



Digest

A follow-up on the criminal files of public resonance

On October 17, 2019, the Parliament heard the Report of the Commission of Inquiry to elucidate all the circumstances of the devaluation of the banking system of the Republic of Moldova and the investigation of USD 1 Billion bank fraud¹. The Parliament took note of the report, coming up with recommendations and provisions for several authorities.²

The Commission of Inquiry for elucidating all the circumstances of the devaluation of the banking system of the Republic of Moldova and the investigation of bank fraud was set up on June 10, 2019, with the following nominal composition:³

Alexandru Slusari	Chair of the Commission	Parliamentary fraction „ACUM PLATFORM DA”
Vladimir Golovatiuc	Vice-Chair of the Commission	Parliamentary fraction of the Socialist Party of the Republic of Moldova (SPRM)
Lilian Carp	secretar al Comisiei	Parliamentary fraction „Party of Action and Solidarity, Bloc ACUM”
Andrian Lebedinschi	Member of the Commission	Parliamentary fraction SPRM
Dumitru Alaiba	Member of the Commission	Parliamentary fraction „Party of Action and Solidarity, Bloc ACUM”
Vladimir Ţurcanu	Member of the Commission	Parliamentary fraction SPRM

According to the Commission of Inquiry,⁴ the aim pursued was the political appreciation of the actions / inactions of politicians and dignitaries empowered with legal attributions in the financial-banking field, which favored the organization and realization of the fraud from the banking system during 2011-2015. In order to achieve this goal, the Commission studied documents and heard relevant persons.

The report of the Commission of Inquiry contains findings on events from:

¹ LIVE! Meeting of the Parliament of the Republic of Moldova on October 17, 2019, <https://realitatealive.md/live-edin-a-parlamentului-republicii-moldova-din-17-octombrie-2019---101052.html>.

² See the Parliament Decision no. 143 of 17.10.2019 on the Report of the Commission of Inquiry to elucidate all the circumstances of the robbery of the banking system in the Republic of Moldova and the investigation of bank fraud.

³ See the Parliament Decision no. 46 of 10.06.2019 on the establishment of the Commission of Inquiry to elucidate all the circumstances of the robbery of the banking system in the Republic of Moldova and the investigation of bank fraud.

⁴ See the 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, <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4757/language/ro-RO/Default.aspx>.

Years 2011-2012	Raider attack The activity of B.C. "Banca de Economii" S.A. (BEM) in the period 2011-2012 Ilan Șor's takeover of control over B.C. Unibank S.A.
Year 2013	Change of shareholders at BEM Ilan Șor taking control over B.C. "Banca Sociala" S.A. The media-financial attack Reidman Parliamentary Committee of Inquiry Assignment of the control package from the state The financial situation of the three banks in 2013
Year 2014	The financial situation of the three banks during January-October 2014 State guarantees The situation in the three banks on November 1-26, 2014 November 27, 2014

The Commission of Inquiry reviewed the consequences of the fraud from the banking system, concluding:

- The process of plundering the banking system has been well prepared over time and coordinated with politicians and dignitaries;
- The looting plan was carried out in stages, persevering, starting with 2011, making the necessary adjustments along the way;
- In the period 2011-2012 there was already a plan of a directed attack on BEM by the Plahotniuc-Platon group in order to ensure its control package. Judges, the National Financial Market Commission (NCFM) and the National Bank of Moldova (NBM) were involved in the implementation of this plan. Since the second half of 2012, this process has taken place against the background of a very passive position of the Filat Government;
- The Reidman Commission played an important role in triggering the BEM fraud process;
- A particularly negative role in the process of plundering the banking system in 2011-2014, through the assistance of raider attacks and passive behavior, was played by the NBM leadership;
- There were several information notes of the National Anticorruption Center (CNA) and the Intelligence and Security Service (SIS) on the risks in the banking sector and the danger of system robbery, which were ignored by state authorities - decision makers. CNA and SIS limited themselves to findings without, however, acting;
- The actions / inactions of several dignitaries in 2013 related to the loss by the state of the control package at BEM, including former Prime Minister Iurie Leanca, had serious repercussions and can be qualified as abuse and negligence;

