

Moldova's "Theft of the Century"

- ostensible investigations
or sincere lust for justice?



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LIST OF ABBREVIATIONS

ACUM	Electoral bloc of Platform DA and PAS
ARBI	The Moldovan Agency for the Recovery of Criminal Assets
BEM	Banca de Economii
BS	Banca Sociala
CNA	National Anti-corruption Center
CPR	Center for Policy and Reforms
CSO	Civil Society Organisations
DA Platform	Dignity and Truth Platform Political Party
EACN	The European contact-point network against corruption
EPAC	The European Partners against Corruption
EU	European Union
FATF	The Financial Action Task Force
GDP	Gross Domestic Product
GOPAC	The Global Organization of Parliamentarians Against Corruption
GPO	General Prosecutor's Office
GTF-AML	Anti-Money Laundering Global Task Force
JIT	Joint Investigation Teams
IMF	International Monetary Fund
NGO	Non-governmental organization
NMB	National Bank of Moldova
MP	Member of Parliament
OLAF	The European Anti-Fraud Office
PACE	Parliamentary Assembly of the Council of Europe
PAS	The Action and Solidarity Party
PCCOCS	The Prosecutor's Office for Combating Organised Crime and Special Cases
PDM	Democratic Party of Moldova
PM	Prime Minister
StAR	The Stolen Asset Recovery Initiative
UCLAF	The Task Force Anti-Fraud Coordination Unit
UB	Unibank
UK	The United Kingdom of Great Britain and Northern Ireland

UNODC	The United Nations Office on Drugs and Crime
USA	United States of America
USD	United States Dollar
WB	The World Bank

PREFACE

The theft of one billion USD from Moldova's banking system during 2012-2014 was a real shock to the country and its citizens. It still has a dramatic impact on the life of all Moldavans and the functioning of society. The long-term destructive effects of corruption, political mismanagement and the deterioration of the normal functioning of the state are reiterated by the current context of the COVID-19 pandemic, in particular, the lack of sufficient capacity to fight this health crisis. The aim of the study is to highlight these events and to characterise this latest – still open - chapter in Moldova's recent history. Another key objective of the study is to contribute to the return of the stolen money to the citizens of the Republic of Moldova.

Introductory remarks

The fraud resulted in the theft of an amount equal to 12% of Moldova's GDP. In just a few months, the national currency has depreciated by 42%, leading to a currency crisis. The bank fraud caused enormous reputational damage to the country. Negative fame of a poor state, in which 12% of GDP were stolen from the banking system, permanently accompanies the country. Even more, the stolen billion from Moldovan banks and the granted state guarantees were turned into state debt. As a consequence, Moldovan citizens will be returning the stolen funds for a period of 25 years.

According to the Kroll investigation¹, between January 2012 and November 2014, three Moldovan banks, Banca de Economii, Banca Socială and Unibank, were involved in a money laundering scheme. The banks issued loans to front companies, after which part of the money was returned to Moldova to secure new loans while the other part of the money was stolen. Most of the money was laundered with the involvement of two Latvian banks - the so-called Core Laundering Mechanism. The three Moldovan banks issued dubious loans amounting to about USD 2.9 billion. Out of this amount:

- USD 2 billion passed through the Core Laundering Mechanism and was returned to Moldova;
- USD 600 million passed through the Core Laundering Mechanism and was stolen;
- USD 300 million passed through other laundering mechanisms and a significant portion of this money may also have been stolen.

An additional USD 100 million was stolen, given the mixing of funds, layering and other money laundering schemes. In total, the losses to Moldova's banking system amounted to around USD 1 billion.

For years, the Moldovan authorities have been strongly declaring their intention to conduct an independent investigation, punish those responsible and recover the stolen funds. However, as more and more details about the theft of the 1 billion are revealed to the public, it is clear that the former regime was directly involved in the looting of the banking system.

The period from 2013 to 2019 went down in Moldovan history as a "captured state".² During these years, Moldovan oligarch Vladimir Plahotniuc, leader of the Democratic Party of Moldova (PDM),

¹ *Project Tenor II: Confidential Working Papers Part I to the Detailed Report*, KROLL, 22 March 2018, available at <https://www.ipn.md/storage/ckfinder/files/Raport%20Kroll.pdf>

² *Bring Moldova back from the brink*, COUNCIL OF EUROPE, 11 August 2015, available at https://www.coe.int/en/web/secretary-general/opinion-articles-2015-thorbjorn-jagland/-/asset_publisher/qZEzerXfDkbo/content/bring-moldova-back-from-the-bri-1?inheritRedirect=false

established de facto control over the legislative and executive powers, as well as the law enforcement and judicial authorities. The bank fraud was the economic peak of the state of capture of Moldova. The stolen billion led to the degradation of democratic standards and aggravated corruption in the country.³ For surviving and avoiding punishment, the political class needed to resort to persecution, intimidation and abuses. At the same time, Plahotniuc owned about 60% of the Moldovan mass media which allowed him to skilfully manipulate the information space of the country. Financial assets of the oligarch were estimated at about 30% of Moldova's GDP. Importantly, Plahotniuc was one of the main beneficiaries of the bank fraud.

The falsification of the investigation by Plahotniuc's regime

The investigation of the Kroll U.S. investigative consultancy took place in two phases and resulted in reports detailing the scheme used to steal the billion. In the initial phase, a key role in the fraudulent scheme was assigned to the so-called "Shor group" - the former head of the Banca de Economii Administrative Council, Ilan Shor, and also entities and individuals associated with him.⁴

The Kroll and Steptoe & Johnson companies agreed to carry the second phase of the investigation and a detailed summary of the second report was presented to the National Bank of Moldova (NMB) in December 2017.⁵ Annexes with the names of the final beneficiaries of the theft were attached to this report, which were later handed over to the Moldovan investigative authorities. Only a very restricted circle of people had the exclusive right to access these documents. By ignoring and discrediting Kroll's findings, the authorities managed to falsify the results of the investigation and to hide the names of the main beneficiaries from the public. Kroll included a lot of questions to be further examined by the national authorities, but those were simply disregarded. The report was kept away from any third parties under the pretext of translation issues, as well as for reasons of "confidentiality of the criminal investigation".

Apart from investigating the circumstances surrounding the theft of the 1 billion and identifying its beneficiaries, Kroll was also responsible for providing a recovery strategy. Yet, despite its presentation to the authorities, no elements of the strategy were implemented in the state's "Strategy for the Recovery of the Funds Stolen from Banca de Economii, Banca Sociala and Unibank", presented in July 2018. Now it is safe to say that Kroll's findings were not used by the Moldovan prosecutors during 2017-2018, a period when much more assets could have been seized. As a result, the progress in investigations and funds recovery was successfully delayed by the leading parties until 2019, when the PDM was forced to cede power.

The former regime under the lead of Vladimir Plahotniuc was restlessly trying to avoid the oligarch's name being mentioned in the context of the banking fraud, and the investigations were deliberately misled. Businessmen Ilan Shor and Veaceslav Platon were convicted in the case of the theft of the 1 billion. While Shor managed to leave the country, thus avoiding imprisonment, Platon was in prison for almost three years, until his case was declared falsified by the New General Prosecutor Alexandr Stoianoglo in 2020. Platon's case is now under retrial. Former Prime Minister Vlad Filat, whose actions contributed to the bank fraud, was also convicted on corruption charges. Filat was released on parole in 2019.

³ *State Capture: the Case of the Republic of Moldova*, TRANSPARENCY INTERNATIONAL - MOLDOVA, 16 June 2017, available at <http://www.transparency.md/2017/06/16/state-capture-the-case-of-the-republic-of-moldova/>

⁴ *Project Tenor - Scoping Phase: Final Report*, KROLL, 2 April 2015, available at https://watch.cpr.md/wp-content/uploads/2018/08/Kroll_Project_1-02.04.15.pdf

⁵ *Project Tenor II Summary Report*, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

While Kroll's findings on the main beneficiaries were in the hands of the Moldovan authorities from December 2017, they were not presented to the public until early July 2019. By analysing all the case materials, some of which were intentionally ignored and left without legal assessment, the active involvement of the Plahotniuc group in the bank fraud was officially confirmed by General Prosecutor Stoianoglo. For the first time, this conclusion was presented by the Slusari Commission⁶, which was specifically established to investigate the bank fraud. At that time, the main beneficiaries of the theft of the billion - Vladimir Plahotniuc and Ilan Shor – had already left the country and managed to escape from the investigating authorities.

Current case progress and stagnation

Right after the escape of Vladimir Plahotniuc and the change of leadership in the General Prosecutor's Office, some steps have been observed towards progress in bringing the ones responsible to justice. Several representatives of the NBM leadership as well as former leaders of the three bankrupt banks were detained. Until 2019, NBM was outside the investigation area despite it being directly responsible for monitoring the activity of banks that have long shown suspicious financial indicators.

Vladimir Plahotniuc faces charges of creation of a criminal organization, fraud and money laundering. The Moldovan authorities put him on the international wanted list and are trying to seize his assets abroad, but a request sent to INTERPOL to include the fugitive oligarch on the wanted list was refused. Meanwhile, his assets and bank accounts in Moldova were seized. Additionally, the USA, as well as Switzerland and Lichtenstein, imposed personal sanctions against him.

Nevertheless, the investigation is progressing relatively slowly. Moldova is still far from being able to recover at least part of the stolen money. Experts are frankly stating that the recovery of all the money is impossible at such a late stage. The goal of bringing the organisers and perpetrators of the bank fraud to justice also risks not being achieved. Delaying the investigation poses the risk that many of those responsible will escape responsibility due to the statute of limitation.

It is important to mention that the new Prosecutor General, Alexandr Stoianoglo, pointed to the lack of cooperation of courts⁷ and other state institutions in major corruption investigations. Hence, there is still internal resistance to impartial investigations in Moldova. Notably, experts point out that the General Prosecutor's Office is under enormous political pressure for investigating the theft of the billion.

Lack of transparency

Information on the progress of the investigation is being concealed from the public. Our attempts to find out through official enquiries the concrete number of criminal cases sent to courts on this file so far, as well as the amount recovered from the damage as a result of bank fraud, were not successful. Additionally, the Prosecutor's Office refused to provide any information about official

⁶ Report of Commission of Inquiry for the elucidation of factual and legal circumstances regarding the interference of the Otwarty Dialog Foundation (Open Dialogue) and its founder Lyudmyla Kozlovskaya in the internal affairs of the Republic of Moldova and regarding the financing of political parties in the Republic of Moldova, PARLIAMENT OF THE REPUBLIC OF MOLDOVA, 14 November 2018, available at <http://www.parlament.md/LinkClick.aspx?fileticket=yLkOk8zVnX0%3D&tabid=86&mid=488&language=ro-RO>

⁷ The speech of the General Prosecutor, Alexandr Stoianoglo, within the event of totalization of the activity of the Prosecutor's Office for the year 2020, THE GENERAL PROSECUTOR'S OFFICE, February 2021, available at <http://www.procuratura.md/md/newslst/1211/1/8518/>

clarifications regarding the procedures in place for ensuring the recovery and possible confiscation/ repatriation of disputed financial means abroad.

Given the high level of public distrust of the law enforcement agencies and judiciary in Moldova, it is important to declassify all materials with reference to the embezzlement of the banking system to such an extent that the course of the investigation is not prejudiced. Lack of transparency gives room for speculations and controversial declarations from third parties. Hence, it is necessary to achieve a fine balance between confidentiality and transparency.

Window of opportunity

It seems that the current Moldovan authorities are closer than ever to investigating the case of the bank fraud. The new General Prosecutor is highlighting the importance of regaining the citizens' trust in state institutions by properly investigating and bringing the perpetrators of the theft of the billion to justice. Likewise, newly elected President Sandu declared that there is no greater threat to national security than corruption, hence, amongst others, a thorough investigation into this case was prioritised. The President declared that she is actively seeking support in investigating the financial crimes and returning the money traced to the territory of Moldova's external partners. However, the permanent political crisis is not beneficial for an effective investigation and recovery of the stolen funds. It is important for Moldovan elites to come to a national consensus and unite to solve these difficult challenges.

Indeed, the bank fraud was a complex transnational crime. To solve this case, Moldova needs the help of external partners, in particular the EU countries. The EU has the legitimacy to initiate an international investigation of the Moldovan 2012-2014 banking fraud. This can be started by enacting Article 18 of the EU-Moldova Association Agreement⁸, which says that, if the financial systems of both parties have been used for money laundering, an international investigation and asset recovery should be put in place.

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⁸ Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, EUR-LEX, 23 January 2020, available at https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=urisrv%3AOJ.L_.2014.260.01.0004.01.ENG

OBJECTIVES OF THE REPORT, DATA SOURCES AND USED METHODS

This study sums up what is currently known about the most high-profile financial crime in the history of Moldova - the theft of around USD 1 billion from Moldova's banking system in the years 2012-2014. The study presents the circumstances and examines the results of the investigation of this crime. It also analyses the progress made by the Moldovan authorities and the involved EU jurisdictions on recovering the stolen funds.

The overarching concept behind this study is to analyse how the EU and certain EU Member States can further cooperate with Moldova on this case. It also highlights some of the elements hindering progress and provides recommendations on how to make the process of finding and recovering of stolen money more efficient.

The study is based on both primary and secondary sources. The available official documents were examined and requests to relevant institutions and authorities were submitted with the purpose of providing updated figures and information. For identifying the progress made in investigations, the techniques used were content and discourse analysis of official statements and reports, press releases, adopted legislation, declarations made during interviews.

Likewise, interviews and consultations were carried with several experts and officials. A meeting was held with Alexandru Slusari, the vice-president of the Parliament and former President of the Parliamentary Commission of inquiry to elucidate all the circumstances of the robbery of the banking system of Moldova and the investigation of bank fraud (later referred to as "Slusari Commission"). Another meeting took place with Veaceslav Negruta, who is an expert on the topic of the theft of the billion⁹. Having worked at Transparency International - Moldova¹⁰, where he extensively covered this topic, he currently holds the position of Economic Advisor to President Maia Sandu. Consultations were also held with Denis Cenusa, a researcher at Institut für Politikwissenschaft¹¹, Justus-Liebig-Universität in Germany and an associated expert at Think-tank Expert-Group.¹²

Additionally, for identifying the reactions of relevant countries and, if expressed, their willingness to cooperate with Moldovan authorities, written questions were addressed. Similar requests were sent to relevant EU institutions and structures.

An important part of primary data was collected in cooperation with local partners, in particular, philanthropist Alexandru Machedon helped us in scheduling meetings with relevant officials and with filtering the Moldovan sources for meeting the requirement of credibility. This support was important for establishing contacts with Moldovan public officials and gathering inside information.

As triangulation of data sources was used as a primary strategy for data collection, the analysis was complemented by content analysis of secondary sources such as, but not limited to, Moldovan and international media investigations, NGO reports and statements of independent experts. Interviews were also held with representatives of local NGOs - Center for Policy and Reforms (CPR)

⁹ Moldova: "Theft of the billion" - in five coordinated stages, VEACESLAV NEGRUTA, 12 February 2019, available at <https://vnegruta.wordpress.com/2019/02/12/moldova-furtul-miliardului-in-cinci-etape-coordonate/>

¹⁰ Veaceslav Negruta's work at Transparency International - Moldova, available at <http://www.transparency.md/author/veaceslav-negruta/>

¹¹ Denis Cenusa is a Junior Researcher at Institut für Politikwissenschaft, available at https://www.uni-giessen.de/fbz/fb03/institutefb03/ifp/Lehrende_Team/Mitarbeiter_innen/cenusa

¹² Denis Cenusa is the "Energy Security" Program Director at the Think-tank Expert-Group, available at <https://www.expert-grup.org/en/despre-noi/echipa>

and Transparency International - Moldova, as well as with local investigative media - Ziarul de Gardă. Such consultations provided useful information about the opportunities to monitor the progress locally and the openness of the investigative bodies towards communicating with civil society. Likewise, CPR provided us with useful guidelines for formulating well structured requests of information tailored by their own expertise on the topic of access to information.

Additionally, we carried out advocacy activities with the purpose of informing several MEPs about Moldova's 2014 banking fraud and the latest developments. As a consequence, a written question was addressed to the European Commission on behalf of three MEPs regarding the support for Moldova in this regard.¹³ The answers are still pending. Also, a letter was addressed by MEP Helmut Scholz to Eurojust with the request to provide information available to the public on the progress of the investigation of the Joint Investigative Team (JIT) into the bank fraud. Yet, the answer was limited due to the confidentiality clause.¹⁴

¹³ Priority question for written answer P-001944/2021 to the Commission, EUROPEAN PARLIAMENT, 12 April 2021, available at https://www.europarl.europa.eu/doceo/document/P-9-2021-001944_EN.html

¹⁴ Annex 5 - Official answer: Eurojust, 29 March 2021.

1. "THEFT OF THE CENTURY": KNOWN FACTS AND IDENTIFIED INTERNATIONAL RAMIFICATIONS

What happened to the banks: Kroll investigation

On 28 January 2015 the National Bank of Moldova struck a deal with the consulting company "Kroll Inc." in order to conduct a scoping phase of investigation into certain transactions involving Banca de Economii, Banca Sociala and Unibank¹⁵. The Kroll-1 report was completed on 2 April 2015. A few days later, the content of the report was made public in the Moldovan media. The first Kroll report was prepared on the basis of information provided by the NBM. Thus, the Moldovan authorities could have influenced which information was provided to the international experts.

According to the results of Kroll investigation, during the period from 17 August 2012 to 30 November 2014 Three banks were consecutively subjected to significant shareholder change, which had the effect of transferring ownership to a series of apparently unconnected individuals and entities. It was done in order to gain control of each of the banks. The profile of a number of bank shareholders suggests that they may have been acting as nominees, in order to hide final beneficiaries. They were buying bank shares with the help of loans from UK Limited Partnerships, whose ownership is not transparent and who have accounts at Latvian banks.¹⁶

- In May 2013, five Ukrainian citizens (all residents of Kakhovka and Nova Kakhovka) and two Russian citizens became owners of more than 50% of Banca Sociala shares. The "shareholders" were not even aware of the fact that they own the shares of the Moldovan bank. Their documents were used fraudulently.¹⁷
- Unibank's shares were bought by several entities, as well as politicians and businessmen linked to the head of BEM's administrative council, Ilan Shor. For example, among the shareholders of Unibank was the former president of Moldova, Petru Lucinschi. In his words, Ilan Shor offered him to buy shares of the bank and even told him where he could get a loan (about \$1 million) to buy the shares. Shor promised him that the bank would grow and he would profit from the shares.¹⁸
- Banca de Economii (formerly "Sberbank"), which was controlled by the state, was taken over by Shor Group through the issue and purchase of additional shares.

Through minority shareholders who together owned more than 50% of the shares in each of the Three banks, the Shor Group gained control of the banks.

It has been found that the banks' shares were purchased with loans obtained from ABLV Bank in Latvia. In 2016 this bank was fined 3.17 million euro for allowing offshore companies to illegally use bank accounts to lend to Moldovan companies and individuals.¹⁹

¹⁵ Project Tenor - Scoping Phase: Final Report, KROLL, 2 April 2015, available at https://watch.cpr.md/wp-content/uploads/2018/08/Kroll_Project_1-02.04.15.pdf

¹⁶ Ibid.

¹⁷ Fake shareholders and the real billion: how, where and by whom the decision to withdraw \$1 billion from Moldova was made, NEWSMAKER, 10 March 2016, available at <https://newsmaker.md/rus/novosti/falshivye-aktsionery-i-nastoyashchiy-milliard-kak-gde-i-kem-prinimalos-reshenie-o-23087/>

¹⁸ Petru Lucinschi: I was asked to become a shareholder of Unibank by Ilan Shor, NEWSMAKER, 1 December 2015, available at <https://newsmaker.md/rus/novosti/petr-luchinskiy-stat-aktsionerom-unibank-mne-predlozhi-ilan-shor-20318/>

¹⁹ 3 Million euros fine for a bank involved in the billion disappearance, RISE, 28 May 2015, available at <https://www.rise.md/amenda-de-3-milioane-de-euro-pentru-o-banca-implicata-in-disparitia-miliardului/>

According to the Kroll investigation, the Three banks have coordinated their actions to maximise available liquidity in order to facilitate a massive increase in lending to Moldova entities. Loan proceeds from Moldovan banks passed through a complex network of transactions, using predominantly UK Limited Partnerships with Latvian bank accounts to pay down existing loan exposure at one or more of the banks. The true nature of the transactions and their beneficiaries were hidden.²⁰

The first Kroll report emphasised the implication of former head of the BEM administrative council, Ilan Shor to the mass fraud scheme. The report pointed out that Shor and individuals associated with him (Shor Group) played an integral role in coordinating large-scale fraudulent activities, suggesting that he was one of, if not the only, beneficiary.²¹

According to the Kroll investigation, BEM, BS and UB came precisely under the Shor group's control in the period between 2012 and 2014. The fraudulent transactions carried out by the Three banks suggest a deliberate intention to extract as much benefit as possible for entities connected to Shor and to the detriment of the bank. However, the report noted that it remains unclear whether Shor was the sole beneficiary of the fraudulent schemes or whether he acted in concert with other, as yet unknown, beneficiaries.²²

The second Kroll report and the list of beneficiaries of the bank fraud

The second Kroll report was completed in December 2017 and handed over to the client, the National Bank of Moldova. Among the main objectives of the second report was to find out the wide range of beneficiaries of the Billion-Dollar Theft.

