Opinion on the conditions of the EUR 200 million loan offered to the Republic of Moldova by Russian Federation

April 22, 2020

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(1) On March 17, 2020, President Igor Dodon published on his Facebook page the €200 million loan agreement offered by the Russian Federation[1]. The loan is offered after discussions were held in December 2019 between Igor Dodon and Vladimir Putin. The agreement will come into force after the parliaments of both countries will ratify it. The purpose of the loan is to cover the budget deficit and to finance joint projects of the parties to the agreement. As a general rule, Russian Federation grants loans to support Kremlin-loyal governments.

Loan terms and conditions

According to the agreement published by Igor Dodon, the loan is granted under the following conditions:

Amount	*EUR 200 million, including*: • 1st tranche – EUR 100 milion, within 30 days since contract ratification. • 2nd tranche – EUR 100 milioon, before October 31, 2020.
Repayment term	*10 years*, starting March 15, 2021
Repayment schedule	*Loan* – paid semiannually, on March 15 and October 15 in equal installments *Interest* – paid semiannually, on March 15 and October 15
Interest rate	*2% per year*
Penalties for outstanding amounts	*(2% annual * 150%) * outstanding amount*, which includes: – Loan balance – Interest – **(!) accrued debts and penalties for other loans, including private ones (see p. 3 below)**
Early repayment	*Early repayment is allowed,* with a 3 month prior notice before payment date.

[1] https://www.facebook.com/dodon.igor1/posts/2510077015899844

Abusive provisions in the loan agreement

(2) The agreement provides that Russian companies will be contracted for projects funded by the loan.

Article 3.3 of the agreement provides that the aim of the loan is to implement Moldovan-Russian joint projects, with the mandatory participation of Russian companies. Currently, no public information about the nature of the projects, the benefits for Moldova, the costs and the list of Russian companies is available. Given Russian widespread disreputable precedents and Igor Dodon's obedience to Vladimir Putin, it is probable that Dodon will promote companies controlled by Putin’s people, which will execute the projects at higher costs in order to misappropriate a part from the loan;

(3) Additional obligations to the total debt.

Article 7.2. of the agreement provides that the Republic of Moldova undertakes to repay other loans received from Russian Federation in addition to the EUR 200 million loan, including private loans obtained by Moldovan borrowers from Russian banks, which were guaranteed by the Russian Federation or by the Russian Agency for Export Credit and Investment Insurance. Under these conditions, there is a risk that Russian companies controlled by Putin's entourage would register companies in the Republic of Moldova in order to borrow funds from Russian banks, under the guarantee of the Russian government, while the payment obligations would be registered as Moldovan national debt to Russian Federation.

Moreover, the gas debt of Moldovagaz to Gazprom ($6.6 billion), and to Factoring-Finance ($ 1.2 billion), a Gazprom subsidiary, could be converted to Moldovan national debt[2]. If Moldovagaz – a company registered in Moldova – would receive credits from Russian banks under state guarantees of the Russian Federation to repay the gas debt, these credits would be included in the consolidated debt of the Republic of Moldova according to the provisions of art. 7.2. of the loan agreement.

(4) Additional penalties would apply to penalties for previous debts

Besides Russia’s ability to add other loans, including private ones, to the consolidated debt of Moldova, the provisions of art. 7.2. allow Russian Federation to apply a *2% annual penalty * 150%* to the entire debt, including to the interest and penalties for other loans. Applying a penalty to a penalty is illegal under the civil law of Moldova.

Usually the amount of penalties is capped at a certain share of the total debt (for example, according to the gas procurement contract between Moldovagaz and Gazprom, the amount of penalties is capped at 5% of the total debt). The current loan agreement does not include such provisions. Moreover, art. 8.2. establishes a certain

[2] Moldovagaz was created in 1998 as a debt-to-equity swap: Gazprom owns 50% and controls another 13.4% of shares of Moldovagaz, while Moldovan Government owns only 35.3% of shares. Currently the gas debt is a corporate one, and Moldovagaz is responsible only with its assets. In other words, Gazprom cannot require the Republic of Moldova to pay the gas debt.

order of payment: (1) payment of consolidated debt penalties, (2) repayment of the consolidated debt (3) payment of basic debt penalties and interest and (4) loan repayment. The provisions of the loan agreement allow for multiple increase of the consolidated debt of Moldova towards the Russian Federation. Accepting such conditions undermines the economic security and increases Moldova's dependence on the Russian Federation.