Between November 7-27, 2014, when the Government had already decided to grant state guarantees for emergency loans obtained from the NBM amounting to MDL 9.5 billion, the three banks operated without special state administration, finally stealing colossal amounts of money from the banking system. During the mentioned period, according to the data provided by the NBM, these banks offered only to legal entities loans in the total amount of over MDL 25.5 Billion. Respectively, both the Government leadership and the NBM leadership acted in that period at least with abuse and negligence;

According to the Kroll Report 2, the main final beneficiaries of the bank robbery were the Plahotniuc, Șor and Filat related groups;

The General Prosecutor's Office, in the period 2015-2019, practically sabotaged the investigation of the fraud of the banking system, starting criminal cases segmented on multiple episodes, not having a

systemic and integrated approach. The investigation in several cases was intentionally delayed or used for political purposes.

The Commission of Inquiry recommended:

- Declassification of all materials relating to the embezzlement of the banking system, including the Kroll report, insofar as this declassification will not prejudice the conduct of the investigation;
- The finding by the President of the Parliament of the circumstances that would allow the initiation of the procedure of revocation from office of the vice-governors of the NBM, Ion Sturzu and Aurel Cincilei;
- The examination by the Anticorruption Prosecutor's Office, from a criminal point of view, of the actions / inactions of the former leadership of the Government and the NBM, in particular, of Iurie Leancă, Dorin Drăguțanu, Andrian Candu, Anatol Arapu, Emma Tăbîrță and others, as appropriate, which, in 2014, did not take the necessary measures to prevent the large-scale fraud from the banking system. The same persons admitted the granting of state guarantees to the three banks without the immediate introduction of the special state administration, which had serious repercussions for the banking system by stealing colossal amounts between 07-27 November 2014;
- Transparency of economic activity and combating illicit or unclear sources of financial flows. Combating money laundering and limiting the activity of companies in non-transparent jurisdictions (offshore areas) must be a priority. Government signing agreements with all offshore areas on the exchange of tax information;
- Examination by the General Prosecutor's Office of the causes of stagnation admitted by the Anticorruption Prosecutor's Office, in the period 2015-2019, in the investigation of the fraud from the banking system;
- Intensifying the cooperation of the Office of the General Prosecutor with the special services of other countries in the investigation of bank fraud and the recovery of stolen funds, especially with the FBI;
- Presentation by the General Prosecutor's Office, within 30 days, in the plenary of the Parliament, of a report on the investigation of the fraud from the banking system;
- Carrying out by the Ministry of Finance an audit on the legality (including the manner) of the distribution of the allocated financial means as emergency credits;
- Urgent examination of the opportunities to revise Law no. 235/2016 regarding the issuance of state bonds in order to execute by the Ministry of Finance the payment obligations derived from the state guarantees no. 807 of November 17, 2014 and no. 101 of April 1, 2015;
- Creation of a Parliamentary Commission of Inquiry into the money laundering process of tens of billions of dollars through the banking system of the Republic of Moldova (laudromat);
- The creation of a Parliamentary Commission of Inquiry into the liquidation process of the three banks, as there is information that the embezzlement of the banking system continued in the liquidation process of BEM, the Social Bank and Unibank.

The hearing of the Prosecutor General's Office's report on the investigation into the USD 1 Billion fraud took place much later, on February 19, 2020.⁵ The hearing did not take place in the plenary of the Parliament, but in the meeting of the National Security, Defense and Public Order Committee, the finality being not clear - no decision in this respect is published on the Parliament's website.

⁵ LIVE! Parliament: Hearing the interim report of the General Prosecutor's Office on the investigation of the robbery of the banking system, <http://parlament.md/LinkClick.aspx?fileticket=113mPEPiTh0%3d&tabid=130&mid=507&language=ro-RO>, <https://realitatealive.md/live-parlament-audierea-raportului-intermediar-al-procuraturii-generale-privind-investigarea-devalizarii-sistemului-bancar---106126.html>.

According to those reported, in the case of bank fraud, approximately 200 criminal cases were initiated, being investigated facts from 2009-2014 related to the three disputed banks - BEM, Banca Sociala and Unibank. Criminal cases include, in addition to negligence, various forms of crime, such as fraud, fraudulent acquisition of credit, breach of credit rules, tax evasion, money laundering, mismanagement or fraudulent bank management, obstruction of banking supervision, creation and management criminal.

