping operations.

As suggested above, current legislation offers a relatively good legal framework for Moldovan participation in multinational operations. However, practice suggests that there is certainly scope for improvement. For example, the law governing Moldova's participation in international peacekeeping operations restricts flexibility in the decision-making process at both the governmental and parliamentary levels, as well as on the ground during military operations. In essence, this law only refers to traditional peacekeeping operations that combine particular conditions and characteristics: the existence of a ceasefire agreement, consent on the part of the belligerent parties to receive international forces, and the belligerent parties' willingness to resolve the conflict peacefully. The role of peacekeeping forces in such contexts is limited to controlling the implementation of ceasefire agreements, in line with given mandates; and monitoring and separating the belligerent parties, so as to allow sufficient time and space for a long-term political solution to be found. The traditional definition of peacekeeping also assumes that the parties to a conflict are states, using 'classical' armed forces.

The changing nature of modern conflicts and their causes, which have increasingly become intrastate and interethnic, has created a need for new approaches to peace support operations during peacekeeping. Various experts have developed a range of definitions of peacekeeping operations, which differ

according to each mission, and the functions and tasks included in any particular international mandate.[101]

Moldovan law restricts participation to 'direct participation in international peace enforcement operations'. In practice, however, such missions are rarely self-standing, and are often combined with other types of mission, making it difficult to ascertain what is meant by 'peacekeeping operations'. Moldovan legislation also fails to specify which types of other operations Moldovan troops can participate in (such as search, rescue or humanitarian operations). Further on, it transpires that Articles 1, 2, and 4 offer insufficient clarity and applicability to the Law. This makes it difficult to interpret and implement Moldovan legislation, and impedes the executive and legislative decision-making process. It has also proved difficult to establish clear and applicable rules of engagement for Moldovan troops, even though these rules play a fundamental role in ensuring the security of these troops and the people they are protecting.

As far as Moldovan participation in post-conflict operations in Iraq is concerned, Parliament has had limited opportunities to use one of its most effective control leavers: that of money. This is due to the fact that the deployment of Moldovan troops in Iraq has largely been financed by the US; Moldova has only covered *per diems* for army personnel and contingents' training expenses. Military expenses, as a rule, are paid out of the MoD's budget or from the Government's reserve fund, in line with the procedures outlined above. Also, the state budget does not include an item for funding peacekeeping operations. This is partly due to the fact that Moldova lacks an efficient defence planning mechanism, and also due to decision-making procedures. Instead, financial resources are allocated in separate decisions for each contingent.

Funding troops' training for and participation in peacekeeping operations has proved to be a significant problem for the Moldovan authorities for over ten years. Despite the fact that a succession of presidents, ministers of defence and ministers of foreign affairs have heralded the importance of Moldovan participation in peacekeeping operations and the need to contribute to international security, this area has never received adequate funding. This situation undermines the coherence of Moldovan foreign policy, as well as the country's international image, and it is imperative that Parliament makes a concerted effort to achieve this objective.

At the same time, some argue that peacekeeping operations should become the main activity of the Moldovan armed forces. Such a shift would occur as a result of a redefinition of the military threats facing the country, and implementation of the idea of partial 'self-funding' for the military, using money obtained from participation in peacekeeping operations. A rough financial

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[101] Alex J. Bellamy et al., *Understanding Peacekeeping* (Oxford: Polity Press, 2004).

analysis suggests that in order to follow this route, the Moldovan Government would have to substantially increase funding for military operations abroad, even if current troop numbers were reduced and their tasks streamlined. Increased funding would be necessary to prepare and equip peacekeeping forces in accordance with NATO and UN standards.

In addition to funding, a further problem relates to decision-making and ongoing Moldovan participation in multinational operations in Iraq. With the exception of 2006, Moldovan participation in post-conflict operations has been affected by a series of interruptions, sometimes of almost a year. Why has this been the case?

