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**CORRUPTION IN MOLDOVA:
facts, analysis, proposals**

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1. Corruption towards globalization

1.1 Globalization and corruption

The development of market economy relations, new technologies and openness of economies of a series of countries leads to an emerging phenomenon called “globalization”. In general, this phenomenon means simply a greater degree of countries’ involvement in international economic, political and cultural life. From an economic viewpoint, a country can be considered to be open if it is open for the circulation of goods and services, of capital, of labor force and of information. It is obvious that no single country meets entirely these criteria and that globalization is a relative term. Each country, or economy, can be considered involved in this phenomenon only to a certain extent.

The “Annual Corruption Report”¹ of the international anti-corruption organization, Transparency International contains a series of publications that attempt to evaluate the relationship between two phenomena - globalization and corruption. In order to quantify the impact of these two factors, an aggregate indicator is introduced, which is called the “globalization index”. This index has been estimated for about 50 countries, both those with advanced economies, as well as those in transition. The calculation of this index is based on a series of such indicators, as international trade levels, income payments and receipts, the inflow and outflow of foreign direct investment, the inflow and outflow of portfolio capital, the

¹ “Global Corruption Report, 2001”, Transparency International.

convergence of domestic and world prices, the international travel and tourism, the international telephone traffic, the transfer of payments and receipts, the number of internet users, and the number of internet hosts.

The calculations of the authors show, that the extent of corruption seems to be higher in countries with a lower degree of involvement in the globalization process. An explanation of this fact could be that the countries more deeply involved in world markets also manage to develop political, social and legal institutions, which minimize the development of corruption. In short, the more developed the economic and political foreign relations of a country are, the higher the ethical standards in both public and private sectors.

1.2 Corruption, financial markets and investments

The inverse impact – of corruption on globalization is examined in the paper „Why is fighting corruption so crucial for embracing globalization?” by Shang-Jin Wei from Harvard University. In Shang’s view, corruption raises the level of vulnerability of the financial markets in the globalization process. The author maintains that a raise of corruption perception index from a lower level, such as in Singapore, to a higher level, such as in Mexico, has a negative impact on direct foreign investments equal to that of raising the marginal tax rate by 50 percentage points.

A high level of corruption often results in higher proportions of forms of capital that are less stable in the overall flow of capital. As a result, the equilibrium in the financial market is destroyed; the growing rate of interest does not cover the risks of the market and discourages both, foreign and domestic investors. The same author² writes that an increase of one

² Wei, Shang-Jin, “How Taxing is Corruption on International Investors”, NBER Working Paper Series, Working Paper 6030

percentage point of the corruption index is accompanied by an increase in the marginal tax rate by 4.7 percentage points, and followed by a decline of foreign investments by 0.9 percentage points.

Mauro, Paolo in “The impact of corruption on economic growth and investments”³ shows that lowering the corruption index by an average square deviation (2.4 points) is accompanied by an increase of the investments share in GDP by 4 percentage points, and an increase in the rate of economic growth by 0.5 per cent.

1.3 “Predictability” of corruption

Corruption implies a destabilization impact in any economy. Moreover, “unpredictable” corruption subjects the economy to additional shocks. Thus, a study of the World Bank indicates that countries with a high degree of “predictability” of corruption are characterized by a share of investments in GDP of about 19.5 per cent. In countries with “unpredictable” corruption this indicator is only 12.3 per cent, whereas in countries that combine an “unpredictable” and high level of corruption, this indicator varies around 8.5 per cent.

1.4 Opacity and corruption

Opacity, as a phenomenon opposed to transparency (which means a lack of clear, transparent, formalized and accessible procedures), can also serve as a sign of corruption. PricewaterhouseCoopers⁴ calculated the opacity index for 35 countries. Its main components were: the commitment to fight corruption in the country, the quality of the legal system, of economic policies, of accountability standards, as well as the

³ Mauro, Paolo (1996), “The Effects of Corruption on Growth, Investments”, IMF Working Paper N96/98

⁴ Henderson-Begg Max, Opacity Index, PricewaterhouseCoopers

regulatory regime. The paper estimates the impact of opacity upon raising fiscal burden, the transaction risk and investments reduction.

Opacity Index

	Opacity ind.	Corruption	Legal system	Economic pol.	Accounting	Regulations
Singapore	30	13	32	42	38	23
USA	36	25	37	42	25	48
England	38	15	40	53	45	38
Hong Kong	45	25	55	49	53	42
Italy	48	28	57	73	26	56
Mexico	48	42	58	57	29	52
Hungary	50	37	48	53	65	47
Israel	52	18	61	70	62	51
Greece	57	49	51	76	49	62
Lithuania	58	46	50	71	59	66
Japan	60	22	72	72	81	53
Poland	64	56	61	77	55	72
Czech Rep.	71	57	97	62	77	62
Romania	71	61	68	77	78	73
Turkey	74	51	72	87	80	81
Russia	83	78	84	90	81	84
China	87	62	100	87	86	100

Source: PricewaterhouseCoopers

1.5 Perception of corruption and bribe payers index

The calculation of the Corruption Perception Index is an attempt to measure corruption from the demand side of this phenomenon. This indicator cannot be absolutely objective, since it only shows the degree of corruption perception by people, rather than the phenomenon as such. In this case, the index may overestimate or underestimate the phenomenon. This is why an indicator has been worked out which evaluates the phenomenon from the supply side. It is called the Bribe Payers' Index (BPI). According to the authors (the Gallup

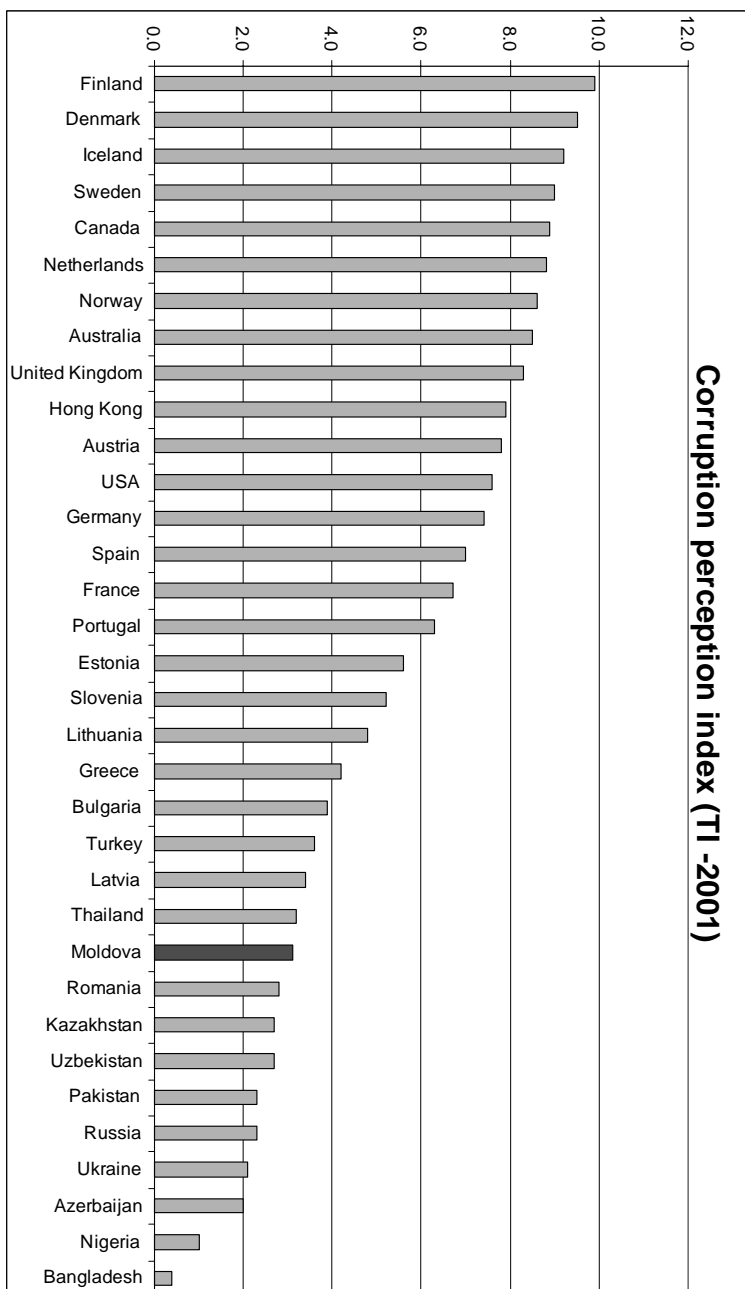
International⁵), the Bribe Payers Index was intended as a benchmark for an assessment of the implementation of the OECD Anti-Bribery Convention. It has been noticed, that the countries with a lower (negative) BPI are those which did not sign, or did not ratify this Convention.

Bribe Payers Index (BPI) , 1999

Rank	Country	BPI	Compliance with OECD Convention
1	Sweedden	8.3	Ratified
2	Australia	8.1	Ratified
3	Canada	8.1	Ratified
4	Austria	7.8	Ratified
5	Switzerland	7.7	Signed but not ratified
6	Netherlands	7.4	Signed but not ratified
7	United Kingdd	7.2	Ratified
8	Belgium	6.8	Ratified
9	Germany	6.2	Ratified
10	USA	6.2	Ratified
11	Singapore	5.7	Ne semnat
12	Spain	5.3	Ratified
13	France	5.2	Signed but not ratified
14	Japan	5.1	Ratified
15	Malaysia	3.9	Not signed
16	Italy	3.7	Signed but not ratified
17	Taiwan	3.5	Not signed
18	South Korea	3.4	Ratified
19	China	3.1	Not signed

Source: Transparency International (as of 26 October 1999)

⁵ Global Corruption Report 2001, Transparency International



1.6 State capture index and index of administrative corruption

The state capture index, in a way, quantifies the extend to which private firms and individuals have impact on the state. Together with the index of administrative corruption, these indexes have been developed through research of the quality of governance in transition countries⁶. According to this study, the Republic of Moldova is ranked in a far from honorable place. The state capture index places only Azerbaijan below Moldova, among 18 countries. In terms of administrative corruption index, only Kyrgyzstan, Azerbaijan and Georgia are ranked lower than Moldova.