Risks

(5) The loan agreement does not provide for the jurisdiction tbat would litigate any loan-related disputes. Disputes between "Moldovagaz" and "Gazprom" are examined by the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation, which is politically influenced by Kremlin. The $3 billion eurobond loan granted to Ukraine by the Russian Federation in 2013 is litigated by the Supreme Court of London. The jurisdiction should be included in the contract terms.

(6) Considering Ukraine's debt history with Russian Federation, Moldova risks to have its access blocked to foreign financing by the Russian Federation. According to IMF rules, lending is prohibited to countries with outstanding debts to other countries. Additionally, Moldova may face difficulties in restructuring its external debt. Debt restructuring rules stipulate that all creditors must be provided with a level playing field. The Russian Federation may sabotage this process if granted preferential status.

(7) The inclusion of private debt, guaranteed by the "Russian Agency for Export Credit and Investment Insurance'', to the consolidated national debt will create difficulties in a potential international litigation against the Russian Federation. If Russia claims that the Agency, as a creditor of Moldova, is a separate entity from the Russian government, the Republic of Moldova will have to prove in front of an international court that all the actions of this creditor in relation to the debt of Moldova are dictated by Kremlin.

Conclusions

From the information available so far, we can draw the following conclusions:

(8) By granting this loan, the Federation contributes Igor Dodon's campaign for the presidential election scheduled for fall 2020. This aims to increase the economic dependence and to keep Moldova under Russian influence. The EUR 100 million second tranche, scheduled by October 31, 2020, may lead to the re-election of Igor Dodon as president.

(9) Moldova's commitment to contract Russian companies for the so-called joint projects, financed by this loan, could result in the misappropriation of money in favor of "Putin's friends", while the debt would be repaid by Moldovan taxpayers.

(10) The abusive conditions of the loan agreement allow for a considerable increase of the national debt to Russian Federation. The debt may be used by Russia as an instrument to take control over Moldova's strategic infrastructure, as it previously happened in the natural gas sector.

Recommendations

(11) Although the Republic of Moldova needs financial resources to cope with the economic and social crisis caused by the pandemic, this loan agreement should not be ratified in the current format. Abusive provisions which involve Russian companies should be ruled out from the agreement. Nor should additional obligations to the consolidated national debt be included in the contract. The agreement must be supplemented with amendments that provide a cap on the penalty value, that change debt payment order and that establish the jurisdiction where the disputes on loan repayment examination are reviewed.

Implications for regional security

(12) On April 21, the AGER association published the list of roads to be repaired or modernized from the loan provided by the Russian Federation[3]. It should be noted that most of the listed roads connect the dual-purpose airport (military and civilian) from Marculesti with national routes and the Transnistrian separatist region. Another road to be built leads to the location in Gagauz Autonomy, where a new airport would be built. Likewise, there is an increased emphasis on the road connection of the autonomous region with Transnistria and the access points to the Ukraine state border, including on the Transnistrian territory, under Russian military control. These coincidences immediately raised concerns of security experts. However, both Transnistria and Gagauzia are potential outbreaks of mobilization following the Donbas model in the event of a major conflict in southern Ukraine. Marculesti Airport is located near Balti – another city in the overwhelming majority of the population with a pro-Russian orientation.

(13) There is a danger that, using its control over the current leadership of the Republic of Moldova, Russian Federation is creating premises to integrate the air and road infrastructure of the Republic of Moldova for the rapid deployment of military and para-military forces (mobilized by the local most loyal population) for a potential western front against Ukraine. Obviously, these facts do not necessarily mean preparation for a conflict any time soon, but are risks that we consider needed to be outlined.

[3] https://revizia.md/ro/where-will-the-money-from-the-russian-credit-agreement-go/