International experience shows that if a country decides to participate in any peacekeeping operation, it should provide a continuous military presence on the ground until the multinational operation is completed. It may also withdraw its forces early, due to certain political, legal, military considerations. Military contingents are rotated during the peacekeeping operation. Moldova failed to ensure a permanent military presence in Iraq because Parliament and the Government did not approve the deployment of individual contingents on time. Two key factors contributed to this situation: the fact that the Republic of Moldova wanted to participate in post-conflict operations, but not to the extent that funding was provided and decisions made on time; and the fact that the decision-making process was flawed. If the first factor is directly linked to political attitudes towards international deployment and the coherence of Moldovan foreign policy, then the second is related to decision-making procedures, which can certainly be improved.

It would be much more productive and efficient if Parliament were to approve (or reject) the deployment of a Moldovan military contingent at the moment the request is made. Parliament should specify the number of personnel, the number of missions, and so forth, and then the Government should be responsible for managing troop rotations. So done, it would be necessary to introduce a reporting and communication mechanism that would improve the level of dialogue between the legislature and the executive. This would increase the level of parliamentary control over troop deployment. Parliament would be privy to more detailed information about peacekeeping operations, which would aid decision-making, including that related to military budgets and logistical support. At the same time, the continuity of deployment would be ensured, which is important from a military-operational perspective; and this would, in turn, increase the credibility of Moldova's commitment to enhancing international peace and security.

Taking all of these factors into account, several recommendations can be made for improving parliamentary control over the deployment of peacekeeping forces abroad:
- First, the law governing Moldova's participation in international peacekeeping operations should be clarified and made more applicable.

- Second, a new mode of budgeting and funding for Moldovan military participation in peacekeeping operations should be introduced, and the military budget should include an item on peacekeeping operations. If going further, an effective defence planning system should be established, as outlined, for example, in the IPAP.
- Third, the procedures for making decisions relating to peacekeeping, and for monitoring troop deployment, should be modified.
- Lastly, as a general suggestion relating to security, Parliament should be provided with comprehensive information on range of issues, so that it can make the right decisions when necessary. Parliament should receive periodic updates on topics that are central to the country's interests and security.

# CONCLUSION

*Sami Faltas*


In many languages, the verb 'to control' has two meanings: first, 'to determine or direct'; and second, 'to oversee or verify'. In English, 'to control' is mostly used to mean 'to determine' or 'to direct', like a driver with one foot on the accelerator and both hands on the steering wheel of his car. When it comes to governance, this is the kind of direction that is provided by a minister of defence or a military commander. In principle, at least, they are in charge, even if most of the time they don't know what their subordinates are doing. The phrase 'command and control' clearly indicates the first meaning of control.

The other meaning of 'to control' is that commonly used in continental European languages, including Moldovan or Romanian. It refers to a much weaker and superficial kind of power, namely 'to oversee, monitor or verify'. Consider the way a referee keeps an eye on the conduct of football players, for example. He does not determine their movements, but he checks whether they are following the rules. If they fail to do so, he takes corrective action. When it comes to governance, this is a function performed by parliament, by the judiciary, and to some extent, by civil society and the media.

In countries accustomed to authoritarian rule, the idea that defence and security are the sole preserve of the government and the military is deeply entrenched. In this line of thinking, parliament must provide the necessary laws, money and legitimacy, refrain from meddling in military affairs, and certainly avoid making national defence the object of party-political wrangling. The emphasis is on effectiveness and 'command and control', not on the rule of law, transparency and accountability. The result is that, in practice, security agencies are accountable only to their political bosses, not to the population and its representatives. According to the constitution, parliament may be the most powerful institution in the land, but in countries with an authoritarian political culture, parliament is not the mistress but the maid of the executive branch.

When challenged, followers of this authoritarian school of thought often claim that phenomena such as democratic control of the security sector, critical parliaments and outspoken civil society organisations are foreign notions belonging to an alien culture, at least under current circumstances. This amounts to saying there should be no democracy in the security sector.

