



Nations in Transit 2005

MOLDOVA*

NIT Ratings	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.25	3.50	3.25	3.25	3.50	3.75	4.00	4.00
Civil Society	3.75	3.75	3.75	3.75	4.00	3.75	4.00	4.00
Independent Media	4.00	4.25	4.00	4.25	4.50	4.75	5.00	5.00
Governance	4.25	4.50	4.50	4.50	4.75	5.25	5.50	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	5.75
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	5.75
Judicial Framework and Independence (formerly Constitutional, Legislative, & Judicial Framework)	4.25	4.00	4.00	4.00	4.00	4.50	4.50	4.75
Corruption	n/a	n/a	6.00	6.00	6.25	6.25	6.25	6.25

EXECUTIVE SUMMARY

Since declaring independence in 1991, Moldova has had to face four major interdependent tasks: building a state without any prior tradition; political transition; economic transition; and dealing with the secessionist conflict with its eastern region Transnistria. There has been some progress on the first two tasks. Moldova has managed to become a functioning state, despite many problems; democracy and pluralism have achieved levels stronger in the 1990s than those of any other post-Soviet country except for the Baltic states; contested elections, a credible opposition, and critical media have been a reality in the Moldovan polity. However, the slow pace of economic reform, difficult economic circumstances, and the still unsolved conflict in Transnistria have negatively influenced the state of democracy in Moldova. In addition, there have been serious setbacks in the development of democracy in many spheres of Moldovan public life since the Party of Moldovan Communists came to power in 2001.

Major events in Moldova in 2004 were shaped by two factors. First was the anticipation of the parliamentary elections scheduled for March 6, 2005. The opposition to the ruling Party of Moldovan Communists crystallized around a broad coalition of parties known as “Democratic Moldova Bloc” as well as the Christian Democratic People’s Party. Civil society groups and independent media showed willingness to oppose governmental pressure and contribute to a more or less fair electoral campaign.

However, the authorities have not improved their attitude toward independent groups in society, have not decreased pressure on independent media, and continue to exercise effective

* George Dura is research fellow at the Center for European Studies (CES), Moldova. Nicu Popescu is research fellow at CES, editor of Eurojournal.org, and Ph.D. candidate at the Central European University in Budapest, Hungary.

NOTE: Nations in Transit ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 representing the lowest level of democratic development. The 2005 ratings reflect the period January 1 through December 31, 2004. The ratings reflect the consensus of Freedom House, its academic advisors, and the author of this report. The opinions expressed in this report are those of the author.

control of public television and radio, despite journalist protests and external calls for freedom of speech and media protections. There has also been a tendency to use law enforcement agencies and the fight against corruption to discredit political opponents. Second, Transnistria has been high on the agenda. Tensions around Transnistria increased, with human rights abuses in the region directed against Moldovan schools. Another problem area has been the increasingly assertive stance of Russia, which is seeking to maintain its military presence in the region despite Moldovan and Western calls to respect its own engagements taken at the 1999 summit in Istanbul sponsored by the Organization for Security and Cooperation in Europe (OSCE) and the OSCE ministerial meeting in Porto in 2001 on withdrawal of troops and armament from Transnistria. On the positive side, there is a broad political consensus in Moldova on how to deal with Transnistria. The ruling and opposition parties, as well as key nongovernmental organizations (NGOs) and think tanks, agree on the need for greater European Union (EU) and U.S. involvement if a sustainable solution to the conflict is to be achieved.

National Democratic Governance. The ruling Party of Moldovan Communists has continued its gradual evolution toward authoritarianism. Despite the fact that Moldova is a parliamentary republic, President Vladimir Voronin has been the dominant figure in Moldovan politics. President Voronin is also head of the ruling party, which provides him with excessive leverage over the executive and the legislative. Relations with Russia have deteriorated because of Russian support for Transnistria and Moldova calls for Western involvement in the conflict settlement process. Relations with the EU have intensified considerably. An action plan on increased cooperation was signed, and the EU has been increasingly present, directly or indirectly, in the efforts to deal with Transnistria. The long-term objective of EU membership for Moldova continues to enjoy broad support in the society. The main obstacles to the efforts to come closer to the EU, however, are the ruling party's internal policies, which do not always meet democratic standards. The role and influence of international actors, particularly in supporting democracy in Moldova, remain crucial. *Moldova's new rating for national democratic governance is set at 5.75 reflecting the lack of governmental control over the entire territory of the country and the absence of an effective system of checks and balances in the political sphere.*

Electoral Process. After the 2003 local elections, considered the worst since Moldova's independence in 1991, nothing seemed to indicate throughout 2004—a preelectoral year—that the parliamentary elections in 2005 will produce an improvement. Some fine-tuning of electoral laws was carried out, but the overall situation remains the same. Lack of funds, control of the Central Election Commission and of the Audiovisual Coordination Council by the governing party, and murky legislation on campaign expenditures are just some of the factors that failed to improve in 2004 in order to ensure free and fair elections in 2005. *Moldova's electoral process remains unchanged at 4.00.*

Civil Society. The government has been encouraging and supporting the creation of pro-governmental NGOs. However, these government-inspired organizations do not build credibility in the society at large. The “parallel” civil society problem suggests an unfriendly attitude of the government toward civil society. Failure of the government-inspired structures to replace or even seriously affect the position of established NGOs shows a certain strength of the civil society in Moldova. In 2004, the government was very receptive to civil society recommendations on ways of promoting conflict settlement in Transnistria and the European integration of the country. In anticipation of the 2005 parliamentary elections in Moldova, a broad coalition of major NGOs was created in May 2004 to support a democratic electoral process. Civil society groups were ready to challenge the government on issues of public

interest. However, civil society groups remain dependent on external political and financial support. *Moldova's civil society rating remains unchanged at 4.00; although civil society groups show a certain vibrancy, their financial viability is questionable and they are not entirely free from governmental pressures.*