At least 77 companies that were part of the so-called "Shor Group" were identified. These companies received about USD 2.9 billion in loans from the Three banks between January 2012 and the end of November 2014. By the end of November 2014, nearly 80% of the total loan exposure issued by the Three banks was to Shor Group companies. The loan amount was constantly increasing so that it was possible to pay off earlier loans. According to Kroll experts, "the majority of these loan funds were channeled through what appears to be a coordinated money laundering mechanism in Latvia". Following the laundering of funds, "the funds were either returned to Moldova to pay down other loans" or "were subjected to further money laundering mechanisms"²³.

Fraudulent transactions peaked in November 2014. In the period from 1 November 2014 to 26 November 2014, the Three banks took part in loan transactions amounting to about USD 1.85 billion.

Till 24 November 2014, "the majority of new loans were issued by BEM". "Existing loans at UB and BS were paid off from the newly issued loans from BEM". "This had the effect of consolidating all the loans from the Three Moldovan Banks at BEM by 24 November 2014"²⁴, - was stated in the Kroll investigation.

As Kroll found out, during 25-26 November 2014 "the entire loan portfolio at BEM, of close to USD 1 billion switched from BEM to BS" by "creating a fake overdraft facility with Latvian bank in the

²⁰ *Project Tenor - Scoping Phase: Final Report*, KROLL, 2 April 2015, available at https://watch.cpr.md/wp-content/uploads/2018/08/Kroll_Project_1-02.04.15.pdf

²¹ Ibid.

²² Ibid.

²³ *Project Tenor II Summary Report*, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

²⁴ Ibid.

books of BS". Fake overdraft "had the effect of increasing liquidity to allow the switch of the loan portfolio to take place".²⁵

On the same days, 25-26 November 2014, the largest loan transactions took place. BS issued loans to five companies from the Shor Group for a total amount of about 13.7 billion lei. Five companies received loans: Danmira SRL - 3.062 billion lei, Davema-Com SRL - 3.196 billion lei, Voximar-Com - 2.47 billion lei, Contrade - 2.339 billion lei and Caritas Group - 2.607 billion lei.²⁶ Multi-billion-dollar loans were given to companies with a charter capital of 5,400 lei (about \$400), which did not even have a private office. After these companies received the loans, they transferred the money received to offshore companies that had accounts at Latvia's Privatbank. The offshore companies had been registered shortly before the loan transactions. Kroll experts believe that some of this money was used to pay down earlier loans.²⁷

On 26 November 2014, a meeting of seven shareholders of BS allegedly took place, which resulted in a decision to authorise BS President, Natalia Rahuba, to sign a cession agreement with the British company "Fortuna United LP" on the loans allocated to the Shor Group. In this way, the debt obligations of the Shor Group companies were transferred to "Fortuna United LP".

Thanks to the journalistic investigations, it became known that through a chain of front companies, the final beneficiary of "Fortuna United LP" is a Moldovan oligarch and former leader of the PDM, Vladimir Plahotniuc (as a Romanian citizen).²⁸

According to Kroll experts' calculations, about USD 2.6 billion out of USD 2.9 billion of the loan funds received went through the so-called Core Laundering Mechanism. Of these, USD 2 billion were returned back to Moldova and USD 600 million were stolen. Another 300 million U.S. dollars that did not go through the Core Laundering Mechanism were mainly used to pay down other loans, and a significant portion of this money may have been lost as well. Therefore, according to Kroll experts, the total amount of losses was between USD 600 and 900 million. Given the mixing of funds, layering and other money laundering schemes, the ultimate amount of losses was estimated at around USD 1 billion.²⁹

At least 81 bank accounts were established in two Latvian banks to launder money through the Core Laundering Mechanism. In addition to the Core Laundering Mechanism, other laundering mechanisms were also identified.

Credit decisions were made by the boards of the Three banks, bypassing credit committee approval. The board meetings took place in the absence of some of its members. According to BEM's reports, which were provided to the National Bank of Moldova, the bank had attracted deposits from Russian banks to provide collateral for the new loans. However, as Kroll stressed, these deposits did not exist "and these deposits were falsely created in the books of BEM".³⁰

The credit documentation of the Three Banks, which was related to dubious transactions, was lost under mysterious circumstances a few days before the banks were placed under external

²⁵ Ibid.

²⁶ *Project Tenor - Scoping Phase: Final Report*, KROLL, 2 April 2015, available at https://watch.cpr.md/wp-content/uploads/2018/08/Kroll_Project_1-02.04.15.pdf

²⁷ *Project Tenor II Summary Report*, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

²⁸ *How Ilan Shor was taken off the hook. NM has the court verdict*, NEWSMAKER, 18 May 2020, available at <https://newsmaker.md/rus/novosti/kak-ilana-shora-vyvodili-iz-pod-udara-v-rasporyazhenii-nm-okazalsya-prigovor-suda-eksklyuziv/>

²⁹ *Project Tenor II Summary Report*, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

³⁰ Ibid.

administration. The van containing the documentation was allegedly stolen. It was later found burnt.

In the second Kroll report, as in the first, a key role in a large-scale fraudulent scheme was assigned to the so-called "Shor Group". Moreover, the investigation has identified "several Moldovan-based individuals who appear to have received benefit from or are connected to the fraud within the Three Moldovan Banks".³¹ The persons responsible for the administration and execution of the fraudulent schemes (in particular employees and managers of the bank, board members) were also identified. The report notes that the list of these persons will only be provided to the investigating authorities of Moldova in order not to harm the investigation.

The Moldovan authorities of the "captured state" period used this fact to their advantage not to name the final beneficiaries of the "theft of the billion" and to direct the investigation in a way that is beneficial to the authorities.

State intervention

Evidence suggests that the Moldovan authorities were aware of the ongoing fraud in some Moldovan banks.

In September 2014, a number of legislative amendments were adopted to provide state aid to commercial banks in "situations of systemic financial crisis". The amendments were adopted at the initiative of the government³², which was then headed by Iurie Leancă. In particular, the amendments allowed for the possibility of providing financial assistance to troubled banks under state guarantees. The amendments entered into force on 10 October 2014.

In November 2014, a secret government meeting decided to provide financial assistance of 9.5 billion lei to some "needy" banks. Information about this secret decision appeared in the media on 24 November 2014.³³ The banks that were to receive help from the state were not specified. The sources of funding were not disclosed either. The NBM was to distribute the money. As of 2014, 9.5 billion lei equalled approximately one third of Moldova's annual budget expenditure (about 30 billion lei).

According to NewsMaker, back in the spring of 2014, the NBM was working on measures to save one of the major banks from bankruptcy. The bank in question was probably BEM. Experts, interviewed by NewsMaker, expressed fears that such state aid might be an attempt by interested parties to improve the financial situation of the robbed banks at the state's expense.³⁴

In November 2016, Former Prime Minister Pavel Filip published the transcript of the secret meeting of the government when it was decided on the financial assistance to banks worth 9.5 billion lei took place from 7 November 2014.³⁵ The document confirms that the meeting was attended by then Prime Minister Iurie Leancă, Minister of Economy Andrian Candu, Minister of Finances Anatol Arapu, Head of the National Bank of Moldova Dorin Drăguțanu, Head of State Chancellery of the Moldovan Government Victor Bodiu, Ministry of Justice Oleg Efrim, Ministry of

³¹ Ibid.

³² *Secret billions for Moldovan banks*, NEWSMAKER, 24 November 2014, available at <https://newsmaker.md/rus/novosti/sekretnye-milliardy-dlya-moldavskih-bankov-4705/>

³³ Ibid.

³⁴ Ibid.

³⁵ *DOC. The transcript of the meeting when the first state guarantee was granted to the bankrupt banks. What Leanca says in the meeting and two years later*, AGORA, 19 November 2016, available at <https://agora.md/stiri/24962/doc--stenograma-sedintei-cand-s-a-acordat-prima-garantie-de-stat-bancilor-falimentare--ce-spune-leanca-in-sedinta-si-doi-ani-mai-tarziu>

Information Technologies and Communication Pavel Filip, and President of the Academy of Science Gheorghe Duca. During this secret meeting, only Minister of Internal Affairs Dorin Recean raised concerns about the opportunities of abusing the proposed project, the rest of the members silently agreed.³⁶ Following the decision to provide financial assistance, the Three banks have managed to grant loans worth about 25.5 billion lei to companies from the Shor Group.³⁷ The authorities have decided to provide financial assistance to the banks, but have not stopped the issuance of unsecured loans. State administration was introduced in BEM and BS only in the period from 27 and 30 November 2014 and in Unibank at the beginning of 2015.

Similarly, on 30 March 2015, Gaburici cabinet signed the decision regarding the second state guarantee for NBM - amounting to 5340 million lei - for the three "problem" banks.³⁸ The decision was signed by Former Prime Minister Chiril Gaburici, the Deputy Prime Minister, the Minister of Economy, Stephane Bride, the Minister of Finance, Anatol Arapu, and the Minister of Justice, Vladimir Grosu.

The allocated money was not enough and four months later the government, already chaired by Chiril Gaburici, adopted another secret decision - to give another 5.34 billion lei to troubled banks.

The money for financial assistance was allocated as a loan to the Three Banks from the reserves of the NBM. In October 2016, "the Law on the Issue of Government Bonds", guaranteed by the Government, was passed.³⁹ The law provided for the transfer to public debt of a loan of 13.6 billion lei, which the NBM provided to the Three banks under government guarantees.

Former PM Leancă stated that the International Monetary Fund (IMF) and the World Bank (WB) advised him to opt for state guarantees to help the banks. Yet, according to the head of the Parliamentary Commission of Inquiry, Alexandru Slusari, these institutions officially declared they did not do that. The financial assistance to the banks was also explained by the need to pay off debts to individuals. However, the amount of aid far exceeded the deposits on individual accounts. The money allocated by the state was used to pay down interbank deposits on BEM accounts.

According to Alexandru Slusari, the then leadership of the NBM was responsible for belated decisions, which allowed banks to continue lending billions of dollars when they were already known to be on the brink of bankruptcy.

³⁶ Ibid.

³⁷ *The state guarantees were given, but the special administration was not implemented. What Slusari said about the authorities' involvement in the theft of a billion*, NEWSMAKER, 30 September 2019, available at <https://newsmaker.md/rus/novosti/gosgarantii-dali-a-specupravlenie-ne-vveli-chto-rasskazal-slusar-ob-uchastii-vlastej-v-krazhe-milliarda/>

³⁸ *Decision nr. 124 from 30.03.2015 regarding ensuring the stability of the banking system in the Republic of Moldova*, GOVERNMENT OF THE REPUBLIC OF MOLDOVA, 3 July 2015, available at https://www.legis.md/cautare/getResults?doc_id=102887&lang=ro

³⁹ *The Law of the Republic of Moldova of 3 October 2016 No. 235*, CONTINENT, 3 October 2016, available at http://continent-online.com/Document/?doc_id=35162685#pos=0;15

2. MOLDOVAN AUTHORITIES' INVESTIGATION: DELIBERATE DELAY OR ACTUAL PROGRESS?

2.1 Plahotniuc's influence in stagnating the progress of investigation

For several years Moldova remained a captured state. The legislative and executive powers, law enforcement and judiciary were under the control of oligarch Vladimir Plahotniuc.

During the period of 2013-2019, the PDM and its leader, Plahotniuc, were in control and managed to usurp power in the state. Parliamentary elections were held in February 2019, after which the PDM did not join the ruling coalition. A few months later, oligarch Plahotniuc fled the country. The USA⁴⁰, Switzerland and Liechtenstein imposed sanctions against him for corruption offences that undermined the independence of democratic institutions in Moldova.

On 8 June 2019, the Moldovan parliament adopted a declaration "on the recognition of the Republic of Moldova a captured state".⁴¹ The document stresses that Plahotniuc built an oligarchic regime with widespread corruption while in power. It is also noted that the PDM and Plahotniuc's oligarchy exercised manual management and control over the judiciary system, General Prosecutor's Office, Information and Security Service, NBM, National Integrity Authority, Central Electoral Commission.

As of 2016-2018, Plahotniuc's assets amounted to around 30% of the country's GDP.^{42, 43} He also owned 60-70% of Moldova's TV market, which allowed him to launch information attacks against opponents.⁴⁴

With the help of the controlled law enforcement agencies, Plahotniuc's regime fabricated criminal cases against political opponents - activists, oppositionists, human rights defenders, lawyers. The European Parliament resolution of 5 July 2018 on the political crisis in Moldova, in particular, pointed to this problem.⁴⁵

As long as Plahotniuc remained in power, the controlled law enforcement agencies could not investigate him in the Billion-Dollar Theft case. The case was investigated in such a way that Vladimir Plahotniuc's name was not mentioned in it at all.

The case of bank fraud was investigated by the Anti-Corruption Prosecutor's Office, which was headed by Viorel Morari from late 2016 to early 2019. A team of just six prosecutors was set up

⁴⁰ *Public Designation, Due to Involvement in Significant Corruption, of Former Moldovan Official Plahotniuc*, US DEPARTMENT OF STATE, 13 January 2020, available at <https://2017-2021.state.gov/public-designation-due-to-involvement-in-significant-corruption-of-former-moldovan-official-plahotniuc/index.html>

⁴¹ *What is written in the Declaration of Recognition of the Republic of Moldova as a captured state?*, NOI MD, 9 June 2019, available at <https://noi.md/ru/politika/chto-napisano-v-deklaracii-o-priznanii-respubliki-moldova-zahvachennym-gosudarstvom>

⁴² *Moldova: from oligarchic pluralism to Plahotniuc's hegemony*, KAMIL CAŁUS, OSW, 11 April 2016, available at <https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony>

⁴³ *Explaining Oligarchic Moldova*, KAMIL CAŁUS, WOJCIECH KONOŃCZUK, CARNEGIE EUROPE, 4 May 2017, available at <https://carnegieeurope.eu/strategiceurope/?fa=69856>

⁴⁴ *Report on the media situation in Moldova in 2015*, CENTRE FOR INDEPENDENT JOURNALISM, 2016, available at http://media-azi.md/sites/default/files/Raportul%20situatia%20preseii%202015%20rusa_3.pdf

⁴⁵ *European Parliament resolution of 5 July 2018 on the political crisis in Moldova following the invalidation of the mayoral elections in Chişinău (2018/2783(RSP))*, EUROPEAN PARLIAMENT, 5 July 2018, available at https://www.europarl.europa.eu/doceo/document/TA-8-2018-0303_EN.html

to investigate the case.⁴⁶ The investigation team was led by prosecutor Adriana Bețișor, who had a meteoric career in the Prosecutor's Office over several years, and managed to obtain the position of acting head of the Anti-Corruption Prosecutor's Office. The position of the Prosecutor General in 2016-2019 was held by Eduard Harunjen.

In June 2018, when the Prosecutor's Office already had the second Kroll report and a list of beneficiaries of the bank fraud, Prosecutor General Eduard Harunjen announced that the investigation into the theft of the billion was 90% complete. The beneficiaries of the theft were said to be the then convicted Ilan Shor, Veaceslav Platon, Vladimir Filat and others. Yet, the name of Vladimir Plahotniuc was deliberately not mentioned.

The fact that Vladimir Plahotniuc was mentioned in the second Kroll report became known only in June 2019. Afterwards, the Prosecutor General Eduard Harunjen and the acting head of the Anti-Corruption Prosecutor's Office, Adriana Bețișor, said at a briefing that the information in the report was "inaccurate" and the investigation was "heading in the right direction". Both resigned from their positions in July.

At a press conference in February 2020, Prosecutor General Alexander Stoianoglo said that back in 2016 the Anti-Corruption Prosecutor's Office, headed by Viorel Morari, had information that Vladimir Plahotniuc was involved in the theft of a billion. This information came from Veaceslav Platon, who already in 2016 made statements about the implication of Plahotniuc and his group of influence, as well as from independent experts⁴⁷, who confirmed the role of Andrian Candu, Serghei Iralov, Dorin Dragutan and officials from Leancă and Gaburici governments, in committing the banking fraud. Furthermore, official documents were leaked in the media⁴⁸ which confirm the presence of the high-profile politicians during the meetings where the crucial decision to grant state guarantees was discussed.

In December 2016, Vladimir Plahotniuc sent a complaint to Viorel Morari in which he accused Platon of slander. In March 2017, a criminal case on defamation was unlawfully opened on the basis of this complaint. According to Stoianoglo, Morari misled then-prosecutor Eduard Harunjen and obtained permission from him to investigate. Because of the existence of the case on defamation, all of Platon's accusations against Plahotniuc were regarded as "false and slanderous" and the facts were not checked. The prosecuting authorities did not even interrogate Plahotniuc.⁴⁹

In 2016, a criminal case was opened against Vladimir Plahotniuc in Romania based on Platon's statement. In 2018, at the request of Eduard Harunjan, the case was transferred to Moldova, where it was examined by the Anti-Corruption Prosecutor's Office. The prosecutor's office decided that Platon had given false testimony.⁵⁰

In November 2019, Oleksandr Stoianoglo was appointed as Prosecutor General. The GPO requested access to the materials of the bank fraud case from the Anti-Corruption Prosecutor's Office, but was refused, according to Stoianoglo. After this, the head of the Anti-Corruption

⁴⁶ *Prosecutor's cover-up. How the old system protects itself. NM dossier.* NEWSMAKER, 17 August 2020, available at <https://newsmaker.md/rus/novosti/prokurorskaya-poruka-kak-staraya-sistema-zaschischaet-sebya-dose-nm/>

⁴⁷ Interview with Veaceslav Negruta.

⁴⁸ *DOC. The transcript of the meeting when the first state guarantee was granted to the bankrupt banks. What Leanca says in the meeting and two years later,* AGORA, 19 November 2016, available at <https://agora.md/stiri/24962/doc--stenograma-sedintei-cand-s-a-acordat-prima-garantie-de-stat-bancilor-falimentare--ce-spune-leanca-in-sedinta-si-doi-ani-mai-tarziu>

⁴⁹ *Plahotniuc's involvement in the theft of a billion was already known in 2016. Why wasn't he even questioned? Stoianoglo answers,* NEWSMAKER, 12 February 2020, available at <https://newsmaker.md/rus/novosti/pro-prichastnost-plahotnyuka-k-krazhe-milliarda-znali-esche-v-2016-godu-pochemu-ego-dazhe-ne-doprosili-otvechaet-stoyanoglo/>

⁵⁰ *A billion and void. How prosecutors have been ignoring the "elephant in the room" in an investigation into the theft of the century for five years,* NEWSMAKER, 2020, available at <https://newsmaker.md/rus/novosti/milliard-i-pustota-kak-prokurory-pyat-let-ne-zamechali-slona-v-rassledovanii-krazhi-veka/>

Prosecutor's Office, Viorel Morari, was dismissed from his post. A criminal case was initiated against him on charges of abuse of power and stating false information in official documents. Viorel Morari was accused of misconducting the investigations related to Vladimir Plahotniuc, hence ensuring his protection by discrediting any statements of the witnesses against the oligarch. This was publicly confirmed by the case of Veaceslav Platon, whose statements against Plahotniuc were disqualified as slander and were not checked for accuracy.⁵¹

Fabrication of criminal cases

Law-enforcement agencies controlled by Vladimir Plahotniuc not only confused the traces and led the investigation on a false trail. They also fabricated charges against opponents and critics of Vladimir Plahotniuc who claimed his involvement in the bank fraud.

A criminal case was initiated against Vyacheslav Platon's lawyer Ion Cretu after he accused oligarch Plahotniuc of his involvement in the bank theft. Representing his client's position, Cretu published documents and information about the billion-dollar theft scheme and Plahotniuc's role in it. In July 2018, Cretu was sentenced in absentia to six years in prison. During his forced exile from the country, Cretu reported several attempts on his life. The authorities accused him of "profiting from influence" (Article 326 of the Criminal Code) while exercising his professional activities as a lawyer. In September 2019, the court of appeal sent Cretu's case for review. Likewise, the attorney Eduard Rudenco was amongst those subjected to persecution and defamatory campaigns after he started to defend Veaceslav Platon.⁵²

A criminal case was opened against Anna Ursachi, who was involved in defending the interests of Vladimir Plahotniuc's opponents, and also for defending witnesses against Plahotniuc, in particular Veaceslav Platon. In 2016, the media owned by Plahotniuc launched a campaign to discredit Ursachi. Their stories claimed Ursachi's "involvement in a murder committed 20 years ago". After this, the former General Prosecutor Harunjen had personally signed the ordinance about re-opening the criminal case in order to "establish the extent of Ursachi's involvement in the crime". In 2017, the Moldovan authorities brought another criminal charge against Ursachi for "unlawful acts" "in providing legal advice" in 2012. In March 2018, a Moldovan court granted the prosecutor's motion for Ursachi's arrest.