Such attitudes are not only an obstacle to democratic reforms, but they also prevent a country from developing a security policy and security apparatus that can respond to the needs of the population and enjoy its support. Hence an authoritarian approach to defence governance is harmful to human security. Being harmful to human security, it also damages a country's prospects for

sustainable development. It is bad for economic and social progress. Moldova is such a country, with a history of authoritarian rule. One of the main challenges in the transition towards a democracy is overcoming this heritage.

***The development of Moldova's parliamentary system***

As outlined in Chapter 1, Moldova's first democratic elections in 1990 gave the country its first real parliament. Soon the Government began establishing the country's defence forces, and Parliament started to build a framework of laws for defence and security matters. At that early stage, Moldova had no constitution, there were no policy documents on defence and security, and Parliament had not yet begun to oversee the actions of the Government in this field.

The country adopted its first democratic constitution in 1994. This established a system with two major centres of power, the Parliament and the Presidency. The President was appointed Commander in Chief of the Armed Forces, but Parliament was to oversee all actions of the security sector. 1995 saw the publication of a National Security Concept that confirmed Parliament's sovereignty in security affairs. Based on this concept, a Military Doctrine was also developed.

The constitutional reforms of 2000 reinforced Parliament's role, which from now on would elect the President of the Republic. Thus Moldova replaced a semi-presidential system of governance with a parliamentary system. After the parliamentary elections of 2001, Parliament began to use its powers more actively and effectively. It also began to follow the activities of the country's security establishment more closely and critically. Article 66 of the Constitution spells out Parliament's authority over national security policy.

A long process of military reforms was set in motion. During the first phase (2002-2004), the legal basis for state security agencies was revised and strengthened. In its second phase (2005-2008), emphasis was put on reorganising the military and security forces, and improving training, equipment and international cooperation. The third phase will run until 2014.

After the elections of 2005, Parliament adopted a comprehensive strategy for its entire term, putting strong emphasis on European integration. There were also efforts to enhance parliamentary oversight of the security sector, including a programme funded by the Dutch Government (under which this study has been undertaken).

As explained in Chapter 1, the Parliament of the Republic of Moldova is a unicameral body of 101 deputies, elected for four years. It has nine standing committees (whose chairmen typically come from the ruling party), including the Committee on National Security, Defence, and Public Order. This body has subcommittees for each of these three areas.

Parliament and its national security committee oversee security policy in various ways. First, they review draft laws submitted to Parliament by the Government. Second, they elicit and review reports by the chiefs of the various security agencies. Third, they put questions to the Government. Fourth, they pass motions of various kinds. Fifth, they oversee the way the laws regarding security and defence are implemented. The Committee on National Security, Defence and Public Order has a small staff of assistants, who prepare and organise its sessions.

Thus Parliament has involved itself in the making of security and defence policy, from the earliest stages of conceptual planning up to and including the execution of policy. So far, it has tended to regard its role as collaborative rather than controlling. The author of Chapter 1 considers this to be a healthy development, because it means that national defence has not become an object of party-political struggle and rivalry. He hopes the legislative and executive branches of the state in the realm of security affairs will continue to have a cooperative relationship.

The author of Chapter 1 has good reasons for wanting a consensual approach to matters that affect the security of the country as a whole. However, if the desire for harmony prevents parliamentarians from strictly scrutinising the actions of the security establishment, criticising its failures and publicly holding the responsible politicians accountable for these failures, then Parliament is not really overseeing the Government in security matters, but rather facilitating its work. It is providing democratic legitimacy without democratic control.


### Security Sector Reform in Moldova

Whose security are the military and police supposed to protect? For a long time, their main job was to protect the country's rulers, or in a broader sense, its regime. As explained in Chapter 2, in the 20th century, the emphasis shifted to defending the integrity and interests of the country; that is, national security. Towards the end of that century, however, another shift occurred. Today, there is broad international agreement that the mandate and duty of the security agencies is to protect each individual citizen and, by implication, the entire population. The popular term for this is 'human security'.