Independent Media. In 2004, the authorities suspended broadcasting rights for two months to Euro TV and Radio Antena C—two leading media outlets—for being critical of the government. The media got back on the air following journalist and civil society protests and OSCE and Council of Europe messages to the government. A journalist investigating cases of governmental corruption was beaten in June 2004, though Moldovan journalists have traditionally not been subjected to physical pressure. The situation around the public television and radio broadcaster was tense in 2004. The transformation of the former state television and radio into a public broadcaster has been under way. In the process of this transformation, most critical-minded journalists lost their jobs and started protests. The conflict between protesting journalists and the broadcaster remained unresolved at the end of 2004. On paper, the public broadcaster is independent from the government, but media coverage remains biased in favor of the authorities. However, the first steps toward reforming the public broadcaster have begun. Generally, most media remain beholden to economic forces and under the control of political forces, either those in power or those from the opposition. On a positive note, in April 2004 libel was excluded from the criminal code. *Moldova's independent media rating remains the same at 5.00; although the legislative framework in which media operate has improved, some media outlets have been in danger of closure by the government.*

Local Democratic Governance. The problems of democracy are greatest at the local level because local authorities are more financially dependent on the government, are less visible in the media, have fewer resources to promote or defend their views, and have less access to international institutions than other actors in society. Mayors are elected directly by citizens, while local counselors are chosen according to a proportional voting system. Local authorities often lack the resources to fulfill their responsibilities, and their financial independence was further undermined in 2004. Grants from central authorities constitute the main source of income for local authorities, making them dependent on the central government, which allegedly discriminates against mayors from opposition parties. There have been government efforts to influence the way associations represent local authorities in order to strengthen the pro-governmental association of mayors. Government pressure on the authorities of the capital, Chisinau, including Mayor Serfaim Urechean, remained high, and law enforcement agencies were involved in politically charged cases of corruption in both Chisinau and the Gagauz autonomy. *Moldova's new rating for local democratic governance is set at 5.75 owing to the weakness of local authorities and their increasing political and economic subordination to the central government.*

Judicial Framework and Independence. Despite an adequate and consolidated judicial framework respectful of human rights, many abuses still persist. The Constitutional Court, considered the last bastion free of political influence, succumbed to political pressure in its refusal in 2004 to review the constitutionality of Article 347 of the penal code with regard to the desecration of state symbols, which contradicts freedom of expression. The Supreme Council of Magistrates, the institution responsible for appointing judges, remains controlled by the executive and therefore cannot guarantee the appointment of independent and competent judges. Budgetary constraints on the judiciary and low salaries are other unsolved problems. Late in 2004, the Ministry of the Interior admitted that human rights abuses by its personnel are recurring. Torture during detention is still a widely used practice, and

legislation is in need of improvement to allow effective prosecution against torture. Civil society agrees that the overall situation in the judiciary has deteriorated even further throughout 2004, to the point that a free and fair trial can no longer be ensured. This explains the high number of successful Moldovan applications submitted to the European Court of Human Rights. *In view of these findings, the country's rating for judicial framework and independence worsens from 4.50 to 4.75.*

Corruption. Corruption remains deeply rooted in Moldovan society despite efforts by the authorities to counter this phenomenon. The commendable rhetoric, strategies, and action plans put forward by the Moldovan executive to combat corruption have not had a major effect. Worse, in many ways the anticorruption measures are used abusively by the central authorities against political opponents. Many state institutions are mobilized in the fight against corruption, in particular the Center for Fighting Economic Crimes and Corruption. However, international organizations that monitor corruption suggest there have been no changes with regard to previous years in Moldova. Corruption and misuse of political power exist at the highest levels of Moldova's political system, and vested economic interests often go hand in hand with political interests. The inclusion of Transnistria in this discussion serves only to exacerbate the overall picture. *The country's rating for corruption thus remains unchanged at 6.25.*

Outlook for 2005. The relative equilibrium of negative and positive tendencies in Moldova's recent social and political development will continue into 2005. After the March 6, 2005, elections, the Communists are likely to remain in power, though with a slightly weakened position in the Parliament. This will make them more attentive to calls from the opposition and the international community to advance reforms. Democratization measures enacted for the international audience will alternate with centralizing measures by the government. No breakthroughs in political and economic reforms should be expected, but increasing centralization by the government is also less likely. Moldova's weak democracy will not deteriorate significantly. Rather, it could improve with the aid of constant external pressure on the government. The Transnistria situation has the potential to deteriorate further. Efforts to compel the EU and the United States to play a larger role in the conflict settlement in Transnistria will be the main focus of Moldova's foreign policy.

MAIN REPORT

National Democratic Governance

Since 2000, Moldova has formally been a parliamentary republic. However, real power lies with the president. The current president, Vladimir Voronin, is also chairman of the Party of Moldovan Communists (PCM), which has held a constitutional majority in the Parliament since 2001. The PCM was widely supported in elections as a response to the volatile, if not chaotic, political environment of the 1990s. The dominance of this single party since 2001, coupled with a political culture that has not fully internalized the values and rules of democracy, has led to a political situation where separation of powers is constitutionally enshrined but under serious strain in practice. Formally, all relevant political actors accept that democracy should be the foundation of the political system. Yet the practice of democracy encounters serious drawbacks as the current government often equates democracy with majority rule, without due respect for minority views and constitutionally guaranteed rights. In the *Journal of Democracy*, Lucan A. Way argued that Moldova is a case of "failed authoritarianism" because democratic political competition endured not because civil society

was strong or leaders were democratic, but because politicians were too polarized and the state too feeble to enforce authoritarian rule in a liberal international context.

After a decade of chronic instability, with eight governments between 1991 and 2001, the Moldovan governmental system has been relatively stable in recent years but still lacks effective checks and balances. However, stability has come partly at the price of a visible reversal in the democratization trend. The executive has been under the control of the president. Virtually all appointments in the executive have been made by the president rather than the prime minister or the Parliament, despite Moldova's formation as a parliamentary republic.