Human rights organisations⁵³, international legal associations spoke in defence of Ursachi, as well as Members of the European Parliament⁵⁴ and ambassadors of EU Member States to Moldova.

⁵¹ A second criminal case was initiated against Viorel Morari, NEWSMAKER, 12 February 2020, available at <https://newsmaker.md/rus/novosti/protiv-viorela-morarya-zaveli-vtoroe-ugolovnoe-delo/>

⁵² Ramona MANESCU MEP condemns the persecution of lawyers and human rights defenders Ana Ursachi and Eduard Rudenco in Moldova, EPP GROUP, 15 December 2016, available at <https://www.eppgroup.eu/ro/cum-livram-rezultate/statele-membre/romania/stiri/persecution-of-lawyers-and-human-rights-defenders-in-moldova>

⁵³ World report on the situation of human rights defenders, MICHEL FORST, United Nations Special Rapporteur on the Situation of Human Rights Defenders, PROTECTING-DEFENDERS, December 2018 available at <https://www.protecting-defenders.org/sites/protecting-defenders.org/files/UNSR%20HRDs-%20World%20report%202018.pdf?fbclid=IwAR3oVoCf0ERSXtK3cqEeReuZQUGGDISmL6yNmatBBiwOUasVc41RBuGmtOk>

⁵⁴ Influence of Vladimir Plahotniuc over the Moldovan law enforcement authorities. Parliamentary questions, EUROPEAN PARLIAMENT, 13 February 2017, available at https://www.europarl.europa.eu/doceo/document/E-8-2017-000986_EN.html

Her case is mentioned in several written declarations by PACE deputies^{55, 56, 57}, where she was declared one of the "victims of defamatory campaigns and criminal cases, led by Moldovan prosecutor's offices and media outlets, influenced and politicised by oligarch Vlad Plahotniuc".

The case of the Open Dialogue Foundation

The case of the Open Dialogue Foundation, one of the most resonant abroad from the Republic of Moldova, is given as an example of involvement of law institutions and Moldovan secret service in promoting the interests of corrupt politicians.⁵⁸

The human rights organisation was accused, inter alia, of allegedly 'receiving funding' from the money laundered in the theft of a billion.

The Open Dialogue Foundation informed the international public about corruption and political persecution by the Plahotniuc regime.⁵⁹ In October 2018, Plahotniuc's PDM set up a parliamentary commission to investigate "subversive activities" and "interference of the Open Dialogue Foundation in Moldova's internal affairs".

The report⁶⁰ of the parliamentary commission of the Open Dialogue Foundation incriminated, inter alia, the following: "lobbying for the suspension by the European Union of macro-financial assistance to Moldova"; "the approval on 14 November 2018 by the European Parliament of a resolution to toughen the position on Moldova and its institutions"; "the initiation ... PACE members' resolution on the preservation of civil rights in Poland, Moldova and Ukraine"; "illegal funding" of parties.⁶¹ According to the Polish journalists during the writing of the report the Moldovan secret service suggested links between the Open Dialogue Foundation President Lyudmyla Kozlovska and Russian intelligence.⁶² Thus, the Moldovan intelligence service was involved in the preparation of the report.

The report of the parliamentary commission notes that Moldovan politicians, public figures and journalists took part in the "lobbying" campaigns of the Open Dialogue Foundation. In particular, opposition politicians Maia Sandu and Andrei Năstase, the head of StarNet company Alexandru

⁵⁵ *Moldova: political oppression against civil society and key witnesses. Written declaration No. 623*, PACE, 25 January 2017 available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23437&lang=en>

⁵⁶ *The authorities of the Republic of Moldova and Ukraine are urged to cease harassment and political prosecution of pro-reform forces. Written declaration*, PACE, 29 June 2017, available at <https://pace.coe.int/en/files/24308>

⁵⁷ *International obligations of the Republic of Moldova and risks for its credibility abroad. Written declaration*, PACE, 12 October 2017, available at <https://pace.coe.int/en/files/24224>

⁵⁸ *The "Open Dialog" file rigged and filed - Journal of the Week*, JURNAL TV, 6 March 2021, available at <https://www.jurnaltv.md/news/29bd7551be291913/dosarul-open-dialog-trucati-si-clasati-jurnalul-saptamanii-6-martie.html>

⁵⁹ *Report: The authorities of Moldova roll back the democratisation process and fail to fulfill their obligations to the EU*, ANDRIY OSAVOLIUK, IGOR SAVCHENKO, OPEN DIALOGUE FOUNDATION, 17 May 2018, available at <https://en.odfoundation.eu/a/8460/report-the-authorities-of-moldova-roll-back-the-democratisation-process-and-fail-to-fulfill-their-obligations-to-the-eu/>

⁶⁰ *Report of Commission of Inquiry for the elucidation of factual and legal circumstances regarding the interference of the Otworthy Dialog Foundation (Open Dialogue) and its founder Lyudmyla Kozlovska in the internal affairs of the Republic of Moldova and regarding the financing of political parties in the Republic of Moldova*, PARLIAMENT OF THE REPUBLIC OF MOLDOVA, 14 November 2018, available at <http://www.parlament.md/LinkClick.aspx?fileticket=yLkOk8zVnX0%3D&tabid=86&mid=488&language=ro-RO>

⁶¹ "Illegal financing", according to the investigation, consisted of the fact that in May 2017, Foundation paid for plane tickets for Moldovan opposition politicians Maia Sandu and Andrei Năstase for meetings at the European Parliament and the European Commission.

⁶² *Lyudmyla Kozlovska already without charges. Moldova drops charges and closes investigation*, GAZETA PRAWNA, 13 May 2020, available at <https://www.gazetaprawna.pl/wiadomosci/artykuly/1476303,ludmyla-kozlovska-moldavia-zamyka-sledztwo.html>

Machedon, political scientist Alexei Tulbure, journalist Natalia Morari, editor of online media Alexandr Petkov, activist Stefan Gligor, lawyers Ana Ursachi and Eduard Rudenco. It is worth noting that all of them have been involved in criticism of Vladimir Plahotniuc's regime and have previously faced persecution and various cases of pressure. Using the Open Dialogue Foundation case, Vladimir Plahotniuc's regime with the help of tame law enforcement agencies intended to deal with its critics and opponents.

The head of StarNet, Alexandru Machedon, provided financial support to the Open Dialogue Foundation informing the international public about human rights violations in Moldova and the persecution of opposition. The authorities pressured Alexandru Machedon's business - repeatedly tried to deprive 'StarNet' of a license, accusing the company of violating the rules of retransmission. In February 2019, Alexandru Machedon stated that he, as well as his children, wife and relatives, were 'poisoned with a mixture of toxic metals, including mercury'.

The parliamentary report was compiled on the basis of fakes that appeared at different times in pro-government and dubious media as well as false data from social media pages. The former Deputy Secretary of State of the United States George Kent declared, during a visit to Chisinau in 2018, that the parliamentary commission's investigations into the Open Dialogue Foundation and opposition parties DA and PAS are "a form of political pressure. And must be stopped immediately."⁶³

On the basis of the parliamentary report the GPO filed criminal charges against the President of the Republic of Moldova, Lyudmyla Kozlovskaya, for "money laundering" (Art. 243 of the Criminal Code), "espionage" (Art. 338 of the Criminal Code) and "illegal funding of parties" (Art. 181 of the Criminal Code). After Plahotniuc fled, in May 2020, the prosecutor's office closed the criminal case against Kozlovskaya, noting its unsubstantiated and political nature.⁶⁴

2.2 2014 - 2019 - main results of the investigation of banking fraud in Moldova

In December 2014, the prosecutor's office began investigating a bank fraud case. The investigation stretched over many years and, as it turned out, was the final stage in the theft of a billion dollars from the Moldovan banking system. Through the control of investigative authorities and the judiciary, the main beneficiaries of the theft of the billion fabricated the investigation and have so far been able to evade responsibility.

The first defendant in the Billion-Dollar Theft case was Ilan Shor, on whose testimony the investigation was subsequently based. Despite his status as the main defendant, Ilan Shor managed to avoid being imprisoned.

In June 2016, former Prime Minister Vlad Filat was sentenced to nine years in prison. Formally, his case did not involve bank fraud. Filat was accused of "benefiting from influence" (Article 326) and "passive corruption" (Article 324). The charges against Filat were based on the testimony of Shor, who claimed to have paid Filat a large bribe. Because of Filat's corrupt practices, BEM was taken over by Shor's group, which made the bank fraud possible. In December 2019 Vlad Filat was released early.

Shortly after the conviction of Vlad Filat, another important defendant in the Billion-Dollar Theft case came to light - businessman Veaceslav Platon. On 25 July 2016, Platon was detained in Kyiv.

⁶³ The investigation around the Open Dialogue Foundation is a form of political pressure, NEWSMAKERS, 7 December 2018, available at <https://newsmaker.md/rus/novosti/rassledovanie-vokrug-fonda-otkrytyy-dialog-eto-forma-politicheskogo-davleniya-inte-40537/>

⁶⁴ PRESS RELEASE: 9 of 38: The first results of the evaluation of the alleged political files, GENERAL PROSECUTOR'S OFFICE, 9 June 2020, available at <http://www.procuratura.md/md/news/1211/1/8348/>

This happened just hours after the Moldovan authorities put him on the international wanted list. In August 2016, Platon was extradited to Moldova in breach of Ukrainian law.⁶⁵

In his testimony, Shor held Veaceslav Platon fully responsible for organising the fraudulent schemes. He claimed that Platon was the final beneficiary of the companies which had received loans from the Three Banks.

On 20 April 2017, the Buiucani sector court sentenced Veaceslav Platon to 18 years in prison and ordered him to pay damages in the amount of 869 million lei to BEM.⁶⁶ He was found guilty of "fraud on a particularly large scale" (Article 190) and "money laundering" (Article 243). In May 2017, another case against Platon went to court and a month later he was sentenced to 12 years in prison. In 2018, cumulatively, he was sentenced to 25 years in prison.

In June 2017, the criminal case against Ilan Shor came to a conclusion. The prosecutor's office charged Shor with "fraud on a particularly large scale" (Article 190) and "money laundering on a particularly large scale" (Article 243). According to the investigation, Shor caused damage to Three banks in the amount of about 5.3 billion lei. This amount was confirmed by the findings of Kroll experts. The prosecution requested that Ilan Shor be sentenced to 19 years in prison. According to the indictment, the defendant allegedly persuaded the members of the BEM Board of Directors to vote for the lending of his companies, concealing that he is their de facto owner.⁶⁷

In June 2017, the Buiucani sector court issued a verdict against Ilan Shor. Judge Andrei Nikulcha agreed with Shor's defence arguments and reclassified the charges against Shor to "causing property damage on a particularly large scale" (Article 196). These charges were more lenient than those brought by the prosecution, and Shor was sentenced to 7.5 years in prison. However, Shor did not actually serve his sentence because his lawyers appealed his conviction and he was to remain out of jail until the final verdict was handed down. The appeal in Shor's case is still pending. In June 2019, he left Moldovan territory and fled from punishment.

The prosecution also demanded to recover damages of 5.3 billion lei from Ilan Shor. However, the court ruled that the claim to recover the money should be considered separately and as a civil action by the BEM against Shor.

Thus, Ilan Shor, who according to the Kroll investigation was one of, if not the only beneficiary of the theft of a billion, and the key defendant in the case of the theft of a billion, was able to avoid imprisonment. Despite the convictions, the Moldovan authorities were not able to recover any lei stolen from the country's banking system.

In line with the EU's requests, in February 2017, the Agency for the Recovery of Criminal Assets (ARBI) was created, with the purpose of carrying out parallel financial investigations. Yet, there was an attempt to change the law in July 2018 in order to subordinate ARBI to the State Tax Service.⁶⁸ While the amendment did not pass, the former regime managed to paralyse the activities of the ARBI for a crucial period of time. Upon our request of information, the Agency did

⁶⁵ *Ukraine assists post-Soviet states with the persecution of political opponents and refugees*, IGOR SAVCHENKO, ANDRIY OSAVOLIUK, KATERYNA SAVCHENKO, OPEN DIALOGUE FOUNDATION, 12 December 2016, available at <https://en.odfoundation.eu/a/7978,ukraine-assists-post-soviet-states-with-the-persecution-of-political-opponents-and-refugees/>

⁶⁶ *Take your seat. How Veaceslav Platon was sentenced*, NEWSMAKER, 20 April 2017, available at <https://newsmaker.md/rus/novosti/sest-imeyu-kak-prigovarivali-vyacheslava-platona-30958/>

⁶⁷ *Details of the decision by which Shor was convicted in the first instance. The reason why the judge accepted the reclassification of the accusation*, ZIARDUL DE GARDA, 18 May 2020, available at <https://www.zdg.md/stiri/stiri-justitie/detalii-din-decizia-prin-care-sor-a-fost-condamnat-in-prima-instanta-motivul-pentru-care-judecatorul-a-acceptat-recalificarea-invinuirii/>

⁶⁸ During the interview, Veaceslav Negruta explained that this was a direct attempt to delay the process of assets recovery initiated by Andrian Candu, Plahotniuc's close ally.

not answer the majority of the question due to the principle of confidentiality. Still, a current figure of the total value of the seized goods was provided: 2 288 766 078.26 lei.⁶⁹ It is important to mention that the Agency is responsible for only two stages of the process of recovering the criminal assets, namely, following the criminal assets and the collection of evidence and making the assets unavailable. The other two - seizure of assets and repairing the damage as well as the return of goods - are related to the competences of the courts.

Vladimir Plahotniuc is the main beneficiary of the theft of the century

On 10 June 2019 Parliamentary Commission of Inquiry was established to elucidate all the circumstances of the robbery of the banking system of Moldova and the investigation of bank fraud (Slusari Commission). The Commission consisted of 9 members of the Parliament, headed by MP from the Dignity and Truth Platform Political Party Alexandru Slusari. The establishment of the Slusari Commission was facilitated by the political situation in Moldova: the government of Maia Sandu was formed on 8 June 2019 and the situational coalition of the Party of Socialists of the Republic of Moldova and the ACUM bloc was active in parliament.

In June 2019, as the political situation in Moldova changed, Vladimir Plahotniuc fled the country. Almost simultaneously with him, Ilan Shor left Moldova.

The Slusari Commission's efforts were aimed at gaining access to the second Kroll report and other documents related to the theft of the billion. The Commission was also supposed to cooperate with state authorities who were involved in the investigation into the theft of the billion or were otherwise involved in the case.

It was thanks to the efforts of the Slusari Commission that a second Kroll report with a list of the final beneficiaries of the bank fraud was obtained. The Commission was only able to obtain the report after the third request. The report revealed that Vladimir Plahotniuc was also on the list of beneficiaries.

On 10 October 2019 the report of the Slusari Commission was approved. According to the Commission's findings, **more than one billion USD may have been stolen** from the Moldovan banking system in connection with the fraud. The bank fraud had serious consequences for the economy of Moldova. In the period from 1 November 2014 to 18 February 2015, the national currency depreciated with 42,2% leading to a currency crisis. The annual inflation in February 2015 was 10,2 %, a double increase compared to 2014.

The process of plundering the banking system was a well-prepared and coordinated operation with politicians and state officials. The theft of the billion was made possible by the collusion of ex-Prime Minister Vlad Filat and Vladimir Plahotniuc and was carried out with the help of companies affiliated with Ilan Shor. The Slusari Commission report names Vlad Filat, Vladimir Plahotniuc, Ilan Shor and businessman Veaceslav Platon as the main beneficiaries of the bank fraud.

According to the Commission's findings, the looting plan was carried out in stages, persevering, starting with 2011. In the period 2011-2012 an attack plan on BEM was already orchestrated with the aim to ensure the control package on BEM. For realising these plans, judges, the NBM and the National Commission on the Financial Market were implicated. In the second half of 2012, this process took place on the background of Filat Government's really passive position.

The Prosecutor's Office during 2015 to 2019, practically sabotaged the investigation on the banking fraud, initiating segmented criminal cases on many episodes, without any systemic and

⁶⁹ Annex 4 - Official answer Agency for the Recovery of Criminal Assets, 1 April 2021.

integrated approach. Only on 9 August 2019, a cumulative criminal case on bank fraud regarding the existence of a criminal group was initiated.

The Slusari Commission's investigation focused on the events that took place between 2011 and 2014. One of the recommendations of this report was the creation of the second Commission which would investigate the situation after November 2014, but this initiative was blocked by the new majority in the parliament⁷⁰. Thus, the current parliamentary majority continues to obstruct the investigation.

2.3 2019 - present - Prosecutor Stoianoglo: corrupt legacy of the former regime within the Moldovan judiciary & current political pressure

Despite former president Dodon⁷¹ and the Chicu government's commitment⁷² to shed light upon this case and push for progress in investigations, the citizens are still left in the dark. Progress was promised with the arrival of Alexandr Stoianoglo at the head of the General Prosecutor's Office on 29 November 2019. Still, the prosecutor's office—which assured that it will independently inform the public about the progress of its investigations—shows reluctance in sharing information. This lack of transparency gives room for speculation and controversial declarations from third parties instead of promised effective communication from state institutions. Our findings reiterate that the Prosecutor's Office is challenged by difficulties in achieving a fine balance between confidentiality and transparency.

In the beginning of his term, Stoianoglo outlined the need for audits at the Anti-Corruption Prosecutor's Office and the Prosecutor's Office for Combating Organised Crime and Special Cases (PCCOCS). On 20 January 2020, Stoianoglo made the results public and concluded that "the potential of the specialized prosecutor's office is used to document minor cases, only in order to create favorable statistical indicators[...] and as a consequence, large-scale corruption, the significant cases, remain inactive and gather dust in safes, having no resolution for years."⁷³ To exemplify, the General Prosecutor explained that during the period 2016-2019, the investigations of a bank fraud in 2014 were carried out by a group of six prosecutors. In contrast, regarding a case started on an allegation of money laundering, the former chief prosecutor of the Anticorruption Prosecutor's Office Viorel Morari ordered the formation of a criminal investigation group consisting of forty five people.⁷⁴

Moldova's external partners have greatly contributed to and invested in the strengthening of the two subdivisions' functional capacities in recent years. Yet, the unprecedented human rights abuses that were committed by the Anti-Corruption Prosecutor's Office and PCCOCS under the guise of the fight against corruption and organised crime cannot go unnoticed. Therefore, the General Prosecutor Stoianoglo pledged that under his leadership the office's work would be strictly guided by legal provisions and democratic values, and would ensure the normal functioning of the institution by initially fighting corruption within the prosecutor's office. The investigation of the Billion-Dollar Theft was declared as a priority in the institution's activity and the focus of its

⁷⁰ The PSRM alliance, which supported former president Igor Dodon, and the Democratic Party of Moldova, formerly led by Vladimir Plahotniuc.

⁷¹ *Igor Dodon presents figures on recovering money from "billion theft"*, ZIARUL DE GARDA, August 2020, available at <https://www.zdg.md/importante/igor-dodon-prezinta-cifre-despre-recuperarea-banilor-din-furtul-miliardului/>

⁷² *Chicu, on the theft of the billion: It will be jointly investigated with Latvian prosecutors*, TV8, June 2020, available at <https://tv8.md/2020/06/24/chicu-despre-furtul-miliardului-va-fi-investigat-in-comun-cu-procurorii-din-letonia/>

⁷³ *Statements by the General Prosecutor, Alexandr Stoianoglo, during the press conference on the results of the controls performed at the Anticorruption Prosecutor's Office and PCCOCS*, THE GENERAL PROSECUTOR'S OFFICE, January 2020, available at <http://procuratura.md/md/newslist/1211/1/8211/>

⁷⁴ Ibid.

entire institutional potential. Stoianoglo also declared the institution's openness for dialogue with Moldova's external development partners.

In May 2020, Stoianoglo followed up on his great aspirations by sharing the evolution of investigations on the Billion-Dollar Theft.⁷⁵ The Prosecutor explained the delay in publishing the Kroll 2 report through the fact that it concerned the Plahotniuc group, and the former regime was relentlessly trying to avoid any official mention. Yet, by analysing all the materials of the case, some of which were intentionally ignored and left without legal assessment, the active involvement of the Plahotniuc group in bank fraud was confirmed. Therefore, the file regarding Veaceslav Platon was declared by Stoianoglo as "completely falsified".