Defence reform thus became part of a much wider effort that is today known as Security Sector Reform (SSR). The aim of SSR is to ensure good delivery of security services to the population as a whole, in a transparent manner, by accountable authorities, and under the rule of law. These reforms must be driven and 'owned' by local actors in government and society, and must be sustainable. SSR is especially important and useful in countries such as Moldova, which lack a fully-formed democratic state and face the threat of internal conflict, but that enjoy a level of stability that makes it possible to launch and carry out reforms.

As explained in Chapter 2, Moldova's armed forces were formed in a scramble to deal with the security threats that immediately faced the country when it became independent. Their doctrine, policy, deliberate organisation, legal framework and political structure came later. The first major milestone on that road was the 2001 Military Reform Concept. This was instrumental in providing structure and direction to the armed forces, but only to the military. It was only later that a comprehensive plan for the security sector was developed, most importantly in the Individual Partnership Action Plan (IPAP) agreed with NATO in 2006. This set out a plan (or strategy, as the author of Chapter 2 calls it) for the renewal and reform of security institutions.

Confusingly, Moldova had earlier agreed to a different policy framework, which served a similar purpose. Also drawn up in the context of Euro-Atlantic integration, the EU/Moldova Action Plan (EU/MAP) was negotiated in 2004 and signed in 2005. EU/MAP provides a framework for institutional, legal and policy reform in all areas, including security, but does not specifically refer to SSR. Nevertheless, the EU is interested in SSR in Moldova, and there is some scope for EU assistance for SSR. That a need for such reform exists is unquestionable.


### *Moldova and the EU*

As explained in Chapters 2 and 4, the EU/MAP is important in various ways, one of which is security. The EU/MAP advocates closer relations with the EU in many areas, including working towards a resolution of the Transnistrian conflict. The usefulness of this document is enhanced by the fact that a similar plan, with similar agreements regarding regional security, was agreed with neighbouring Ukraine. Indeed, it is remarkable that such an important and strategic document for Moldova was negotiated and adopted with such little transparency, and so little involvement on the part of Moldovan society.

The EU/MAP evolved out of the EU's relations with Moldova in the context of the European Neighbourhood Policy (ENP), and replaced the ENP Action Plan signed by the two sides. The ENP neither promises that the countries involved will join the EU, nor does it rule out this possibility. The EU/MAP is more closely associated with accession. It is perceived as a programme that will guide Moldova toward fulfilment of the Copenhagen Criteria within ten years. By doing so, the EU/MAP will put in place a fundamental requirement for the accession process to begin.

As suggested in Chapter 4, Moldova would have preferred a clearer and faster road to accession. However, the EU was neither willing nor able to provide this, for two reasons. First, the EU needed time to digest the latest and

largest wave of accessions. Second, the EU wanted to see stronger evidence of Moldova's commitment to European integration.[102]

The EU/MAP was signed for three years, which have already passed. Many Moldovans feel the need for a new document. Ideally, in their view, this document would spell out exactly what Moldova needs to do in order to become a candidate for EU accession, and the EU would then support the implementation of these reforms. This would greatly enhance the success of the reforms, and would signal clearly to Moldova that the door to EU accession is open.

In August 2005, the Moldovan Government set up four interministerial commissions to monitor the EU/MAP's implementation. These produced four reports that describe the work undertaken to carry out the EU/MAP in great detail. As explained in Chapter 4, these reports are rich sources of information, but are very hard for non-specialists to read, especially as they lack introductions, conclusions and executive summaries. Besides, their credibility is limited by the self-congratulatory style in which they are written. There is thus a great need for an objective and critical assessment of the reforms undertaken to implement the EU/MAP. To some extent, this gap has been filled by civil society, which has tracked and rated the progress made in many areas.

Of course, the European Commission has also monitored Moldova's progress in implementing the EU/MAP. The Commission has praised advances in several areas, but it has also flagged problems in the implementation of reforms, the freedom of the media, the struggle against corruption, and government interference in business matters. Following a recommendation made in the European Commission's Progress Report on Moldova, EU assistance for EU/MAP reforms is now expected to grow substantially.