The legislature has been further marginalized in the political system. Moldova has followed the trend seen in other countries where the head of state is also leader of the majority party in the Parliament, which then tends to rubber-stamp decisions made elsewhere by the president. The legislative, like most public institutions in Moldova, lacks the resources, know-how, and often the desire to monitor and professionally assess all governmental or presidential initiatives. The quality of draft laws has often been questionable, as stated publicly by Speaker of the Parliament Eugenia Ostapciuc. In 2001, the Center for Legislative Expertise was created under the auspices of the government with the aim of improving the quality of draft laws. However, this goal was never accomplished, and the center was disbanded in October 2004.

Public access to information has been a problem in Moldova. In an October 2004 report, Miklos Haraszti, representative on freedom of the media for the Organization for Security and Cooperation in Europe (OSCE), noted that although Moldova “can be proud” of its Law on Access to Information, adopted in 2000, the legislation runs counter to the Law on State Secrets. In addition, a Transparency International experiment in 2004 revealed that the Law on Access to Information is not currently being implemented. Transparency International has requested information from 95 governmental agencies, and only half have given satisfactory answers, while 26 state institutions have refused to answer in general, including the Parliament, four ministries, the fiscal authority, the city administration of the capital, and the Supreme Court of Justice. A number of members of Parliament (MPs) interviewed in Chisinau have also complained that they cannot get the information they want from the authorities, even if they are entitled to it. MPs have had problems identifying how certain institutions spend budgetary money, in particular the presidency, the Parliament, and the Service for Intelligence and Security (SIS). Allegedly, the budgetary watchdog—the Moldovan Court of Accounts—has also been reluctant to make public its findings on how budget resources are spent.

The military and security services are under civilian control yet remain largely inefficient and underperforming. Problems in reforming and modernizing the military include lack of funds, lack of political will, and uncertainty about the future of the Moldovan military. As part of the conflict settlement negotiations with the secessionist region of Transnistria, demilitarization of Moldova is one of the options under discussion. Thus, any type of military reform is difficult to plan, as it is not clear what form the military should take in the future or if there should even be a military. There is a lack of civilian expertise in security and defense matters, which poses certain problems in controlling the quality of the security sector. The intelligence service—the SIS—has been largely under the de facto control of the president. The SIS has played an increasingly ambiguous role in internal politics. According to some interviewees in Chisinau, as well as media reports, the SIS has been helping the ruling party

achieve its political and electoral objectives at both national and local levels and engaging in the intimidation of journalists through “discussions.”

In 2004, Moldova remained divided, with its secessionist region of Transnistria maintaining its de facto independence. Transnistria is a breakaway republic in the eastern part of Moldova, led by self-proclaimed president Igor Smirnov, who is a Russian citizen. The European Court of Human Rights concluded in July 2004 that the Transnistrian republic “remained under the effective authority, or at the very least under the decisive influence, of Russia, and in any event that it survived by virtue of the military, economic, financial, and political support that Russia gave it.” The Russian Federation continues to maintain a military presence in Transnistria despite Moldovan objections and in breach of earlier Russian commitments on the withdrawal of troops.

Marking Russia’s increasingly assertive stance, Transnistrian authorities attempted in July 2004 to close down the only five Moldovan schools in the region that were using Latin script, which is used in the rest of Moldova. Moldovan policy, in response, sought greater European Union (EU) and U.S. involvement in the settlement process. In this endeavor, the Moldovan government has had broad internal support from the main political parties and civil society groups. While the concrete parameters of greater EU involvement in the conflict resolution in Transnistria are not yet clear, the EU, supported by the United States, is increasingly participating directly or indirectly in various aspects of the settlement process.

For the first time since independence, the opposition, the government, and civil society arrived at a consensual approach in 2004 on how to deal with Transnistria. This consensus is in favor of greater Western involvement in the conflict settlement process and a realization that a settlement would not be sustainable without the decriminalization, democratization, and demilitarization of Transnistria. Another key consensus is that in the long term, Moldova must seek EU membership; thus, an EU-Moldova action plan was negotiated and approved in 2004 toward that end. Its priorities include cooperation with the EU on the Transnistria problem, increased economic and political cooperation, and EU support for democratization and economic transition in Moldova. On the two vital questions for Moldova—Transnistria and European integration—there seems to be a broad consensus in the society. The problem remains that despite a discursive acceptance of European integration as a strategic objective, the government pursues many policies that do not meet democratic standards.

Electoral Process

Moldova is a parliamentary republic with a proportional electoral system based on a single electoral district in which the whole country votes for just one party list rather than individual deputies or party candidates linked to a region. The country has been able since its independence in August 1991 to ensure reasonably free and fair conditions for a total of seven nationwide elections, resulting in peaceful and effective rotations of power. The last elections, held in May 2003, are the first to be held nationwide after the PCM came to power in 2001. The 2003 local elections are considered by the OSCE and local observers to be the worst since 1991, owing to abuses ranging from biased reports in the media in favor of the ruling party to the arrest of opposition candidates and the use of public funds by candidates affiliated with the ruling party. The clearly deteriorating political climate throughout 2004 does not bode well for the parliamentary elections in March 2005.

A recent report by the International Foundation for Election Systems (IFES) and the Association for Participatory Democracy (ADEPT) states the Venice Commission came to the conclusion in 2002 that the electoral code and the Constitution of Moldova provide an

“adequate framework for the political parties and electoral coalitions to compete on the political arena on the basis of equality.” However, in preelectoral years attempts are made to change the electoral legislation to extract as much political capital as possible from the subsequent elections. There are also genuine attempts from the two opposition parties in the Parliament and civil society to reform the political system or change the electoral laws. Alianta Moldova Noastra, the main opposition party in the Parliament, has attempted to initiate a bill to switch from a proportional system to a mixed electoral system in order to allow voters to directly choose half of their representatives. This and other such initiatives by the opposition parties have been vetoed by the Parliament because of their proximity to the elections. Also, most opposition parties agree that the electoral thresholds are too high, thus preventing smaller parties from acceding to the Parliament.

