The Europeanization of Moldova's direct democracy: assessing the new tools for citizen engagement in policymaking

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Abstract

This article zooms in on citizens' participation in the decision-making process opened in recent years in the framework of EU-Moldova institutional relations in order to evaluate the extent to which it contributed to the strengthening of the structures of democratic governance in the Republic of Moldova. The present contribution moves away from the traditional top-down approach on how the EU supports democratization processes in neighboring countries through the transfer of norms on democratic governance and aims to provide an upward perspective on how the newly developed mechanisms of citizen participation strengthen the democratic structures in the particular case of the Republic of Moldova. This article does not intend to question the normative power of the European Union, but starts from the observation that although the EU possesses neither the military muscle, nor the political clout, it has nevertheless the capacity to influence norms and ideas on what could be considered an appropriate behavior in the relations between states. The main concern of this article will therefore be to address the challenges posed by the design of European norms and values in the context of the utterly complex situation existing in its Eastern neighborhood.

Keywords: Republic of Moldova, European Union, Eastern Partnership, European Neighborhood Policy, external governance, citizen participation

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1. Introduction

The exit of the Republic of Moldova from the Soviet system entailed a difficult process not only for building a new political system but also for

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changing deeply ingrained mentalities about the role of the state after decades of being held solely responsible for providing health services, housing, or access to education. As the Soviet state arrogated to itself the role of sole provider for the needs of its subjects, policymakers claimed that the state was the source of human rights, in contradiction with the common Western legal tradition that the individual holds inherent rights by his very nature (Lambelet, 1989, pp. 64–65). Otherwise stated, the state was placed high up on a plinth. Since there were no other alternatives for getting access to fundamental services such as healthcare or education, it was between dangerous to almost impossible to question the governing mechanisms of the state. By contrast, an adequate political culture, understood in the sense of a set of guidelines, attitudes, beliefs and values by which the individual relates to a particular political system, is the essential ingredient of a democratic political system based on the existence of a Constitution that guarantees the rule of law and respect for human rights and fundamental freedoms. A democratic political culture implies participation; citizens have the means to influence decision-making or political events that negatively affect their interests (Almond and Verba, 1989, p. 119).

However, a people with an almost unconditional obedience to the state represented, as in the case of post-war Germany, a difficult starting point for the newly-proclaimed Republic of Moldova. Reflecting on the situation of his country in the troubled years following the Nazi dictatorship, the first Chancellor of the Federal Republic of Germany, Konrad Adenauer, expressed the opinion that his country's most difficult problem was caused by "a false perception of the State, its power and the position of the individual within it" that existed at the level of the German society, which transformed "the State into an idol and raised it on an altar" then "sacrificed the individual and its dignity on this altar" (Adenauer, 1987, p. 44). Trying to make its own way after the collapse of the Soviet system, the Republic of Moldova was after 1990 in a comparable difficult situation with that of post-war Germany in terms of the relationship between the state and society and the need to redress this rapport.

However, Moldova's problems have been reinforced by a whole series of additional factors. Firstly, we need to consider what Professor Pompiliu Teodor defined as "an unfinished process of forging a national identity", since, because of its 1812 annexation by the Russian Empire, Moldova remained untouched by the nationalist movements that had crossed the other nations in the region, being prevented from building its own national identity (Teodor, 2007, pp. 267–278). Then, until the end of the Soviet rule, Moldova was one of the most Sovietized republics in the former USSR, with a much higher than average rate of linguistic assimilation and mixed marriages. The consequences of this situation were best highlighted by professor Charles King, who stressed that "the situation of Moldova is furthermore complicated by the conflicts between the political and cultural elites of the country regarding the basis of the national identity of the state"(King, 2002, p. 231). This translated into a strained relation between Moldovan/Romanian majority population and ethnic minorities, especially the one of Russian descent, brought constantly to the forefront of political struggle. This rendered the efforts to build a new type of governance even more difficult. Secondly, the separatist war that led to the creation of the self-proclaimed Transdniestrian Moldovan Republic has deprived Moldova of most of its industrial resources and has accentuated its dependence on Russia1(Roper, 2001; Protsyk, 2009; Chinn, 2019; Kosienkowski, 2019). Thirdly, we have to bear in mind that Moldova is part of a 'common neighborhood' of the European Union and Russia (Makarychev, 2014; Cadier, 2019). The competition between Brussels and Moscow has crystallized two radically opposed integration projects for the region: the Eastern Partnership and the Eurasian Customs Union. As part of a concerted effort to recover its status in the former Soviet republics and reconfirm its global leadership mainly since Vladimir Putin's takeover of power, Russia has taken systematic steps to destabilize those states that seek closer integration with the EU and NATO (Dimitrova and Dragneva, 2009; Zagorski, 2011; Delcour, 2015, 2018; Ademmer, Delcour and Wolczuk, 2016; Korosteleva, 2016). Countries in the common neighborhood like Moldova have been exposed to strong divergent external forces, which have only amplified their internal divisions (Hagemann, 2013; Kennedy, 2013). We believe that the situation in Moldova