⁶ Transition Report 1999, EBRD,; D. Kaufmann, A. Kraay (WB Institute), P. Zoido (Stanford University); J. Hellman, G.Jones, D. Kaufmann, *Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition Economies*, World Bank Policy Research working Papers, No.2444, 2000.

State capture and administrative corruption

Country	State capture index and its components (% of firms affected)							Administrative corruption (as % of firm revenues)
	Parliamentary legislation	Presidential decrees	Central bank	Criminal courts	Commercial courts	Political parties finance	Capture index (average)	
Albania	12	7	8	22	20	25	16	4
Azerbaijan	41	48	39	44	40	35	41	5.7
Bulgaria	28	26	28	28	19	42	28	2.1
Croatia	18	24	30	29	29	30	27	1.1
Czech Rep.	18	11	12	9	9	6	11	2.5
Estonia	14	7	8	8	8	17	10	1.6
Georgia	29	24	32	18	20	21	24	4.3
Hungary	12	7	8	5	5	4	7	1.7
Kyrgyzstan	18	16	59	26	30	27	29	5.3
Latvia	40	49	8	21	26	35	30	1.4
Lithuania	15	7	9	11	14	13	11	2.8
Moldova	43	30	40	33	34	42	37	4
Poland	13	10	6	12	18	10	12	1.6
Romania	22	20	26	14	17	27	21	3.2
Russia	35	32	47	24	27	24	32	2.8
Slovakia	20	12	37	29	25	20	24	2.5
Slovenia	8	5	4	6	6	11	7	1.4
Ukraine	44	37	37	21	26	29	32	4.4
Overall	24	21	25	18	20	20	21	3

Source: D.Kaufmann, A. Kraay, P. Zoido

The administrative corruption index, or the proportion of bribes in the total income in the Republic of Moldova is high primarily due to low income in this country, although one could surely point out an inverse process: due to relatively high bribes, income is, relatively, low.

Proportion of firms' revenues in unofficial payments to public officials (%)

	0%	<1%	1-1.99%	2-9.99%	10-12%	13-25%	>25%
Small firms	32.3	21.3	13.7	17.6	9.4	3.7	2
Medium firms	37.6	26.9	11.7	14	5.9	3	1
Large firms	58.2	20.9	6.8	8	3.7	1.5	0.9
All firms	38.6	23.4	11.8	14.6	7.1	3.1	1.4

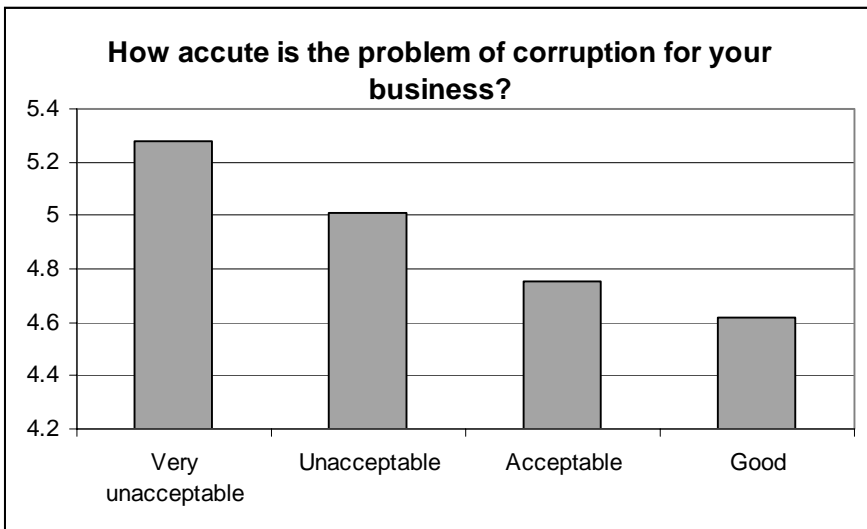
Source: World Business Environment Survey, WB

The data of the World Business Environment Survey⁷ prove that the index of administrative corruption is higher in Moldova than in average in the world. It is a typically characteristic fact, that both in Moldova, as well as in other transition countries, the corruption burden is heavier upon small firms. More than this, the small firms are penalized more for tax evasion than larger firms. The data of the Main State Fiscal Inspectorate of the Republic of Moldova confirm this fact. Thus, if in 2000 the average share of penalties (that is the ratio “penalties/tax evasion”) for all types of tax-payers is 0.7, then for the largest tax-payers this indicator is only 0.53.

⁷ World Business Environment Survey, World Bank.

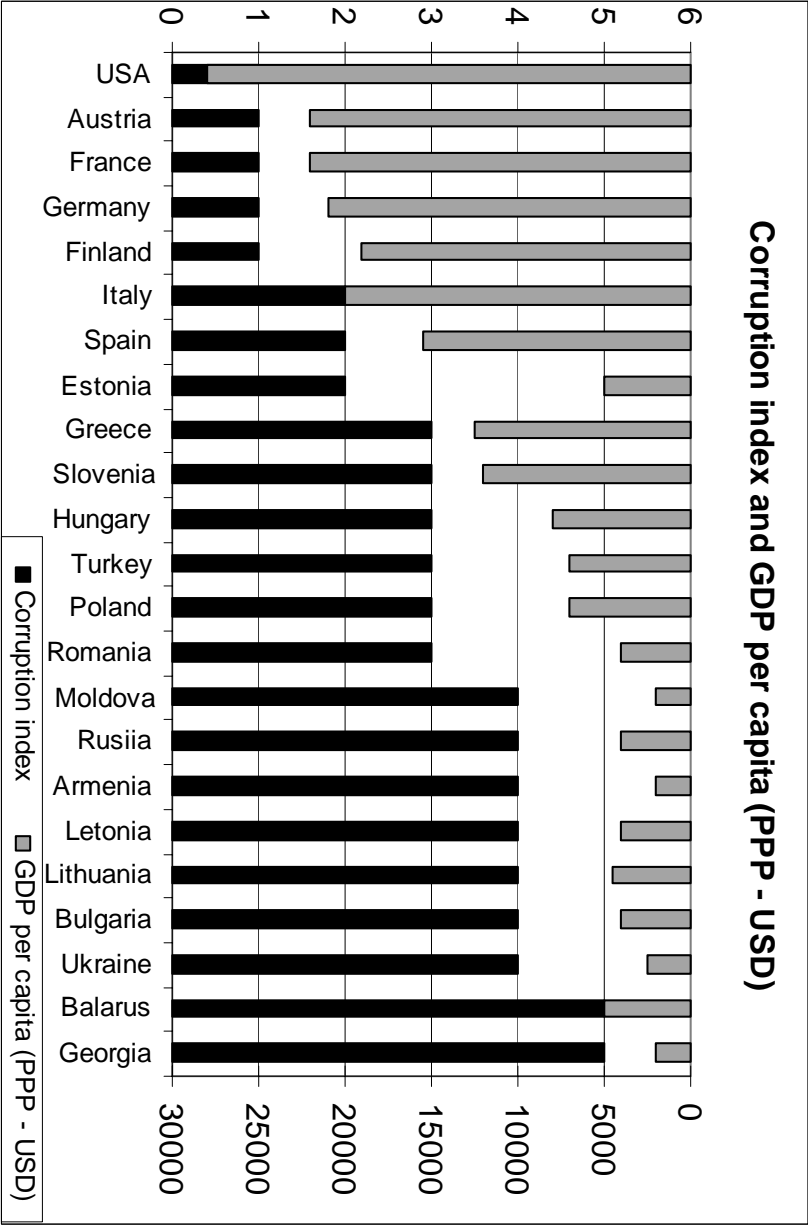
1.7 Corruption and poverty

There is a logical connection between corruption and poverty. In the private sector, poverty emerges due to excessive fiscal burden, which, consequently, raises prices and erodes the profits of firms. Then, the high prices diminish the real income of the population and the purchasing power of consumers. In the public sector corruption diminishes the efficiency of the public services. Corruption in the tax collection system causes a reduction of budget revenue, and, hence, the state's ability to pay the work of the public employees at a suitable level. In such a way corruption implies poverty of the overwhelming majority of population.



The results of the opinion poll carried out by Transparency International – Moldova confirm again that corruption is a greater problem for the poor. Thus, respondents to the poll have been grouped in four categories, proceeding from the manner they evaluated their living standards: those considering

that their living standards are very unacceptable, unacceptable, acceptable, and good. Responses have been selected for each of these groups in evaluation. The acuteness of the problem of corruption has been classified according to a scale of six levels, (where 1 means that the problem of corruption is not acute for respondents, 2 – is acute to some extent, 3 – sometimes creates problems, 4 – frequently creates problems, 5 – is acute, and 6 – very acute). The results show, that respondents with highest living standards consider the problem as the one which creates problems frequently (the average being 4.62). Those who consider their living standards as being absolutely unacceptable think that corruption is a very acute problem (average - 5.28).