The date for the forthcoming parliamentary elections is March 6, 2005, and the electoral campaign will start 45 days prior to that date. The Central Election Commission (CEC) started registering the political parties for the elections on December 27, 2004, and by December 31, 22 parties had been registered. The main contenders in the legislative elections of 2005 will be the ruling PCM, the preelectoral coalition Democratic Moldova Bloc (DMB), the Christian Democratic People’s Party (PPCD), the Social-Democratic Party of Moldova, and the pro-Russian left-leaning preelectoral Motherland-Rodina Bloc. Only the first four parties are expected to gain seats in the next Parliament. The DMB, which is led by the current mayor of Chisinau, Serafim Urechean, was created on May 8, 2004, by the Alliance Our Moldova, the Democratic Party, and the Social-Liberal Party; the DMB also includes 11 smaller parties from all sides of the political spectrum, resulting in a very heterogeneous political formation.

Legislation regarding the registration of political parties and other sociopolitical organizations was modified in January 2004 to prevent the fragmentation of the Moldovan political scene into numerous small parties. Registering a political party is not overly complicated, but parties need to reregister annually by submitting for verification to the Ministry of Justice membership lists with signatures of at least 5,000 members. The Venice Commission calls this “abusive control” and recommends that once the party is registered and has captured at least 1 percent of the national vote or has won seats in the Parliament, even as part of a coalition, this should be sufficient evidence of legitimate party support.

Lack of sufficient funds is viewed as an impediment to holding free and fair elections: 10 million lei (about US\$800,000) have been allocated for the 2005 elections, of which only 800,000 lei are transferred to the CEC. The CEC’s competences, ranging from organizing the elections to submitting proposals for the improvement of the electoral legislation, far exceed its financial capacity. The U.S. embassy in Chisinau has pledged funds to the CEC for the acquisition of ballot boxes for the 2005 elections.

The opposition and political analysts agree that fair campaign opportunities and voting procedures are unlikely and question the impartiality of the CEC and the Audiovisual Coordination Council (ACC), which has the power to grant or withdraw broadcasting licenses. Both organizations are responsible for providing adequate conditions for free and fair elections, but members of both are appointed by the governing party, thus jeopardizing their impartiality. The opposition's calls for proportional representation of political parties in the CEC to render it truly impartial have gone unanswered.

The electoral campaign will be fought primarily in the media. In view of growing criticism by the opposition and the OSCE regarding the control and harassment of Moldovan media by the

authorities (including the ACC), the president initiated in July 2004 the signing of a convention regarding “guarantees for democratic processes and freedom of means of mass information.” In November, this convention—which calls on all political forces to respect the democratic processes and the independence of the mass media—was signed by 14 parties. However, an important opposition party, the PPCD, refused to sign. The Coalition for Free and Fair Elections, a group of nongovernmental organizations (NGOs), later commented that the convention had not surpassed a purely declaratory nature and that the president’s initiative was intended simply to stave off criticism regarding government control over the media.

Moldovan electoral legislation allows political parties to request noninterest loans from the state for campaign expenses in proportion to their representation in the Parliament. Parties that subsequently do not accede to the Parliament must reimburse the loans within two months after the elections. Parties also finance their campaigns with money from affiliation and membership fees and donations. Foreign financial contributions are strictly prohibited by electoral law. Local experts agree that the current legislation makes it nearly impossible to scrutinize donations and campaign expenditures. Donations come mainly from the Moldovan business sector. It is common knowledge that the ruling party exerts pressure on companies by threatening fiscal control in order to ensure their financial support during elections.

Although the 2001 parliamentary elections witnessed a relatively high voter turnout of 67 percent, the Moldovan public is generally either apathetic or averse to politics. The Moldovan Department for Statistics and Sociology declares that 600,000 Moldovans live abroad and some 15 percent live in the breakaway republic of Transnistria, which also negatively affects voter turnout. The CEC is making efforts to allow these Moldovans to vote. In Transnistria, polling stations will be set up in the few local electoral districts where Moldovan authorities can exercise control over election day proceedings. Moldovans living abroad can vote in Moldovan consulates and embassies.

Moldova possesses a sound legislative framework regarding the protection and development of ethnic minorities. Electoral laws guarantee the printing of campaign materials in minority languages, but the high 6 percent parliamentary threshold makes minority party representation impossible. There are many fewer women than men in the Moldovan Parliament and local administration, representing only 10–16 percent of public officials, reports IFES and ADEPT. However, the PPCD’s electoral list for the forthcoming elections reflects equal representation between men and women.

Civil Society

There were persistent problems in civil society in 2004 compared with previous years. First, civil society groups were excessively politicized. The government’s unfriendly attitude toward civil society groups strengthened the pro-opposition bias of many NGOs. Second, political parties and the government preferred to cooperate with NGOs and think tanks that were closer to their own opinions. Third, the (financial) sustainability of NGOs remained in question. Internal sources of funding are limited. The business community prefers to support activities that are further from politics and closer to charity. This reflects not only a traditional lack of business support for civil society, but a political environment that does not encourage such support.

The development of civil society in Moldova is influenced by the following factors. Across the political spectrum there is an expectation that civil society groups should serve political interests, rather than politicians serving the interests of civil society. In this sense, the

political elite still have a rather distorted understanding of what civil society is. In the words of one Western diplomat in Chisinau, “No government in Moldova has the ability to reverse civil society; it can only limit its development.” Therefore, the failure of the Communist authorities to co-opt important civil society actors, or create viable and attractive alternatives to them, suggests that the development of civil society in Moldova has been more successful than other dimensions of post-Communist transition in the country.

