

# A strategic partnership is like a flower - it only lives if it is well cared of

**Igor Munteanu, director of the Institute for Development and Social Initiatives „Viitorul”**

**O**n July 5, 2018, several civil society organizations launched, for the first time, public discussions on the adoption of the “Magnitsky Law” in the Republic of Moldova. This is a series of international integrity standards inspired by the legislation adopted in 2012 by the US Congress in response to the detention, arrest, and killing in 2009 of the Russian lawyer Sergei Magnitski, known for having “dared” to contest and make public a series of very large bank frauds in the Russian Federation. The Global Magnitsky Act has inspired other countries to follow these standards, and the event has made the idea of the alignment of the Republic of Moldova to them come almost simultaneously with the numerous statements about the success of Moldovan-American relations and the intensification of the strategic dialogue with the USA made by certain government exponents following the June visit to Washington. This idea came also in parallel with the huge street protests caused by the invalidation of the local elections for the Chisinau mayor’s office and the painful Resolution of the European Parliament. About successes and failures, both domestically and externally, I have discussed with Igor Munteanu, Director of IDIS “Viitorul”, former Ambassador of the Republic of Moldova to the USA and Canada and one of the authors of the initiative of alignment of our country with the “Magnitsky Act”.

## An eventual “Magnitsky Law” would de facto strengthen the state security

■ Mr. Munteanu, in the announcement about the launching of the initiative to align our country with the ‘Global Magnitsky Act’ International Integrity Standards, you mentioned: the time has never been more favourable. Why “favourable”?

■ Because the challenges the “Magnitsky Act” can respond to are systemic, the risks



are global and the premise from which we started together with several comrades from TI-Moldova, WatchDog and CPR, was that the Republic of Moldova should demonstrate international solidarity and national will aligning with Magnitsky legislation. That is the only way we can solve the serious problems of the country’s financial and banking system and that is how we can end the investigation of the \$1 billion bank fraud and hold accountable the frauds who, having enjoyed the complicity of some political parties and the state’s inaction, betrayed the citizens of this state. Thus, by a “Magnitsky Law” we could recover years of inertia and bureaucratic blocking of problematic cases, we could stop the access of people directly involved in the bank fraud or money laundering operations and could confiscate properties from fraudulent money - three crucial elements of the Magnitsky integrity standards. We called on Parliament to adopt this law as a matter of priority, which means to adhere to an existing mechanism for preventing and sanctioning organized crime on a global scale, so that we also join the states that impose coordinated sanctions on those involved in widespread corruption, money laundering and violation of human rights.

■ In a period of serious social tensions, it sounds like an optimistic urge. What answer are you actually expecting? Did they get the message at least?

■ I’m a positive person. I hope that the response from the parliamentary political class, but also from the extra-parliamentary parties, will be positive. All the more so, as the title of the law adopted by the US Congress and promulgated by President Barack Obama contains the name of our country - “Russia and Moldova Jackson Vanik Repeal and S. Magnitsky Rule of Law Accountability Act of 2012” (No.112 -208 of December 14, 2012) - and the purpose of this law was to put an end to the commercial-economic restrictions we were targeted through the Jackson Vanik Amendment as a “successor to the USSR,” which opened the access to obtaining the PNTR (Permanent Normal Trade Regime) with the USA. Adopting a “Magnitsky” Law can be a “game-changer” in the current context as we need accelerators to overcome stagnation and inhibition in the justice system.

■ As one of the most vocal voices of the moment, what predictions do you have for the future of the Republic of Moldova?

■ We are at the end of a political cycle marked by the signing of the Association Agreement with the European Union, including the implementation of the Free Trade Area with the EU, as well as by other political obligations to the EU. A period in which there have been successes and resounding failures. Both the parties and the pro-European public were much more optimistic at the beginning of this cycle (2009) which, in 2018, is ending with a stalemate and unprecedented democratic decline in our country. And against the backdrop of a growing political confrontation between the opposition and the government, on July 5, 2018, the European Parliament adopted a particularly categorical Resolution on the current political crisis in the Republic of Moldova. The EU is alert to the recent involutions of Chisinau and to the emergence of an authoritarian political model implemented by the Democratic Party (PD) leadership at the expense of the previous course of adherence to the norms and