It is obvious that corruption and poverty phenomena are not only two sides of the same coin. Rather, corruption is the cause of poverty. Gupta, Davoodi and Alonso-Terme⁸ quantitatively demonstrate the existence of a strong correlation between the level of corruption and inequity. In fact, it is easy to demonstrate this fact in a graphical manner, by including in a diagram the following data: corruption perception index (Transparency International) and the level of GDP per capita, at purchasing power parity. The conclusion is that poverty eradication in transition countries is impossible without eradication of corruption at all levels.

1.8 Corruption and criminality

There is a strong correlation between corruption and crime rate. It is corruption in law enforcement institutions that causes a considerable increase in the crime rate in the Republic of Moldova. The International Crime Victims Survey⁹ confirms the fact that in countries with a high level of corruption, the incidence of crime is likewise higher. If, for example, in France and Portugal this indicator is slightly higher than 1 per cent, then in eastern European countries this indicator varies between 8 and 22 per cent. It is significant that this indicator has been calculated based on the data of opinion polls, rather than data presented by corresponding institutions. The causes of this are multiple: the fact that the notion of crime as such differs from one country to another, the registration practices of crimes also differ. In many cases the law institutions are not interested in registering all crimes in order to raise the rate of crime disclosure. It is not surprising that the indicators

⁸ Gupta Sanjeev, hamid Davoodi and Rosa Alonso-terme, 1998, "Does corruption Affect Income Inequity and Poverty?", IMF Working Paper

⁹ A. Alvazzi del Frate, P. Mazhew, J.M. van dijk, J. van Kesteren, P. Nieuwbeerta, International Crime Victims Survey, United Nations Interregional Crime and Justice Research Institute

obtained in this manner have been obviously higher. The Republic of Moldova is not an exception, in this sense, among transition countries. Later on, it will be shown, that the number of certain crimes, particularly those pertaining to corruption, are often much higher than the number of cases formally registered.

1.9 Corruption and government ethics

Why is the level of corruption so noticeable different in various countries? This can be partially explained through the corruption prevention policies, promoted both in the public and private sectors. A study performed by the Control Risks Group (1999)¹⁰ shows that in the USA 92 percent of the companies have ethical codes that forbid accepting bribes. In the western and central European countries, this indicator is lower – 85 per cent. In the USA about 46 per cent of the companies promote anti-corruption campaigns, while in Europe – only 23 per cent do likewise. Managers of 74 per cent of the American companies declare publicly, on an annual basis, that they have been abiding the ethical code, whereas in Europe 34 percent make similar reports. In 56 per cent of the campaign run in the USA and 24 per cent in Europe there are hotlines for reporting corruption. It is obvious, that in eastern European countries, these measures are virtually missing in the private sector. In the public sector, these codes, even if they exist, they have a perfunctory nature rather than availing themselves of a mechanism of their implementation.

1.10 Corruption and development sustainability

The well-known Dow Jones Sustainability Group Index (DJSGI) is an indicator that characterizes the performance of 10 per cent of the leading companies. In fact, it can serve as a

¹⁰ Outlook 2000, Control Risks Group

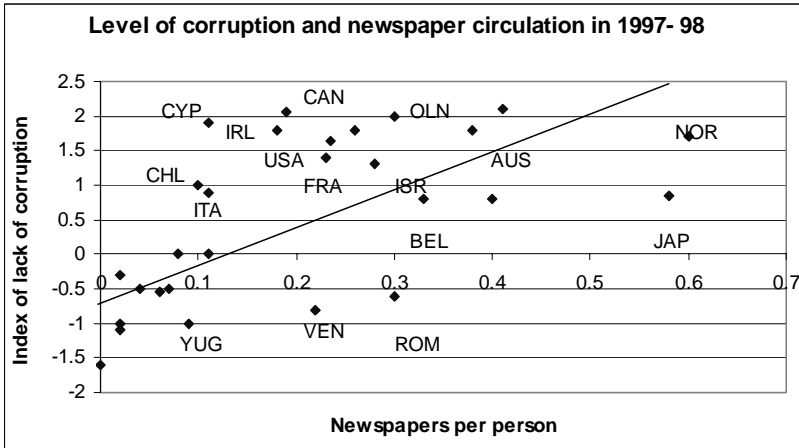
criterion for investment sustainability. The DJSGI¹¹ study shows that about 85 per cent of the companies that are considered for the calculation of DJSGI have implemented corporate ethical codes, which exclude the possibility of corrupt conduct by staff members of the companies.

1.11 Corruption and democracy

The extension of corruption within a country is related also to the level of democracy and the freedom of elections. In a very conventional manner, the degree of involvement of people in the democratic process of a country, can be expressed in electoral turnout. Alicia Adsera, Carles Boix and Mark Payne¹² demonstrate that with an increase in the involvement in the democratic processes, the level of corruption declines. Using an econometric model, the study proves that a low level of corruption and a high quality of governance are directly correlated to the extent to which political officials are subjected to supervision by civil society. The study by Adsera et al. also shows that the overall effects of citizens' information in a society (conventionally expressed in terms of the number of newspapers per capita), the existence of democratic elections, adequate levels of income per capita and the level of political involvement, all taken together explain about 80 per cent of the variation of corruption levels from country to country.

¹¹ I. Knoepfel, Rating and index Research, SAM Research, Global Corruption Report 2001, Transparency International

¹² Alicia Adsera (Universitz of Illinois at Chicago), Carles Boix (Universitz of Chicago), and Mark Payne (Inter-American Development Bank) „Are you being served? Political accountability and quality of government”, Transparency International, global Corruption Report, 2001



1.12 Corruption and environment

Given that corruption is a phenomenon caused by the interests of a small group of individuals, and runs counter to the interests of the majority in a society, it is obvious that it can have a negative impact on the environment. At the Davos Annual World Economic Forum, in 2001, the Environment Sustainability Index¹³ was presented. This index had the purpose of evaluating the ability of a country to manage the ongoing process of environment protection. The following variables were taken as estimation criteria for this index: the actual state of environment (water, soil, eco-systems), the level of exploration of available resources, the population’s vulnerability to changes in the ecological system, the ability of state institutions to meet the emerging ecological problems, as well as the ability of national institutions to respond to the requirements of conserving natural resources, in compliance with the requirements of international organizations. Thus, the Environment Sustainability Index combined 22 independent

¹³ Marc A. Levy, Corruption and the 2001 Environmental Sustainability Index, 2001, Columbia University.

indicators and has been estimated for 122 countries. The calculations of the authors¹³ show that with an increase in the level of corruption in a country, the Environment Sustainability Index declines.

1.13 Gender and corruption

Currently a series of publications examine the difference between the attitudes of men and women with regard to various political, economic, social and moral events. Probably, the most politically marked differentiation was the one related to votes in the presidential elections in the USA, which showed that since the presidential elections of 1980¹⁴ women supported the Democratic candidates more than men.

According to R. Michael Alvarez and Edward J. McCaffery¹⁵, there is a clear gender differentiation in the attitudes towards fiscal policy. A study of the Institutional Reforms and Non-formal Sector of Maryland University, conducted jointly with the World Bank, shows that there is an obvious tendency for women to be less corrupted than men.

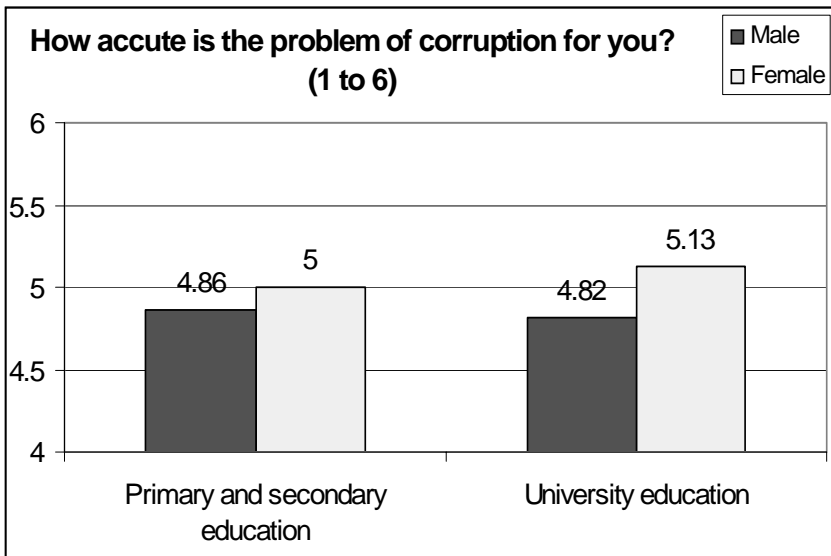
Another observation is that in countries with a higher proportion of women in top levels of state structures and in parliament, typically have less corruption. This study seems to indicate that the ethical standards of women are higher than those of men. This was one of the reasons to hire more women in the police in Northern Mexico.

¹⁴ Chaney, Carol Kennedy, 1998. *Vote Choice in Senate elections: The Impact of Campaigns and candidate Gender, 1988-1992*. Riverside: University of California and Chaney, Carol Kennedy, R. Michael Alvarez, and Jonatan Nagler. 1998. "Explaining the Gender Gap in Presidential Elections, 1980 – 1992." *Political Research Quarterly* 51 (2).

¹⁵ R. Michael Alvarez, and Edward J. McCaffery, "Is there a Gender Gap in Fiscal Political Preferences", 2000. University of Southern California Law School, Los Angeles.

Georgia also had an interesting experience in terms of gender and corruption. The American BAR Association held a training seminar for the Georgian lawyers and prosecutors. During the training the trainees were subjected to a number of tests, including some related to corruption. About 80 per cent of these examined could not pass the tests. Most of those who passed, were women.