According to the General Prosecutor's Office, the criminal scheme was trivial - the provision, in the period 2009-2014, of non-performing loans, of which an imposing part were not repaid. The total turnover of loans is about MDL 42 billion, of which MDL 13.5 billion has not been repaid. The damage found at the time of reporting is MDL 13.5 billion. The government will have to repay 22.9 billion MDL, including interest on the loan. At the time of reporting, 1,380,217,000 MDL were reimbursed from BEM, Banca Socială - 697,500,000 MDL, Unibank - 320,741,458 MDL, in total - 2,398,458,000 MDL. As of January 31, 2020, the debt of the three banks in the process of liquidation to the state budget was 11,723,300,000 MDL. According to the Report, from June 2019, together with the Agency for the Recovery of Criminal Property (ARBI), measures were taken to recover the damage, seizing goods (real estate, land, means of transport, etc.) amounting to 1,224,531,000 MDL. The goods were to be valued.

In general, in connection with the bank fraud, 41 individuals and 11 legal entities were attracted as suspects.

From 2013 to 2019, 28 criminal cases were sent to court (20 regarding individuals, 8 - legal entities). Of the criminal cases referred to justice, 8 have convictions. At the time of the report, criminal cases involving the management of BEM and the Social Bank were pending.

The complexity of these cases, according to the General Prosecutor's Office, is determined by the nature of extraneousness. The criminal investigation body appointed 26 requests for letters rogatory, of which only 8 were executed. The letters rogatory cover several jurisdictions, such as: Latvia, USA, Russian Federation, Switzerland, Austria, Cyprus, Monaco, Liechtenstein, Czech Republic, France, Estonia, Germany, Israel, Ukraine, Bulgaria and the United Arab Emirates. In general, 5,516 financial-banking transactions were investigated, which requires rogatory commissions to 35 countries.

The General Prosecutor's Office, in the robbery of the banking system, distinguishes two stages:

- Gacichevic stage - years 2007-2012;
- Şor stage - years 2012-2014.

According to the General Prosecutor's Office, in connection with bank fraud, several economic interest groups are being investigated:

- Gacichevici Group;
- Şor Group;
- Platon Group;
- Plahotniuc Group.

During the years 2019-2020, evolutions take place, especially in the files of Şor, Platon and Plahotniuc, in the same sense, being interesting also the evolutions in the so-called file of bankers, but also in the file of Şor Party deputies.

The Şor file⁶

⁶ Summary prepared on the basis of: Candidate profile: Ilan Şor, <https://www.moldovacurata.md/profil-candidat-ilan-sor-1-2254>; Monitoring report on the selectivity of criminal justice, Chişinău, 2019, https://freedomhouse.org/sites/default/files/2020-02/Judicial_Integrity_Selective-Criminal_Justice_ROMANIAN_FINAL.pdf; Press releases on the website of the General Prosecutor's Office – www.procuratura.md.

Two criminal cases are being filed in Ilan Șor's name. The first case was started on May 6, 2015, the investigation being ongoing, for abuse of office with serious consequences, committed during the period when he held the position of Chairman of the Board of BEM.

The second case was started on June 22, 2016 for fraud and money laundering, in particularly large proportions. In August 2016, the case was sent to court. The Chisinau court reclassified the deed from fraud in particularly large proportions (the deed is punishable by 8-15 years in prison, according to art. 190 para. (5) of the Criminal Code) in case of material damages by deception or abuse of trust in proportions particularly high, if the deed does not constitute an embezzlement (the deed is punishable by imprisonment for up to three years, according to art. 196 para. (4) of the Criminal Code) and money laundering in particularly large proportions. Finally, in June 2017, Șor was sentenced to 7.5 years in prison in a semi-closed penitentiary. The prosecutors had requested in the court of first instance the conviction, through a series of offenses, to 19 years in prison, with deprivation of the right to hold positions in the banking system for 5 years.

For more than half a year, the case was suspended on the grounds that the court of first instance could not find a translator to translate the reasoned decision. Currently, the case is being examined on appeal by the Cahul Court of Appeal.