values of the European space. The Republic of Moldova has always had a very pluralistic society - for which reason, personally, I do not think that a party of 5% popular support can achieve its goals - but it is certain that having a quasi-total control over the state and the decision-making agencies, it can generate many problems, a lot of confusion and costs in relation to the external partners. Today, we are witnessing a form of power usurpation specific to the regimes with authoritarian leaders in which well-trained entrepreneurs in corporate business take control of the public sector and de-legitimate the state institutions through a rentier system subjected to political will and cut off from any democratic control. Thus we are observing in Chisinau the strengthening of a governmental model extracted from public consultations, subjected exclusively to the decisions and interests of some decision-makers from outside the institutional field of public authorities, acting in a manner that contradicts the constitutional provisions and the model of representative democracy.

### ***We are dealing with a Belorussian model, but in an inverted manner***

#### **■ So we are talking about the end of a political cycle, not of an era?**

■ Politics in the Republic of Moldova is highly personified, often attributed to familial-parochial relationships: the godchildren, godparents, and relatives are “institutions” often stronger than any “impersonal” (Weberian) mechanisms of collective leadership, which compromises the essence of power in the state. In 2001-2009 the political power was identified with the name of the communist leader, Vladimir Voronin, who introduced a kind of “social power-of-people mimicry” of the socialist-chronist type, but who was still preserving a certain lineage with the leader’s accountability to the public. Let us recall the press conferences held by Mr Voronin at the Presidency headquarters, the call of Prime Ministers to report, and the renunciation of the Kozak Plan in November 2003, under the pressure of street protests, which is symbolic to this regard. Many “auxiliary” people in the Communist leader’s entourage felt at some point that they could use this personified power for less altruistic purposes. Respectively, when they were given the chance, they started to consolidate

an oligarchic-plutocratic governance model that had no longer any connection with the ideas of the “welfare state” or the “European model” that they are claiming to embody today. Against the backdrop of governance failures in the coalition, these people fuelled and took advantage of the existence of a functioning power vacuum, which they managed to take over, thanks to a better managerial experience of the private sector. But their solutions don’t seem to bring the benefits that any public sector should generate for citizens. We are rather at the stage of reading the label, not of consuming the promised goods.

#### **■ However, Mr Voronin had popular support, he was an elected leader.**

■ Indeed, Voronin was brought to the head of the state by the votes of the electorate, expressed by a constitutional parliamentary majority (71). The PDM’s current “managerial-oligarchic” model does not enjoy a similar electoral support and does not have the electorally-confirmed legitimacy. Moreover, in 2014, the PDM obtained only 18 mandates. However, because the current party finance system is full of holes like a sieve this party has managed to poach its deputies from other parties. It has happened through frauds that have nothing in common with the sudden change in political convictions, but rather have to do with forcing them, through less Orthodox means, to join a powerhouse. And if it has control over the Prosecutor’s Office, the Central Electoral Commission, the National Anti-Corruption Agency, a party with sufficient financial resources can easily block the mechanisms of separation and co-operation of powers in the state (checks and balances), assigning itself powers and functions which, according to Article 2 of the Constitution of the country, qualifies as “the most serious crime against the people” - the usurpation of state power. At this moment, PDM leaders exercise the state power on their own behalf - they promote or dismiss officials as dictated by their interests, give instructions to the Prime Minister directly from the party headquarters, use public money as they please, break any dialogue with the Opposition and the free press, and ultimately assigns to those without a certain function in the state roles of “monarchs” of a parallel order to the constitutional regime. This model of corporate-oligarchic governance has nothing to do with the mechanisms of European democracy - it is

rather a model inspired by the Byelorussian leader, Lukashenko, but in an inverted manner.