There are 2,758 registered NGOs in Moldova, according to data from the National Assistance and Information Center for NGOs in Moldova (CONTACT). Though most are not active, there are a number of very active and high-profile NGOs. Civil society development in Moldova has a mixed record in 2004. On the one hand, the government pursued a policy that is less than friendly toward civil society because of the government’s authoritarian tendencies and opaqueness. On the other hand, the dialogue between civil society groups and the government on foreign policy and the Transnistria issue has been rather successful. This was due to the emergence of a large consensus in society on the foreign policy priorities of the country and ways to solve the conflict in Transnistria, as well as the government’s dissatisfaction with previous policies, which made it more receptive to recommendations coming from nongovernmental actors. In addition, major civil society actors joined forces to monitor and limit governmental abuses in preparation of the 2005 parliamentary elections.

In 2003–2004, a number of organizations were launched with the more or less open support of the PCM, the presidency, and/or the government. Such organizations are generally created when their existing NGO counterparts are perceived as being too critical of the government. The aim of these parallel NGOs is to split civil society and create the appearance of support for governmental policies and actions. These government-inspired NGOs include the League of Professional Journalists, the Association of Mayors and Local Authorities, and the Union of Writers Nistru-Dnestr. They were created as pro-government replicas of the Union of Journalists in Moldova, the Federation of Local Authorities, and the Union of Writers, all of which have been quite outspoken against the centralizing tendencies of the government.

However, government-sponsored organizations could not build credibility with those inside the arena they claimed to represent or in the society at large. Usually, soon after their much publicized creation, these structures disappear from public view. The “parallel” civil society problem seems to suggest a number of things. It underlines the unfriendliness of the authorities toward civil society structures. It also is indicative of a certain, albeit limited, progress in democratization, as it shows that even the Communist authorities find it necessary to express their negative views of various NGOs through the creation of competing structures, rather than outright repression, banning, or suspension as witnessed in most post-Soviet societies. Last, the failure of the government-inspired structures to replace or even seriously affect the position of established NGOs shows a certain strength in the Moldovan civil society.

The “parallel” civil society strategy has been applied to trade unions as well. The Communist Party overtook the Solidaritatea trade union in 2003. There have also been reports from the Confederation of Trade Unions and other sources that there is pressure on public sector employees to join the pro-government trade union. Otherwise, trade unions remain relatively independent from the government, but their importance seems to be declining in terms of both of political influence and membership.

In anticipation of the 2005 parliamentary elections, in May 2004 a broad coalition of major NGOs was created called the Civic Coalition for Free and Fair Elections, also known as

Coalition 2005. The coalition does not support any particular political party, but rather promotes the democratic electoral process in itself. The coalition was launched initially by 15 NGOs, but by the end of 2004 it had 140 institutional members. It was created as a response to the deteriorating democratic environment in Moldova. The coalition aims at mobilizing the electorate and promoting civic education in general. It also hopes to monitor abuses in the electoral process, such as the use of administrative resources and biased media reporting, observing elections and the counting of ballots, organizing exit polls, and monitoring the use (and misuse) of public money during the campaign.

The existence of Coalition 2005 is a telling example of the mobilization and joint efforts of the most active and visible institutions of civil society in Moldova. It shows that civil society is relatively vibrant and willing to withstand and resist the shift from democratization toward authoritarianism. However, the very necessity of such a coalition indicates the fragility of democracy in Moldova.

Independent Media

Moldovan legislation guarantees freedom of expression and editorial independence and prohibits censorship in the media. However, actual practice differs from these declared principles, as interference in media reporting and pressures on journalists are widespread. Freedom House's *Freedom of the Press Survey 2004* has downgraded Moldova's rating for press freedom from "Partly Free" to "Not Free."

The most important newspapers are the Russian-language *Komsomolskaya Pravda*, *Argumenty i Fakty*, *Nezavisimaia Moldova*, and *Moldavskie Vedomosti* and the Romanian-language *Flux*, *Timpul*, *Jurnal de Chisinau*, *Moldova Suverana*, and *Saptamana*. Important radio stations are Radio National, Radio Antena C, and the regional Vocea Basarabiei, as well as a number of FM music stations. Popular television networks with national coverage are Moldova 1, ORT Moldova, and TVR 1. Important television stations that cover only parts of Moldova (mainly Chisinau) are NIT, Euro TV, and PRO TV. There are no restrictions on the use of the Internet, yet access is problematic outside the capital, Chisinau, owing mainly to economic barriers.

In print media and radio, the majority of outlets are privately owned and relatively free of excessive ownership concentration; however, interference in editorial policy from owners is widespread. Most media are not financially sustainable and depend on sponsorship, which usually comes at the price of serving certain political or business interests. Generally, the public enjoys access to different sources of print information that represent various viewpoints.

The situation is different when it comes to television. The single most important national TV broadcaster, Moldova 1, is under the control of the government. The other TV stations are either neutral and avoid political news or are overtly pro-governmental. Euro TV, owned by the Chisinau municipality, is openly critical of the government. The urban population, especially in Chisinau, has access to TV stations that reflect different viewpoints. The situation is more difficult in the countryside, where very often the only and main source of information remains the government-controlled Moldova 1, which is one-sided in favor of the government.

Media independence in 2004 followed the negative trend set in 2001 with the arrival of the Communist Party in government, and pressure on journalists has increased steadily. In June 2004, Alina Anghel, who had been writing on cases of governmental corruption for the

weekly *Timpul*, was beaten; it was widely believed that the attack was related to her professional activities. In the words of a Western diplomat in Chisinau, the case of Alina Anghel is an important new development because “normally journalists don’t get beaten up in Moldova and they are not under physical pressure.”

Between February 6 and April 8, 2004, the authorities suspended the broadcast rights for Euro TV and Radio Antena C, owned by the Chisinau Municipal Council. Authorities justified the suspension on the grounds that the media outlets had not reregistered as new legal entities, as requested by an August 5, 2003, ruling of the ACC. Permission to return to the air was given after numerous protests, including a week-long hunger strike by 31 journalists, a more or less consolidated protest of civil society groups, and pressure from the OSCE, the Council of Europe, and Western embassies in Chisinau.

