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Moldova: controversy over judicial reform

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Chairman of the Venice Commission (VC), Gianni Buquicchio, during a visit to Chisinau on 20 October, warned the ruling Action and Solidarity Party (PAS) against a hasty implementation of judicial reforms that have been underway since the beginning of August, and mentioned the need to consult civil society about the changes being introduced. These include an amendment to the Law on the Prosecutor's Office, adopted by the Moldovan parliament on 24 August. This introduced the possibility of dismissing a prosecutor general by a special evaluation commission on the basis of a negative assessment of his work or for disciplinary reasons. The request to the VC for an opinion on the new regulations was submitted on 23 September by the General Prosecutor's Office itself, which has consistently criticised the reform of the judiciary implemented by PAS as a violation of the principle of the tripartite division of power and an attempt to establish political control over the judiciary. Buquicchio, meanwhile, declined to comment on the arrest on 5 October of former Prosecutor General Alexandru Stoianoglo and the criminal proceedings against him. Dumitru Robu took over as acting attorney general on 6 October.

Commentary

- The amendment to the Law on the Prosecutor's Office is a key element of the comprehensive reform of the judiciary that PAS has been energetically implementing since it came to power after the early parliamentary elections of 11 July this year. For many years, Moldova's judiciary and prosecution system have de facto served as a tool for protecting the interests of the country's ruling political and business groups and oligarchs, enabling them to exert pressure and intimidate their opponents. The new regulations were adopted in part in order to remove Stoianoglo, who was appointed during the domination of the pro-Russian Socialist Party (PSRM). The ruling camp accuses him (not without grounds) of acting in the interests of Veaceslav Platon, a businessman and politician sentenced in 2017 to 18 years in prison for his involvement in the large-scale fraud related to the theft of $1 billion from Moldovan banks in 2014. In 2020, Stoianoglo personally stated that the investigation into his case had been fabricated. Subsequently the prosecutor general's office asked the court to acquit Platon. It also failed to impose a ban on him leaving the country despite ongoing proceedings against him; in practice this allowed him to flee abroad. Stoianoglo is also accused of blocking investigations into key politicians, including those in PSRM, and of complicity in the adoption of legislation facilitating money laundering.
- While there is no doubt that an in-depth reform of the justice system is necessary, the manner in which it is being implemented has, from the outset, given rise to certain

controversies that could provide a pretext to undermine it in the future. The main issue is the rapid pace of adoption of new legislation, which may not allow enough time for consultations with the public and experts. This is particularly important in the case of changes affecting the level of independence of the Prosecutor General. There are also concerns regarding the ongoing trial of Stoianoglo (including its transparency, the protection of the rights of the accused and procedural issues), which may be used as a basis for his release on formal grounds or jeopardise credibility of the final verdict in the case. The new government is trying to push through changes in legislation and to personnel as quickly as possible. In doing so they wish to fulfil their election promises (the cleansing of the judiciary and the fight against corruption were among PAS's main commitments). However, they also realise that without an independent judiciary it is impossible to implement lasting reforms in other areas.

- Moldova's ruling camp has been moderately successful in explaining its doubts to the electorate regarding the ongoing reform of the justice system, which provides propaganda fuel for its opponents (especially those who until recently were beneficiaries of the previous system). Former President Igor Dodon has directly accused his successor Maia Sandu, the de facto leader of the ruling camp, of attempting to usurp power and subjugate the key institutions of the state. He suggested that her actions are comparable to those of Vlad Plahotniuc, the notorious oligarch who ruled the country from 2016–2019, and who faced the same accusations. Stoianoglo himself, in turn, is attempting to present himself as a victim of a political campaign by PAS and the president. So far, however, EU representatives have avoided criticising Moldova's justice reforms. Commenting on the arrest of the prosecutor general, the EU ambassador in Chisinau, Jānis Mažeiks, stated that the EU delegation is looking into the situation, but admitted that the decision in this case was adopted in accordance with the amended legislation on the functioning of the prosecutor's office.
- The fact that the Prosecutor General was arrested the day after he publicly accused the ruling camp (as well as some European diplomats) of conspiracy to slander him makes it easier for critics of the government to put this issue in a political context. Moreover, in August, Stoianoglo accused President Sandu of allegedly demanding that the prosecutor's office initiate proceedings against representatives of the opposition (including Dodon and the Communist leader Vladimir Voronin, who collaborated with him); this is also conducive to such accusations. At the same time, the government's opponents are attempting to argue that the 'attack' on Stoianoglo is ethnic in nature (Stoianoglo is an ethnic Gagauz, one of the largest minorities in the country). This complaint is made against a backdrop of the complicated relations between Chisinau and the Gagauz Autonomy. As recently as March, at the beginning of her presidency, Sandu removed Irina Vlah - a başkan (i.e. head) of this region - from the Supreme Security Council.
- The change in the procedure for selecting the head of the National Anti-Corruption Centre (CNA), introduced in parallel with the amendment to the law on the prosecutor's office, also caused controversy and a negative reaction among representatives of the civil society. This position will now be chosen directly by parliament (on the motion of at least 20 deputies) by an absolute majority and not, as previously, through a competition

organised by a parliamentary committee in which external experts and representatives of academia or NGOs could also participate as observers.