¹Depending on the source of the statistics, between 70 to 80% of Moldova's exports are sent to the Russian Federation.

cannot be assessed correctly without taking into account these factors that shape both its internal and external action.

Coming back to the parallel we drew with the comparable difficult situation of Germany at the end of the WWII and the way this was assessed by its first chancellor, we have to mention that for Adenauer it was clear from the beginning that democracy could not be created by simply establishing a parliamentary form of government. It required a political culture that was "deeply rooted in the consciousness of individuals." The role of the state was "to awaken the creative forces of the people, to guide and to protect." It was the mission of the state to turn the younger generation "into politically responsible people," not in the sense of making them willing to leave control and leadership to an overwhelmingly powerful state, but "by reinforcing their will and ability to become free people, wanting to integrate responsibly in the society as a whole" (Adenauer, 1987, pp. 45-46). All these considerations prove true in the case of Moldova as well. The country began an extensive process of democratization since the early 1990s. Engaging on a European path since 1994 should have facilitated a profound transformation of the Moldovan society. Yet, the specific circumstances of Moldova's situation have left a durable imprint on its relations with the European Union and limited considerably the normative power of the latter. So far Moldova's democratic performance remains modest. 25 years after the collapse of the Soviet Union and the proclamation of its independence, the Republic of Moldova is still torn between a pro-European and a pro-Russian way of action. After 2009, a pro-European coalition of parties assumed the mission of taking decisive measures to launch the country on an EU orbit, but the lack of political will to introduce the necessary reforms for a more democratic style of government threw Moldova by the end of 2015 in a deep political crisis, which nearly wiped out the credibility of a pro-European option¹(Racheru, 2016). The situation was even more dramatic as it contrasted sharply with its former status of champion of the Eastern Partnership and its reputation of success story for the democratization of a state situated in a region

¹According to the Moldovan media, by the end of 2015 the support for a European orientation of the country and that for a Russian orientation were almost equal, whereas those who hesitate account for 40-50% of the electorate .

dangerously exposed to a very assertive Russian Federation. Although it has adopted "certain specific elements of a democratic system", but without having yet completed the transition, the Republic of Moldova, more than most CIS countries, came to be regarded as a semi-free state with combined elements of "democratic competition" and "authoritarianism" (Raik, 2006, pp. 7–9). According to Freedom House's Nations in Transition index (NIT), the Republic of Moldova should be considered a "hybrid regime" rather than a "transitional" one, due to its "limited democratic progress" and recurrent tendencies towards authoritarianism (Nilsson and Silander, 2016).

2. Data and methodology

This article aims to evaluate how the EU-Moldova partnership has succeeded in contributing to building a civic culture in the young former Soviet republic. On grounds relating to the limits imposed on this article, attention will focus on the paths opened by this partnership for the involvement of citizens in the conduct of political events that would adversely affect their interests. Its research questions relate to how does EU support for a more dynamic citizen engagement in policy-making can help the democratization processes in the case of a country in search of its own identity whose pro-European orientation is supported by half of the majority Moldovan/Romanian population and to a lesser extent by the minority groups representing 22% of the population (Kosienkowski and Schreiber, 2014, pp. 5-6). It is true that over the years the EU has often been criticized for its own democratic deficit, but this has not prevented it from turning democracy and rule of law into central goals of its global engagement and has consistently positioned itself to remain one of the strongest advocates of democratic transformation in its relations with other countries. In view of the considerations mentioned above, we believe that the most appropriate approach to the topic under discussion is from the perspective of the external governance of the European Union.