Apparently the women of the Republic of Moldova are not an exception with regard to these observations. In an opinion poll conducted by Transparency International – Moldova¹⁶ respondents were asked how acute the problem of corruption in the Republic of Moldova is. The results showed that the average figure for women is 5.02, and for men – 4.9, *that is*, women have a more negative attitude towards corruption than men.



Similarly, when asked how would a person who offers a bribe

¹⁶ Corruption and Quality of Governance: the Case of Moldova, Transparency International - Moldova

feel, 53 per cent of women representing households and 59.4 per cent of women representing businesses said they would feel frustrated or humiliated in such a situation. This indicator for men was lower: only 40.7 per cent of businessmen and 52.6 per cent of household representatives would have negative feelings, when offering a bribe.

When asked whether a low paid public servant would accept a bribe, women, again, are less predisposed to accept bribes. 78.4 per cent of businessmen and 80.4 per cent of men representing households, would accept bribes under various excuses. Among women only 73.7 per cent who were in business and 76.8 per cent of households representatives would accept bribes. Thus, one sees that women, in general, evaluate the problem of corruption as being one of the most difficult for the society. Also, they seem to be less inclined to accept bribes and their attitude towards bribing seems to be more negative.

1.14 What does corruption mean for the Republic of Moldova?

In a concise form, the occurrence of a massive corruption, both in the public and private sectors, means the following for the Republic of Moldova:

An over-regulation of the private sector. According to the opinion polls carried out among businessmen, each enterprise is visited by the representatives of the control structures, both, formally and informally, in average 35 times a year;

An extremely heavy tax burden: about 50-55 per cent for enterprises that do pay taxes, and about 30 per cent on average in the country;

Losses for the budget. According to rough estimates in year 2000, tax evasion amounted to about 38 per cent of the consolidated budget revenue.

A massive shadow economy sector. Shadow economy amounts to about 65-70 per cent of the official one;

A low level of quality of the consumer goods. According to data of the Center of Standardization, Metrology and Technical Supervision about 80 per cent of the imported goods do not meet the required standards.

A high risk in financial markets. Real rate interest for loans in MDL provided by commercial banks has increased from 14 per cent in January 2000 to about 20 per cent in August. The dollarisation rate for bank deposits in October 2000 was about 46 per cent.

A particularly low level of foreign direct investments per capita. In 2000 it was about USD 31 only;

Enormous foreign debts. Currently it is USD 1507 mil. (or 117 per cent of GDP);

Economic stagnation. GDP per capita is the lowest among European countries – USD 357.7 in 2000.

Population pauperization. Inability to pay reasonable wages to public officials. The registered daily income of 80 per cent of the population is less than USD 1. In October 2000 the average wage was only USD 44, or 40 per cent of the minimum consumption budget. The average wage in the public sector was only USD 35.

Increasing criminality. The number of crimes per 10.000 inhabitants increased from 99.9 in 1995 to 105 in 2000. In addition, crime rate estimates performed by Transparency International–Moldova show that a substantial number of crimes are not reflected in the criminal statistical data.

2. Corruption through the lens of legal and control institutions

“Transparency International – Moldova” conducted a series of studies and opinion polls regarding corruption in the Republic of Moldova. The results of the studies and opinion polls show a rather acute situation (even critical) in this regard. In order to continue studying this phenomenon and revealing conditions which favor corruption, several informative notes of various legal and fiscal/financial control institutions have been studied.

2.1 Delinquency aspects

The statistical data of the Ministry of Internal Affairs (MIA) denote a high level of delinquency, which reached in 2000 105.0 offences per 10.000 inhabitants. The MIA affirms also, that “the increase in certain types of crimes is caused by worsening criminality which is related, to a large extent, to the existent gaps and collisions in legislation”. Also, “despite measures that have been undertaken, the criminality continues to increase, as manifested by an increase in the number of some kinds of particularly dangerous crimes...”.

The General Prosecutor’s Office confirms that the delinquency in Moldova continues to increase. During 1999 the prosecuting bodies concluded investigation of 2520 criminal cases, and the bodies of the MIA – 18280. From the number of cases concluded by the prosecuting bodies 1669 were handed over to courts, and by MIA – 13092. In all, in 1999 - 18.469 individuals were handed over to justice, or by 7.2 per cent more than in 1995.

According to statistical data an illusion has been created, that the number of offences has dropped; moreover, seemingly, a reduction could be observed. If in 1992 there were registered

39190 offences, then in 2000 - 38267. At the same time one could observe that the number of serious offences increased from 7275 in 1992 to 8941 in 2000 (by about 23 per cent). This shows an increasing trend of serious crimes and share thereof versus the total number of registered crimes.

Crime trends

	1992	1993	1994	1995	1996	1997	1998	1999	2000
Number of registered offences (total)	39190	37073	37317	38409	34822	39914	36195	39346	38267
Including serious ones	7275	7173	9090	11069	8083	10018	8210	9252	8941
Economic-financial crimes	1867	2094	2344	2598	2697	2992	3253	3483	3603

Proceeding from the official statistical data, as well as from the real trends, one observes that in 2000 the total number of crimes including the ones that have not been registered, should vary between 48000 and 54000 offenses. The conclusion can be drawn, that a *large number of offenses (about 10000-16000) were not registered officially for various reasons.*

This conclusion is confirmed by other data, coming from documents of legal institutions. These are the Decision of the Collegium of MIA No. 4 dated 13.03.01, and also, the data submitted by the General Prosecutor at the session of the Collegium of the MIA dated 12.01.01.

In the Decision of the Collegium No. 4 dated 13.03.01 it is mentioned, *inter alia*, that in the Police Inspectorates of Chisinau municipality, and in the counties of Baltsi and Chisinau, cases have been found of ungrounded refusal to

institute criminal proceedings. During 2000 just in the District Police Commissariats of Chisinau municipality prosecutors annuled 715 decisions, of them in 551 cases were instituted criminal proceedings. At the Police Inspectorate of Baltsi county 137 decisions on institution of 86 criminal cases were annuled, whereas in Chisinau municipality Police Inspectorate it was decided to subject 30 cases to preliminary investigations.

Here we are dealing with the problem of *objectiveness of offences' registration*. One can observe that in many cases in order to raise the rate of crime disclosure the competent institutions are not interested in registering all offenses, particularly those that seem difficult to disclose; or those that seem to create additional problems.

2.2. Evaluation of corruption

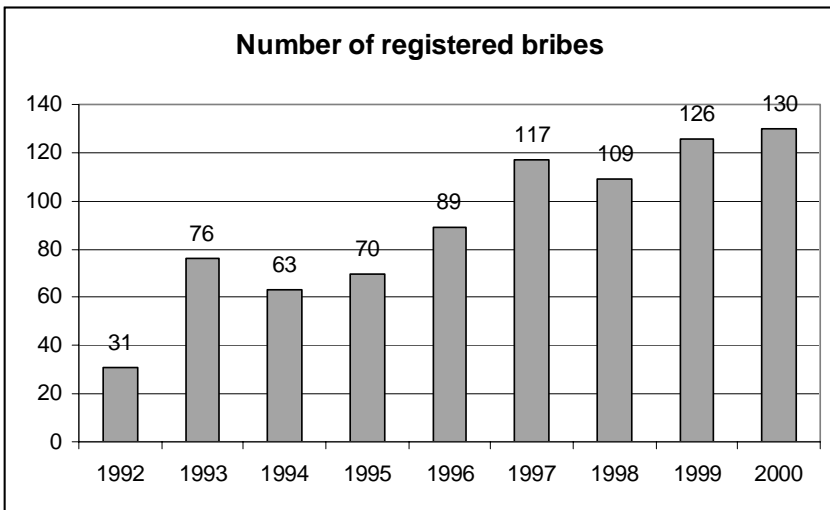
With regard to corruption, the statistical data of the Ministry of Internal Affairs indicate that during the period 1992–2000 the number of bribes has risen from 31 offenses registered in 1992 to 130 in 2000, that is a 4.2 fold increase, and in the first 9 months of 2001 there have been registered 129 offences, which corresponds to the number of offenses registered through the entire year 2000. Regarding corruption and protectionism, MIA disclosed 303 offenses, including 118 cases of bribery.

In 2000 the prosecuting bodies have conducted 57 investigations on enforcement of the Law on fighting corruption and protectionism. On the basis of the Article 93 of the Code, 201 criminal cases submitted by the Chamber of Accounts, Department for Financial Control and Revision, Information and Security Service, and other bodies have been resolved. Based on results of investigations and materials examination there were instituted 62 criminal cases, 8 appeals and 29 matters were referred to the court.

During 2000 territorial prosecutors instituted 166 criminal cases against office holders, employees of the public service (53 based on constitutive signs of offences, as defined by Art. 184, Art. 29-185, Art. 51-187, Art. 4-188, Art. 29 and Art. 189 of the Criminal Code).

The vast majority of the registered bribery cases, particularly bribe extortion. From the overall number of bribery cases registered in 2000 – 105 offenses were for bribery. For example, on 29.06.1998 the investigator of the Police Commissariat from Glodeni P. Anghel took USD 5000 to convey them as a bribe to the judge from the Glodeni court, who was supposed to judge a criminal case. In this case a there were instituted criminal proceedings based on Article 187 paragraph 3 of the Criminal Code. The court decision convicted the offender to 6 years of imprisonment.

On 31.10.97, the employees of Leusheni customs, Tornea and Ungureanu received a bribe worth USD 400 from the citizen Starojuc for smuggling their merchandise and avoiding customs duties. The sentence was as follows: Tornea – 4 years of imprisonment; Starojuc and Ungureanu – each 3 years of



imprisonment.

On 05.06.98, the State Fiscal Inspector L. Grinco took a bribe worth USD 1150 for reducing financial fines of an economic agent. The sentence was 5 years of imprisonment with suspension of punishment for a period of 4 years.