#### **■ Aren’t we exaggerating when we assign such power to a single person and thus legitimize, actually, his power?**

■ My analysis is based on evidence and not on speculations. Today PDM is the dominant actor of the governing coalition, even though this coalition formally includes PPEM with a secondary role and, informally, the PSRM, embedded in sequential, multi-movement games. The state is what PDM wants: the budget resources are redistributed by the Government for electoral purposes (roads, Arena, salary increases); the media market operates under a monopoly regime where almost no independent institutions can exist; the most important state-owned enterprises (from “Air Moldova” to “Metalferos”) are managed by politicians loyal to PDM. The oligopolies in the economy (energy sector) are exploited by political groups under the control of the PDM, thus securing their resources by which they buy again loyalty and control over the public sector. In 2017, the PDM and PSRM voted to modify the electoral system, contrary to all the recommendations of the Venice Commission and the OSCE/ ODIHR, opting for a mixed system - also with the aim of political survival rather than strengthening political accountability mechanisms. The citizens have been told they will be able to withdraw their deputies if they do not work efficiently, which later proved to be a “bluff” served to the credulous people. And because the manipulation succeeded in 2017, in 2018, we got landed with the invalidation of the local elections through the decision of the courts - an unprecedented situation in the modern history of the Republic of Moldova, which clearly shows that the promoters of this authoritarian and non-liberal model that are in power can be particularly damaging to the rule of law and the interests of citizens, and unfortunately they will leave only if they are helped to leave. Peacefully, obviously.

### ***There have been two calculation errors: Silvia Radu and the European Parliament***

#### **■ To what extent do you think the recent European Parliament Resolution is influenced by this democratic decline?**

■ To quote Dostoevsky, it is the direct relationship between “crime and punishment”. And the hysteria with which the Democratic Party (PDM) accused the opposition of having influenced the decision to suspend the EU funding, which is going to affect the “nutrition of children in schools and kindergartens,” I find simply absurd. The Prime Minister Filip’s statements are shameful, while his language - tactless and lacking education. I mean, you pretend to be “European” as long as it is convenient to wait for the EU “cookie” or “carrot” promised (the macro-financial and bilateral assistance), but you don’t show basic respect towards the institution of political competition, the institution of Opposition and the separation of powers?! Who at this stage believes that a judge of first instance with an absolutely unrelated experience in the judiciary, can challenge the results of the election? And immediately the Court of Appeal and the Supreme Court of Justice whose membership includes judges that were subject of serious journalistic investigations maintain an extremely poorly judged decision? After that, pretending you have nothing to do with the decision, you are hiding from political responsibility by not interfering with the justice?! Do not insult the public’s intelligence, it is clear that the only beneficiary of this precedent is PDM, which risked the degradation of dialogue with the EU only in order not to give the Opposition the capital - the most influential and the richest city which is anchored to a pool of democratic votes. We could see how PDM relied erroneously on a technocrat candidate who proved disappointing, without relevant political substance, which underlines that the advice of the political consultants to this mega-party is either deeply flawed or shaded by the emotional instincts of the leader.

#### ■ **And what was the error in relation to the European Parliament?**

■ It lies in the absence of strategic calculation. Being perhaps accustomed to the leniency ensured to them in different offices in Brussels by the lobbying companies, the PDM leaders have not even admitted that there will be such a strong majority in favour of a tough resolution penalizing the invalidation of the elections and the political control over justice in the Republic of Moldova. And trying to publicly subvert the power of a resolution adopted by the EU legislative forum and, at the same time,

to praise a resolution on the subject of Russian troops adopted at the UN with a much less instrumental value, seems to me an aberration. The first serious blow to the relationship between Chişinău and Brussels was given in 2015 when it was found out about the huge bank fraud in which some of the exponents of the current ruling coalition are complicit. The fact that at this moment they hold very high positions in the state means - both for the public and our strategic partners - that the political lessons of the bank fraud haven’t been learned in Chisinau. By the way, the authorities of the Republic of Moldova have shown impotence in the investigation of frauds, in the situation when the facts revealed by the Kroll Company and the availability of important partner states to help with money recovery should have solved the problem quickly. We see, however, that three years after the collapse of the banks and big street protests against the bank fraud, things did not move. In June 2018, the current political class added to its list the indiscriminate vote-voiding, which for any European official, regardless of the political color, is a “red line” that one cannot cross under any circumstances. The EU is wondering: if it was possible for an anonymous judge to cancel the vote of hundreds of thousands of people in Chisinau, why should one hope that the same pattern will not be repeated in the future parliamentary elections of 2018, especially that the stakes will be even higher? And then, why should the EU funding help a government to further usurp power in the state, using various pseudo-European campaign slogans of Soviet or “Putin” type?! The risk is neither metaphoric nor hyperbolic.