As Chapter 4 explains, the Moldovan Institute for Public Policy has been surveying the development of public opinion regarding European integration. The data clearly suggest strong and consistent support for EU accession. Support is at its strongest among young, highly-educated, prosperous, urban and Romanian-speaking Moldovans.

In conclusion, Chapter Four's author argues that Moldova should take the European Commission's criticisms more seriously. Explicitly or implicitly, the Commission's reports frequently complain about the poor implementation of announced reforms and promulgated laws. Whether this poor implementation is due to the weakness of the state machinery, or a lack of political will, or both, it remains unacceptable.

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[102] There is some confusion about the relationship between the EU/MAP and the Partnership and Cooperation Agreement (PCA), both agreements between the EU and Moldova. The EU/MAP was signed by the Moldova-EU Cooperation Council, a body created by the PCA. The purpose of the EU/MAP is to contribute to the fulfilment of the PCA, and it has not replaced the PCA.

### *Moldova-NATO relations*

As explained in Chapter 2, Moldova's relations with NATO are based on the principle that the country is, and will remain, neutral. This is taken to mean that Moldova will not enter into a military alliance with Russia or the West. Consequently, it cannot rely on foreign powers for protection. Even if it is small, poor and fragile, and even if it is under threat from a breakaway region that enjoys the military and economic backing of a large power, Moldova has to provide for its own security. Under current conditions, this would seem to be an impossible goal.

Aware of these problems, NATO suggested that Moldova should regard its IPAP as supplementary to its efforts to achieve EU accession. The reforms envisioned by IPAP and supported by NATO member states were now intended to help Moldova carry out the reforms required for EU accession, and to enhance Moldova's security by linking it to European Security and Defence Policy.

A third important international partner in Moldova's defence reforms is the Council of Europe. This has a membership that goes far beyond the EU, and is especially concerned with democracy, human rights and the rule of law. Its Parliamentary Assembly takes a particularly active interest in the human rights and fundamental freedoms of the military, which are not well protected in many of its member states. Thus the conventions and resolutions of the Council of Europe are relevant to defence and security-sector reform.

In October 2007, the then Moldovan President Vladimir Voronin made a remarkable announcement, proposing the full demilitarisation of the country, including the separatist region Transnistria. This was to be accompanied by confidence-building measures and to lead the reconciliation of the breakaway region with the rest of the country. It soon became clear that the President was not thinking of the complete abolition of all security forces, but it was less clear what he did have in mind. In any case, there was no positive response from Transnistria and its Russian backers.

As explained in Chapter 2, international experience from countries such as Costa Rica and Iceland suggest that in certain conditions (especially in the absence of conventional military threats), small countries can manage very well without military forces, although there will always be a need for security forces to maintain public order, guard the borders, and patrol the country's territorial waters and Exclusive Economic Zone (if any). These demilitarised countries seek their security in friendly relations with other states, especially their neighbours and partners. Moldova could adopt such a policy, but how this might be achieved while the conflict with Transnistria remains unresolved is an open question. Another open question is whether EU accession would provide enough protection for Moldova's national integrity.

***Developing parliamentary oversight of the security sector in Moldova: needs and options***

Since 1990, Moldova has put in place most of the laws and institutions that it needs for democratic governance in the security sector. And yet, as argued in Chapter 3, democratic governance is lamentably weak because these rules and structures are not being used to full effect.

Parliament has failed to closely, critically and consistently oversee the security sector. This is partly due to its own weakness, but also due to a lack of transparency on the part of the Government. The problem is not so much that the Government keeps essential information secret, but that it fails to present a clear and comprehensive policy by which Parliament could assess its actions.

The same criticisms could be applied to civil society and the media. They hardly monitor or understand government policy in the field of security, partly because they lack the resources and the interest to do so, and partly because these policies are so hard to understand.