In these circumstances, the reminder of the paper will be organized in three relevant parts for the presentation of the research results. After a brief review of the literature devoted to the external governance of the European Union, the state of relations between Moldova and the European Union will be discussed first, the focus being placed on their bilateral partnership's established objectives, content and means of implementation.Next, the ways of involving citizens open by this partnership will be explored in relation to the mechanisms for citizen participation available in a democratic system.In the last part, the limits of the citizen participative capacity established by this institutional framework will be exposed. The analysis will be complemented by a chapter of conclusions.

3. Literature review

Research on EU external governance started as a subfield of the wider literature on Europeanization, but has been so much enriched over the years that has been established as a field of research in its own (Lavenex, 2004; Schimmelfennig and Wagner, 2004; Lavenex, 2008; Freyburg, Lavenex, Schimmelfennig, et al., 2009; Lavenex and Schimmelfennig, 2009; Lavenex, 2011; Schimmelfennig, 2012; Freyburg, Lavenex, Schimmelfennig, et al., 2015; Schimmelfennig, 2015). Within the studies on external governance a considerably vast subfield EU governance at its Eastern border (Lavenex, 2004; Gänzle, 2009; Vasilyan, 2010; Korosteleva, 2014; Valiyeva, 2016; Schimmelfennig, 2018). These studies analyze from different perspectives the manner in which the European Neighborhood Policy, despite its asymmetrical and unilateral character, merges into the daily reality of a wide range of countries with different traditions and systems that form the neighborhood of the European Union. The research on the Europeanization of Central Europe (Raik, 2004; Schimmelfennig and Sedelmeier, 2004, 2019; Börzel and Schimmelfennig, 2017; Börzel, Dimitrova and Schimmelfennig, 2017) has highlighted the explanatory power of the 'reinforcement by reward' (conditionality) and 'reinforcement by support' (capacity building) to explain the complex processes of transformation of the countries in that region (Schimmelfennig and Sedelmeier, 2004, pp. 671-675). In the context of enlargement, the strongest reward to stimulate internal change was the prospective accession to the European Union. In contrast, European Neighborhood Policy employs conditionality by linking specific rewards such as access to the EU single market or visa liberalization with rules and

values of the European Union, whereas the prospect of accession has deliberately not been considered as a conditionality instrument. In an effort to reduce adaptation costs, the European Union has supported the building of local capacities in the form of regulatory institutions that require, establish and apply EU rules thus transferring knowledge and financial resources to its neighbors.

Above all, the concept of external governance tends to follow the logic of building networks on two axes - one regulatory and one organizational. Regulatory processes "allow for the expansion of norms and rules," while the organizational processes contribute to "opening participatory channels to decision making" (Lavenex, 2008, p. 943). Both dimensions are relevant to the study we propose below, as they can provide useful prospects for the processes that accompany the transition towards democratic governance. They are important because they support efforts to make the public sector more transparent, responsible and accessible to citizens and as such to facilitate better citizen participation. The "governance" model in the promotion of democracy was the focal point of several studies in the field (Börzel and Risse, 2004; Schimmelfennig and Scholtz, 2008; Youngs, 2009; Kurki, 2011; Lavenex, Sandra; Schimmelfennig, 2011; Stewart, 2011; Grimm and Leininger, 2012; Sasse, 2013; Panchuk and Bossuyt, 2014; Freyburg, Lavenex, Schimmelfennig, et al., 2015; Freyburg and Lavenex, 2017). In comparison with other contributions that focus on a top-down perspective on how the European Union supports democratization processes in neighboring countries by transferring the provisions on democratic governance, this article favors a bottom-up perspective on the way in which the newly developed mechanisms for citizen participation strengthen the structure of democratic governance in the particular case of the Republic of Moldova.