#### ■ **Can we say we are in an undeclared war with the EU today?**

■ Let’s say that the statements of the Moldovan authorities have exceeded the limits of diplomatic courtesy ... and that there is no trust whatsoever in the Filip Government. And even if they step back - personally, I think they will step back, although the reality is more complicated than any detective story - I am convinced that the vehement speeches of Speaker Candu and Prime Minister Filip have hit some extremely sensitive cords in Brussels, and the reactions are opposite to what PDM political advisers would have expected. Blaming the EU’s legal forum that it had allegedly urged the political leaders in Chisinau to interfere

with the Moldovan “independent” justice (this is how it is at least described by the two), the message that the foreign partners get is that the current government is, in fact, the political issue no. 1 in the Republic of Moldova and that its lack of legitimacy deprives the Moldovan citizens of the extremely necessary help from the EU, not the other way round.

I think the PDM’s both “messengers” were fatally wrong about the kind of reactions to make public, transferring the nervousness of their party leader to the government position. And the errors have consequences. In other words, although we are not on the brink of war with the EU, we are witnessing a dramatic degradation of relations with the European institutions, and the blame falls on the PDM and all those public servants who prefer to sacrifice the relationship with the EU in the name of personal comfort. To cover oneself with the infamous thesis that “it is the judges who decided so” is, I think, ridiculous and shameful, especially since the latest report on the progress of the Association Agenda (March 2018) and the numerous appointments of judges with serious problems of integrity, have shown that our justice is neither independent nor reformed.

#### ■ **What is the way out of this diplomatic deadlock, which looks more like a blackmail - if you do not accept us as we are, we will be moving to another house?**

■ We are in a political deadlock, not just diplomatic, and this episode of the European Parliament Resolution cannot be treated (as ignorant politicians do) as a mere misunderstanding. As I said, it is a serious collision between the PDM interests and goal of concentrating the power and changing the rules of the game, and the basic rules defining the EU’s relationship with its associated partner Republic of Moldova. These are the conditionalities imposed on our country by the European Council on several occasions, starting on 15 February 2016, which cannot be exchanged, traded or replaced by anything else, the alternative being merely the suspension of the Association Agreement. We are talking about a very dangerous intersection, revealing a kind of “chicken game” of the Game Theories. The Republic of Moldova needs the EU as oxygen - no other foreign partner can replace the European governance principles,



the development resources, the attraction and the benefits enjoyed by our citizens in their orientation towards the European cultural model. And the EU only requires rules and key conditions: the functioning of democratic institutions, the justice reform and respect for human rights and freedoms, including in terms of political competition and the maintenance of public authorities under the control of the citizens. A chaotic agenda dictated by the interests of a political leader is a safe recipe for instability and isolation. That is why I am convinced that the EU will not give up on its support conditions so easily for the 100 million euro expected by the authorities. There are intangible values that make the EU strong and that cannot stop at the border of the EU. Now, however, it is the turn of the political actors in Chisinau to make a firm choice: either they win this semi-authoritarian, semi-doctrinal that can change the rules based on their partisan interests, or the Power accepts the existence of limits which cannot be crossed and resets its political conduct in order to be part of a political solution, not part of the problem, meaning a rational game of political probabilities and certainties.

### **When you use manipulation, the costs can be enormous**

■ ***As former Ambassador to the United States, how do you see America today? And how do you think the quite contradictory changes across the Atlantic whose echo, though more difficult, reaches us, is going to influence our region?***

■ What is happening in the United States is part of a wider transformation of the world order. The relative decline in the US economy's global share has created a sense of anxiety in the American society and has generated the phenomenon of power transition to a Trump type businessman president- which is in contradiction with the Republican Party's doctrine and doctrinal legacy which becomes a violent denouncer of globalization that does not preserve the US dominant role in the world. "The rise of the rest," as Zbigniew Bzezinski would say in order to explain the reasons for the change of forces on the international arena, triggered the "America first" electoral response, exploited by Trump's team in the presidential campaign.