If and when efforts are made to redress this problem, they tend to come from abroad, and to focus on training. This is a useful approach, but an insufficient one. There is an urgent need for Moldovan initiatives to review and reform the security sector in a more structural sense.

The author of Chapter 3 goes on to call for a comprehensive defence review that would serve as a basis for a comprehensive security policy. In 1995, a National Security Concept (NSC) was published, which was found to be of little value. An improved text was published in 2007 and approved by Parliament in May 2008. Civil society representatives had been involved in drafting this new NSC, which is supposed to lead to a National Security Strategy. The document calls for a comprehensive Strategic Analysis of National Defence, to be prepared by a State Commission for the Defence Strategic Analysis. Apart from the approval of the NSC, no significant headway had been made in the run-up to the elections of 2009 in the approval and implementation of other vital documents, such as the National Security Strategy and the National Military Strategy. So far, parliamentary approval of the National Security Strategy is pending, while the National Military Strategy has not yet been developed.

The Gordian knot that the political majority in Moldova has been unwilling to cut is the question of whether Moldova will look East or West in its search for security. The Government has maintained a policy of wilful ambiguity on this issue, expressed in its policy of neutrality. This means that the fundamental choices and decisions that need to be made for Moldova to develop a feasible security policy have again and again been deferred. This paralysis is accompanied by a sense of insecurity and demoralisation in the military. As the author of Chapter 3 points out, government statements that the national army would not be able to defend the country, and is therefore useless, do little to lift troop morale.

In conclusion, the author of Chapter 3 calls for a comprehensive security review, in line with the recommendation for a Defence Review made in the context of PARP talks with the Partnership for Peace. This Review will either be part of, or lead up to, the development of a national security strategy. It will make democratic governance one of its main pillars. This will not only enhance the quality of security policy and democracy in Moldova, but it will also lead to improvements in cooperation between various state agencies, and between the state and the population.

### *Budget control*

As argued in Chapter 5, the most fundamental lever of parliamentary oversight is the control that Parliament has over the budget; the so-called 'power of the purse'. In most cases, the legislative and judiciary branches of government can only hope to oversee the actions of the government. But in this very important area, the use of public money, parliaments can come close to controlling the government. This is why parliaments attach the greatest importance to this form of power.

Parliament determines how much a government may spend, on what items, at what time in and in what way. This process involves various stages, from the preparation of the budget to the budget audit. This means monitoring, measuring and assessing how the money is actually spent. At this stage, parliament relies heavily on a specialised body. In Moldova this is called the Court of Accounts (CoA) (in other countries, it is known as the National Audit Office, the General Accounting Office or the Government Accountability Office). The most important characteristic of such bodies is their independent mandate to monitor the way the government spends public money.

In Moldova, the CoA's sole task to date has been to support Parliament in budgetary oversight. The CoA was created in 1994. All seven of its members are appointed by Parliament, which means that the majority in Parliament can influence the composition of the Court. In fact, Parliament can dismiss members of the Court for various reasons. It is thus open to question whether the Moldovan CoA really is an independent body, or a service at the disposal of the parliamentary majority.

Another grave restriction is the fact that the CoA has no statutory powers concerning the use of public money in the security sector. In practice, this means that Parliament cannot oversee in detail how public money is being spent by the military, the police, the intelligence services, and so forth. To be sure, Parliament can explicitly ask the CoA to look into such spending, but this has not happened once over the last five years.

In other ways, however the powers of the CoA are greater than those of similar bodies in many other countries. While traditionally, Courts of Audit only consider whether money is being spent according to the law (including the

budget), the mandate of the CoA in Chisinau authorises it to also consider whether the money is being spent effectively and efficiently.

The limitations of the CoA in Moldova are aggravated by the weakness of budgetary control of the security sector in Parliament itself. Although the budget requests have become more informative, they still provide much less information than in other European countries. Defence spending is not only opaque, but it is also inadequate. Experts estimate that the Moldovan army only gets about half the money that it needs.