4. EU-Moldova Relations

In the early days, economic problems dominated the relationship between the European Union and the Republic of Moldova. Back then, the need to undertake democratic reforms, although formally present on the agenda of bilateral relations, were not so well prioritized as to shape the relationship between the two sides. The Partnership and Cooperation Agreement (PCA) signed in November 1994 and put into effect from 1998 for a period of ten years established a legal framework for the bilateral dialogue between the Republic of Moldova and the EU. Moreover, it postulated the attachment to common values, such as democratic principles, respect for human rights, the rule of law and the market economy. In itself, the document was built on the framework structure of the agreements concluded by the European Union with the countries in its eastern neighborhood. The PCA established a structured dialogue in the political, investment, economic, commercial. legislative and cultural areas. Nevertheless, the various joint institutions established within the PCA (the Cooperation Council, the Cooperation Committee, the Sub-Committees on sectoral cooperation) suffered from the beginning from the absence of clear objectives and a certain degree of flexibility with regard to specific conditions in the countries that have signed this type of agreements. In many respects, it was likened to a one-size-fits-all solution for the complex EU relations with its eastern partners (Börzel and Risse, 2004).

The European Neighborhood Policy (ENP), inaugurated in 2004, after the first round of enlargement to Central and Eastern Europe and largely inspired by it, aimed to set up around the EU a 'ring of friends' consisting of well-governed countries, which shared common values (Ciceo, 2017). As such, it has put a much stronger emphasis on strengthening democratic institutions in the eastern countries. Its fundamental idea was to try to repeat the success of enlargement in promoting internal change, without using the conditionality of accession. The EU-Moldova Action Plan concluded within the framework of the European Neighborhood Policy inherited the objectives related to the promotion of democracy and the rule of law from the PCA. More practical in approaching cooperation, the Action Plan supplemented the older objectives of the PCA with greater specificity, by bringing in concrete indicators for each individual aspect, such as the strengthening of democratic institutions and the rule of law, review of legislation and implementation of judicial reforms and respect for human rights and fundamental freedoms. However, no measures were envisaged for the lack of progress in implementing the relevant reforms. This strictly bilateral format of the EU

relations with the ENP countries was complemented from 2009 by a multilateral structure named Eastern Partnership. It involved EU Member States and the six partner countries in a network of cooperation organized on four pillars – democracy promotion, good governance and internal stability; economic integration and convergence with the EU; energy security and the last, particularly relevant to the topic of this research, dedicated to "peopleto-people" contacts, on which we will return in detail in the next section. The framework of EU-Moldova relations was complemented from June 2014, with an Association Agreement (AA), that included also a Deep and Comprehensive Free Trade Area (DCFTA), signed after more than four years of negotiations. The latest agreement emphasizes, among other things, the "development, consolidation and enhancement of the stability and effectiveness of democratic institutions and the rule of law" in the Republic of Moldova, as well as the objectives of democratic governance, such as "building a responsible, efficient, transparent and professional civil service. "Unlike the previous PCA, the AA establishes more ambitious objectives for sectoral reform and strengthens monitoring mechanisms, in particular empowering the EU to "assess the convergence of [Moldovan] legislation with EU law" and suspend EU benefits when finding flaws in fulfilling assumed undertakings.

In all these open formats for bilateral and multilateral co-operation, the EU's strategy was to strengthen state and non-state actors, which in turn would be able to exert pressure on the government to make the necessary reforms (Beichelt and Merkel, 2014; Rommens, 2014; Shapovalova and Youngs, 2014; Kourtikakis and Turkina, 2015; Ciceo, 2016a). However, Moldova failed to harness the moment of strategic opportunity created first by the increasing competition between Western countries and Russia on the Eastern flank of the EU and then by the Russian annexation of Crimea and aggression in Ukraine. Getting the status of "champion of the Eastern Partnership" after the signing the Association Agreement and being granted a visa-free regime from 2014 should have been incentives for a more thorough and authentic reform course than the one simulated by some of the Moldovan leaders. Yet, increasingly disappointed with the direction and quality of the reforms implemented by the pro-European parties, the Moldovan society

turned even less optimistic about the European integration prospects of their own country (Eastern Partnership - Civil Society Forum - Moldova National Platform, 2020, p. 5). Practically in all these years we have been faced with a situation where political anxiety generated by the government reforms, paved the way for an anxious course of government action in response to the population fears, which in turn further weakened popular support for European integration (Ciceo, 2016a, pp. 343–344). In the specific case of the Republic of Moldova, this could generate impulses for a Russian alternative. Having said this, we do not intend to suggest that the course of reforms demanded by the EU is the right one and that the Russian alternative is the bad one, but only to emphasize that the reforms involved in the democratic transformation of the Republic of Moldova along European lines require a fundamental change in the way of life and the attitude towards the state. The purpose of this article is strictly to evaluate the tools by which the EU aims to promote the democratic transformation of the Republic of Moldova. What we have tried to point out is that, given the difficulties that Moldovan society has to face, the EU conditions become even more difficult to consider and all the more problematic especially when there is an alternative.