The examination of the case on appeal was moved to Cahul in February 2018 - all judges of the Chisinau Court of Appeal had declared it incompatible to judge the case. Subsequently, the case was suspended at the Court of Appeal due to a financial-accounting expertise, which was requested by Ilan Șor's lawyers and accepted by the court in September 2018. It is noteworthy that, even if it had been particularly large (2.5 billion), the convict's assets were not seized. Thus, Ilan Șor managed to alienate several properties. Moreover, Ilan Șor managed to escape illegally in Israel in June 2019, immediately after the transfer of power by the Democratic Party of Moldova.

The General Prosecutor's Office has requested his extradition, but according to its national legislation, Israel does not extradite its citizens. Law enforcement agencies filed a criminal case against him for leaving the country illegally, the deputy being deprived of parliamentary immunity on August 15, 2019.⁷

Platon's file⁸

On October 7, 2020, at the request of the General Prosecutor's Office, the Chisinau Court, Ciocana headquarters, suspended the execution of the sentence by Veaceslav Platon. It was ordered to suspend the execution of the sentence of the Chisinau Court, Buiucani headquarters, of April 20, 2017, issued regarding Veaceslav Platon, by which he had been sentenced to 18 years in prison for fraud, money laundering and active corruption. The continued execution of the sentence by Veaceslav Platon is conditioned by the evolution of the procedure for reviewing the criminal process, initiated by the Prosecutor's Office for Combating Organized Crime and Special Cases.

In fact, in the summer of 2020, in connection with Veceaslav Platon, a media scandal broke out after a sequence from his hearing was published in the press. According to the General Prosecutor's Office, Veaceslav Platon had been heard in the criminal case, taken over from DIICOT Romania, in which Vladimir Plahotniuc and several dignitaries are targeted. The hearing was carried out by a group of prosecutors, in the presence of his defenders, the trial being filmed by a forensic expert. Regarding the leak in the press of the video sequence, it was ordered, under the conditions of Law no. 3/2016 on the

⁷ See the Parliament Decision no. 117 of 15.08.2019 regarding the approval of the lifting of the parliamentary immunity of the deputy in the Parliament Ilan Șor.

⁸ Summary elaborated based on the press releases on the web page of the General Prosecutor's Office – www.procuratura.md.

Prosecutor's Office, conducting a service control, but also initiated a criminal case in fact (art. 303 (Interference in the administration of justice and criminal prosecution) and art. 315 (Disclosure of criminal prosecution data) of the Criminal Code).

Plahotniuc's file⁹

Vladimir Plahotniuc has been prosecuted in two criminal cases. Both were launched on September 23, 2019 and are related to the bank fraud and laundromat. He was charged with three counts: creating and running a criminal organization, fraud on a large scale, and money laundering on a large scale. On May 22, 2020, he was arrested in absentia, being searched. During 2020, according to the available information on the whereabouts of the accused, the competent authorities of the USA, Turkey, Cyprus and Saudi Arabia were requested to extradite him. During 2020, properties of Vladimir Plahotniuc from the Republic of Moldova, Switzerland, France and Romania were seized.

According to the Prosecutor General, there is evidence that Vladimir Plahotniuc is the beneficiary of the money obtained in the form of loans from BEM, through the Șor Group, covered accordingly from the NBM's financial means - in total, over 100 million USD. The amount had been directed to procure the package of shares of a bank, the buildings of the ASITO Insurance Company, the Fashion House and the "National" Hotel. Also, according to the Prosecutor General, the money was used by Vladimir Plahotniuc for personal purposes or by his affiliated companies to purchase a plane, pay for personal charter flights, but also for people in his entourage.

Bankers' file¹⁰

In the context of the bank fraud investigation, in March 2020, several NBM dignitaries were detained and charged: Dorin Dragutanu (former governor); Emma Tăbîrță (former deputy governor); Aureliu Cincilei (vice-governor), Ion Sturzu (vice-governor) and a chief executive. They are suspected of participating in fraud and money laundering in particularly large proportions. It should be noted that Emma Tăbîrță had been detained in 2016, together with two heads of departments from the NBM, for negligence in office, in connection with the investigation of the laundromat. The Deputy Governor of the NBM, Emma Tăbîrță, together with the President of CNPF, Artur Gherman, were dismissed on March 24, 2015, after the hearing by the Parliament, in closed session, of the Report of the Commission of Inquiry on the situation in the banking sector.¹¹

The file of the deputies from the Șor Party

On October 2, 2020, the Anticorruption Prosecutor's Office announced its decision to remove from prosecution, in the case of bank fraud, four Unibank shareholders, including deputies Marina Tauber and Reghina Apostolova. The action comes about a month after the prosecution of six shareholders of the same bank, including the former president, Petru Lucinschi.¹² On September 16, 2019, the interim general prosecutor had requested in Parliament the lifting of the immunity of the two deputies, who

⁹ Summary elaborated based on the press releases on the web page of the General Prosecutor's Office – www.procuratura.md.