At the same time, vocal and even virulent populist groups came to power or close to the power nucleus in several influential states of the EU, from the Freedom Party in Austria to the National Front in France, from Jobbik in Hungary to the UKIP, which triggered the exit of the Great Britain from the EU and pushes the governments of Hungary, Poland, the Netherlands, Italy or Greece into extremely dangerous actions. These actions are taken up by populist leaders who are planning to come to power through elections but who publicly disregard and disapprove the fundamental pillars of democratic governance; they accuse the EU of corporatism and question the European solidarity. The Trump administration came to power with the idea of nationalizing the benefits of globalization and reducing the spending on activities that are not to the advantage of the US interests, and with another vision of the role that the United States can play externally - hence challenging the free trade with some countries on the grounds that the US is losing out of these agreements. It is a new order whose effects impact also Europe, creating nervousness especially at the level of the states threatened from the East, but not only. The fact is that our world has become more complex, and also more complicated, devoid of cohesion on its democratic flanks and more unpredictable.

■ ***In this context, do you admit the theory of conspiracy - that someone would have been convinced so that we appear just as a pawn in the ever more obvious battle between the USA and the EU?***

■ Not at all. The US administration is sending its messages directly to the relevant capital, trying to influence commercial issues first and foremost. The security challenges, as we have seen at the recent NATO Summit, though problematic, they are openly discussed. And, ultimately, I do not think anyone would entrust such missions to PDM leaders. I believe, however, that the Republic of Moldova is so captured by its own internal weaknesses that we cannot afford to resort to various conspiracies or more complex paradigms than the analysis I have made above.

■ ***How do you explain, in this case, the excessive optimism with which the exponents of the current government returned from Washington a few weeks ago?***

■ I see them optimistic compared to other political players only because they feed on the reports of well-paid lobbyists who only give their clients what they like to hear. Full stop. More regrettable seems to me the fact that the PDM leader's subjectivism is fueled by the slicks that take advantage of the pre-modern way in which decisions are made in this party, and thus maintain a bubble on the most delicate matters that the governance is responsible for. Personally, I was sad to see that even the press release from the meeting at the State Department (Filip - Pompeo) was censored in a rudimentary way, without giving the full text, presenting the meeting as a great success of the PDM. The key message that "the people's will should be respected, and justice and the press should be independent"! was excluded from the press release.

This simply means manipulation, and if you resort to it in relation to the USA, your costs can be enormous. I personally met Mike Pompeo in Washington when he was Congressman of Wichita and I think he does not share Filip's dull joy ... Our officials claim we have a strategic dialogue with the USA - but a strategic dialogue is like a garden, a flower that should be watered every day. If you do not take care of the hygiene of this relationship, it will serve only for domestic consumption of party TVs and will remain just an empty phrase at practically the first contact with reality. And I do not exclude that the American side has an unpleasant feeling about the visits being exploited for electoral purposes without being seen as such - as long-term investments for the Republic of Moldova. There are errors generated by the tendency to transplant corporate management solutions into the public sector that cannot succeed in the public sector simply because it is built differently and needs legitimacy and transparency.

### **Ambassadors are not magicians**

■ ***Do you think Moldovans need democracy? The "success story" from Orhei and, more recently, Jora de Mijloc is speaking of something else...***

■ Yes, I am convinced that the citizens of this country need democracy and European values to develop as individuals and exponents of an ethno-cultural community. It would have been impossible to ask for



democracy in a closed Soviet-style society, the famous “aquarium” described by Victor Suvorov, where you could have bread on the table, but at the risk of being accused of state betrayal any time the leaders of that regime wanted. The collapse of the USSR offered the chance to develop institutions and practices incompatible with the logic of “barracks”, “gulag” or official propaganda of the regime. That’s why I find it horrible to see that people who were born free after 1991 can find the former Soviet camp’s “aquarium” regime attractive for some personal benefits ... As far as the rapprochement to the EU is concerned, this is a process, not an end in itself. And our citizens should learn to value the benefits offered by the EU (liberalized visa regime, the benefits of free trade), but also to fight for the benefits they have exclusively of the political regime that we are maintaining in the state - the constitutional order, the pluralistic and democratic regime etc. By valuing these political goods, we could advance towards an efficient governance model and close the lid of the “aquarium” that can block us at a dead end. What is happening in Orhei with his famous mayor is a pick of absurdity reached by our brave justice, controlled by politicians incensed by the “unjust Resolution of the European Parliament”. Shor is just the cherry on the cake and the symbol of the illegitimate, grasping, protected from impunity Power, and as its electoral slogan said, “which proved it can do it.” However, this puerile rhetoric that “we cannot interfere with the justice” isn’t worth yesterday’s garbage if people start to discuss, analyze and want something else.