In Plahotniuc's case, an estimated USD one hundred million-plus was directed to the purchase of a package of shares in a bank and several buildings. Likewise, upon the tracing of the money received from the loans from BEM, it was found that the funds were used by Plahotniuc "for personal purposes or by companies affiliated with him for the purchase of an airplane, the payment of personal charter flights, as well as payments to his entourage".⁷⁶ Based on these findings, a new indictment was adopted regarding Plahotniuc.

On 18 May 2020, three charges were filed: the creation of a criminal organization, fraud and money laundering, both on a grand scale. On the same day, at the request of the prosecutor from the PCCOCS, an arrest warrant for 30 days was issued for Vladimir Plahotniuc by the Chisinau Court, Ciocana Headquarters.⁷⁷ Afterwards, an extradition request⁷⁸ was sent to the competent authorities of the United States of America in order to hold him accountable in the Republic of Moldova. By making reference to the "state capture" period during which the society and state structures were paralyzed by fear and lies, Stoianoglo declared that the facts presented were obvious, yet no one dared to objectively investigate them until now.⁷⁹

Still, on 23 July 2020, the Commission of the Control of Interpol's Files informed the General Prosecutor's Office that it refused to include the former PDM leader, Vladimir Plahotniuc, in the list of persons announced in the international search and decided to delete his data from the Organization's databases.⁸⁰ As the reasons were not cited, the General Prosecutor's Office officially questioned the decision and committed to continue with the provision of evidence and additional arguments in each case of refusal from the partners with the aim to convince them that the accused is one of the beneficiaries of the Billion-Dollar Theft.

At the same time, the Anticorruption Prosecutor's Office and the PCCOCS had sent two requests for rogatory commission to their American colleagues in order to gather the necessary evidence to confirm the accusations brought against Vladimir Plahotniuc, to identify and freeze criminal assets, and to recover the damage caused by banking fraud.

On 12 October 2020, the Prosecutor's Office declared that Plahotniuc's properties estimated at over 160 million lei, are to be seized by the authorities in Romania, France and Switzerland; all the

⁷⁵ *The speech of the General Prosecutor, Alexandr Stoianoglo, during the press briefing*, THE GENERAL PROSECUTOR'S OFFICE, May 2020, available at <http://procuratura.md/md/newsst/1211/1/8322/>

⁷⁶ Ibid.

⁷⁷ *PRESS RELEASE: PCCOCS prosecutors obtained an arrest warrant in the name of Vladimir Plahotniuc*, THE GENERAL PROSECUTOR'S OFFICE, May 2020, available at <http://www.procuratura.md/md/newsst/1211/1/8328/>

⁷⁸ *PRESS RELEASE: The Prosecutor's Office of the Republic of Moldova requests the extradition of Vladimir Plahotniuc*, THE GENERAL PROSECUTOR'S OFFICE, April 2021, available at <http://www.procuratura.md/md/newsst/1211/1/8357/>

⁷⁹ *The speech of the General Prosecutor, Alexandr Stoianoglo, during the press briefing*, THE GENERAL PROSECUTOR'S OFFICE, May 2020, available at <http://procuratura.md/md/newsst/1211/1/8322/>

⁸⁰ *Breaking! Interpol refuses to announce in international search the former PDM leader, Vladimir Plahotniuc*, ZIARUL DE GARDA, July 2020, available at <https://www.zdg.md/stiri/stiri-justitie/ultima-ora-interpol-a-refuzat-anuntarea-in-cautare-internationala-a-fostului-lider-pdm-vladimir-plahotniuc/>

necessary documents were already submitted to the relevant authorities.⁸¹ It is important to mention that initially, in June 2020, the Anticorruption Prosecutor's Office submitted to the Chisinau Court, Ciocana Headquarters, six requests regarding the application of the seizure on the goods, whose effective beneficiary is Vladimir Plahotniuc, out of which only one was admitted⁸², covering only his assets within the territory of Moldova. This fact highlights the suspicious actions of judges allegedly aimed at delaying progress and protecting the beneficiaries.

On numerous occasions, Stoianoglo reported on the obstacles prosecutors faced in the arrest, in absentia, of Plahotniuc⁸³, in the seizure of his properties⁸⁴, in the authorization of searches of the former headquarters of the PDM and the arrest of persons involved in bank fraud.⁸⁵ In August 2020, the General Prosecutor openly declared that some magistrates "continue to serve the interest of Plahotniuc's group".⁸⁶ The situation was further elucidated in February 2021, when Stoianoglo announced that in the case of the Billion-Dollar Theft "no procedural action which was dependent on the magistrates passed without at least some obstruction from them".⁸⁷ In this regard, among the most common impediments there were artificial delays in examining prosecutors' requests and taking clearly illegal decisions.

Stoianoglo reiterated that judges are directly interfering in the activity of the Prosecutor's Office by obstructing the investigations which target exclusively Plahotniuc, Shor and their entourage's interests. He explained that they "annul the ordinances of the prosecutors to start the criminal investigation or to indict the persons in question, force the prosecutors to stall cases, and, even more striking, they annul orders to separate cases from the broader investigation in order to be sent to court" (hence prolonging the classification of the materials).⁸⁸ It is important to mention that, as of this writing, our research found that only three cases were sent to court; the competent authorities refused to provide an official number. Yet, all our respondents outlined that these cases are minor ones, not really substantial in proportion to the stolen billions. Moreover, they do not target the main beneficiaries.

Besides non-cooperation of the judges, the General Prosecutor reported intensified political attacks on his office in the context of "substantial progress in investigations".⁸⁹ He emphasised the institution's independence and condemned any attempts by political and economic circles to influence the GPO's activities. Also, he directly addressed the Moldovan politicians reminding

⁸¹ PRESS RELEASE: *The foreign properties of the former PDM leader will be SEIZE*, THE GENERAL PROSECUTOR'S OFFICE, October 2020, available at <http://procuratura.md/md/news/1211/1/8440/>

⁸² PRESS RELEASE: *Seizure of Vladimir Plahotniuc's real estate in the Republic of Moldova*, THE GENERAL PROSECUTOR'S OFFICE, May 2020, available at http://www.procuratura.md/md/news/1211/1/8336/?fbclid=IwAR07vki0PKFy2i884ZEYUzA0ht1Y9I3_vp2gCU_9DWzGO_rJ4MMmM8O3WRCO

⁸³ *Last minute / Prosecutors demand arrest warrant on Plahotniuc's name in a new criminal case in which he is accused on three counts*, ZIARUL DE GARDA, May 2020, available at <https://www.zdg.md/stiri/stiri-justitie/ultima-ora-procurorii-cer-mandat-de-arestare-pe-numele-lui-plahotniuc-intr-un-nou-dosar-penal-in-care-este-invinuit-pe-trei-capete-de-acuzare/>

⁸⁴ *Plahotniuc's villas in Switzerland, France and Romania, as well as 9 apartments, registered in his wife's name, will be seized*, ZIARUL DE GARDA, October 2020, available at <https://www.zdg.md/importante/vilele-lui-plahotniuc-din-elvetia-franta-si-romania-dar-si-9-apartamente-inregistrate-pe-numele-sotiei-acesteia-vor-fi-sechestrare/>

⁸⁵ *The six suspects detained in the bank fraud case were placed under house arrest*, NEWSMAKERS, December 2020, available at <https://newsmaker.md/ro/cei-sase-suspecti-retinuti-in-dosarul-frauda-bancara-au-fost-plasati-in-arest-la-domiciliu/>

⁸⁶ *The speech of the General Prosecutor, Alexandr Stoianoglo, delivered during the press briefing*, THE GENERAL PROSECUTOR'S OFFICE, August 2020, available at <http://www.procuratura.md/md/news/1211/1/8406/>

⁸⁷ *The speech of the General Prosecutor, Alexandr Stoianoglo, within the event of totalization of the activity of the Prosecutor's Office for the year 2020*, THE GENERAL PROSECUTOR'S OFFICE, February 2021, available at <http://www.procuratura.md/md/news/1211/1/8518/>

⁸⁸ Ibid.

⁸⁹ *The appeal in connection with the political attacks on the independence of the Prosecutor's Office*, THE GENERAL PROSECUTOR'S OFFICE, January 2021, available at <http://www.procuratura.md/md/news/1211/1/8491/>

them about the importance of the judicial and legal debate, rather than the creation of political controversies. Recently, rumours began to circulate that Stoianoglo would be dismissed. In this context, he declared that “there are also people in Parliament involved in the Billion-Dollar Theft case and who are representing Shor and Plahotniuc’s interests, and that their goal is to discredit him and to remove him from the leadership of the Prosecutor’s Office”.⁹⁰

Denis Cenușă, a political expert, pointed out that the institution Stoianoglo is leading is under enormous pressure for genuinely pursuing the case. The expert claimed that pro-reform political forces, external partners and the Presidency should defend the institutions which make up the rule of law ecosystem. Hence, it is imperative for the attacks on the organisational autonomy of the Prosecutor’s Office to be met by messages of support instead of public pressure.⁹¹

Against this background, during the last year some steps have been observed towards progress in bringing those responsible to justice. On 5 March 2020, the GPO announced the detention and trial of Emma Tabârță, Aureliu Cincilei, Ion Sturzu and Dorin Drăguțan, all were at the NBM leadership during the Billion-Dollar Theft.⁹² Also, the former special administrator of the Banca de Economii, who also serves as department head of the NBM - Ion Ropot - was detained on 11 March 2020 and subsequently placed in custody. He is currently being investigated by the PCCOCS for “abuse of office” in the management of bank guarantees granted by the National Bank of Moldova to the three banks involved in the theft.⁹³

Prior to the arrests, law enforcement officers conducted searches at the NBM, in the “banking fraud” case. In May 2020, Stoianoglo explained that the institution he is leading asked NBM to provide the information needed for the investigation but it was hindered by misunderstanding and even some resistance from NBM.⁹⁴ Under such circumstances, they resorted to confiscating some documents themselves. Likewise, the General Prosecutor explained that until 2019, NBM was outside the scope of the investigation despite it being “directly responsible for monitoring the activity of banks that have long had suspicious financial indicators”.⁹⁵

In early December 2020, the former president of BEM, Viorel Bârcă, was detained, along with five other people, including former leaders of the three banks - BEM, UB and BS - as well as representatives of the Shor holding company.⁹⁶ The former interim President of BEM appears on the dock for large-scale embezzlement of foreign assets. On 15 March 2021, the Anticorruption Prosecutor's Office finalized and submitted his indictment⁹⁷, the criminal case being separated from the broader bank fraud inquiry. On 24 March 2021, the Anticorruption Prosecutor's Office announced that a new indictment for bank fraud was sent to court. This time, Viorel Bârcă and Ion

⁹⁰ *Stoianoglo says who would be behind the unrest over his dismissal*, STIRI, March 2021, available at <https://stiri.md/article/politica/stoianoglo-spune-cine-ar-sta-in-spatele-agitatiei-privind-demiterea-lui>

⁹¹ Consultations with Denis Cenușă.

⁹² *The Prosecutor General agreed to detain four people from the NBM leadership*, AGORA, March 2020, available at <https://agora.md/stiri/67800/procurorul-general-a-dat-acceptul-pentru-retinerea-a-patru-oameni-din-conducerea-bnm>

⁹³ *Bank Fraud // The NBM employee, Ion Ropot, and the former interim president of BEM, Bîrcă, allegedly stole 10 million dollars and 8 million euros*, ANTICORUPTIE, March 2021, available at <https://anticoruptie.md/ro/dosare-de-coruptie/frauda-bancara-angajatul-bnm-ion-ropot-si-fostul-presedinte-interimar-al-bem-birca-ar-fi-sustras-10-milioane-de-dolari-si-8-milioane-de-euro>

⁹⁴ *National bank simply moved away from investigating theft of billion stoianoglo about bnm searches*, NEWSMAKERS, May 2020, available at <https://newsmaker.md/ro/banca-nationala-pur-si-simplu-s-a-indepartat-de-la-investigarea-furtului-miliardului-stoianoglo-despre-perchezitiile-de-la-bnm/>

⁹⁵ Ibid.

⁹⁶ *New Accusation in the Billion-Dollar Bank Fraud*, ZDG, 24 March 2021, available at <https://www.zdg.md/en/?p=6696>

⁹⁷ *PRESS RELEASE: Detained four months ago in the “bank fraud” case, ex-President of BEM, sent to court today*, THE GENERAL PROSECUTOR’S OFFICE, 15 March 2021, available at <http://procuratura.md/md/news/1211/1/8529/>

Ropot are accused of conducting a major "scam" in the interest of a criminal organization.⁹⁸ While it was officially announced that the prosecutors instituted the seizure of five properties belonging to the defendants—with their possible confiscation for the benefit of the state in order to recover the damage caused by the crime—the official requests of information regarding the current value of the seized assets was denied by the GPO.

On 19 March 2021, General Prosecutor Stoianoglo requested the lifting of parliamentary immunity of two MPs from the Shor Party, one of whom, Denis Uralov, is suspected to be involved in the 2014 bank fraud.⁹⁹ His actions are being investigated as a "scam" and "money laundering" with both crimes committed on a grand scale and in the interests of a criminal organisation. Uralov's immunity was lifted on 22 March 2021 after a majority in the Parliament voted in favour, and on 24 March 2021, Uralov was indicted.¹⁰⁰ The Anticorruption Prosecutor's Office held the hearing in the presence of the defendant and his lawyer. The prosecutors filed a pre-trial detention request of the defendant for 30 days, but the Chisinau Court, Ciocana Headquarters decided to release him under judicial control for the same amount of time. The GPO considers this decision as illegal and announced it will contest it.¹⁰¹

Importantly, at the initiative of the General Prosecutor, the Superior Council of Magistracy decided in September 2020 that the files regarding the Billion-Dollar Theft will be examined by two panels of specialized judges, set up at the Chisinau Court, Buiucani Headquarters.¹⁰² Stoianoglo highlighted the importance of this by the fact that the Anticorruption Prosecutor's Office and PCCOCS are presently managing several criminal cases involving corruption and related charges, and some of them are in advanced stages of completion, including, but not limited to, episodes which are an integral part of the Billion-Dollar Theft case. Therefore, in his opinion, it is imperative that once sent to court, the cases "are examined competently and at an accelerated pace by panels of specialized judges".¹⁰³ In other words, the recent cases which were sent to court will already be examined by special judges.

2.4 Moldovan Judiciary - between politicization and reformation

It is crucial for a fair and functioning society that the rule of law prevail, as it reduces poverty and corruption, yet Moldova's progress is slow. Moldova's citizens are calling for development, accountable government and respect for fundamental rights. Yet, the worrying tendencies observed in recent years in regard to the rule of law remain unaddressed.

The latest example of an attack by certain political groups on the rule of law was the vote on 23 April 2021 by MPs from PSRM¹⁰⁴ and the Shor party¹⁰⁵ on a vote of no confidence against judges

⁹⁸ PRESS RELEASE: A new episode of "bank fraud" sent to court. As defendants: ex-President, together with the special administrator of BEM, THE GENERAL PROSECUTOR'S OFFICE, 24 March 2021, available at <http://www.procuratura.md/md/newslst/1211/1/8538/>

⁹⁹ PRESS RELEASE: The Prosecutor General asks the Parliament for approval lifting the immunity of two Members concerned in resonance cases, THE GENERAL PROSECUTOR'S OFFICE, 19 March 2021, available at <http://www.procuratura.md/md/newslst/1211/1/8533/>

¹⁰⁰ PRESS RELEASE: Prosecutors are requesting 30 days of arrest for the accused deputies in resonance cases, THE GENERAL PROSECUTOR'S OFFICE, 24 March 2021, available at <http://procuratura.md/md/newslst/1211/1/8541/>

¹⁰¹ PRESS RELEASE: The court decided to investigate the deputies at large, THE GENERAL PROSECUTOR'S OFFICE, 25 March 2021, available at <http://procuratura.md/md/newslst/1211/1/8542/>

¹⁰² Stoianoglo demands the establishment of panels of judges specialized in examining cases aimed at stealing the billion, NEWSMAKERS, 30 September 2020, available at <https://newsmaker.md/ro/stoianoglo-cere-instituirea-completelor-de-judecatori-specializati-in-examinarea-dosarelor-ce-vizeaza-furtul-miliardului/>

¹⁰³ Ibid.

¹⁰⁴ Socialist Party led by former president Igor Dodon.

¹⁰⁵ Led by Ilan Shor - one of the main beneficiary of the 2014 banking fraud.

of the Constitutional Court Domnica Manole, Nicolae Roșca and Liuba Șova. Earlier, these judges, as a response to the appeal of President Maia Sandu, stated that there were grounds for dissolution of the parliament. Even more, parties PSRM and Șor also voted for the withdrawal of the Parliament's decision by which Domnica Manole was appointed judge at the Constitutional Court.

High Representative of the European Union Josep Borrell referred to this voting as “a blatant attack on the constitutional order of the Republic of Moldova” and called on the Moldovan authorities to “respect the role of the Constitutional Court as the “gatekeeper of the Constitution”, even when they are dissatisfied with its decisions”.¹⁰⁶ European Council President Charles Michel, European Commission President Ursula von der Leyen and Venice Commission President Gianni Buquicchio are also concerned about this attack on the rule of law and called on Moldovan politicians to respect the Constitution.

The country is struggling to reform the justice and anti-corruption sectors, and the prevalent feeling in society is that law enforcement bodies investigate criminal cases on demand. The notion of “selective justice” is increasingly under scrutiny and the citizens believe that justice is mainly influenced by the government, personal enrichment interests, and political interests.¹⁰⁷

Despite the constant calls for judicial reforms, until now, the majority of Moldovan governments manage to commit only on paper. The European Union, the Council of Europe and the EU-Moldova Civil Society Platform have been continuously highlighting the urgent need for tangible results in this regard. Indeed, corruption, conflicts of interest and the politicization of state institutions are longstanding issues in the Republic of Moldova. Yet, trends of selective justice have become increasingly visible in recent years.

Plahotniuc's regime was based on the control of the Moldovan judiciary, as it was important to subordinate political decision-makers and business people as well as law enforcement bodies. Their cooperation was remunerated by the promise of impunity from the judiciary as well as financial benefits.¹⁰⁸ In the case of disobedience, court proceedings based on real or fabricated evidence could follow. Hence, the period of “state capture”¹⁰⁹ had a big impact on the rule of law in Moldova as well as its democratic development. Despite the controversial oligarch who was behind the legal capture being a fugitive now, the features of a politicized and corrupt judiciary are still evident. The judicial system remains characterized by nepotism, selective enforcement, and judges with luxurious income despite relatively low official wages.¹¹⁰

A Freedom House report¹¹¹ explained the process of selectivity by monitoring a number of cases, among them four allegedly connected to the Billion-Dollar Theft, and found different legal approaches applied to them. The monitoring carried out between 1 February and 31 July 2019,

¹⁰⁶ Moldova: Statement by the High Representative Josep Borrell on the parliamentary vote against the Constitutional Court, EEAS, 23 April 2021, available at https://eeas.europa.eu/headquarters/headquarters-homepage/97191/moldova-statement-high-representative-josep-borrell-parliamentary-vote-against-constitutional_en

¹⁰⁷ *Evaluation study of the impact of the national integrity and anti-corruption strategy - Moldova 2017*, UNDP, CIVIS, 2018, available at <http://www.md.undp.org/content/dam/moldova/docs/Publications/studiu%20Civis%20CNA.pdf>

¹⁰⁸ *Moldova: from oligarchic pluralism to Plahotniuc's hegemony*, OSW COMMENTARY, April 2016, available at https://www.osw.waw.pl/en/publikacje/osw-commentary/2016-04-11/moldova-oligarchic-pluralism-to-plahotniucs-hegemony#_ftn16

¹⁰⁹ *State Capture: the case of the Republic of Moldova*, TRANSPARENCY INTERNATIONAL – MOLDOVA, ADEPT, IDIS “VIITORUL” and the LRCM, June 2017, available at <http://www.transparency.md/2017/06/16/state-capture-the-case-of-the-republic-of-moldova/>

¹¹⁰ *Moldova: the Captured State on Europe's Edge*, CHATHAM HOUSE, March 2017, available at <https://www.chathamhouse.org/2017/03/moldova-captured-state-europes-edge>

¹¹¹ *Report on Monitoring the Selectivity of Criminal Justice*, FREEDOM HOUSE, 2019, pp. 26-47, available at https://freedomhouse.org/sites/default/files/2020-02/Judicial_Integrity_Selective-Criminal_Justice_ENGLISH_FINAL.pdf

revealed that Ilan Shor, who is accused of large-scale fraud and money laundering while he was BEM's Chairman of the Board of Directors, benefited from preferential treatment. During the period when state institutions had been captured by Plahotniuc, Shor was considered to be in a partnership with the PDM government. On the other hand, the behaviour of prosecutors and judges in the cases of Vlad Filat and Chiril Lucinschi—accused of large-scale money laundering—and Veaceslav Platon, additionally accused of fraud committed by an organized criminal group and highly active corruption, was extremely different. Variations were observed in preventive arrests and provisional detention conditions, the delay in examination of the cases, the confiscation of assets, the punitive measures requested by the prosecutors and the penalties imposed by the court.