The Ministry of Justice's declared intention to reregister all periodicals and news agencies by the end of 2004 was a controversial act by the authorities. A coalition of the most representative NGOs from the media sector, including the Union of Journalists of Moldova and the Independent Journalism Center, qualified this draft as an attempt to limit the freedom of media activity during the electoral campaign by tying them up with the bureaucratically cumbersome reregistration procedure.

Almost all of the important opposition newspapers were sued for libel in 2004 by representatives of the authorities. These include the newspapers *Moldavskie Vedomosti*, *Timpul*, *Flux*, and *Jurnal de Chisinau*. *Timpul* even went bankrupt but reappeared soon after with a legally changed name, *Timpul de Dimineata*.

International actors have played an important role in the development of independent media in Moldova. The OSCE and its mission to Moldova, the Council of Europe, and Western embassies have been quite outspoken in their support of press freedom. These entities have not limited themselves to general statements but have also made concrete proposals that aim at overcoming different crisis situations surrounding Teleradio Moldova and Euro TV/Antena C and the criminalization of libel. Journalists have also appealed to international actors for support.

In 2004, efforts to transform the state-run Teleradio Moldova Company (the broadcaster of Moldova 1 and Radio National) into a public broadcaster continued with great difficulties. On paper, the company is a public and independent institution. In practice, it is controlled largely by the authorities. A report by Miklos Haraszti, the OSCE representative on freedom of the media, mentioned that Moldova is “one of the first countries in the region that transformed its state broadcaster into a public service. However, the news coverage's overwhelming tilt toward the ruling party is of concern.”

As part of the transformation of Teleradio Moldova into a public institution, the old institution was disbanded, all the journalists sacked, and a recruiting contest announced. As a result of the selection process, most of the journalists who were critical of the government were not hired back. This was considered an unfair selection procedure, and a number of journalists (with the support of some civil society groups and political parties) went on strike on July 27, 2004. The crisis is not yet over. The OSCE representative on freedom of the media stated on a visit to Chisinau in October 2004 that “in the process of transformation of the state company into a public institution [there] existed numerous gaps.... The staff selection process was biased, aiming at creation of a politically unilateral team.”

For example, media monitoring conducted by the Center for Independent Journalism in Chisinau showed that in September, Moldova 1 and Radio National mentioned President Voronin 290 times and Prime Minister Vasile Tarlev 287 times in their news programs, while the leaders of the two main opposition groups, Serafim Urechean and Iurie Rosca, were not shown at all on public TV and were mentioned only 12 and 5 times, respectively, on Radio National. Previous monitoring has also shown that Euro TV is biased in favor of Serafim Urechean, the mayor of Chisinau.

On the positive side, the central authorities removed the article on libel from the criminal code in April 2004 and abolished the provision that had permitted journalists accused of calumny and defamation to be imprisoned for a maximum of five years. Such progress was mainly the result of external pressure on the government. The government is not indifferent to its image abroad, which causes it to follow or at least mimic changes suggested by international actors such as the EU, the OSCE, the Council of Europe, and the United States.

Local Democratic Governance

The problems of democracy are greatest at the local level because local authorities are more financially dependent on the central government, are less visible in the media, have fewer resources to promote or defend their views, and have less access to international institutions than do other actors in society. The former framework of local governance is being gradually replaced by a more centralized system. In this context, the Council of Europe's Congress of Local and Regional Authorities of Europe (CLRAE) called on all the players involved in the development of local democracy in Moldova to "take firm, sustained, and coordinated action to prevent the country from effectively putting itself beyond the pale of the democratic standards advocated by the Council of Europe."

The national legislation, including the Constitution and the Law on Local Public Administration, provides a framework for local democratic governance; however, the practical state of democracy at the local level has been in a negative trend since the Communist Party came to power. There has been a tendency to deprive local authorities from certain powers in favor of the central government. This has been the case particularly with the reorganization of Moldova into 32 smaller and less efficient territorial units (*raions*) following the abolition of 12 regions (*judets*). Overlapping responsibilities among different levels of authority remains an issue as well.

Citizens have the right to choose their local leaders on the basis of universal, equal, and direct suffrage by secret ballot. Mayors are elected directly by the citizens, while local counselors are chosen according to a proportional voting system. Traditionally, the voting procedure has been held regularly and judged free. However, according to the CLRAE, the latest local elections of 2003 revealed considerable drawbacks in the fairness of the electoral campaign as central authorities appeared to abuse their capacity to influence the elections.

The main sources of income for local governance are transfers and grants from the central authorities, which make local authorities highly dependent on a politically biased and centralizing government. On October 16, 2003, the Law on Local Public Finances was adopted and took effect January 1, 2004. One of the provisions of the law abolished the previous practice whereby the value-added tax was divided between the central government and the local authorities. With the new law, local authorities were deprived of this source of income, thus becoming even more dependent on the central government for grants.

In the new system, the central government (the Ministry of Finance) transfers funds to second-tier authorities (such as the chairman of the district), who then distribute the money among the mayors (the third tier) in a particular district. The problem is that district authorities have a high level of discretion on how funds are distributed among mayors. In a joint assessment on decentralization in Moldova, the European Commission and the Council of Europe have identified that “the existing legislative arrangements for calculating and distributing state grants do not seem to be objective, transparent, and clear...; the existing resource-sharing arrangements do not seem to ensure a fair distribution of resources at the level of the districts.”

In this context, it was suggested that the districts should be prevented from “playing a role in defining the amount of grants to be transferred to local authorities.” Such a system—according to a number of opposition party leaders interviewed in Chisinau—leads to serious discrimination against mayors from opposition parties in the receipt of grants distributed by the central and district authorities. In addition, it was argued that mayors who formally belong to opposition parties often are reluctant to actively support their own parties because this may result in fewer grants or even pressure from the district authorities or law enforcement agencies.