On 30.04.98, the Deputy Director of the marketplace Vorobțov took a bribe worth USD 250 for offering two places to sell on the market square. The sentence was a MDL 1800 fine.

Also significant are the following examples: The General Prosecutor's Office instituted criminal proceedings based on the Article 187, para 3 of the Criminal Code, for extorting a bribe worth USD 4000 by the inspector of the economic-financial police of the Police Commissariat from Falshti - V. Savițchi, from L. Munteanu. The latter was favored to avoid criminal responsibility.

In Glodeni, on 19.05.2000, the inspector of the Criminal Police of the Police Commissariat, I. Tuceac and L. Buclis, extorted a bribe worth USD 490 for having hidden an offence provided for in Article 225⁵ of the Criminal Code. The offence was committed by Levcenco and Jernovaia.

The Information and Security Service details a series of corruption and protectionism cases. Some are as follows:

- catching red-handed a staff member of the Internal Security Department of the MIA, the Lieutenant-Colonel I. Vladîca, the chief of the sub-department of frontier police, Cahul, major S. Tudos, and a fellow-worker of the frontier police of the Police Commissariat of the Ryshcani district R. Cekan, who were escorting trucks with smuggled goods;
- actions taken regarding the ex-Deputy Minister of Justice Sokolov, who by maintaining relations with criminal world, for personal gains, committed a series of abuses by using budgetary financial resources;

- The General Prosecutor's Office received materials which served as a base to institute criminal proceedings regarding the investigator of the Police Commissariat of Botanica District, Chisinau - Iu. Dorogoi, who, in collusion with managers of the tourist firms "Trustar-SV" and "ABIS-Tur", helped them avoid criminal charges.

Data from 1999 show bribery acts charged or referred to justice: 17 police co-workers, 14 co-workers of the Customs Control Department, 3 co-workers of the Fiscal Inspectorate, 4 judges, 2 prosecutors, 2 lawyers and 9 representatives of public authorities.

During 2000, based on charges of committing similar crimes, office holders were detected and arrested from both central and local governments, as well as from various ministries: internal affairs – 36, finance – 17, health care – 11, education and science – 9, transportation and communication – 6, industry and power – 5, justice – 5, defense – 3, agriculture and processing industry – 2, environment and territory arrangement – 1, prosecution bodies – 1, mayoralities – 2, etc. Thus, individuals from many varied categories and public office holders have been involved in bribery.

It is obvious that the indicated number of bribes, registered by legal bodies is just a small part of the number of those which are in reality committed. This fact is perceived and well known by those, who constantly face this phenomenon in various fields of activity.

Should we perform another evaluation of corruption acts, one could get results as follows: according to opinion polls of „Transparency International – Moldova” on 1999, about 33.3 per cent of all firms pay bribes very often. That is, if one considers that in the Republic of Moldova there are about 600 large tax payers and that 1/3 of them pay bribes frequently (suppose on average 10 times a year), then the number of bribery acts could be about 2000. Also, should one take into

account that by 01 January 2000 at Territorial State Fiscal Inspectorates there were registered about 453000 tax payers, then one could easily calculate that the number of acts of bribery, only due to this factor, could amount to *about 1.5 mil.* Proceeding from the number of tax-payers by 01.01.2001, this figure could be *about 1.8 mil.* Hence, those about 130 bribery acts, detected by the legal bodies are nearly equal to nil compared with calculated estimates.

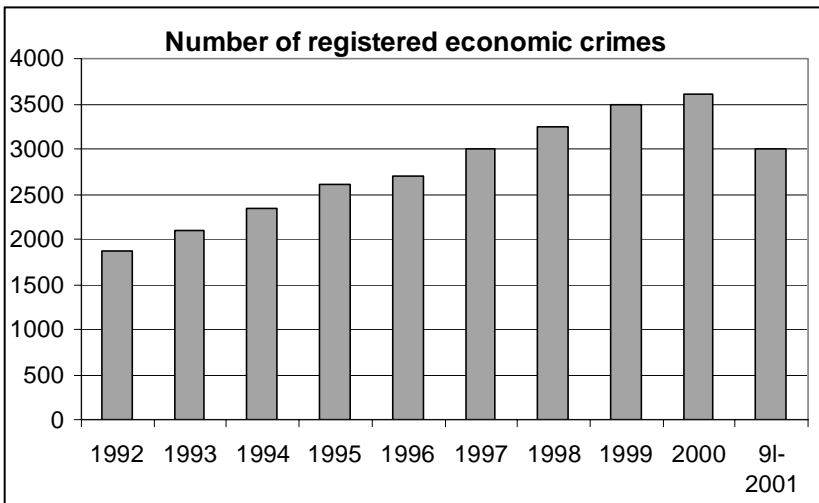
As it was shown, in the Republic of Moldova in the Balance sheet of the Ministry of Internal Affairs for 1999 „Corruption has already penetrated most spheres of state activity and this vice affected a great many office holders”. According to the General Prosecutor’s Office “During the last years in the country, an increase in corruption extension has occurred, the situation becoming alarming”.

2.3 Damage caused by corruption

The prejudice caused to the citizens and the state as a result of bribery acts is significant. According to the data from the *Ministry of Internal Affairs*, the prejudice of bribery cases that are being investigated in the year 2000 is worth an estimated amount of about MDL 7.88 mil. of that only the cases registered in year 2000 caused a damage worth MDL 1.72 mil.

In comparison with direct damage, caused by the outcome of bribery acts, the negative consequences of corruption are much worse. Based on corruption there were, and still possibly are, committed other types of offences, including serious ones, particularly economic-financial ones.

According to the same source „in 1999 about 795 economic offences (or about 23 per cent of the total number of registered economic offences) contain elements of corruption and protectionism”, „from the number of economic crimes detected in year 2000, respectively 1028 (or 28.6 per cent) of offenses are socially serious ones. About 303 (8.4 per cent) are



combined with elements of corruption and protectionism. 2189 individuals have been detected and charged for social-economic offenses, including 600 (27.4 per cent) of office holders”.

Should we make an analysis of the criminality evolution, one could establish an increase of the share of economic & financial offenses (see the Table and diagram). Moreover there has been established a directly proportional interrelation between corruption acts and number of economic-financial offences.

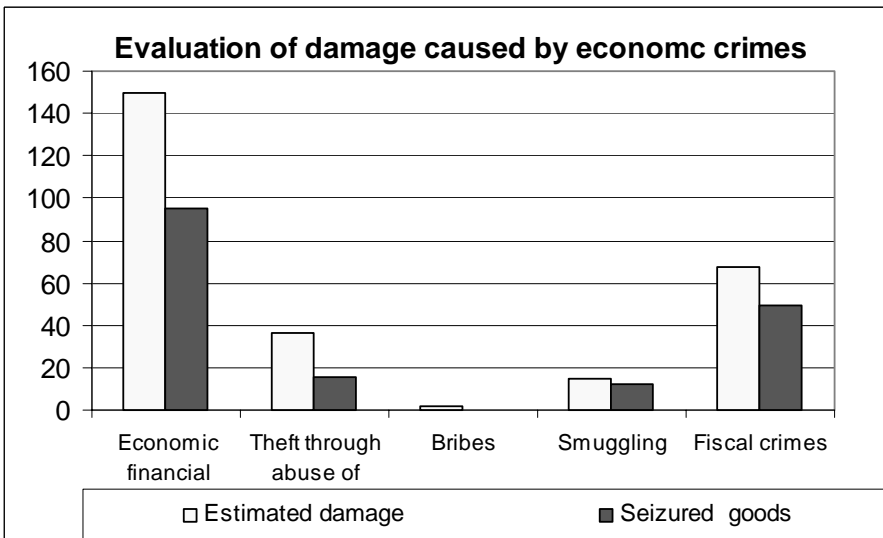
The damage caused as a result of economic-financial offenses registered in year 2000 is worth about MDL 149.4 mil., including embezzlements by abuse – about MDL 36.2 mil.,

fiscal offences – about MDL 67.3 mil., and smuggling – MDL 15.0 mil.

From economic offences (committed to a great extent as a result of corruption deeds) a particular interest accounts for offenses contributing to formation and consolidation of shadow economy. In this regard, in 2000 there have been detected 2281 offenses. In this field are outlined fiscal evasions, smuggling of goods and criminal violations pertaining to manufacturing and trading of fake goods. The above mentioned offenses are committed, typically, for obtaining a larger profit within a short while.

The data presented by the legal and fiscal/financial control bodies confirm an advanced level of corruption in the Republic of Moldova and serious consequences entailed by this phenomenon.

Based on the obtained materials the Information and Security Service admits, that “the problem of corruption and protectionism continues to be acute for the republic. Usually, in most economic offences in the credit-banking system, in



foreign economic relations, in smuggling in particularly large amounts, there are involved representatives of public administration, and individuals in charge of the ministries and departments”.

2.4 Tax evasion

There was determined that the number of fiscal offenses increased considerably. If in 1999 on the territory of the Republic of Moldova there were registered 582 offences, then in 2000 – 795 similar offences, *i.e.* by 36.6 per cent more. In terms of material damage that was worth about MDL 67.3 mil.

Thus, the managers of JDC „Iujanca” (Comrat), LTD „Camferel” (Chisinau), and Private firm „Jana Durleștean” (Durlești), by including distorted data in accounting documents, have committed tax evasions, respectively worth, MDL 1; 3.2 and 6.4 mil.