While it can be argued that the period monitored in the report was a transitional one, and the General Prosecutor in charge at that time was affiliated with PDM, the problems in the justice system are still very much present even now. The new General Prosecutor Alexandr Stoianoglo outlined the lack of cooperation from courts and other state institutions in major corruption investigations. He declared that the cases connected with these notorious fugitives, as the press calls them, Vladimir Plahotniuc and Ilan Shor as well as their relatives who appear in the investigation of bank fraud, are being suspiciously blocked in court by some magistrates.

Veaceslav Negruta, an expert on this topic, explained that when evaluating the current progress, it is important to understand the presence of Plahotniuc in the judicial system. He highlighted that we can expect total non-cooperation from the judges once the prosecutors send a case to court despite them being minor and not reaching the main beneficiaries. Negruta pointed out that this could be explained by the attempts of the beneficiaries to protect—through their influence on judges—the ones at risk of changing sides and denouncing them.¹¹² General Prosecutor Stoianoglo also outlined that the work of prosecutors loses its purpose if constructive dialogues with the courts cannot be built, claiming that this illustrates the current situation.¹¹³

Systematically, the prosecutors and judges are accusing each other of obstructing certain important cases, in particular those involving political connections and high corruption. The most recent example is the exchange of accusations between the General Prosecutor and Judges of Chisinau Court, Ciocana Headquarters in February 2021. The former invoked the dubious interest of the courts to block the specific procedural-criminal actions related to the banking fraud cases.¹¹⁴ In response, several magistrates from the Chisinau Court, Ciocana Headquarters, claimed that the General Prosecutor Stoianoglo had been misinformed by his subordinates.¹¹⁵ Meanwhile, both the judges and the prosecutors are perceived as the most corrupt officials, and the continuous lack of tangible progress in the investigations of the Billion-Dollar Theft during six years only exacerbates the feeling of mistrust. According to the General Prosecutor, it is up to the professional in the field

¹¹² Interview with Veaceslav Negruta.

¹¹³ *The attorney general accuses the judges of blocking bank fraud cases*, RFE/RL's MOLDOVAN SERVICE, February 2021, available at <https://moldova.europalibera.org/a/procurorul-general-%C3%AEi-acuz%C4%83-pe-judec%C4%83tori-c%C4%83-ar-bloca-dosarele-fraudei-bancare/31123840.html>

¹¹⁴ *The speech of the General Prosecutor, Alexandr Stoianoglo, within the event of totalization of the activity of the Prosecutor's Office for the year 2020*, THE GENERAL PROSECUTOR'S OFFICE, February 2021, available at <http://www.procuratura.md/md/newslst/1211/1/8518/>

¹¹⁵ *Several judges accuse the prosecutor general of being misinformed by his subordinates: "Put procedural impotence on the shoulders of the courts"*, AGORA, March 2021, available at <https://agora.md/stiri/84767/mai-multi-judecatori-acuza-ca-procurorul-general-ar-fi-dezinformat-de-catre-subalternii-sai-plaseaza-impotenta-procesuala-pe-umerii-instantelor>

of justice to regain the trust of the citizens as they are the ones responsible for creating this perception.¹¹⁶

Upon our consultations with local civil society representatives, one of the main problems identified in their ability to monitor high profile cases such as the 2014 bank fraud is the lack of access to information. Center for Policy and Reforms (CPR) outlined that often the requests for information are denied because of confidentiality issues.¹¹⁷ It is important to note that such an argument from the investigative bodies is legally valid because most of the cases have not reached court yet. The majority of our respondents pointed that such a considerable delay can be caused by two factors: the involvement of persons loyal to Plahotniuc in the current judicial system or the difficult process of overturning the five-years' worth of efforts to deliberately mislead the investigation which the GPO is trying to remedy at the time of reporting.

Still, despite our official requests for information sent to the Anti-Corruption Prosecutor's Office¹¹⁸ and the Prosecutor's Office for Combating Organised Crime and Special Cases (PCCOCS)¹¹⁹, those offices reiterated the position of local NGOs. Due to the confidentiality clause we were not provided answers to many important questions. For instance, it was impossible to receive a concrete number of the criminal cases which have been sent to courts so far nor the amount recovered from the damage caused to the state following this fraud (a partial sum was provided by ARBI¹²⁰). Additionally, the GPO — the competent institution to achieve the objectives set in the Agreement on Joint Cooperation between Moldova and Eurojust¹²¹ refused to provide any information about the latest developments as well as official clarifications regarding the procedures in place for ensuring the recovery and possible confiscation/repatriation of disputed financial assets abroad.¹²²

In parallel, during our interview, Alexandru Slusari outlined that among the recommendations of his parliamentary commission on this subject, there was a request for "declassification of all materials with reference to the embezzlement of the banking system to such an extent that the course of the investigation would not be prejudiced".¹²³ This recommendation, together with that regarding the creation of the second commission which would investigate the situation after November 2014 (the Slusari Commission was limited in time to 2011 - 2014) were the only ones which were ignored by the competent authorities. While the creation of the second commission was not possible due to the change in the parliamentary majority, the declassification was excused by the pretext that the large amount of materials involved would require a lot of time.¹²⁴

Another concern highlighted by civil society is the statute of limitation due to which recent examples showed that two convicted judges in a separate bank fraud case—the "Laundromat"—

¹¹⁶ *The attorney general accuses the judges of blocking bank fraud cases*, RFE/RL's MOLDOVAN SERVICE, February 2021, available at <https://moldova.europalibera.org/a/procurorul-general-%C3%AEi-acuz%C4%83-pe-judec%C4%83tori-c%C4%83-ar-bloca-dosarele-fraudei-bancare/31123840.html>

¹¹⁷ Interview with representatives of CPR.

¹¹⁸ *Annex 2 - Official answer: Anti-corruption Prosecutor's Office* (23 March 2021).

¹¹⁹ *Annex 3 - Official answer: PCCOCS* (11 March 2021).

¹²⁰ *Annex 4 - Official answer: Agency for the Recovery of Criminal Assets* (1 April 2021).

¹²¹ *Law nr. 113 from 28.05.2015 about the ratification of the agreement between Republic of Moldova and Eurojust*, PARLIAMENT OF THE REPUBLIC OF MOLDOVA, 2015, available at <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=359353>

¹²² *Annex 1 - Official answer: General Prosecutor's Office* (17 March 2021)

¹²³ *Report of the Commission of Inquiry to elucidate all the circumstances of the robbery of the banking system of the Republic of Moldova and the investigation of bank fraud*. PARLIAMENT OF THE REPUBLIC OF MOLDOVA, October 2019, available at <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4757/language/ro-RO/Default.aspx>

¹²⁴ Interview with Alexandru Slusari

could avoid criminal liability.¹²⁵ Moreover, former magistrate Ghenadie Bîrnaz was the first acquitted judge in this case. Still, from a legal perspective, the statute of limitation is a necessary provision in a state governed by the rule of law, and such provision cannot be considered a vulnerability. Still, all three of these cases from the "Laundromat" affair demonstrate the deliberate misconduct of investigations under former Prosecutor Harunjen who is well-known for initiating politically motivated cases.¹²⁶ Therefore, most of the cases opened during the time he was in office cannot be fair as the lack of evidence and the procedural mistakes were deliberate, and these give leeway for the responsible parties to be acquitted or go uncharged due to the statute of limitation.

¹²⁵ Another judge targeted in the "Laundromat" case was convicted, but released from criminal responsibility, ZIARDUL DE GARDA, February 2021, available at https://www.zdg.md/stiri/stiri-justitie/video-inca-un-judecator-vizat-in-dosarul-laundromat-a-fost-condamnat-dar-liberat-de-raspundere-penala/?fbclid=IwAR18oM7zctI4jK-uRzUDkFLYmsFC08LnG5ymQGV_KPmNPgwdOpx4Y_HYZU4

¹²⁶ *The Captured State: Politically Motivated Prosecution in Moldova And Usurpation of Power* by Vladimir Plahotniuc, OPEN DIALOGUE FOUNDATION, March 2017, available at <https://en.odfoundation.eu/a/8188,the-captured-state-politically-motivated-prosecution-in-moldova-and-usurpation-of-power-by-vladimir-plahotniuc/>

3. WINDOW OF OPPORTUNITY - PRESIDENT SANDU'S PLEDGE ON FOSTERING EU-MOLDOVA RELATIONS

In recent years, the rule of law in the Republic of Moldova has been closely monitored by the EU. In a European Parliament report on the implementation of the EU Association Agreement with the Republic of Moldova dated 28 September 2020, concerns about the lack of progress in prosecuting those responsible for the 2014 bank fraud were raised.¹²⁷ Likewise, in a statement from October 2020 by the EU-Moldova Parliamentary Association Committee¹²⁸, the importance of "substantial progress towards identifying the perpetrators of the massive banking fraud exposed in 2014", the acceleration of the prosecution process and the recovery of misappropriated funds were underlined. At the same time, the Committee declared it is important that "EU Member States provide the Republic of Moldova's authorities support in the investigation of the case if so requested".¹²⁹

On 24 December 2020, Maia Sandu was inaugurated¹³⁰ as the new President of Moldova and this opened a new window of opportunity to advance EU-Moldova relations. During her presidential campaign, Sandu pledged to fight against corruption in the country and proposed closer integration with the EU as a solution to overcome the economic crisis.¹³¹ Also, Sandu is a fierce promoter of the advancement of the de-oligarchization of Moldova's key institutions. Such a mandate is in line with the EU's promotion of democracy in the country and has the potential to unlock further financial assistance for Moldova which can advance the reformation processes long demanded by the citizenry.

As the new president of the Supreme Security Council¹³², President Sandu declared that there is no greater threat to national security than corruption, hence, among other proposals, a thorough investigation into the Billion-Dollar Theft was prioritised.¹³³ Additionally, she committed to elucidating who is responsible for "this lack of performance" in the activity of General Prosecutor Alexandr Stoianoglo—an ex officio member of the Supreme Security Council.¹³⁴ In her opinion, the main factors that can delay the investigation on this case are either pressure from "mafia clans" or lack of efficient collaboration from foreign jurisdictions.

According to the constitution, upon the proposal of the Superior Council of Prosecutors, the General Prosecutor is appointed by the President of the Republic of Moldova, for a non-renewable

¹²⁷ *Report on the implementation of the EU Association Agreement with the Republic of Moldova (2019/2201(INI))*, EUROPEAN PARLIAMENT, 28 September 2020, available at https://www.europarl.europa.eu/doceo/document/A-9-2020-0166_EN.html

¹²⁸ *EU-Moldova Parliamentary Association Committee Eight Meeting, Statement and recommendations*, EUROPEAN PARLIAMENT, 8 October 2020, available at https://www.europarl.europa.eu/cmsdata/212069/2020-10-08_Final%20Statement%20and%20Recommendations%208th%20EU-MD%20PAC.pdf

¹²⁹ Ibid.

¹³⁰ *Maia Sandu: "I will be the president who rejects compromises that compromise"*, RFE/RL's MOLDOVAN SERVICE, 24 December 2020, available at <https://moldova.europalibera.org/a/maia-sandu-voi-fi-pre%C8%99edintele-care-respinge-compromisurile-care-compromit-/31016975.html>

¹³¹ *Moldova's New Pro-EU President Pledges To Be 'Honest And Transparent'*, RFE/RL's MOLDOVAN SERVICE, 25 December 2020, available at <https://www.rferl.org/a/m/31018319.html>

¹³² An advisory body to the President of Moldova.

¹³³ *Immediately after the investment, Maia Sandu will approve a new composition of CSS*, IPN, 25 November 2020, available at https://www.ipn.md/index.php/ro/imediat-dupa-investire-maia-sandu-va-aproba-o-noua-7965_1077922.html

¹³⁴ *"I want to have a discussion with him." Maia Sandu does not see good things in Stoianoglo's activity*, ANTICORUPTIE, 1 December 2020, available at <https://anticoruptie.md/ro/stiri/vreau-sa-am-o-discutie-cu-el-maia-sandu-nu-vede-lucruri-bune-in-activitatea-lui-stoianoglo>

term of 7 years. Likewise, Article 125 provides¹³⁵ that under certain circumstances the General Prosecutor can be dismissed by the President, but in most circumstances the President needs the proposal of the Superior Council of Prosecutors, which would bring objective reasons and start a transparent procedure. Nevertheless, the law nr.3 from 25 February 2016¹³⁶ regarding the Prosecutor's Office provides that the Presidency can initiate a commission to evaluate the activity of the General Prosecutor; in the case of negative performance, the General Prosecutor can be dismissed (Article 58 par. 7). In the context of the President's role in foreign policy, Maia Sandu exercises the function of official representative of the state during meetings and negotiations with international partners. In this context, she officially declared that she is actively seeking support in investigating financial crimes and returning money to the country from Moldova's external partners.¹³⁷

The new President conducted an official visit to Brussels between January 18 to 19, 2021, during which the parties discussed, amongst other issues, the matter of the 2014 banking fraud. Upon her return, Sandu highlighted that the EU wants the same thing as Moldova's citizens, real progress in the investigations of the case from on the part of the nation's law enforcement agencies.¹³⁸ This position was further reiterated during President Charles Michel's visit in Chisinau on February 28. Moreover, he also addressed the topic of the judiciary's lack of independence and the importance of Sandu's efforts to address all these issues.¹³⁹ Besides the diplomatic declarations, it is important to mention that the full legal power of the EU to demand an investigation is provided by the Association Agreement. According to a policy brief elaborated by the CPR Moldova¹⁴⁰, Article 18 "offers legal grounds to determine additional EU involvement in the process".

On the national level, President Sandu has been conducting systematic meetings with the authorities involved in investigating the 2014 bank fraud and setting up recovery mechanisms for the criminal assets. For instance, on 26 December 2020, Sandu met with the governor of the NBM, Octavian Armaşu who declared his support for the consolidation of NBM's independence and the strengthening of the banking system with the objective of preventing future financial-banking frauds.¹⁴¹ They also discussed the need to resume Moldova's relations with the International Monetary Fund. The Presidency had also organised several meetings with General Prosecutor Stoianoglo during which Sandu declared that information had been requested regarding the progress of the investigation on the cases stemming from the Billion-Dollar Theft and the recovery of stolen state money.

¹³⁵ *Constitution of the Republic of Moldova*, 29 July 1994, available at <http://procuratura.md/md/const/>

¹³⁶ *Law nr. 3 from 25 February 2016 regarding the Prosecutor's Office*, PARLIAMENT OF THE REPUBLIC OF MOLDOVA, 25 March 2016, available at https://www.legis.md/cautare/getResults?doc_id=120703&lang=ro

¹³⁷ *The first question for Maia Sandu received in Brussels: I'm ashamed*, STIRI, 6 March 2021, available at <https://stiri.md/article/politica/prima-intrebare-pentru-maia-sandu-primita-la-bruxelles-mi-e-rusine>

¹³⁸ *President Sandu, after the visit in Brussels: "The EU wants to see real progress and not just pathetic justifications from the PG and other institutions"*, ZIARDUL DE GARDA, 20 January 2021, available at <https://www.zdg.md/importante/video-presedinta-sandu-dupa-vizita-de-la-bruxelles-ue-vrea-sa-vada-progrese-reale-si-nu-doar-justificari-patetice-din-partea-pg-si-a-altor-instituti/>

¹³⁹ *Remarks by President Charles Michel at the press conference with President Maia Sandu in Chisinau*, EUROPEAN COUNCIL, 28 February 2021, available at https://www.consilium.europa.eu/en/press/press-releases/2021/02/28/remarks-by-president-charles-michel-at-the-press-conference-with-president-maia-sandu-in-chisinau/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Remarks+by+President+Charles+Michel+at+the+press+conference+with+President+Maia+Sandu+in+Chisinau

¹⁴⁰ *Resetting the Moldovan Banking Sector: What Can Europe Do and Why?*, CENTRE FOR POLICY AND REFORM, February 2017, available at <https://alaiba.files.wordpress.com/2017/04/policy-brief.pdf>

¹⁴¹ *Meeting Maia Sandu - Alexandr Esaulenco (Intelligence and Security Service)*, RFE/RL's MOLDOVAN SERVICE, 26 December 2020, available at [https://moldova.europalibera.org/a/%C3%AEntrevedere-maia-sandu---alexandr-esaulenco-\(serviciul-de-informa%C8%9Bii-%C8%99i-securitate\)/31020394.html](https://moldova.europalibera.org/a/%C3%AEntrevedere-maia-sandu---alexandr-esaulenco-(serviciul-de-informa%C8%9Bii-%C8%99i-securitate)/31020394.html)

We addressed a request of information to the Presidency (on 4 March 2021) asking if during these meetings, factors which impede the progress were identified. In the answer it was highlighted that under the framework of the Supreme Security Council, reports of the state institutions responsible for the investigation are systematically requested, collected and analysed. Notably, in the context of the meetings, the General Prosecutor declared that the institution he is leading faces immense “political pressure”.¹⁴² In response, Sandu clarified that the President has no legal rights to dismiss the General Prosecutor, but she has high expectations from Moldovan institutions paid by taxpayers to fight and investigate corruption.¹⁴³

President Sandu has been openly declaring that the institutions which want to advance their cooperation with external partners can count on her support in this regard. The Presidency is constantly reiterating its readiness to attract external resources to help the Republic of Moldova investigate large cases of corruption and bank fraud. For instance, during a meeting on 15 March 2021, President Sandu suggested to General Prosecutor Stoianoglo to involve European specialized structures in the investigation of the Billion-Dollar Theft.¹⁴⁴ According to Sandu’s declarations, the EU structures are open to help Moldova investigate financial crimes and return money upon a request from the Prosecutor’s Office.

¹⁴² *With no notable results from General Prosecutor’s Office, Stoianoglo accuses the political class of attacks*, DESCHIDE, 5 January 2021, available at <https://deschide.md/ro/stiri/social/78078/F%C4%83r%C4%83-rezultate-notabile-ale-PG-Stoianoglo-acuz%C4%83-atacuri-din-partea-clasei-politice.htm>

¹⁴³ *Maia Sandu’s reaction to Stoianoglo’s accusations: I have high expectations from paid institutions to fight and investigate corruption*, DESCHIDE, 13 January 2021, available at <https://deschide.md/ro/stiri/politic/78504/Reac%C8%9Bia-Maiei-Sandu-la-acuza%C8%9Bii-lui-Stoianoglo-Eu-am-mari-a%C8%99tept%C4%83ri-de-la-institu%C8%9Bii-pl%C4%83tite-s%C4%83-combat%C4%83-%C8%99i-s%C4%83-investigheze-corup%C8%9Bia.htm>

¹⁴⁴ *Sandu met with Stoianoglo and offered to help investigate the theft of a billion*, NEWSMAKERS, 15 March 2021, available at <https://newsmaker.md/rus/novosti/sandu-vstretilas-so-stoianoglo-i-predlozhila-pomosch-v-rassledovanii-krazhi-milliarda/>

4. TRACES OF STOLEN FUNDS IN EU MEMBER STATES

4.1 Kroll's findings on schemes

As the NBM provided the information to Kroll, the first report (Kroll 1) is considered to consist of filtered information; Vladimir Plahoniuc is not mentioned in the first Kroll report as being one of the main beneficiaries of the fraud.¹⁴⁵

The Kroll 2 report remains important in the investigation of the bank fraud, as it contains a lot of crucial information that can be used by prosecutors to hold accountable those who benefitted from and are responsible for the 2014 banking fraud. However, although Kroll 2 is relevant in this regard, due to the time that passed, it is now less useful in the context of the recovery of money. Veaceslav Negruta pointed out that Kroll 2 was not used at the 'right' time by the prosecutors during 2017-2018, a period during which more assets could have been seized. Thus, as the process of asset recovery becomes more difficult every day, it is crucial to start an effective investigation as soon as possible.¹⁴⁶

To illustrate how the Moldovan authorities deliberately ignored Kroll's findings, the incident regarding the National Recovery Strategy should be explained. In July 2018, a troika consisting of Prosecutor Adriana Betisor, General Prosecutor Eduard Harunjen and a member of the CNA (National Anti-Corruption Center) organised a press release to discuss the national recovery strategy of the stolen billion.¹⁴⁷ During this event, information about the investigation, the beneficiaries of the bank fraud as well as other information they had at their disposal was presented.