The government has also drafted the Law on the Chisinau Municipality Statute and the Law on Associations of Local Public Administration Authorities. According to a report of the CLRAE, the draft law on altering the structure of the capital and the powers of the mayor of Chisinau has been elaborated without consulting local elected representatives and seems to be aimed at curtailing the influence of the Chisinau mayor, who is also the chief opposition leader. According to the same source, the second draft law intends to alter the way associations representing local authorities are organized in Moldova; the resulting single national association would marginalize mayors who are not favorable to the ruling party. This would probably strengthen the pro-government Association of Mayors and Local Authorities at the expense of the independent National League of Mayors and Federation of Local Authorities. In March 2004, the two draft laws were submitted to the Council of Europe for comment. This is part of an arrangement between the Moldovan authorities and the Council of Europe in which Moldova submits draft laws concerning local self-government and mass media for council suggestions and expertise.

In March 2004, the Communist-dominated People’s Assembly of the Gagauz autonomy in the south of Moldova dismissed the mayor of Comrat, the capital of the region. According to law, he could be dismissed only by popular vote or by the municipal council based on a court decision stating the mayor had been involved in criminal activities. However, the mayor of Comrat, who had been critical of the pro-Communist authorities, was dismissed on a mere allegation of “inefficient management, misuse of municipal funds, and repeated violations of law” without a court conviction.

There have been a number of cases across Moldova where local authorities have come under pressure from the district authorities, the SIS, the Office of the Prosecutor, or the economic police. What aggravates the problem is that most politically active people at the local level are particularly vulnerable to possible governmental pressure because they are either budgetary employees (such as teachers or doctors) who risk their jobs or local businessmen—both subject to eventual administrative or fiscal harassment.

Judicial Framework and Independence

In 1994, the people of Moldova adopted a Constitution establishing a democratic state based on the rule of law and the observance of human rights. Human rights form the centerpiece of Moldova's Constitution, with around 30 percent of its articles devoted to human rights. Since 1997, the Moldovan Parliament has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms. A 1999 ruling by the Constitutional Court stipulates that the convention is an integral part of Moldova's legal system. Although the Moldovan Constitution and legal framework apply to the entire Moldovan territory, they have no actual effect in the breakaway republic of Transnistria, where its authoritarian statelike structures fail to guarantee even the most basic human rights.

Despite the fact that the Moldovan Constitution puts in place an adequate framework for the protection of human rights and fundamental freedoms, large areas of the constitutional provisions are overly general and rely on ordinary legislation for their interpretation. While respect of human rights and fundamental freedoms is enshrined in Moldova's Constitution and laws, in practice Moldovan citizens see their rights frequently abused. The Communist Party carried out changes to the Constitution in 2002, making the provisions for freedom of association—in particular public assemblies—more restrictive.

The Constitutional Court is not part of the Moldovan judicial system and is in theory independent and free from political influence. However, two of the court's six judges are appointed by the Parliament, two by the government, and another two by the Supreme Council of Magistrates (SCM). All three institutions are controlled by the Communist Party. In April 2004, the PPCD appealed to the Constitutional Court to review the constitutionality of Article 347 of the penal code, which prohibits the desecration of the state symbols of Moldova and other states.

A number of PPCD parliamentarians were prosecuted in 2004 for burning the Russian flag during a rally in a sign of protest. They claimed that Article 347 of the penal code contravenes the right to freedom of expression, a principle enshrined in Moldova's Constitution under Article 32. The Constitutional Court refused to examine this claim on the grounds that it is allowed to verify the constitutionality of normative acts but cannot exert control over the interpretation and application of organic or ordinary laws. However, the Constitution expressly stipulates under Article 135 that "the Constitutional Court shall exercise, upon appeal, the constitutionality review over laws of the Parliament."

Human rights abuses remain a stark reality in Moldova. According to the 2004 *Activity Report* of the Moldovan NGO Lawyers for Human Rights, those rights most frequently violated in Moldova are failure to enforce civil judicial decisions; violation of the rights to freedom of expression, assembly, and association; violation of the right to a fair trial; violation of the right to liberty and security through arbitrary arrests, torture, or inhuman or degrading treatment; violation of the right to the protection of property; and violation of the right to the respect of private life.

In November 2004, the Ministry of the Interior admitted that police occasionally maltreat suspects and abuse detainees. This year alone, 3,079 disciplinary sanctions and 19 sackings involved were carried out against police officers. The authorities attribute these abuses to a lack of professional staff, especially graduates in civil specialties. However, considering the continuous reports of police abuses in the Moldovan press throughout 2004, it is questionable whether disciplinary sanctions are effective.

Torture during detention is still a widely used method of investigation among law enforcement personnel. In 2003, the new penal and penal procedure codes were adopted. Torture has been virtually decriminalized by the new penal code, making it very difficult to file a complaint for torture. Many of the cases brought for torture undergo excessive delays in court (some up to 4.5 years), while witnesses are usually too intimidated to testify. Local experts argue that the living conditions under arrest alone amount to inhuman or degrading treatment.

Moldovan applications accepted by the European Court of Human Rights are among the most numerous compared with those of other states. This is an indication of the seriousness of human rights abuses in Moldova and shows that the Moldovan judicial system is deficient. Moldova has complied with most of the European court's decisions, such as the aforementioned ruling on July 8, 2004. The Moldovan state has paid material compensation to the plaintiffs.

Several NGOs have blown the whistle on increasing abuses in the judiciary. These abuses have been made possible by a blurred separation of powers affecting the independence and impartiality of judges and the quality of the entire judicial system. This deterioration is a direct consequence of the new penal and civil codes and procedures, introduced in 2003. The appointment of judges has been left to the discretion of the president, since the SCM lost its competence to select and submit judges for presidential approval.

In principle, the president can decide only on the validity of the selection procedure and cannot as such reject a candidate. In reality, the president refuses many judges without any justification. The same applies to reappointments, resulting in the dismissal of many highly qualified and experienced judges. Court decisions are often overturned in the court of appeals in favor of the government. Certain sensitive cases are passed on to judges who are favorable to the government. The judiciary is economically dependent on the executive; it is underfunded and lacks qualified judges. Also, judges must work in precarious conditions and because of a high workload are unable to ensure free and fair trials for all citizens.