5. EU support for citizens participation in the Republic of Moldova

The democratic legitimacy of the EU is based on two complementary principles of democracy – representative and participatory, respectively, which have been firmly anchored in the legal framework of the European Union. The first principle is drawn up in Article 10 of the Treaty on the European Union of the Treaty of Lisbon, which states that "the functioning of the Union is based on representative democracy". Since its establishment, the EU has been based on three different channels of representation to ensure that policy-making responds to citizen opinions - an electoral channel, which works through the European Parliament, a territorial channel that operates through the Union's intergovernmental institutions, such as the European Council and the Council of Ministers, and a channel of interest representation, which operates through interest-based organizations active at European level.

Article 11 of the same treaty enshrines the principle of participatory democracy by stating that citizens and their representative associations are given the opportunity to express their views "in all areas of Union action" and that the Union "maintains an open, transparent and regular dialogue with representative associations and civil society." The European Union supports and promotes both upward and downward instruments of citizen involvement. Upward instruments facilitate citizen influence on policy outcomes, as they challenge the political preferences of the political elite. In turn, downward instruments are generally weaker, as they are aimed at supporting existing policies and clarifying the value of newly introduced policy measures in order to achieve a more effective governance (Ciceo, 2016b). In its own practice, EU tends to favor downward instruments, thus giving greater importance to improving policy outcomes than to involving citizens in policy-making. In fact, citizens can not challenge the decision-making elite as their contribution is almost entirely limited to the policy-making phase. This leads to the conclusion that the EU continues to legitimize itself through the results of its policies (output legitimacy), rather than by involving citizens in shaping its actions (input legitimacy) (Schmidt, 2013).

In relation to its neighbors, in general, with the Republic of Moldova, in particular, the EU has been interested in improving citizen participation in policy-making by acting both to strengthen the principles of representative democracy and to inspire the principles of participatory democracy. The Association Agreement provides both institutional and interest-based channels for citizen participation, reflecting the prevailing EU experience. These are reinforced by the network of activities undertaken by the civil society in the framework of the Eastern Partnership - Civil Society Forum, where a Moldovan National Platform bringing together the most important third sector organizations have been established. In order to strengthen participatory democracy in the countries in its immediate vicinity, the EU has provided support to civil society organizations as the existence of civil society is regarded as an important precondition for a democratic society and, at the same time, the functioning of democracy requires an active and dynamic civil society. The main support provided by the European Union refers to: European Instrument for Democracy and Human Rights (EIDHR), European

Neighborhood and Partnership Instrument (ENPI), Civil Society Facility (CSF) and European Endowment for Democracy (EED) (Shapovalova and Youngs, 2014; Ciceo, 2016a).

EU-Moldova cooperation has helped to consolidate a democratic regime in the Republic of Moldova based on the both principles of representative and participatory democracy. However, events in recent years in Moldova have shown that the civil society, although largely pro-European, is divided and still far from exercising anything but minimal control over power holders to prevent concentration and abuse of power. There is still a certain indifference at the level of the citizen towards the way in which politics is made and important decisions end up being taken. As already mentioned, this citizen's apathy is symptomatic of the fact that there are other pressing issues that deserve better consideration. Nevertheless, in the end these impede on a much-needed change from below. That is why the EU still has a role to play as a catalyst for a better environment for involving civil society in issues related to the advancement of democratization processes in the Republic of Moldova and the implementation of bilateral agreements.