It is also important to note that at the time the Strategy was presented, the authorities already had the information related to Plahotniuc's involvement in the Billion-Dollar Theft, yet the presented "Strategy" lacks any reference to him as one of the main beneficiaries. Instead, the document consisted of irrelevant and manipulative information, such as elements from Laundromat and other categories of bank fraud (i.e. non-performing loans).¹⁴⁸ As these bank frauds have an inherently different typology than the 2014 Moldovan bank fraud, the aforementioned troika had been trying to deliberately manipulate the public thus ensuring the delay of a fair investigation under the signature of the investigative bodies.¹⁴⁹

In the context of Kroll's 2 findings, tracing methods demonstrated that the biggest part of the stolen billion that were *not* employed to repay existing loans was transferred to corporate accounts in a number of foreign jurisdictions. Even though Kroll could not confirm who managed and benefited from these transactions precisely, its investigation identified several transactions of Moldovan individuals who appear to have received at least part of the fraudulent money. Those individuals were associated either with bank accounts receiving funds from the fraud or were involved in the administrative part of the fraud.¹⁵⁰

¹⁴⁵ Interview Negruta.

¹⁴⁶ Ibid.

¹⁴⁷ *Strategia de Recuperare*, ANTI-CORRUPTION PROSECUTOR'S OFFICE, NATIONAL ANTI-CORRUPTION CENTRE, AND AGENCY FOR THE RECOVERY OF CRIMINAL ASSETS, June 2018, available at <http://procuratura.md/file/Strategie%20Publica.pdf>

¹⁴⁸ *Public Policy Observer: Responsible Sustainable Development Policy*, TRANSPARENCY INTERNATIONAL - MOLDOVA, June 2018, available at <http://www.transparency.md/wp-content/uploads/2018/06/Observator-Nr.10-ENG.pdf>

¹⁴⁹ Interview Negruta.

¹⁵⁰ *Project Tenor II: Summary Report*, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

Besides the large proportions of funds traced to banks in Latvia (USD 302.1 million) and in Moldova (USD 169.3 million), Kroll found that amounts were received into accounts of other EU jurisdictions, such as Cyprus (USD 112.4 million), Estonia (USD 51.4 million), Italy (USD 16.8 million), Romania (USD 15.8 million), Germany (USD 11.1 million) and the Netherlands (USD 8.6 million).¹⁵¹ These EU countries are predominantly part of secondary laundering mechanisms in contrast to the Core Laundering Mechanism.

The Core Laundering Mechanism originated from the three main Moldovan banks and channelled loan funds to two Latvian banks. Secondary laundering mechanisms, however, are subjected to a layer of laundering using accounts of Moldovan banks other than the three main ones, before being transferred to the Core Laundering Mechanism. In addition to the previously mentioned EU countries that obtained significant amounts of money, accounts in EU states Poland, France, Luxembourg, and Czech Republic. Some accounts received funds in total less than USD 1 million as well.¹⁵²

- **Latvia (USD 302.1 million)**

Kroll indicated that already in 2012, a plan was established to steal funds as Unibank welcomed 21 new shareholders, including individuals and political figures connected to Ilan Shor. Allegedly, some of these individuals were either Ukrainian or Russian citizens that worked through the Latvian bank Latvijas Pasta Banka.¹⁵³

Despite Latvia being considered the EU country that was the most involved in the Moldovan bank fraud in absolute terms, Kroll has not yet been able to trace a big share of the funds. The consultancy explains that a proportion of “USD 65.6 million was below the threshold defined for onwards traces”, meaning that, according to the investigation’s methodology, priority was given only for larger sums in the context of potential asset recovery. A further USD 233 million, has not yet been analysed because of the statements requests that are still pending connected to the accounts. In the last case, approximately 300 accounts were involved in the money transfers.¹⁵⁴

- **Cyprus (USD 112.4 million)**

A significant part of the stolen funds, was paid to bank accounts in Cyprus. Some of the Cypriot beneficiaries have similar features to the companies of the Core Laundering Mechanism; the coordinated money laundering mechanism in Latvia through which the majority of the loan funds were channelled. The transactions to accounts in Cyprus, by illustration, have descriptions suggesting that the transfers are meant to purchase goods for trading. Kroll wrote that it could not access the statements of the involved bank accounts in Cyprus. Therefore, it is difficult to determine whether the purchases were genuinely intended for trade purposes or whether they lead to a different layer of embezzlement. The ultimate destination of the transfers should still be confirmed in the context of further disclosure.¹⁵⁵ As Kroll’s working papers indicate, funds were

¹⁵¹ *Project Tenor II: Confidential Working Papers Part I to the Detailed Report*, KROLL, 22 March 2018, available at <https://www.ipn.md/storage/ckfinder/files/Raport%20Kroll.pdf>

¹⁵² Ibid.

¹⁵³ *Secret Audit Report Links Missing \$1 Billion To Moldovan Businessman*, RFE/RL, 5 May 2015, available at <https://www.rferl.org/a/moldova-banks-audit-links-missing-billion-to-businessman/26996371.html>

¹⁵⁴ *Project Tenor II: Summary Report*, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

¹⁵⁵ *Project Tenor II: Confidential Working Papers Part I to the Detailed Report*, KROLL, 22 March 2018, available at <https://www.ipn.md/storage/ckfinder/files/Raport%20Kroll.pdf>

transferred to various different banks, of which the largest amount (USD 11.9 million) was sent to an unidentifiable bank under the entity name 'Cedok Air Limited' and subsequently used to purchase an aeroplane.¹⁵⁶

- **Estonia (51.4 million)**

Similar to the Latvian case, Kroll traced 45 bank accounts under the name of UK partnerships or companies in offshore accounts that were supposedly part of a bigger laundering scheme in Estonia. In addition to having similar transaction patterns as the accounts in Latvia, high volumes of activity were identified in Estonian banks by Kroll too. Furthermore, Estonia is one of the countries identified by Kroll in which the peripheral laundering mechanism took place; another part of the 'main' embezzlement scheme.¹⁵⁷

- **Italy (USD 16.8 million)**

In Italy, Kroll identified an account belonging to Italian individual, Alessandro Landini,, who received USD 8 million in a single transaction at the bank Cassa di Risparmio di Firenze. The description of this payment suggests that it is connected to a farm stay in Fattoria Viticcio—an accommodation that is available to book in Chianti. Moreover, money was transferred to 168 additional accounts across a total of 207 transactions. Among these accounts, two transfers were made to an account belonging to an individual: Fabio Fetel (USD 12,819).¹⁵⁸

- **Romania (USD 15.8 million)**

Mainly in 2013 and 2014, payments were made in Romania to 23 different accounts based on 34 transactions. These accounts included four individuals, whose names are identified: Adrian Ragnar Thiess (USD 113,050), Christos Konstantinou (USD 59,986), Gheorge Negura (USD 97,090) and Abraham Sargsyan (USD 4,256).¹⁵⁹

- **Germany (USD 11.1 million)**

In December 2014, a Deutsche Bank account held by Gebr. Heinemann SE and Co. received a transfer of USD 1.8 million. Although Deutsche Bank has frequent connections to accounts of the Core Laundering Mechanism, Kroll could not determine the exact relationship between the bank and the Core Laundering Mechanism. In addition, transfers were made in Germany to 125 accounts by means of 158 transactions. Including these transfers, 8 individuals were involved: Alexander Muchin (USD 41,762), Danh Uy Lao (USD 66,467), Dinh Ha Vu Kel N (USD 48,252), Ganna Roytblat (USD 29,260), Johann Haugg (USD 8,645), Sergiy Yenkov (USD 117,584), Suren Mkrtchyan (USD 3,929), and Victoria Koval (USD 39,990).¹⁶⁰

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

- **The Netherlands (USD 8.6 million)**

Predominantly in 2013 and 2014, payments were made to 31 entities across 35 transactions. The companies that were involved are likely to belong to different industries (i.e. export, navigation and logistics). Remarkably, one payment was made to an individual's account: Mikhail Olovitch (USD 13,087).¹⁶¹

4.2 (Non)/existing collaboration

The national and international progress in investigations and funds recovery was successfully delayed by the parties in power until 2019, when the PDM under the leadership of oligarch Vladimir Plahotniuc (one the main beneficiaries of the banking fraud) was forced to cede power. Despite the authorities having a preliminary version of the Kroll 2 report since December 2017—which indicates all the foreign jurisdictions where the money was traced as well as the concrete amounts of money and some schemes—the information provided was deliberately ignored by the national authorities.

Moreover, Kroll, besides elaborating the second part of the report, was also responsible for providing a recovery strategy. It can be deduced from press releases¹⁶² that the national authorities discussed it with the representatives of the two companies during 2017. The reason behind this “highly recommended strategy” was to open the possibility to send requests to relevant jurisdictions where the authorities could bilaterally cooperate on exchange of information or on actions regarding the accounts or assets acquired with the stolen money. These were and continue to be crucial factors for advancing the investigation and the recovery of stolen funds.

Against this background, expert Veaceslav Negruta highlighted the fact that while denying the existence of such a strategy, the authorities did not include any elements from it or from the second report in the requests of rogatory committees which were sent to some foreign jurisdictions in 2017. Negruta claims that if that had been done, Moldova's chances to recover the money would have been higher. In addition, no elements of the strategy elaborated by Kroll were implemented in the Strategy for the Recovery of the Funds Stolen from Banca de Economii, Banca Sociala and Unibank¹⁶³ presented in July 2018 during a joint press conference of the General Prosecutor's Office, the Anti-Corruption Prosecutor's Office and the National Anti-Corruption Center. Despite claiming it to be a strategy and setting as its objective the recovery of the stolen funds from the three banks, the content of the document was more concerned with the mechanism of the frauds.¹⁶⁴ Our respondents pointed out that the authorities at that time did everything possible to avoid the recommendations of the international contractors in order to protect the actual beneficiaries.

It is worth noting that Kroll indicated in its second report that it liaised with “international bodies to assist investigations into the fraud and the laundering/dissipation of funds, including the EU,

¹⁶¹ Ibid.

¹⁶² Kroll letter to National Bank of Moldova, 20 December 2017, available at https://www.bnm.md/files/Kroll_Cover%20letter.pdf

¹⁶³ Strategy for the Recovery of the Funds Stolen from Banca de Economii, Banca Sociala and Unibank, ANTI-CORRUPTION PROSECUTOR'S OFFICE, NATIONAL ANTI-CORRUPTION CENTRE, AGENCY FOR THE RECOVERY OF CRIMINAL ASSETS, June 2018, available at <http://procuratura.md/file/Strategie%20Publica.pdf>

¹⁶⁴ Issue 10, Public Policy Observer, TRANSPARENCY INTERNATIONAL- MOLDOVA, June 2018, available at <http://www.transparency.md/wp-content/uploads/2018/06/Observator-Nr.10-ENG.pdf>

IMF, WB and US State Department".¹⁶⁵ In this context, some EU Member States reacted to their involvement in Moldova's Billion-Dollar Theft after Kroll's reports were published. For instance, the Latvian banking regulator passed an unprecedented sentence on money laundering in November 2015 - a 2,016,830 euro fine for Privatbank, the dismissal of its CEO and the responsible board member as well as individual fines for board members.¹⁶⁶ The bank council was obliged to change its whole board. After the banking regulator presented the probes, in January 2016 Latvian police started their investigation. Under the promise of accelerated progress, an agreement on the investigation was signed in October 2019 between the Prosecutor's Office of the Republic of Moldova and the Prosecutor's Office of Latvia.¹⁶⁷

At the time of reporting, there was no information available about the progress made by this joint team of prosecutors. In Romania, upon the testimony of Moldovan businessman Veaceslav Platon, in August 2019 the Directorate for Investigating Organised Crime and Terrorism initiated an investigation into the former PDM leader and oligarch Vladimir Plahotniuc.¹⁶⁸ A criminal case was opened on charges of establishing a criminal group, blackmail, fraud and money laundering.

Kroll also shows that parts of the laundered money passed through Estonian banks, but the head of the Central Criminal Police's money laundering unit clarified in 2018 that the country was used as a transit point, hence the identified sum of \$51.4 million was quickly moved out of Estonia.¹⁶⁹ Still, the official ensured that his country "has pursued extensive and thorough cooperation with Moldova regarding the scheme, and there are several criminal cases in various stages of investigation associated with it".¹⁷⁰

On the other side, Germany declared in March 2018 that the Federal Government did not receive any follow-up information about their country's involvement after the Kroll report¹⁷¹ and it is aware that only one German institution (its involvement in the banking fraud was not confirmed) had a correspondent banking relationship with the Latvian ABLV Banks.¹⁷² Similarly, the Netherlands only reacted¹⁷³ in 2015, after the first Kroll report was published, with a statement about the importance of an independent investigation to recover the stolen funds.

According to a press release¹⁷⁴ by the National Anti-Corruption Centre (CNA) in cooperation with the Moldovan Agency for the Recovery of Criminal Assets ARBI, the two bodies announced that

¹⁶⁵ Project Tenor II Summary Report, KROLL, 20 December 2017, available at https://www.bnm.md/files/Kroll_%20Summary%20Report.pdf

¹⁶⁶ *How a Latvian laundered billion USD changed Moldova*, RE:BALTICA, 1 February 2016, available at <https://en.rebaltica.lv/2016/02/how-a-latvian-laundered-billion-usd-changed-moldova/>

¹⁶⁷ *The theft of the billion will be investigated in collaboration with Latvian prosecutors. When the basis of the agreement was laid*, ANTICORUPTIE, 25 June 2020, available at <https://anticoruptie.md/ro/stiri/furtul-miliardului-va-fi-investigat-in-colaborare-cu-procurorii-din-letonia-cand-a-fost-pusa-baza-acordului>

¹⁶⁸ *Vlad Plahotniuc investigated in Romania for organized crime, blackmailing, money laundering and fraud*, MOLDOVA.ORG, 13 November 2017, available at <https://www.moldova.org/en/vlad-plahotniuc-investigated-romania-organized-crime-blackmailing-money-laundering-fraud/>

¹⁶⁹ *Banking scandal money reached Estonia*, POSTTIMES, 23 January 2018, available at <https://news.postimees.ee/4385199/banking-scandal-money-reached-estonia>

¹⁷⁰ Ibid.

¹⁷¹ *Banking scandal: financial fraud in the Republic of Moldova*, DER BETRIEB, 28 March 2018, available at <https://www.der-betrieb.de/meldungen/bankenskandal-finanzbetrug-in-der-republik-moldau/>

¹⁷² *Official answer on behalf of the Federal Government with a letter from the Federal Ministry of Foreign Affairs*, 14 March 2018, available at <https://kleineanfragen.de/bundestag/19/1248-finanzbetrug-und-politische-gefangene-in-der-republik-moldau.txt>

¹⁷³ *Questions from Member TenBroeke (VVD) to the Minister of Foreign Affairs about the investigation into large-scale bank fraud in Moldova (submitted 9 July 2015) and the answer from Minister Koenders (Foreign Affairs)*, 20 August 2015, available at <https://zoek.officielebekendmakingen.nl/ah-tk-20142015-3088.html>

¹⁷⁴ *Summary of investigations, carried out by the criminal investigation group, in the cases of bank fraud*, ANTI-CORRUPTION NATIONAL CENTRE, 8 July 2019, available at <https://cna.md/libview.php?l=ro&idc=5&id=2394&t=/Serviciul-relatii->

by July 2019 there were nine requests sent to countries affiliated to Europol. At that point, it was reported that there were three entirely executed rogatory commission requests by Latvia (sent on 9 December 2015), Czech Republic (sent on 17 January 2019) and the French Republic (sent on 17 January 2019). Likewise, the report mentioned two partly executed rogatory commission requests both addressed to Latvia (11 May 2015 and 9 May 2015) and four non-executed rogatory commission requests addressed to Cyprus (17 January 2019), Estonia (17 January 2019), Austria (17 January 2019) and the Italian Republic (25 November 2018).

A request for information regarding an update of the data was sent to ARBI. Yet it was communicated that information regarding the parallel financial investigations and their results (which are part of the criminal investigation) cannot be disclosed due to confidentiality.¹⁷⁵ In the same answer, we were only informed that similar foreign authorities are questioned under the framework of parallel financial investigations initiated by the Agency.

From information appearing in the public space, it can be deduced that the current investigative bodies are sending requests, communications and letters to the relevant foreign jurisdictions, but there is no clear communication on this topic. Moreover, one cannot gain access to these requests, hence an assessment of their efficiency cannot be made. Secondly, no information about feedback or reactions from the addressed jurisdictions is publicly available. It can be assumed that there is cooperation between Moldova and some jurisdictions which are more interested in disrupting money laundering schemes, for instance, the UK proved to be cooperative on this subject.¹⁷⁶ Meanwhile, a dialogue regarding some exchange of information or seizures of assets can be more complicated with offshore zones such as Cyprus. Overall, a comparison between the 2014-2019 period and the current situation shows that progress in cooperation exists, but our respondents pointed to the slow pace and the doubtful credibility of certain actions by the General Prosecutor's Office.

Importantly, Veaceslav Negruta highlighted that during 2015-2016, there were many specialized structures from abroad who offered their services, but all the offers were blocked by the national prosecutors who were doing everything possible to thwart such a collaboration.¹⁷⁷ A solution now would be for the previous proposals of cooperation to be implemented by current authorities.

Currently, PCCOCS is the only investigative body which provided information regarding the letters rogatory sent in the context of the criminal cases under their management. Other investigative bodies addressed were the GPO and the Anti-Corruption Prosecutor's Office. The information was not provided on the grounds of confidentiality and the risks to ongoing investigations.¹⁷⁸ Meanwhile, PCCOCS officially informed us that letters rogatory were sent to the following EU jurisdictions: Romania, France and Germany. As of this writing, only the competent authorities in Romania have provided answers.¹⁷⁹

In this time, beside the conditionalities and the calls on the Moldovan authorities to advance the investigations, the EU structures have also been cooperating with the national investigative bodies, specifically support was directed to the financial sector. Since 2015, the EU provided

[publice/Comunicate-de-presa/Rezumatul-investigatiilor-desfasurate-de-catre-grupul-de-urmarire-penala-in-dosarele-fraudei-bancare-reprezentata-informatie-a-fost-expediata-antior-conducerii-tarii-dar-si-misiunilor-diplomatice-acreditate-in-Republica-Moldova](#)

¹⁷⁵ Annex 4 - Official answer: Agency for the Recovery of Criminal Assets (1 April 2021)

¹⁷⁶ £456,000 from accounts of Luca Filat to be transferred to Moldova, IPN, 20 February 2021, available at https://www.ipn.md/en/456000-from-accounts-of-luca-filat-to-be-transferred-to-moldova-7967_1079848.html

¹⁷⁷ Interview with Veaceslav Negruta.

¹⁷⁸ Annex 1 - Official answer: General Prosecutor's Office, 17 March 2021;
Annex 2 - Official answer: Anti-corruption Prosecutor's Office, 23 March 2021.

¹⁷⁹ Annex 3 - Official answer: PCCOCS, 11 March 2021.

assistance through twinning projects supporting the NBM and National Commission for Financial Markets as well as EU High Level Advisers mobilised for anti-corruption and banking sectors in the relevant institutions.¹⁸⁰ Moreover, peer review missions were launched in the areas of justice and anti-corruption covering independent institutions; the aim was to evaluate the shortcomings and the main needs as well as to provide recommendations.¹⁸¹

In 2014, Eurojust and the Republic of Moldova concluded a cooperation agreement which allows both parties to enhance and facilitate judicial cooperation between the national authorities and Member States.¹⁸² Among the several Joint Investigation Teams (JIT) established with the purpose of carrying out transnational criminal investigations on specific cases, one was created in 2019 aiming to carry out a joint investigation into the Billion-Dollar Theft. According to the official statements of the Moldovan authorities—CNA and ARBI—the purpose is to exchange information and gather evidence related to the individuals involved in the bank fraud so the related cases can be brought before the courts in the Republic of Moldova and other foreign jurisdictions.¹⁸³

Therefore, a request was sent to Eurojust with an appeal to provide information available to the public on the progress of the investigation of the JIT into the bank fraud, in particular the authorities' input to Eurojust, the Member States currently involved in the agreement as well as an approximate time limit during which Moldovan citizens can expect the evaluation of the JIT performance on this case. The answer was as follows: "It is beyond Eurojust's competence to independently communicate about the progress of an investigation".¹⁸⁴ It was also mentioned that the decision to disclose information lies exclusively with the national authorities. Additionally, in the answer it was assured that "Eurojust will provide full support to any efforts to ensure justice for the citizens of Moldova".¹⁸⁵ As stated above, upon our request, the national competent authority did not disclose any information regarding the progress.