By an informational note, the *Information and Security Service (ISS)* informs, that were disclosed and documented a series of violations of financial economic legislation, in line with cases of misuse of budgetary funds. Fore example:

- as a result of a complex investigation there were disclosed multiple violations of customs and fiscal legislation in the activity of “Holand Traiding” firm, which damaged the state budget in an amount worth MDL 10 mil. The offence was in using false documents regarding exporting abroad to some nonexistent firms of some goods, that in fact were sold on domestic market;
- there were documented cases of embezzlement of MDL 3.5 mil. by the managers of RED “Nord-Vest” enterprise, by running financial operations with a fictitious firm; a case of misuse of funds and embezzlement of material goods worth MDL 2.86 mil. at the gas supply firm from the town of Dondusheni; a case of avoiding to pay VAT, by Joint Stock

Company (JSC) “Roma” from. Cimishlia, worth MDL 1.44 mil.; a case of illicit obtaining, by false documents, of budget funds worth MDL 320 and 200 thousand, respectively, by the managers of enterprises “Liman” and “Autoradar”.

In line with that, as a result of the activity it was possible to prevent a damage to the state in the field of foreign economic relations by concluding contracts with nonexistent firms or bankrupt ones. Thus, as a result of an independent investigation there was cancelled a contract signed between the state enterprise “Moldovan Railroads” and Insurance Company “Artas”. Execution of this may have caused the state a damage worth MDL 3.5 mil. Also, there was prevented conclusion of contracts between the same State Company “Moldovan Railroads”, the JSC “Montajspetștroy” and the firm “Carlit”, regarding transmission to the latter of competence to pay debts to Russian Railroads worth Swiss Francs 35 mil. and USD 3 mil., respectively.

The Prosecuting bodies have received materials with regard to privatization of some public service and health care objects, at much lower prices, or by using false documents by involvement of some public office holders, such as: restaurant “Struguraș” from mun. Cahul for MDL 200 thousand (its real price was over MDL de 4 mil.), the Health Rehabilitation Center (the latter being worth MDL 1 mil.). The transaction was supposed to be effectuated based on false documents issued by the Mayoralty of the respective municipality. The cases mentioned above are now under investigation. There was disclosed a deliberate reduction of balance value of the resort adjacent to Railroads, by the management of the JSC “Vitamin”, from Nisporeni, from MDL 3.214 mil. to MDL 936 thousand. Also, there was baffled the attempt to privatize illegally the stomatologic clinics from mun. Soroca, by involvement some staff members of the Privatization Department.

There were disclosed a series of other acts combined with corruption and protectionism elements, such as:

- service related abuses, committed by deputy-chairman of the Executive Body from Rezina – Prodan. He was involved in an embezzlement of goods destined to paying off debts to Social Fund;
- cases of illegal issuance of passports to citizens of the Republic of Moldova, to some foreign citizens, and cases of falsifying vehicle registration documents by 2 staff members of the Police Commissariat from the mun. Soroca;
- mutual payments for natural gas with the support of the management of a joint-venture “BIMACO”. The latter, based on a support of the chief of department of natural gas distribution in the Republic of Moldova of joint stock company “Moldovagaz” A. Belinchi, carried out a false payment with the suppliers from Russia, during 1998-1999, having caused a damage to the state worth MDL 26 mil.;
- disappearance from the Elevator from Căușeni of about 6000 tons of wheat, from the State Reserve, when the director of the elevator Vladimir Ianiev sold wheat from the State Reserve without the permission of the entitled bodies. Based on this act, there were instituted criminal procedures and V. Ianiev was preventively arrested.

In compliance with the data of the *State Principal Fiscal Inspectorate*, during 1999 the territorial sub-divisions of the fiscal service and Financial Guard comprised in documented, operative and thematic controls – 36.7 thousand enterprises. Based on that at 20.3 thousand enterprises (55.2 per cent of the number subjected to controls) there were disclosed cases of reducing amounts of taxes, duties and other payments due to the budget and other violations of the fiscal legislation.

The cases of reducing taxes, duties and other payments to the budget in large amounts have been depicted, for instance at

Ltd. “B&S Impex” Chisinau (reducing VAT on import) and Ltd. “Comtinc–Service” (which hid incomes by using 2 bank accounts and reducing tax amounts).

During inspections there were drawn up minutes with regard to administrative contraventions on 27807 decision makers and ordinary individuals, who committed violations of fiscal legislation. In 13258 cases the minutes were drawn for violating the rules on calculating the taxes and other payments to the budget and extra-budget funds (Art. 163 Code of Administrative Contraventions), in 3264 cases – for violating the procedure and terms of submitting fiscal reports (Art. 162²), in 3686 cases – for illegal entrepreneurial activity (Art. 162), etc.

The fiscal bodies took decisions on imposing administrative penalties upon 533 office-holders. In 193 cases, in which the economic agents had not honor their debts towards the state budget for a long time, they were asked to initiate bankruptcy procedures. As on 1 January, 2000 the Economic Court issued a decision on running bankruptcy procedures for 172 economic agents; of them in 94 cases – based on requests submitted by the fiscal service.

The Department of Supervising and Inspection of Big Tax-payers (DUCCM), which provides a fiscal inspection and monitoring of payments made by big tax-payers (*i.e.* 626 economic units that are regarded as the biggest importers and exporters of goods and enterprises that have the biggest due amounts to pay as income tax, VAT and excise duties owed to the state budget), conducted during 1999 documentary fiscal inspections at 258 big enterprises. At 152 of them, there were disclosed cases of reducing tax amounts and duties owed to the state budget. Considerable additional amounts were calculated for: JSC Bank “Banca Socială”, CET-2, JSC “Transconstrucția”, State Enterprise “Railroads” (Chisinau), JSC “Caragasani Vin” (Tighina), Ltd. “Bioagrochim”, Ltd.

“Dimiurg”, FSPC “Vitol”, JSC “Glass Container Company”, Combined Winery and Brandies producer from Baltsi, JSC “Moldatsa”, JSC “Cupcini-Cristal”, JSC “Artima”, JSC “MTV West Botling”, etc.

According to DUCCM there was an additional amount calculated to the budget, in terms of taxes and duties, worth MDL 22142.5 thousand, including financial penalties worth MDL 7671.7 thousand. Consequently, during an inspection there was calculated in average an additional amount worth about MDL 145.7 thousand, including financial penalties worth MDL 50,5 thousand. From additionally calculated amounts 63 per cent accounted for VAT, 24 per cent for excise duties, 10 per cent – income taxes, 3 per cent – sundry taxes and duties.

During year 2000 the staff members of the State Fiscal Service have performed 39620 documentary, thematic and operative inspections, or by 2892 inspections (7.9 per cent) more than in 1999. During the inspections violations were disclosed with 24138 thousand taxpayers, or 61 per cent of the inspected enterprises. According to data submitted by the Financial Guard this indicator accounts for 80 per cent.

The most serious violations have been disclosed at the Ltd. “Chişinău-Gaz”, where an additional VAT was calculated worth MDL 1.9 mil., at Ltd. “Complet-gaz” additional taxes were calculated worth MDL 1.2 mil, at Ltd. “Cărpineni” as a result of the inspection there were calculated additionally to the budget due payments worth MDL 1.6 mil., including MDL 0.9 mil. as excise duties and 0.5 mil. income taxes and others.

A particular attention has been paid to operative inspections conducted by employees of the Financial Guard. Thus, during year 2000 there were performed 11744 inspections, including 9393 with decisions taken to impose sanctions. The most specific fiscal violations were preserving, transportation and trade of commodities without legal documents of origin in

4871 cases and for non-repatriation of foreign exchange in 162 cases.

For committed and disclosed violations in the process of inspections performed in year 2000 the State Fiscal Service draw-up 38.1 thousand minutes with regard to administrative contraventions. In 20.4 thousand cases minutes were drawn for violating the procedure for calculating and paying taxes, duties and other payments to the budget and in extra-budget funds; in 3.7 thousand cases – for violating the procedure and the terms of submitting fiscal reports, in 5.3 thousand cases – for conducting illegal entrepreneurial operations, etc.

In year 2000 the investigating bodies have received 1036 materials on inspections, 374 documents are under examination, 446 – without and only 216 cases with institution of criminal proceedings. 42 cases were handed over to courts and only in 17 cases there were imposed criminal penalty.

In 1999 the employees of the *Department for Financial Inspection and Revision* performed 1588 documentary and thematic revisions, including at 387 budget-financed institutions. Of the total number of performed revisions, with 1117 economic agents (or at about 70 per cent) and with 216 budget-financed institutions (or 55.8 per cent) various financial contraventions were disclosed. Decisions were made to draw invoices for collecting total amounts calculated additionally to the budget, for illegal costs, as well as for missing funds, embezzlements of products destined for payment of debts for electric power, misuse of budget funds and immobilization thereof, etc.

As a result of inspections many violations have been pointed out, as follows:

- at the farms and enterprises subordinated to the Ministry of Agriculture and Foods as a result of 305 documentary

revisions, 216 violations were disclosed of financial discipline (70,8 per cent);

- the revisions and inspections performed at 229 economic agents from trade and industrial sectors; 173 of them were disclosed to operate at loss;
- violations at JSC "Completgaz", which are involved in paying-off debts of the Republic of Moldova to "Gazprom" (Russia) for the natural gas purchased, and FPC "Brugan" Ltd.;
- at JSC "Moldovatrangaz", which did not comply with the contract on transportation of natural gas. The respective amount has not been paid and VAT not calculated to the budget (from services rendered by "Gaztex" company);
- at the companies "Lucoil Moldova" and "Agropetrol" – serious violations of fiscal and pricing discipline.