¹⁰ <https://unimedia.info/ro/news/ab5cac3cb0ee08f3/viceguvernatorii-bnm-aureliu-cincilei-si-emma-tabarta-retinuti-pentru-72-de-ore-lui-dragutanu-i-a-fost-inaintaa-invinuirea.html> <https://www.mold-street.com/?go=news&n=5030>; <https://www.mold-street.com/?go=news&n=3680>; <https://www.jurnal.md/ro/news/75c5f8bdd2f1e8fa/fostul-viceguvernator-bnm-emma-tabarta-mutata-din-izolator-in-arest-la-domiciliu.html>.

¹¹ Parliament Decision no. 42 of 24.03.2015 regarding the dismissal of a deputy governor of the National Bank of Moldova, Parliament Decision no. 43 of 24.03.2015 regarding the revocation from the position of chairman of the Board of Directors of the National Commission of the Financial Market.

¹² General Prosecutor's Office, The bank fraud: other four shareholders of Unibank, exempted from prosecution, <http://www.procuratura.md/md/news/1211/1/8434/>.

were detained.¹³ Subsequently, Unibank's ten shareholders were indicted, accused of committing particularly large-scale fraud and money laundering in the interest of an organized criminal group. According to the Anticorruption Prosecutor's Office, after a thorough study of the evidence, it was concluded that the deeds of those persons do not meet the elements of the imputed crimes.

Conclusions:

- Parliament fails to push for effective investigation into bank fraud. The report of the General Prosecutor's Office on the investigation of the case was not heard, except in the meeting of the Parliamentary Committee on National Security, Defense and Public Order, without its decision on the hearings being clear;
- Six years after the looting of the banking system, only the governor and the deputy governors of the NBM are under criminal charge. It is not clear whether the Prosecutor's Office examined the possible criminal prosecution of the members of the Government who guaranteed the loans offered to the disputed banks without their being placed under special administration, of the heads of other authorities with supervisory / control responsibilities in the field. to prevent money laundering;
- Resonance cases only demonstrate the selective nature of criminal prosecution and national justice. Ilan Șor manages to alienate properties, but also to escape from the country. Vladimir Plahotniuc is being prosecuted only after he relinquishes power and leaves the country. Even after been seen in Romania and Turkei, according to mass-media, a request of his extradition followed with a considerable delay¹. And the review of Veaceslav Platon's criminal trial raises questions - the person's profile is not without reputational problems. In this regard, whatever the decision on the case, the Prosecutor's Office will have to come up with convincing arguments, if it wants to be perceived as an independent and impartial institution;
- The mechanism for lifting immunity continues to be perceived as a tool to put pressure on Members in some hidden political negotiations. The explanations of the Prosecutor's Office regarding the lack of constitutive elements of the crime in the deeds of deputies Tauber and Apostolova are insufficient;
- The General Prosecutor's Office announces recoveries of damage without giving further details. If it is money obtained from the sale of banks' assets in liquidation, the approach is not exactly the right one. Obviously, over time, recovering stolen money becomes difficult if not impossible. In this regard, Parliament and the Government should provide full support for speeding up investigations.

This document was elaborated within the project „Mobilize Civil Society to Monitor and Report on State Integrity and Anticorruption Activities” implemented by Transparency International – Moldova with the support of INLE Dep of the Embassy of the United States to Moldova.

The content of the document does not necessarily reflect the position of the donor.

¹ <https://stiri.md/article/politica/raspunsul-oficial-al-turciei-la-cererea-de-extradare-a-lui-plahotniuc>

¹³ See the Parliament Decision no. 126 of 16.09.2019 on approving the lifting of the parliamentary immunity of the Member of Parliament Marina Tauber; Parliament Decision no. 127 of 16.09.2019 on approving the waiver of immunity in Parliament Reghina Apostolova.