In order to improve this situation, the author of Chapter 5 recommends that the Standing Parliamentary Committee on Defence and Security should have much better access to information on the security sector; Parliament should reform the budget process, so as to have more time to scrutinise budget requests; the CoA should have the statutory power to audit public spending in the security sector; and in general, the CoA should be reformed to meet international standards for best practice.


***Parliamentary control over the deployment of troops abroad***

As explained in Chapter 6, another aspect of security policy in which parliament plays an important role in many countries, is the deployment of troops abroad on peacekeeping missions. In the case of Moldova, it is Parliament that decides, at the request of the President, whether to send troops on international peacekeeping missions. However, the Moldovan Parliament does not actively involve itself in monitoring the work of its troops abroad. In four years of heavy fighting in Iraq, the Parliament in Chisinau only twice heard reports from the Ministry of Defence on the work of Moldovan troops in that country, and these events were not special briefings. The information was provided during general reports on the Moldovan armed forces.

The author of Chapter 6 thus recommends that Parliament should be more fully and frequently informed on Moldova's involvement in peacekeeping. There also needs to be better parliamentary control of the funding of such activities, even if foreign countries carry much of the cost of Moldova's participation.

As suggested in Chapter 6, Moldova's interest in international peacekeeping is motivated, in part at least, by the expectation that it will allow the armed forces to make money. As a small and poor country (by European standards), Moldova expects international donors to provide equipment and money to enable it to engage in peacekeeping. It also benefits from the gap between the official wages of international peacekeepers and the lower wages that the Moldovan soldiers involved actually receive. Whether or not it is realistic for Moldova to regularly participate in peace support operations is an open question today. This question will only be answered properly if Moldova

improves its defence planning and defence funding in such a way that the true costs and benefits of international missions become apparent.

***Conclusion***

The Republic of Moldova is a new state in South Eastern Europe with a weak economy, a comparatively rich region that defies government control, and a history of authoritarian rule. Nevertheless, it has engaged with some success in a process of democratic reform. Its Parliament is gaining in strength, and its electoral system recently proved capable of bringing about peaceful and constitutional change. The previous elections, of April 2009, had sparked violent protests and riots.

When this book was being written, Moldova was ruled by President Vladimir Voronin, the leader of the Communist Party. Under his rule, Moldova's goals included EU membership, neutrality in defence, active participation in international peace operations, and demilitarisation. However, even his Government was unable to explain how these objectives fit together. Will Russia acknowledge Moldova's neutrality if the country seriously embarks on a route to EU membership? Who will protect the country's independence and integrity if it has no defence force of its own, and refuses to align itself with a larger power? How will it engage in peace support operations if it does not have well-trained and well-equipped military units? Perhaps answers will be forthcoming from Moldova's new Government, currently being formed.

Moldovan politicians are determined to sustain their republic as an independent and economically viable state, and this is not an easy job. They are most likely to succeed if their country becomes a member, rather than a neighbour, of the European Union. Hence, the EU/MAP seems a particularly important framework for reforms and alignment with the EU.

The 'frozen' conflict between the breakaway region of Transnistria and the rest of the country has not been a major topic for this book. However, it seems safe to suggest that the prospect of EU membership and a brighter future for the country as a whole are the best conditions for a reunification of Moldova.

If Parliament were more actively involved in security policy, it would probably also show a greater interest in the well-being of Moldovans serving in international peace missions. It is disconcerting how little information Parliament now demands and receives on this subject. Parliament needs to show an active interest in all the activities of the security forces, especially its peacekeeping forces. However, only a thorough Defence Review can show whether it is feasible and cost-effective for Moldova to actively participate in peace support operations.

The Government in Chisinau needs to decide soon whether, and if so how, it wishes to pursue demilitarisation. What does it mean in the Moldovan

context? One conceivable option would be to have a small but well-trained national guard, capable of dealing with national security, emergencies and small-scale participation in international peace operations. Upon reunification, this could include members of the current Transnistrian forces. This would mean that on both sides of the Nistru, combatants would have to be demobilised and reintegrated.