In year 2000 the employees of the Department for Financial Inspection and Revision performed 2264 documentary revisions and thematic inspections, which resulted in detecting losses and damages caused to the state and economic agents, worth MDL 321.2 mil. (or 2.6 more than in 1999 (MDL 121.9 mil.), including the prejudice caused to the state in amount of MDL 221.9 mil.

The performed revisions and inspections disclosed that the main reasons of financial contraventions are as follows:

- Falsifying book-keeping documents in making payments among economic agents and to the state budget, as well as conveying debts to third parties;
- Yielding of debts from one economic agents to another;
- Registering phantom-firms for short periods;
- Double and unsatisfactory book-keeping;
- Losing book-keeping documents and destruction thereof;
- Managers' and book-keepers' irresponsibility;
- Tax evasion.

In year 2000 there was disclosed that budget-funded institutions applying for credits admit violations as follows:

- Illegal payments;
- Missing commodities, misuse of commodities;
- Non-observance of budgetary normatives;
- Overrunning expenditure limits.

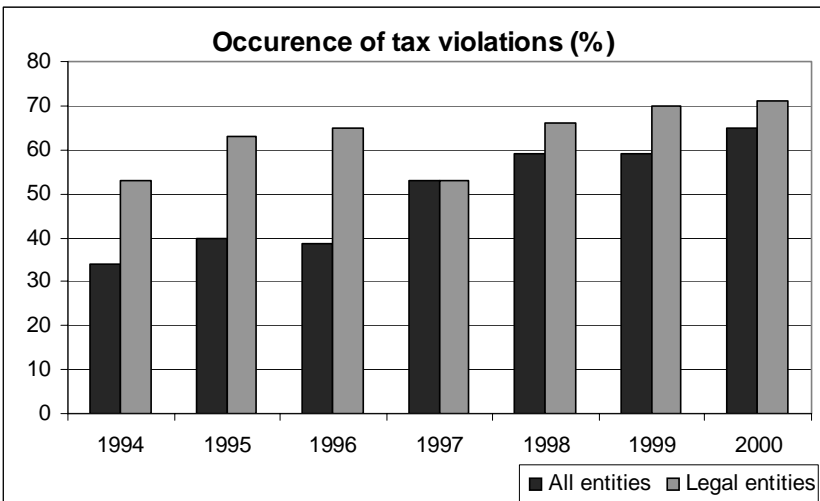
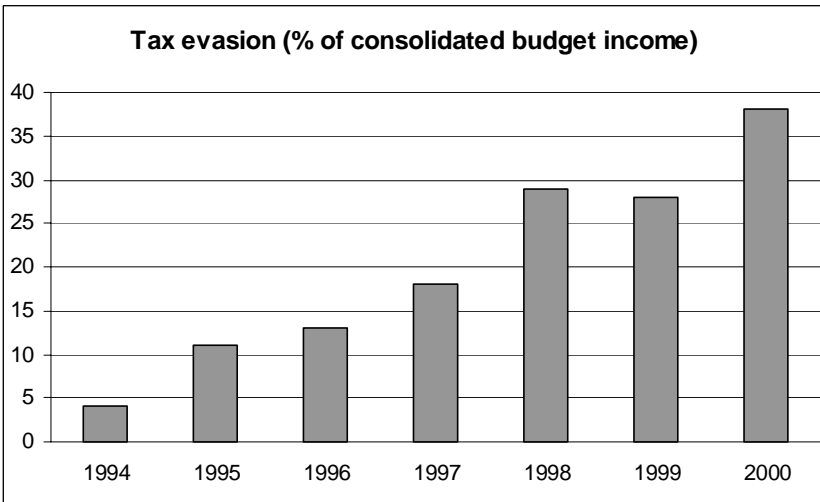
There were detected cases of usage of budget funds beyond destination and their immobilization, including at 5 institutions subordinated to the Ministry of Education and Science, at 11 institutions subordinated to the Ministry of Health, at 2 institutions subordinated to the Ministry of Justice, and at an institution subordinated to the MIA.

As a result of revisions performed at 308 mayoralities from the republic, at 161 of them financial violations were disclosed.

An analysis of the situation denotes that *tax evaluation is a "norm" for most economic agents.*

It is well known that corruption in the fiscal inspection bodies, and tax evasion, are two phenomena that are mutually nourishing each other. On the one hand, corruption of inspection bodies leads to increasing tax evasion and diminishing collections to the state budget. On the other hand, reduced state possibilities to remunerate public servants at a decent level due to reduced collections to the budget leads to corrupting public office holders *en mass*. Thus, in an opinion poll performed by Transparency International – Moldova, small and medium business representatives were asked what share of the total amount of tax evasion disclosed is enough to pay directly to an inspector, in order to make possible avoid formal registration of violation. Results were discouraging: in average it is enough to pay about 35 per cent of the detected amount in order to “get rid” of problems with the state. Moreover, the respondents admitted that, usually, the bigger is

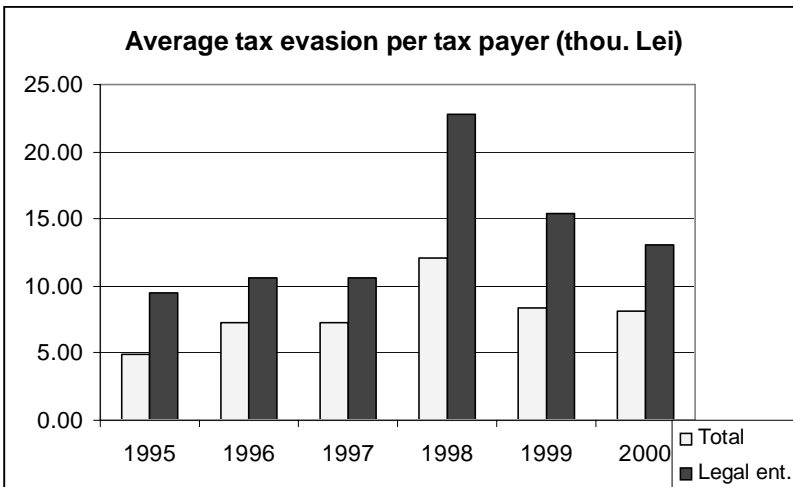
the amount of evasion, the less is the bribe in proportional terms.



Transparency International – Moldova estimated the total tax evasion in the Republic of Moldova based on source data from the Principal State Fiscal Inspectorate. The results show that this phenomenon is growing exponentially. If in 1994 the

amount of estimated evasion accounted for 4 per cent of the consolidated budget, then in year 2000, according to approximate estimates, the share thereof increased up to 38 per cent, or about MDL 900 mil. Of them tax evasion by legal entities accounted for 93.76 per cent, whereas those committed by individuals – for only 6.24 per cent.

The fiscal discipline declines both in absolute and relative terms. The frequency of fiscal evasion, if calculated as a share of the number of cases of detected tax evasions in the overall number of fiscal inspections, during 1994–2000 doubled from 32 per cent to 65 per cent. The average amount of a detected tax evasion for a taxpayer increased from MDL 1.8 to 8 thousand.



A differentiation is noticed of these indicators in terms of regions. Thus, among legal entities fiscal legislation has been most frequently violated in the county of Tighina (90 per cent), in Soroca (80 per cent), Edineț (78 per cent) and Chisinau municipality (78 per cent). The minimal frequency of contraventions has been registered in the town of Baltsi (49 per

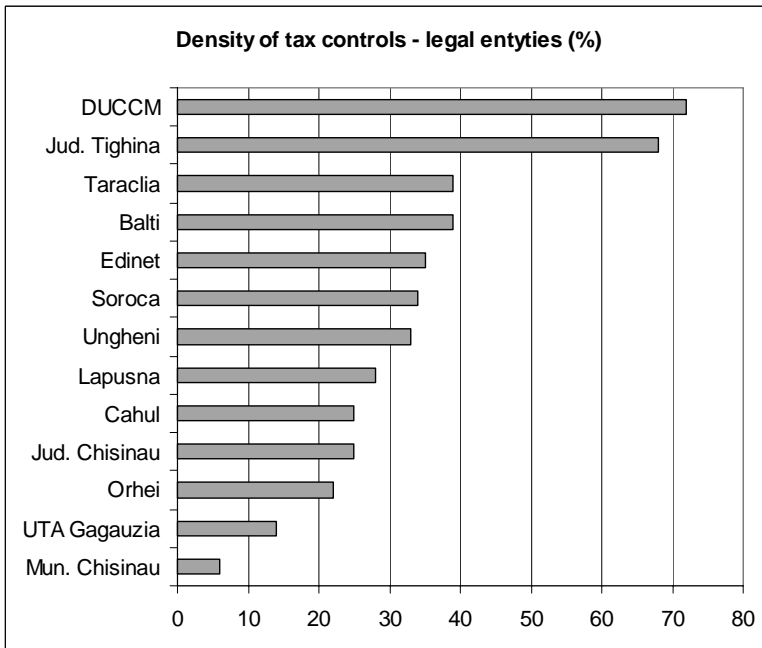
cent) and Lapushna (60 per cent). The average for the Republic of Moldova is 90 per cent. The legal entities that most frequently have been subjected to inspections on behalf of fiscal inspections are big taxpayers (DUCCM – 72 per cent of their total number) and those from the county of Tighina (68 per cent). Most seldom were subjected to inspections taxpayers from the municipality of Chisinau (only 6 per cent from the total amount of the registered tax payers) and Gagauz Territorial Administrative Unit (TAU) (14 per cent). The average of the above indicator in the Republic of Moldova is 16 per cent.

The average evasion per one taxpayer among individuals is insignificant and does not affect much the incomes to the state budget. Among individuals maximum evasions per taxpayer was disclosed among large taxpayers – MDL 68 thousand. The latter is followed by Chisinau – MDL 21.69 thousand and Gagauz TAU (MDL 20 thousand).