4.3 Legal framework for advancing cooperation

As Moldova's bank fraud involved a number of different countries, in particular EU Member States, its investigation requires international cooperation. This cooperation is in line with EU financial interests and goals to fight fraud and corruption against the Union's budget. To formalise these aims, the EU established the Task Force Anti-Fraud Coordination Unit (UCLAF) in 1988 and, later, created the European Anti-Fraud Office (OLAF) in 1999.¹⁸⁶ These bodies contribute to the EU's efforts to act on the successive stages of the corruption cycle, such as the freezing, seizing and recovery of stolen assets.^{187,188} However, as acknowledged in the 2020 Report of the European

¹⁸⁰ Answer given by Mr Hahn on behalf of the Commission, 13 January 2016, available at https://www.europarl.europa.eu/doceo/document/E-8-2015-013517-ASW_EN.html

¹⁸¹ EU organizes peer review missions of rule of law institutions in Moldova, IPN, 27 November 2015, available at https://www.ipn.md/en/eu-organizes-peer-review-missions-of-rule-of-law-institutions-in-moldova-7965_1023949.html

¹⁸² Agreement on cooperation between Eurojust and Moldova, 10 July 2014, available at <https://www.eurojust.europa.eu/agreement-cooperation-between-eurojust-and-moldova>

¹⁸³ PRESS RELEASE: The criminal investigation group in bank fraud cases will be expanded, THE GENERAL PROSECUTOR'S OFFICE, 16 July 2019, available at <http://procuratura.md/md/newslst/1211/1/7925/>

¹⁸⁴ Annex 4 - Official answer: Eurojust, 29 March 2021.

¹⁸⁵ Ibid.

¹⁸⁶ Combating fraud and protecting the EU's financial interests, EUROPEAN PARLIAMENT, December 2020, available at <https://www.europarl.europa.eu/factsheets/en/sheet/32/combating-fraud-and-protecting-the-eu-s-financial-interests>

¹⁸⁷ Asset Recovery, TRANSPARENCY INTERNATIONAL EU, available at <https://transparency.eu/project/asset-recovery/>

¹⁸⁸ DIRECTIVE 2014/42/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, OFFICIAL JOURNAL OF THE EUROPEAN UNION, 19 April 2014, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A32014L0042&qid=1541682532524&from=EN>

Commission, the general results regarding the seizure of assets were considered to be unsatisfactory and the confiscation rates within EU territory remain low. Even when the EU succeeded in confiscating the stolen assets, they are rarely returned to the victim population.¹⁸⁹ For that reason, organisations such as Transparency International EU actively engage in the process of revising the 2014 Directive on asset freezing and confiscation.¹⁹⁰

In this chapter, we explore the legal basis for advancing bilateral cooperation with EU jurisdictions, the implementation of the 2014 Eurojust-Moldovan cooperation agreement as well as the role of other important organisations that work together with EU institutions to fight against cases of money laundering.

Eurojust

In order to enhance the effectiveness of investigations into cross-border criminal issues, the European Union founded Eurojust in 2002; a body that sets up direct communication channels for mutual legal assistance.¹⁹¹ In July 2014, Eurojust and Moldova signed an agreement facilitating judicial cooperation in cases and prosecutions involving both the EU and the Republic of Moldova.¹⁹² Overall, EU-Moldova cooperation is promising, as the EU repeatedly stated that the Moldovan authorities had shown their commitment to closely cooperate with the EU and implement standing agreements.¹⁹³ This cooperation was further advanced by the EU-Moldova Association Agreement, which came into force in July 2016 and included measures such as preventing and fighting corruption and strengthening the independence of the judiciary.¹⁹⁴ In the context of the Association Agreement, a new National Integrity and Anti-Corruption Strategy came into force for the period of 2017-2020.¹⁹⁵ By January 2018, already seven out of nine sectorial anti-corruption plans were supported by the National Anti-Corruption Centre in Moldova—one of the partners of EU's OLAF. The last two sectorial anti-corruption plans are currently pending government approval. In line with EU legislation, a law that prevents and fights money laundering practices was implemented in December 2017.^{196,197}

Eurojust's work is particularly relevant for such a complex case as Moldova's Billion-Dollar Theft, as the organisation is experienced in assisting competent judicial authorities of EU Member States

¹⁸⁹ *Asset Recovery*, TRANSPARENCY INTERNATIONAL EU, available at <https://transparency.eu/project/asset-recovery/>

¹⁹⁰ *DIRECTIVE 2014/42/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union*, OFFICIAL JOURNAL OF THE EUROPEAN UNION, 19 April 2014, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A32014L0042&qid=1541682532524&from=EN>

¹⁹¹ *Working Together Improving Regulatory Cooperation and Information Exchange*, INTERNATIONAL MONETARY FUND, June 2007, available at <https://www.imf.org/external/pubs/ft/books/2007/working/0607.pdf>

¹⁹² *Agreement on Cooperation between Eurojust and the Republic of Moldova*, EUROJUST, 19 June 2014, available at <https://www.eurojust.europa.eu/sites/default/files/InternationalAgreements/Eurojust-Republic-of-Moldova-2014-07-10-EN.pdf>

¹⁹³ *EU relations with the Republic of Moldova*, EUROPEAN COUNCIL, 25 August 2020, <https://www.consilium.europa.eu/en/policies/eastern-partnership/moldova/>

¹⁹⁴ *JOINT STAFF WORKING DOCUMENT: Association Implementation Report on Moldova*, EUROPEAN COMMISSION, 3 April 2018, available at https://eeas.europa.eu/sites/default/files/association_implementation_report_on_moldova.pdf

¹⁹⁵ *Approving the 2017-2020 National Integrity and Anti-Corruption Strategy*, REPUBLIC OF MOLDOVA PARLIAMENT DECISION, 6 June 2017, available at <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=370789>

¹⁹⁶ *JOINT STAFF WORKING DOCUMENT Association Implementation Report on Moldova*, EUROPEAN COMMISSION, 3 April 2018, available at <https://data.consilium.europa.eu/doc/document/ST-7636-2018-INIT/en/pdf>

¹⁹⁷ *Administrative Cooperation Arrangements (ACAs) with partner authorities in non-EU countries and territories and counterpart administrative investigative services of International Organisations*, EUROPEAN COMMISSION, February 2021, available at https://ec.europa.eu/anti-fraud/sites/antifraud/files/list_signed_acas_en.pdf

to effectively recover criminal assets. Eurojust can act as an important body in the process of asset recovery, as it is within their competences to:

1. Coordinate a joint investigative strategy;
2. Clarify domestic requirements between issuing/requesting and executing requested authorities; harmonise and resolve contrasting views of the effect and requirements of EU and international legal tools;
3. Coordinate the transmission and execution of Letters of Request, freezing and seizing orders between authorities in the Moldovan case and ongoing parallel investigations;
4. Assist in drafting Letters of Request and freezing and confiscation certificates;
5. Advise on the requirements for official translations;
6. Review ongoing cases and make links between parallel investigations.¹⁹⁸

The 2014 Eurojust-Moldovan cooperation agreement is a crucial first step in developing a mechanism to repatriate the stolen funds and return them to Moldovan civil society. In the context of this mechanism, Eurojust has the potential to cooperate with EU partners, such as OLAF. OLAF is increasingly taking part in cases coordinated by Eurojust and their cooperation has been successful so far; for instance OLAF participated in a Joint investigation team (JIT) between Belgian and Romanian authorities, and Eurojust, that unveiled a money laundering scandal in connection with an EU-funded railway infrastructure project in Romania.¹⁹⁹ Although JITs coordinated by Eurojust cannot directly participate with third-party countries, help can be requested from Eurojust Member States to non-member states.²⁰⁰ Thus, in the context of an Eurojust-led investigation concerning the Moldovan bank fraud, EU countries should request Moldova's help in order to officially cooperate.

To accelerate and facilitate a channel of communication between the involved Member States and Moldova in the context of Eurojust, we recommend Moldova to second a Liaison Prosecutor to Eurojust, as agreed in Article 5 of the Agreement on Cooperation between Eurojust and Moldova. In addition, in line with Article 7 of the Agreement, Moldova shall appoint at least one contact point to Eurojust within the office of the authority of the republic.²⁰¹ In this way, the procedure of asset repatriation—consisting of asset tracing, asset freezing and confiscation, and asset disposal—can become more efficient.²⁰² For instance, the liaison prosecutor, his or her assistant, and other competent authorities of Moldova—including the contact point to Eurojust—can participate in meetings of an operational and strategic nature.

¹⁹⁸ *Report on Eurojust's Casework in Asset Recovery*, EUROJUST, February 2019, available at https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2019-02-12_EJ-Casework-Asset-Recovery_full-report_EN.pdf

¹⁹⁹ *Joint operation uncovers complex money laundering scheme in Romania*, OLAF, 2 July 2020, available at https://ec.europa.eu/anti-fraud/media-corner/news/02-07-2020/joint-operation-uncovers-complex-money-laundering-scheme-romania_en

²⁰⁰ *Council Framework Decision of 13 June 2002 on joint investigation teams*, EUR-LEX, 13 June 2002, available at <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32002F0465>

²⁰¹ *Agreement on Cooperation between Eurojust and the Republic of Moldova*, EUROJUST, 19 June 2014, available at <https://www.eurojust.europa.eu/sites/default/files/InternationalAgreements/Eurojust-Republic-of-Moldova-2014-07-10-EN.pdf>

²⁰² *Report on Eurojust's Casework in Asset Recovery*, EUROJUST, February 2019, available at https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2019-02-12_EJ-Casework-Asset-Recovery_full-report_EN.pdf

United Nations Convention against Corruption

The only legally binding universal anti-corruption instrument is The United Nations Convention against Corruption, ratified by Moldova in 2007 after which the republic introduced various amendments to its anti-corruption legislation. The Convention includes five chapters, including general provisions, preventive measures, criminalization and law enforcement, international cooperation as well as asset recovery.²⁰³ The section on asset recovery is employed by various organisations, including the Stolen Asset Recovery Initiative (StAR)—a partnership between the World Bank Group and the United Nations Office on Drugs and Crime (UNODC) that assists global efforts to end safe havens for corruption funds.²⁰⁴ Each Member State of the EU is a party to the Convention, as well as the EU as a regional body. In December 2020, the European Commission started to review its implementation of the United Nations Convention.²⁰⁵

International anti money laundering organisations

Moldova and the aforementioned OLAF are currently part of the European Partners against Corruption (EPAC)—an organisation that unites authorities and police oversight bodies from Member States of the Council of Europe. EPAC works together with the European contact-point network against corruption (EACN), which includes some 50 anti-corruption authorities from EU Member States.²⁰⁶ The intergovernmental cooperation between EPAC and EACN has the potential to offer assistance in developing transparent and efficient mechanisms for tracing and returning the stolen funds to Moldovan civil society.

The EU countries such as Germany, Italy and the Netherlands, that are involved in the Moldovan bank fraud, are members of The Financial Action Task Force (FATF)—the watchdog of global money laundering. As member jurisdictions of FATF, the EU states are committed to detect, investigate and prosecute corruption and money laundering, and recover the stolen assets in the context of international cooperation. FATF works with various international and regional bodies, including a monitoring body of the European Commission, Moneyval, to reach its goals.²⁰⁷ In September 2019, FATF and Moneyval cooperated in writing a report that addressed Moldova's measures to fight money laundering and terrorist financing.²⁰⁸ As FATF is a policy-making body and does not have any investigative authority, the organisation can only generate political will to improve national legislation and reforms in the case of Moldova's bank fraud.

FATF cooperates with The Global Organizations of Parliamentarians Against Corruption (GOPAC)²⁰⁹. GOPAC is an international non-governmental organisation supporting its members through developing anti-corruption mechanisms and cooperation between parliamentarians, government leaders, legislators and civil society.²¹⁰ Holding positions as so-called national chapters within The Global Organization of Parliamentarians Against Corruption (GOPAC), Italy

²⁰³ *United Nations Convention Against Corruption*, UN OFFICE ON DRUGS AND CRIME, September 2004, available at https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

²⁰⁴ *Asset Recovery Process*, STAR, available at <https://star.worldbank.org/focus-area/asset-recovery-process>

²⁰⁵ *Anti-Corruption: First review of the EU's implementation of United Nations Convention against Corruption*, EUROPEAN COMMISSION, 14 December 2020, available at https://ec.europa.eu/commission/presscorner/detail/en/IP_20_2416

²⁰⁶ EPAC, EPAC/EACN, available at <https://www.epac-eacn.org/about/epac>

²⁰⁷ *Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL)*, FATF, available at <http://www.fatf-gafi.org/pages/moneyval.html>

²⁰⁸ *Anti-money laundering and counter-terrorist financing measures: Republic of Moldova*, COUNCIL OF EUROPE, MONEYVAL, July 2019, available at <https://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/Moneyval-Mutual-Evaluation-Report-Moldova-2019.pdf>

²⁰⁹ *Anti-Money Laundering*, GOPAC, available at <http://gopacnetwork.org/programs/antimoney-laundering/>

²¹⁰ *Overview*, GOPAC, available at <http://gopacnetwork.org/overview/>

and Moldova are able to help individual members of their own countries to combat corruption through engaging parliamentarians. According to GOPAC, parliamentarians play a crucial role in the fight against money laundering through their influence on national legislation. In addition, parliamentarians have the power to engage civil society, thus increasing public pressure and building the political will for action. Through the influence of the parliamentarians, the international regime will be strengthened in the global context as the flow of illegal funds across international borders gets obstructed. The work of the Anti-Money Laundering Global Task Force (GTF-AML), which is part of GOPAC, is particularly relevant for the Moldovan bank fraud because of their complementary approach to money laundering. This complementary approach involves capacity building through anti-money laundering workshops, partnerships, developing global and regional action plans and tracking experiences and sharing them with their partners.²¹¹

For advancing the investigation and recovery of assets in the context of the Billion-Dollar Theft, maximum cooperation efforts are needed from all actors, whether investigative bodies or politicians at both the international and national levels. The case has been successfully stagnated for a period of five years, which has complicated the chances of a fair investigation by the current system, as well as minimized the chances of recovering the criminal assets for the benefit of the state. Therefore, to make progress, Moldovan authorities are in need of international assistance and cooperation. This section described the most relevant channels through which this can be realised. Now, it is in the hands of national authorities—who firstly need to destroy the reputation built by the previous regime in order to regain the trust of its international partners—to advance its cooperation with the EU and the relevant EU jurisdictions and reach a conclusion in this complicated case.

²¹¹ *Anti-Money Laundering*, GOPAC, available at <http://gopacnetwork.org/programs/antimoney-laundering/>

5. RECOMMENDATIONS

The Republic of Moldova suffered great reputational damage after 12% of its GDP was stolen from three banks in 2014. At that time, the country was considered a regional leader of the Eastern Partnership and a success story²¹² of the EU's assistance. After years of investigations and ongoing political games, the main beneficiaries were identified—three groups of high-level politicians who were either in power, controlling the power, or connected to the power at that time. This political class was responsible for all the phases of the Billion-Dollar Theft—setting up the legislative prerogatives that made the fraud possible, not reacting to the obvious control schemes and non-performing loans as well as for allocating state guarantees to those banks. Moreover, everything happened in a period when people were thirsty for change after the Communists ceded power to new forces in 2009. Yet the politicians covered their wrongdoings under an aspiring pro-EU rhetoric, and this resulted in growing skepticism within a society deeply affected economically and politically.²¹³

In order to restore the citizens' trust in state institutions, it is important for Moldova to advance its investigations and bring those responsible to justice. Yet this fraud was conducted internationally and an important part of the stolen funds was traced to EU jurisdictions. In this context, progress can only be made through cooperation with international structures, support from the implicated jurisdictions as well as effective cooperation with civil society organisations and their close supervision. Money laundering is a cross-border crime which affects stability in the region and, as precedents show, EU jurisdictions are considered as 'safe' and usually are the preferred destination for illegal funds. Hence, bilateral cooperation is imperative but it should be supported by the EU's conditionalities and demands. The cooperation on national, international and bilateral levels should be accelerated as much as possible because the chances to recover the assets are already minimal and the main beneficiaries are successfully enjoying impunity.

- *The EU should urge Moldova to second a Liaison Prosecutor to Eurojust, as agreed in Article 5 of the Agreement on Cooperation between Eurojust and Moldova; and the EU should encourage Moldova to appoint at least one contact point to Eurojust within the office of the republic's authority in line with Article 7 of the Agreement.*²¹⁴ This would facilitate and solidify a channel of communication between the involved Member States and Moldova in the context of Eurojust. In addition, the procedure of asset repatriation—consisting of asset tracing, asset freezing and confiscation, and asset disposal—would become more efficient.²¹⁵ For instance, the liaison prosecutor, his or her assistant, and other competent authorities of Moldova—including the contact point to Eurojust—can participate in meetings of an operational and strategic nature.
- *The EU should facilitate the intergovernmental cooperation between EPAC and EACN. It has the potential to offer assistance in developing transparent and efficient mechanisms for tracing and returning the stolen funds to Moldova under the condition of their*

²¹² *Moldova, a Major European Success for the Eastern Partnership?*, FOUNDATION ROBERT SCHUMAN, 22 November 2010, available at <https://www.robert-schuman.eu/en/european-issues/0186-moldova-a-major-european-success-for-the-eastern-partnership>

²¹³ *The effect of the "billion"*, 2016, available at <https://sic.md/efectul-miliardului/>

²¹⁴ *Agreement on cooperation between Eurojust and the Republic of Moldova*, available at <https://www.eurojust.europa.eu/sites/default/files/InternationalAgreements/Eurojust-Republic-of-Moldova-2014-07-10-EN.pdf>

²¹⁵ *Report on Eurojust' Casework in Asset Recovery*, EUROJUST, 12 February 2019, available at https://www.eurojust.europa.eu/sites/default/files/Publications/Reports/2019-02-12_EJ-Casework-Asset-Recovery_full-report_EN.pdf

exclusive allocation for projects benefiting the citizens directly. Both Moldova and OLAF are currently part of the European Partners against Corruption (EPAC)—an organisation that unites authorities and police oversight bodies from Member States of the Council of Europe. EPAC works together with the European contact-point network against corruption (EACN), which comprises more than 50 anti-corruption authorities from EU Member States.²¹⁶

- *Pro-reform forces and external partners should closely scrutinize the activity of the Moldovan investigative bodies and send messages of support for the principle of the rule of law.* The EU should request systematic reporting by Moldovan investigative bodies during meetings with civil society, EU diplomats and international experts. This way, the CSOs can evaluate the progress based on official information and consult with external partners. Such meetings are important for ensuring transparency and accountability. As a result, any lack of performance on the part of the relevant authorities can be scrutinised and in case of incompetence, the representatives of civil society can call on a change of staff. Still, as Moldova is struggling to eradicate the influence of the fugitive oligarch Vladimir Plahotniuc and to cleanse the system of corrupt politicians and public servants, any institution which is capable of showing it is fighting to reform itself should be encouraged to continue this pattern. It is important to understand that this process is difficult, as previously these institutions served political interests for more than five years. Despite the fact that some people who are still working there remain loyal to the former regime due to their complicity back then, a new approach and messages can be observed. The pace of progress is slow, but both public and political pressures are enormous. Consequently, messages of support are important as it emphasises the growing existence of a powerful pro-reform front which can accelerate progress significantly.
- *The European Commission needs to provide support to Civil Society Organisations (CSOs) who monitor money laundering and bank fraud.* To combat corruption and demand greater transparency, the role of CSOs is particularly important. For instance, CSOs can assist the asset recovery efforts through research and awareness raising. But for effective engagement, the CSOs are in need of expertise and financial assistance. Multiple NGOs or think tanks from Moldova had to suspend their monitoring of the Billion-Dollar Theft because of a lack of funds or the absence of an open dialogue with the authorities. Therefore, cooperation between local and international CSOs as well as with Moldova's external partners should be encouraged. An exchange of good practices and allocation of grants to support projects in this regard can greatly contribute to CSOs' effective engagement and the prevention of such frauds in the future due to increased scrutiny.
- *The EU should effectively supervise the implementation of Moldova's commitments defined under the Association Agreement, specifically the rule of law reforms.* The EU pledged to assist Moldova in ensuring effectiveness in the fight against corruption by enhancing international cooperation on this topic, and guaranteeing effective implementation of relevant international legal instruments, such as the United Nations Convention Against Corruption of 2003 (Article 8). Additionally, under Article 18, both parties commit to cooperation on money laundering and under Article 50, in the fight against fraud and corruption. Thus, the EU has legal basis to act in case of the lack of necessary progress on the side of the Moldovan authorities. As the country suffered great reputational damage and the partners' feeling of mistrust was further exacerbated by the former authorities' delay in investigations, the current authorities continue to be hindered by this legacy. Yet our findings show that a reformatory pattern exists, hence a revived

²¹⁶ European Partners against Corruption (EPAC) <https://www.epac-eacn.org/about/epac>

dialogue between the relevant EU structures (Europol, Eurojust) and the new Moldovan investigative authorities would be welcomed. The country is in need of EU assistance in implementing the necessary instruments and conditions as well as the reform of the financial sector for preventing any other frauds in the future. Likewise, the Union should ensure that effective monitoring mechanisms are in place so progress can be traced transparently.