6. Limits of participatory capacity exposed by the current framework of EU-Moldova relations

Citizen participation means individual or collective action to identify and address issues of public interest. It refers to a process in which citizens organize themselves and achieve their goals at the local level and collaborate through non-governmental community organizations to influence decisionmaking. Participating in decision making means an opportunity for citizens, civil society organizations and other stakeholders to influence the development of policies and laws that affect them. By engaging in these political processes, citizens can address and have a say in how their concerns, demands, and principles are dealt with by central/ local authorities and are monitored, taken forward or resolved by them. Citizen participation takes place within the existing constitutional and legal framework and does not aim to achieve legislative or executive prerogatives as lawmaking or public policy implementation. In itself is just a mean to allow authorities to act more efficient.

However, it is important to mention from that the behavior of individual citizens "can vary greatly in so far as they use the resources they have for political purposes" (Dahl, 1961, pp. 1340–1341). Their degree of participation may, however, vary along a 'scale' from a minimalist level where citizens are just an object of 'manipulation' by power-holders who do not really seek to allow them to participate, moving gradually to the superior levels of 'information' and 'consultation' through which citizens can really 'hear and be heard,' but they do not have the power to ensure that their opinions are taken into account by the powerful. Citizen participation can then increase to the higher levels of 'partnership,' when citizens can negotiate and engage in compromises with traditional power holders, and reach ultimately the level of 'citizen control,' whereby they acquire decision-making or full leadership power (Arnstein, 1969, pp. 217–224).

For the time being, neither AA nor any other cooperation framework between the EU and the Republic of Moldova do incorporate motivatingenough objectives, that could rally the Moldovan society around an ambitious reform programme and determine it to press pro-European political elites to meet their commitments. In the long term, the EU is likely to maintain its attractiveness in its neighborhood only if it can consistently adapt to the specifics of an ever-changing environment and can address its short-term challenges in an appropriate way. Unfortunately, much too often the EU tends to focus in a rigid manner on its long-term objectives even when on-the-spot developments move on at high speed and require prompt, firm, countryspecific reactions. In addition, instead of imposing standard solutions to all its partners in the Eastern Neighborhood, EU must come up with more custom-made answers and tangible offers. The lack of EU sensitivity to specific domestic needs and realities makes it difficult for partner countries to accept the integration or rigors of a democratic model of government.

Last but not least, the EU needs to reassess the use of reward (conditionality) tools to provoke democratic transformation in its neighboring countries in general, in the Republic of Moldova in particular. While advancing on a path towards a full-fledged membership is not seen as an option, given that the too hasty accession of Eastern Europe is now seen as a key cause of the challenging European political and economic situation, the EU must try to clarify its position vis-à-vis its Eastern neighbors and, depending on it, to calibrate the principle of conditionality according to other objectives that could be considered of interest. In both cases, conditionality could serve both as a stimulus tool but at the same time as a mean to penalize some types of behavior that deviate from European norms and values.

7. Conclusions

Despite its relative shortcomings, citizen participation, regardless of the form or degree of involvement, remains an important prerequisite for democratic governance and provides substantial benefits for enhancing transparency, accountability and accessibility of governmental activities. Participatory processes have become a transformative tool for social change. In consolidating its democratic path, the Republic of Moldova needs to strengthen its civil society and the principle of participatory democracy.

The main challenge for the European Union stems from the much less intense nature of the instruments it has developed for promoting democracy in its immediate neighborhood in the absence of accession conditionality. In order to make its message as credible and trusted as possible, the European Union will have to provide some clarification on the quality of the relations it is considering to develop with the Republic of Moldova and, in a broader sense, the other members of the Eastern Partnership. In fact, there are only two ways along which the EU can move in this respect: either suppresses with determination any of the expectations the Republic of Moldova might have in this respect and declares its ambitions unrealistic, or begins accession negotiations as with Turkey, which eventually stagnate and lead to significant tensions. Experience shows that stopping a "commitment," no matter how bitter and painful this could be, is better done sooner than later. However, as the EU-Moldova relationship has demonstrated, conditionality although short of an accession perspective may involve other winning goals than full membership, such as the creation of a visa-free regime, access to the single market, etc. At the same time, taking into account the experience of EU-

Moldova relation, better monitoring and evaluation tools will be needed to assess the fulfilment of requirements before offering rewards in order to avoid a second fall from a much-praised position.

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