■ **Recently, the reunion of the diplomatic corps of the Republic of Moldova took place in Chisinau. How should and how do you think our diplomacy will de facto act in the present context which is rather complicated, especially domestically?**

■ Nicolae Titulescu said: “Give me a good internal policy and I will make an excellent foreign policy!” It is a quote that answers your question. I must admit that it has never been easy to place the Republic of Moldova on the agenda of the big international players, not to mention benefiting from it - and at present it is no any easier. I have seen the optimistic-festive statements of the minister Tudor Ulianoschi about increasing the efficiency of Moldovan diplomacy,

dedication etc. It is what any minister has to do and say, but the task of our diplomats is getting complicated because of the unprecedented antidemocratic abuses happened this year in the Republic of Moldova. The ambassadors are not magicians, they cannot do wonders if things go wrong at home. The calls for mobilization only inflict them a certain fear of not telling what is unsuitable for a dominant party or to lead them to “faking” some external messages. And this undermines the role of ambassadors, who should be sufficiently free and respectful and not put in situations where they should show loyalty to the “boyar.” Fear is an inhibitor of diplomatic creativity and a negative capital that is raging in public service. That’s why ... I would remind you that in the Republic of Moldova you can fall into disgrace even if you don’t say anything, as happened to Aurel Ciocoi, recalled from Washington just after one-month mandate. It seemed to me a clear insult to the USA, if we get back to the issue of the strategic dialogue. Without courage – there is no use of diplomats.

■ **How not to return to the “aquarium”? There have already been speculations about a possible suspension of the visa-free regime in response to the political abuses...**

■ The issue of the liberalized visa regime is a taboo - there are experts who are even refusing to discuss this issue in the public space. It is understandable: some people have worked enormously to give Moldova’s citizens the freedom to travel to the EU two years before other countries like Ukraine and Georgia could get it. And now, as a result of the mess and lack of compass in the domestic politics, to discuss this topic would mean, at least, to admit that everything can fall overnight ... Personally, I believe that a benefit offered can always be withdrawn, this is the logic of any political construction in which states undertake obligations in exchange for goods they need. I am convinced, however, that the EU will think it twice before cutting the Moldovans’ access to the EU - because it is primarily aimed at citizens, not parties. So I don’t think it will get there, but I don’t rule it out either, because all agreements have a start and an end, especially when key conditions are violated and some politicians play risky.

■ **Could you please give an example of a risky game?**

■ I will mention only one - the controversial Law on Citizenship against Investments, adopted in spring 2018, despite the criticism of the civil society, which is advancing by selecting a company that will deal with the “sale of the citizenship to foreign persons, subsequently called “investors”, which will be accepted by a Commission of Officials set up by the Ministry of Economy.” Such a primitivisation of the citizenship institution raises many questions. For when you open such a loop, you are risking a lot. You are risking the devaluation of citizenship and national security interests, which the authors of this law have tried to substitute with money. And we’ve already had the first alert in the press (the independent press, obviously!) about the dubious reputation of the company selected by the Government for this project. In addition, it is enough to have some concrete failures in the international press – unverified people with international criminal records, connected to various suspicious networks or affiliated to groups sanctioned globally - and the Republic of Moldova can enter into an increased risk situation for the EU. You can realize one day that all your citizens can be subject to sanctions or even suspended visas. Risks are probabilities that can be mathematically calculated - and never impossible.

In this context, I’m sometimes wondering if the officials who allowed for this law are not, de facto, sabotaging the liberalized visa regime with the European Union, and (the great democratic politicians) are not following in their “corporate” labyrinths of thinking “ exactly the purpose of a rejection on the part of the EU?! And I’m wondering if the price of this action is much lower than the money the Chisinau government estimates to collect from the “investment against citizenship” operation. The circle is closing. And I’m getting back to the beginning of this dialogue and I’m reiterating my conviction that a Magnitsky Act type of legislation could balance these lethal risks - but only if there was enough power to mobilize and persuade the society, the political class and the people of common sense in all social groups that this is the direction to follow.

■ **Thank you for the interview.**

**Sorina Ștefârță**