- *The EU should directly support the Moldovan authorities in advancing the establishment of instruments aimed at preventing fraud and money laundering as well as call for systematic reporting on progress in this area.* Assistance should be redirected towards securing rule of law reforms and the legitimate independence of regulatory and anti-money laundering institutions (NBA, CNA). The progress should be presented to the public under a clear timeframe since the reforms and investigations into high-level corruption cases are of public interest. Likewise, as the example of the General Prosecutor's Office showed, assistance in the improvement of human capital is essential. The complex case of the Billion-Dollar Theft called into question whether there were enough skilled specialists who would voluntarily cooperate with international structures regarding the freezing of the offshore accounts of involved companies as well as final beneficiaries. In this regard, it is important to bring back the concept of integrity and independence in the Moldovan justice system. In practice, this can be achieved through EU capacity building missions for the current civil servants and public officials within the existing investigative bodies as well as education projects for the future generation who are pursuing a career in this field.
- *The involved EU jurisdictions should show openness towards cooperation on investigations and assets recovery.* While any previous proposal of bilateral cooperation on criminal or civil matters should be brought to fruition by the current Moldovan investigative authorities, it is also important that policy-makers at all levels demonstrate maximum collaboration efforts. The example of the UK²¹⁷ illustrates some avenues the EU jurisdictions can pursue in order to seize illegal assets and return the funds to the relevant Moldovan authorities who would be conditioned to use them for the benefit of the citizens. The United Nations Convention against Corruption as well as the national legislation targeting corruption, money laundering and tax evasion can be the basis of such actions; in such cases, requests from the Moldovan authorities are not required.
- *Under the new EU Global Human Rights Sanctions Regime, the EU should adopt a targeted sanctions list of Moldovan individuals.* Firstly, we encourage the EU to extend its thematic approach towards addressing grand corruption crimes as well. The example of Moldova shows how high level corruption is directly connected to human rights violations. For many years, this phenomenon deeply affected Moldovan society as it spread into all areas and institutions, and contributed to the country's stagnation. Such constant escalation benefited Plahotniuc's regime, facilitated the fraud and even created a perfect environment for the state to be captured. Still, the politicians, businessmen, and public servants who are directly or indirectly responsible for this embezzlement and for making the poorest country in Europe even poorer are now enjoying impunity. They all abused their power for personal gain, stole from the state treasury and put the burden on the

²¹⁷ In February 2021, the UK announced its decision to transfer the sum of £456,068 to Moldova, after the accounts of Luca Filat (the son of the former PM and one of the main beneficiaries of the fraud - Vlad Filat) were frozen in May 2018. The suspicion of the money being obtained illegally was later confirmed by the relevant UK authorities. Hence, the value of the funds sequestered will be returned to the relevant Moldovan authorities for projects for the benefit of the citizens - *£456,000 from accounts of Luca Filat to be transferred to Moldova*, IPN, 20 February 2021, available at https://www.ipn.md/en/456000-from-accounts-of-luca-filat-to-be-transferred-to-moldova-7967_1079848.html

citizens. Moldova is still struggling to reform its judicial system which for the moment still protects the beneficiaries, hence EU sanctions are imperative for punishing those who committed the crime. This is in line with the EU's objective of promoting its values in the region, and can prevent other politicians from abusing their power. Moreover, precedents exist as Plahotniuc has already been included in the sanction lists of the US,²¹⁸ Switzerland and Liechtenstein.²¹⁹

- *The EU should prevent further destabilisation in the region by stopping the activities of the main beneficiaries.* As the delays in properly investigating the theft gave the perpetrators time to hide important evidence, the main beneficiaries—who are now fugitives—have managed to successfully continue their political activities through proxies in the current Parliament. By being able to continue to use their criminal assets in other countries (Plahotniuc is now allegedly in the United Arab Emirates and Şhor is in Israel), they are still corrupting politicians and financing different political projects. Moldova is a relatively young and small country with little influence in the international arena, but the EU is an important trade partner for the countries which are hosting the fugitives. Hence, while the sanction list will be adopted, the EU can negotiate the seizure of the criminal assets in those countries. This is particularly important as the precedents show that these corrupt politicians are creating instability in the country in order to benefit from it. With frozen conflicts, the ongoing armed conflict in the East of Ukraine and Belarus' turmoil, the region is deeply challenged. Hence, the EU should intervene in time to prevent a deeper political crisis in Moldova, and to this end, it is imperative to stop the fugitives' activities in Moldova.

²¹⁸ Press statement: Public Designation, Due to Involvement in Significant Corruption, of Former Moldovan Official Plahotniuc, U.S. DEPARTMENT OF STATE, 13 January 2020, available at <https://2017-2021.state.gov/public-designation-due-to-involvement-in-significant-corruption-of-former-moldovan-official-plahotniuc/index.html>

²¹⁹ Plahotniuc has no access to the territory of Switzerland and the Principality of Liechtenstein for a period of ten years (DOC), AGORA, 5 December 2019, available at <https://agora.md/stiri/64560/plahotniuc-are-acces-interzis-pe-teritoriul-elvetiei-si-al-principatului-liechtenstein-pe-un-termen-de-zece-ani-doc>

ANNEXES

Annex 1 – Official answer: General Prosecutor's Office (17 March 2021)



Procuratura Republicii Moldova

Republica Moldova, MD-2001, mun. Chișinău, bd. Ștefan cel Mare și Sfânt, 73,
tel.: (+373) 22-828-373, (+373) 22-828-375; e-mail: proc-gen@procuratura.md

17.03.2021 nr. 17-6d/21- *1476*

Domnului Serghei GAVAJUC
Procuror, șef-interimar al Procuraturii
Anticorupție

Copia spre informare: ✓ **Doamnei Lyudmyla KOZLOVSKA**
Președinte al Open Dialogue Foundation
E-mail: lyudmylakozlovsk@odfoundation.eu

Prin prezenta, la indicația Procurorului General, Vă remitem spre examinare demersul dnei **Lyudmyla Kozlovsk**a, președinte al organizației non-guvernamentale Open Dialogue Foundation, referitor la solicitarea prezentării informației cu privire la cauzele penale pornite pe faptul fraudei bancare.

Despre rezultatele examinării, rog să informați solicitantul.

Anexă: 2 file primului destinatar.

Cu respect,

Șef al Secției secretariat, petiții
și audiență a Procuraturii Generale

Vitalie BUMBU

Translation:

"Through this document, upon the General Prosecutor's indications, we redirect the request of Ms Lyudmyla Kozlovsk, president of Open Dialogue Foundation, for your examination, regarding the request to present information about the initiated criminal cases on the bank fraud file.

About the results of the examination, we ask you to inform the one who requested it."

Annex 2 – Official answer: Anti-corruption Prosecutor's Office (23 March 2021)



Procuratura Republicii Moldova
Procuratura Anticorupție

*Republica Moldova, MD - 2004, bulevardul Ștefan cel Mare și Sfânt, 198
tel. (+373 22) 257-401, fax (+373 22) 257-361, e-mail: proc-ant@procuratura.md*

nr. 3553 din "23" martie 2021
la nr.2512/21 din 15 martie 2021

Dnei Lyudmyla Kozlovska
Președintele Open
Dialogue Foundation
odfoundation@odfoundation.eu

Procuratura Anticorupție a recepționat prin intermediul Procuraturii pentru Combaterea Criminalității Organizate și Cauze Speciale și examinat solicitarea Dvs., înregistrată în cancelaria Procuraturii Anticorupție cu nr.2512/21 la 15.03.2021, prin care solicitați mai multe informații referitor la investigarea cauzei penale denumită generic FRAUDA BANCARĂ, în conformitate cu prevederile Legii nr.982 din 11.05.2000 privind accesul la informație.

În acest sens, Vă comunicăm că Procuratura Anticorupție nu poate disemina informația solicitată deoarece potrivit art.5 alin.(3) din Legea nr.982 din 11.05.2000 pot solicita informații oficiale, în condițiile prezentei legi orice cetățean al Republicii Moldova, cetățenii altor state, care au domiciliul sau reședința pe teritoriul Republicii Moldova, apatrizii stabiliți cu domiciliul sau cu reședința pe teritoriul Republicii Moldova, iar potrivit art.7 alin.(2) lit.d) din aceeași lege, informația solicitată constituie informație oficială cu accesibilitate limitată.

Mai mult ca atât, prevederile art.212 din Codul de procedură penală garantează confidențialitatea urmăririi penale, iar informația obținută în cadrul urmăririi penale poate fi divulgată doar în măsura în care această divulgare nu va leza drepturile și interesele legitime ale persoanelor fizice sau juridice ori nu va afecta buna desfășurare a procesului penal.

Astfel, având în vedere cele menționate cât și importanța și rezonanța investigației, oferirea unor date despre rezultatele obținute sau acțiunile procesuale planificate va dăuna cu siguranță scopurilor procesului penal, fapt pe care solicităm respectuos să îl luați în considerație.

Procuror în Procuratura Anticorupție

Octavian Iachimovschi

Translation:

"The Anti-corruption Prosecutor received from PCCOCS and examined your request, registered in the secretariat of the Anti-corruption Prosecutor under nr.2512/21 at 15.03.2021, within which you request more information about the investigation of the criminal file generally titled "Bank Fraud", according to the legislative provision nr.982 from 11.05.2000 regarding the access to information.

In this context, we inform you that the Anti-corruption Prosecutor can not provide the requested information because according to Art. 5 par 3 from Law nr.982 from 11.05.2000 official information can be requested only by any citizen of the Republic of Moldova, citizens of other countries who reside on the territory of Moldova, and according to the art.7 par 2 letter d) from the same law, the information requested falls under the category of official information with limited accessibility.

Even more, provisions of Art. 212 from Procedural Criminal Code guarantee the confidentiality of the criminal prosecution, and the information obtained within the context of the criminal prosecution can be unclassified only within the limits of not violating the rights and the legitimate interests of the natural or legal persons or it will not affect the fair progress of criminal proceedings.

Hence, taking into consideration the things mentioned above and the importance and the resonance of the investigation, the provision of information regarding the results obtained or the scheduled procedural actions will certainly harm the purposes of the criminal proceedings, facts which we respectfully request you to take into consideration."

Annex 3 – Official answer: PCCOCS (11 March 2021)



Procuratura Republicii Moldova
Procuratura pentru Combaterea Criminalității
Organizate și Cauze Speciale

Republica Moldova, MD-2001, mun. Chișinău, bd. Ștefan cel Mare și Sfânt, 73
tel. 022275195, e-mail: proc-ccocs@procuratura.md

11 martie 2021 nr. *4d/21-2905*

Doamnei Lyudmyla KOZLOVSKA
Președintele Open Dialogue Foundation

Procuratura pentru Combaterea Criminalității Organizate și Cauze Speciale a luat act de interpelarea Dvs., din data de 05.03.2021 și Vă aduc la cunoștință că unele fapte ce fac parte din „Furtul miliardului” sunt instrumentate de către PCCOCS.

În cadrul cauzelor penale de către Procuratura pentru Combaterea Criminalității Organizate și Cauze Speciale au fost expediate cereri de comisii rogatorii cu solicitarea de a efectua acțiuni de urmărire penală după cum urmează: România, Federația Rusă, Republica Franceză, Republica Federală Germania, Confederația Elvețiană.

Până în prezent au parvenit mai multe răspunsuri din adresa autorităților competente ale României.

Referitor la alte date solicitate de către Dvs., din cauzele penale aflate în gestiune, nu pot fi furnizate din motiv că urmărirea penală este confidențială.

Totodată, Vă informăm că informațiile posibile de furnizat în spațiul public ce nu ar deterna urmărirea penală sunt furnizate de către Procuratura Generală

Cu respect,

Adjunct interimar al procurorului-șef
al Procuraturii pentru Combaterea
Criminalității Organizate și Cauze Speciale

Roman DOROGAN

Translation:

“The Prosecutor’s Office for Combating Organized Crime and Special Cases took note of your interpellation dated on March 5, 2021 and we inform you that some facts which are part of the “Theft of the billion” are instrumented by PCCOCS.

In criminal cases by PCCOCS letters rogatory were sent to: Romania, Russia, France, Germany, Switzerland.

Until this moment answers were received from the competent authorities in Romania.

Regarding other data requested by you, from the criminal cases under management, they cannot be provided since the prosecution is confidential.

Likewise, we inform you that the information that can be provided to the public space which would not embezzle the prosecution are currently provided by the General Prosecution Office.”

*Note: PCCOCS sent our request to the Anti-corruption Prosecutor’s office asking to examine within the limits of their competences and following the criminal cases under their management, our request of information.

Annex 4 – Official answer: Agency for the Recovery of Criminal Assets (1 April 2021)



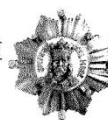
CENTRUL NAȚIONAL
ANTICORUPȚIE AL
REPUBLICII MOLDOVA

AGENȚIA DE RECUPERARE A
BUNURILOR INFRAȚIONALE



НАЦИОНАЛЬНЫЙ ЦЕНТР
ПО БОРЬБЕ С КОРРУПЦИЕЙ
РЕСПУБЛИКИ МОЛДОВА

АГЕНСТВО ПО ВОЗМЕЩЕНИЮ ДОБЫТОГО
ПРЕСТУПНЫМ ПУТЕМ ИМУЩЕСТВА



MD-2004, mun. Chișinău, bd. Ștefan cel Mare și Sfânt 198
Tel. (+373) 22-25-72-94

Nr. 21/11 - 2062 din 01 aprilie 2021

Doamnei Lyudmyla Kozlovskă,
Președinte Open Dialogue Foundation

Referitor la informațiile suplimentare solicitate prin scrisoarea Dvs. din 18.03.2021 și adițional la răspunsul nr. 21/11-1642 din 18.03.2021, Agenția de Recuperare a Bunurilor Infraționale (în continuare Agenția) vă informează următoarele.

Cu privire la solicitările expediate în cadrul cooperării internaționale menționăm că autoritățile similare străine sunt interpellate în cadrul investigațiilor financiare paralele desfășurate de către Agenție. După cum am menționat anterior, investigațiile financiare paralele și rezultatele acestora constituie parte a urmăririi penale și pot fi divulgate doar în condițiile art. 212 „Confidențialitatea urmăririi penale” Cod de procedură penală.

Mai mult ca atât, odată cu finalizarea investigațiilor financiare paralele materiale acumulate (inclusiv solicitările și răspunsurile în cadrul cooperării internaționale) sunt transmise ordonatorilor delegaților.

Așadar, diseminarea informațiilor acumulate în cadrul investigațiilor financiare paralele poate fi efectuată de către persoana care efectuează urmărirea penală, în condițiile menționate mai sus.

În ceea ce privește echipele comune de investigații, Vă informăm că Agenția nu deține competențe cu privire la încheierea acordurilor de creare a echipelor comune de investigații. Astfel, informația cu privire la ultimele evoluții în acest sens poate fi furnizată doar de către autoritatea care a încheiat acordul respectiv.

Referitor la întrebarea privind sumele recuperate din prejudiciul cauzat statului în cadrul cauzelor cu denumirea generică ”Frauda bancară”, ținem să menționăm că în conformitate cu dispozițiile art. 229¹ Cod de procedură penală etapele procesului de recuperare a bunurilor infraționale constau în:

- 1) urmărirea bunurilor infraționale și acumularea probelor;
- 2) indisponibilizarea bunurilor infraționale;
- 3) confiscarea bunurilor infraționale și repararea prejudiciilor;
- 4) restituirea (întoarcerea) bunurilor infraționale.

Astfel, primele două etape pot fi efectuate de Agenție doar la solicitarea organului de urmărire penală. Etapele trei și patru din procesul de recuperare a bunurilor infraționale țin de competența instanțelor de judecată.

În această ordine de idei, atragem atenția că Agenția nu este autoritatea care în ultimă instanță dispune asupra recuperării prejudiciului.

Cu referire la valoarea totală a bunurilor puse sub sechestru de către Agenție în cadrul investigațiilor financiare paralele desfășurate în cauzele penale cu denumirea generică ”Frauda bancară” menționăm că până la moment Agenția a pus sub sechestru bunuri în valoare totală 2 288 766 078,26 lei.

Șef

Serghei CARAPUNARLI

ex. Vitalie Racu
tel. 022-257-282

Translation:

"Regarding the additional information requested by you on March 18,2021 and the additional response nr.21/11-1642 from 18 March 2021, Agency of Recovery of Criminal Assests informs you:

Regarding the requests sent under the framework of international cooperation we mentioned that similar foreign authorities are questioned under the framework of parallel financial investigations initiated by the Agency. As we previously mentioned, the parallel financial investigations and their results are part of the criminal investigation and can be disclosed only under the conditions provided under art. 212 "The confidentiality of criminal investigation" Code of Criminal Procedure.

More than this, in the moment of the finalisation of the parallel financial investigations the materials accumulated (including the requests and the answers within the international cooperation framework) are sent to the offices who delegated the tasks.

Hence, the disclosure of the information accumulated under the context of the parallel financial investigations can be done only by the person who is in charge of the criminal investigation, under the conditions mentioned above.

Regarding the joint teams of investigations, we inform you that the Agency does not have any competences regarding the establishing of joint teams of investigations. Hence, the information regarding the latest developments in this sense can be only provided by the authorities who established this agreement.

Regarding the question about the sums of the recovered money from the damage caused to the state in the cases with the generic name of bank fraud, we would like to mention that in accordance with the provisions of art. 229 of the criminal procedure code, the stages of the process of recovering the criminal assets consist in:

1. following the criminal assets and the collection of evidences;
2. making the assets unavailable
3. seizure of assets and repairing the damage
4. the return of goods

Hence, the first two stages can be made by the Agency only upon the request of the investigative bodies. The stages 3 and 4 are related to the competences of the courts.

Under these circumstances, we bring to your attention that the Agency it is not the authority that ultimately rules on the recovery of the damage.

With references to the total value of the seized goods by the Agency in the parallel financial investigations in the criminal cases with the generic title "Bank fraud" we mentioned that until this moment, the Agency put under seizure goods which amount to 2 288 766 078.26 lei."

Annex 5 – Official answer: Eurojust (29 March 2021)



EUROJUST
European Union Agency for Criminal Justice Cooperation
P.O. Box 16183 – 2500 BD The Hague • The Netherlands

D210057

Mr Helmut Scholz
Member of the European Parliament

Via e-mail only:
[\[helmut.scholz@europarl.europa.eu\]](mailto:helmut.scholz@europarl.europa.eu)

The Hague, 29 March 2021

Request for information

Dear Mr Scholz,

Thank you for your letter of 8 March 2021, in which you request information about a Joint Investigation Team (JIT) established with the purpose of carrying out an investigation into the theft of \$1 bln from three major Moldovan banks in 2014.

A JIT is based on a legal agreement between the judicial authorities of two or more States for the purpose of carrying out criminal investigations. Once a JIT has been set up, the authorities involved can directly exchange information and evidence, cooperate in real time and jointly carry out operations. Eurojust's role in this process is exclusively supportive: we provide operational, legal and financial assistance to make sure that national judicial authorities can successfully work together.

Against this background, it is beyond Eurojust's competence to independently communicate about the progress of an investigation. National judicial authorities enjoying our support need to be able to work together in an atmosphere of trust and confidentiality, knowing that the decision to disclose information about their investigation is only theirs to make.

Having said this, I can assure you that Eurojust will provide its full support to any efforts to ensure justice for the citizens of Moldova. In April, I will have the opportunity to meet the Head of the Mission of the Republic of Moldova to the European Union, Ms Daniela Morari. I will make use of this occasion to convey your concerns about the progress of the investigation.

I avail myself of this opportunity to extend to you the assurance of my highest consideration.

Yours sincerely,

A handwritten signature in blue ink, appearing to be "L. Hamran", written over a blue circular stamp.

Ladislav Hamran
President of Eurojust

This study sums up what is currently known about the most high-profile financial crime in the history of Moldova - the theft of around USD 1 billion from Moldova's banking system in the years 2012-2014. The study presents the circumstances and examines the results of the investigation of this crime. It also analyses the progress made by the Moldovan authorities and the involved EU jurisdictions on recovering the stolen funds.

The overarching concept behind this study is to analyse how the EU and certain EU Member States can further cooperate with Moldova on this case. It also highlights some of the elements hindering progress and provides recommendations on how to make the process of finding and recovering of stolen money more efficient.