The decision of the SCM on February 12, 2004, regarding the February 6 annulment of elections for new SCM members is additional proof of the government's infringement on judiciary matters—new members were refused for no apparent reason other than they were unfavorable to the party in power. The president of the Supreme Court of Justice has in turn been accused by a former Communist parliamentarian of pressuring judges into steering the outcome of their cases in a certain direction.

Corruption

Corruption remains a major concern in Moldova and affects all levels of political, social, and economic life. Corruption has been identified by civil society and the government as a major obstacle to social and economic reform in Moldova. Fighting corruption is a declared priority for the Communist government, but toward the end of its mandate the results are mixed and have consisted mostly of declaratory documents such as the Program on Fighting Corruption, introduced in 2002. In 2004, at the behest of the president, a strategy and action plan for preventing and fighting corruption was elaborated. The “prevention” dimension is crucial in that it is the first time the authorities intend to tackle the causes of corruption as opposed to merely taking repressive measures. The strategy was reviewed in October 2004 by a group of national legal experts and Council of Europe representatives and was adopted by the Parliament in November 2004. It remains to be seen whether this initiative will exceed its declaratory nature.

The ineffectiveness of Moldova's anticorruption measures thus far is reflected in Transparency International's 2004 Corruption Perceptions Index. Moldova remained unchanged at 2.3 (10 representing the least corrupt) and is ranked 114th out of 146 states—the third most corrupt state in Europe, after Georgia and Ukraine.

Moldova inherited an overbureaucratized administration from the Soviet era and has not been able to shake off its legacy. In order to receive official documents from the appropriate public authorities, the Moldovan citizen must collect myriad documents and signatures. A simple bribe is more expedient. Companies are faced with such high taxes and legislative insecurity that bribes are handed out to avoid fiscal control. According to the 2004 report of Bizpro-Moldova on the cost of doing business in Moldova, every businessman pays an annual average of US\$336 in bribes, especially to fiscal authorities. Often, a part of their economic activities and assets is plunged into the shadow economy as a safeguard against legislative volatility and government interference. The shadow economy is said to account for around 50 percent of the Moldovan economy.

In Transnistria, the economy is entirely in the hands of the regional authorities, led by Igor Smirnov, the so-called president of the breakaway Transnistrian Republic of Moldova. He and his entourage's economic activities revolve around smuggling goods in and out of Moldova/Transnistria, trafficking in illicit products, and money laundering. The smuggling and trafficking of goods by this illegal regime across Moldova's borders gravely affects the Moldovan economy and deprives the state of substantial revenue from unaccounted-for customs duties.

In 2002, a law was introduced regarding the declaration of interests and assets for public officials. New amendments to this law were introduced in April 2004. However, no declaration has ever been made public by the Central Control Commission (CCC), which is responsible for examining these declarations. These amendments were hailed by the minister of justice (also the author of the amendments) as a renewed opportunity to fight corruption and illegal possession of property. The amended law substantially extends the list of public officials who must submit interest declarations, but whether it will also force the CCC to publicize its findings remains to be seen. It is not yet clear whether public officials will receive an administrative sanction (or be sacked) or whether they risk a prison sentence if found guilty.

The government advertises contracts through the National Public Procurement Agency. Calls for tenders are advertised on the Internet. All state acquisitions with public funds are organized through this agency. A Web site facilitates public access to tenders and is meant to increase the transparency of the process. Although the Web site provides a database with a list of previous tenders, it does not specify which company applied for a particular tender or the nature of the contract.

The main government institution for fighting corruption is the Center for Fighting Economic Crimes and Corruption (CFECC), created in 2002. After the center's reorganization during the summer of 2004, the fight against corporate crime took on a new urgency. In the first nine months of 2004, the CFECC investigated 217 cases of corruption.

There are fears coming from the opposition and civil society that the CFECC, whose powers are quite extensive, will be used by the authorities prior to the elections to exert pressure on the opposition. This comes after three close collaborators of Serafim Urechean (mayor of Chisinau and main opposition candidate for the forthcoming elections) had been arrested and investigated by the CFECC for abuse of power regarding the granting of real estate lots in

Chisinau. Therefore, the opposition argues that anticorruption measures are put in practice selectively and appear targeted at political opponents. The center denies receiving orders from above and declares that people affiliated with the Communist government have also been investigated, in particular mayors and officials from various (local) public institutions.

Organs of civil society, especially politically active NGOs, are monitoring cases of corruption, but intimidation is used against whistle-blowers and journalists. One example is the former Communist parliamentarian Alexandru Ciugureanu, who accused the president of the Supreme Court of Justice of corruption and protectionism. Transparency International Moldova has also been taken to court by the Moldovan Customs Department for a recent publication on corruption within that department. Overall, a rather grim response follows any attempt to unveil corruption involving public officials.

The government-controlled state media give extensive coverage to the activities and “busts” operated by the CFECC. Observers suspect bias on the part of these media to cover mostly those cases that do not harm the image of the government. In a preelectoral context, this creates the impression of a “clean” government delivering on its electoral promises to fight corruption. The press affiliated with the opposition is also investigating corruption in parallel.

The public is largely insensitive to corruption at both personal and official levels. Corruption is ingrained in Moldovan society and has become institutionalized. Corruption is a “fast track” means to an end. The CFECC reported in October 2004 that throughout 2004, there had been around 12,000 complaints of cases of corruption by citizens. It is not clear whether this number indicates a civic awakening to the problem of corruption or if it simply represents a minuscule portion of all cases. According to Transparency International Moldova, an extrapolation from opinion polls indicates 1.2 million bribes in 2004 alone. When this number is compared with the 12,000 claims of corruption received by the CFECC in 2004, it appears that only about 1 percent of corruption cases—and petty corruption at that—are reported to Moldovan authorities, a frighteningly low number. Of these 12,000 claims, only a tiny fraction is further investigated.