The EU can and should help Moldova with SSR. One of the first steps would be a comprehensive survey of security policy and security establishments, to identify needs and prospects for reform. Naturally, the plan resulting from such a survey must be a Moldovan plan, driven and carried out by Moldovans, with EU support. One of the main goals should be to further strengthen the involvement of Parliament in the making, and more particularly, the oversight of security policy. One of many benefits would be that the representatives of the people would obtain a tighter grip on the use of public money for security purposes. By the same token, it would be desirable to considerably reinforce the mandate and power of the Court of Accounts.

All in all, many vital questions remain to be answered about security policy in Moldova. In this book, we have tried to identify these questions, ask for answers and suggest ways in which useful answers can perhaps be found. We hope this book has helped provide material for an open and informed debate on the security policy that Moldova needs, because in our opinion that is the only possible way forward.

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## List of Acronyms

| | |
|---|---|
| ADEPT | Moldovan Association for Parliamentary Democracy |
| ADR | Alliance for Democracy and Reform |
| BPO | Barometer of Public Opinion |
| CESS | Centre for European Security Studies |
| CIA | Central Intelligence Agency |
| CIS | Commonwealth of Independent States |
| CoA | Court of Accounts |
| CSO | Civil society organisation |
| DLEAD | Defence and Law Enforcement Audit Department |
| EAPWP | Euro-Atlantic Partnership Work Plan |
| EIPS | European Institute for Political Studies |
| ENP | European Neighbourhood Policy |
| ENPI | European Neighbourhood and Partnership Instrument |
| EOD team | Explosive Ordinance De-mining team |
| EU | European Union |
| EUBAM | European Union Border Assistance Mission |
| EU/MAP | EU/Moldova Action Plan |
| GAAP | Generally Accepted Accounting Principles |
| GOA | Government Accountability Office |
| IDIS-Viitorul | Moldovan Institute for Development and Social Initiatives |
| IPAP | Individual Partnership Action Plan |
| IPP | Institute for Public Policy |
| ISAF | International Security Assistance Force (Afghanistan) |
| ISS | Information and Security Service |
| KFOR | Kosovo Force (NATO) |
| MFAEI | Ministry of Foreign Affairs and European Integration |
| MINUCI | United Nations Mission in Cote d'Ivoire |
| MO | Military Ombudsman |
| MoD | Ministry of Defence |
| MP | Member of Parliament |
| NAO | National Audit Office |
| NATO | North Atlantic Treaty Organisation |
| NMS | National Military Strategy |
| NSS | National Security Strategy |
| NSC | National Security Council |
| NSIAD | National Security and International Affairs Division |
| ODNI | Office of the Director of National Intelligence |
| OSCE | Organisation for Security and Cooperation in Europe |

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| PARP | Partnership and Review Process |
| PCA | Partnership and Cooperation Agreement |
| PCRM | Party of Communists of the Republic of Moldova |
| PfP | Partnership for Peace |
| PPCD | Christian-Democratic People's Party |
| SDR | Strategic Defence Review |
| SFOR | Stabilisation Force in Bosnia and Herzegovina |
| SSR | Security Sector Reform |
| TBP-SEE | Transparency-Building Project for South-East Europe |
| UN | United Nations |
| UNMIL | United Nations Mission in Liberia |
| UNMIS | United Nations Mission in Sudan |
| UNOMIG | United Nations Observer Mission in Georgia |

# Notes on the Contributors

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**Veaceslav Bugai** is an Associate Expert at the PRISA Foundation, an NGO working on reforms in the fields of justice, security and defence. A retired Lieutenant Colonel of the Moldovan Army, he was previously Deputy Head of Military Policy and Foreign Relations Department at the Moldovan Ministry of Defence. His main fields of expertise are the legal and normative frameworks for reforming the Moldovan security sector, and international arms control treaties (the CFE Treaty, the Vienna Document, and the Open Sky Treaty). Bugai graduated from the Naval Postgraduate School in Monterey in the United States, and subsequently gained an MA in Security Studies.

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