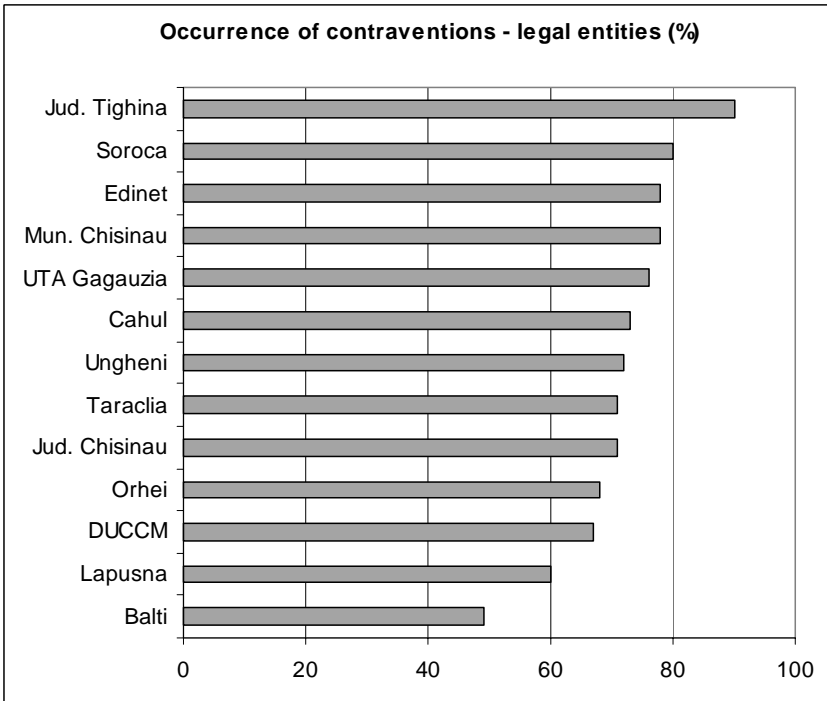
One could raise a logical question: are penalties imposed to taxpayers equal for tax evasions in same amounts? The answer is *no*. The total amount of penalties imposed for violations of fiscal law varied between MDL 35010.2 thousand, in the municipality of Chisinau, and MDL 16241 thousand (for large taxpayers (DUCCM)), to MDL 311 thousand in the county of Taraclia. For legal entities these penalties varied from the amount of MDL 34909.9 thousand, in Chisinau, and MDL 16241 thousand for DUCCM, up to the amount of MDL 1142 thousand in Cahul, Orhei, and, in the end, for those from the county of Taraclia – worth MDL 125 thousand. Among individuals maximum penalties have been imposed on taxpayers from municipality of Chisinau (worth MDL 1077.6 thousand) and from the county of Chisinau (MDL 727 thousand). Those from the county of Lapushna (in amount of MDL 147 thousand) and Tighina (in amount of MDL 54 thousand) were subjected to minimal penalties.

In fact, the overall amount of penalties, in a certain region, does not explain how severely were penalized those who violated the law. As an indicator that would explain this fact could be the penalty rate, which is calculated as the sum of penalties divided by the amount of detected fiscal evasion, in terms of percentage. For all taxpayers, including both legal entities and individuals, in year 2000 the most penalized were those from the county of Tighina. The penalty rate imposed on them accounted for 112 per cent. The next are ranked as follows: the county of Ungheni (97 per cent), municipality of Chisinau (80 per cent), counties of Orhei and Cahul (for both of them – each 77 per cent). The least penalized were taxpayers from the county of Taraclia (13.5 per cent). The average penalty rate for the Republic of Moldova in year 2000 was 70 per cent.

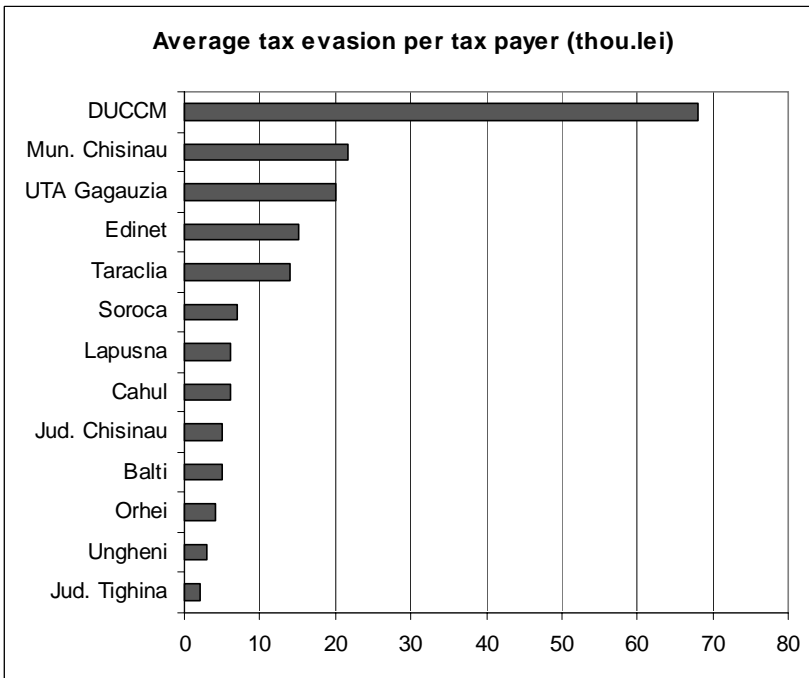
Large taxpayers, usually, perform their operations in more

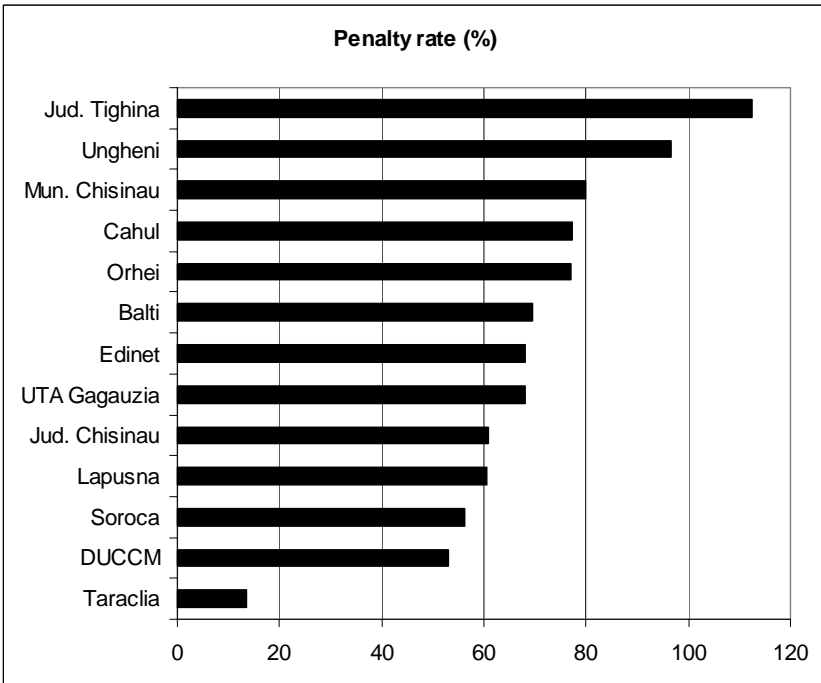


regions, through their subsidiaries, this is why they are subjected to inspections most frequently. Possibly this could also explain the fact why the amounts of tax evasion are larger among those taxpayers. Nevertheless, probably, due to possibilities to bribe the fiscal inspectors assigned at well-to-do-companies, rate of penalties at this group of entrepreneurs is unexpectedly the least in comparison with other taxpayers.



A particular attention deserves to be paid to tax evasion in Gagauz TAU. Having the least frequency of fiscal inspections and relatively small economic transactions, it registers the largest amount of tax evasions per taxpayer, and a very high frequency of fiscal evasion. The penalty rate in this region is comparatively small, whereas the level of penalties' collection is the lowest in the country. The results show that regardless to whether this is deliberate or not, in this region conditions are created for a continuous increase of tax evasion.





2.5 Smuggling

Should one refer to the payment of customs duties, it could be concluded that in this field the same trend is noticed. In order to get illegal incomes by shirking from payment of customs duties, smuggling has increased. During year 2000 there were registered 195 offences of this kind, which is by 57,3 per cent more than in 1999. Most of all are smuggled consumption goods, tobacco products, oil products, alcohol, medicines, chemicals, and other commodities. Fore example:

- During 1999-2000 the firm “SUCCES-M” from Chisinau in 23 cases imported commodities (refrigerators) worth USD 405 thousand, without declaration. The merchandize was transported via the mixed check-points (police, customs, fiscal service);

- On 30.05.99 the Briceni customs Inspector C together with the citizen J smuggled to the Republic of Moldova 17982 kg of sausages worth USD 9631; on 02.01.2000 – together with the citizen J smuggled to the Republic of Moldova 37800 kg of chicken legs worth USD 39597; on 13.08.2000 also Briceni customs Inspector C together with the citizen N smuggled frozen meet worth USD 11878;
- on 10.09.2000 the Briceni customs inspector S together with the citizen M smuggled to the territory of the republic furniture worth USD 6865; on 04.11.2000 – together with the citizen J there were smuggled salami worth USD 7773;
- on 16.11.99 the Briceni customs inspector together with the citizen G smuggled to the Republic of Moldova 37800 kg chicken legs worth USD 20518;
- on 15.02.2000 the Briceni customs inspector Z together with the citizen J smuggled to the Republic of Moldova 19187 kg salami worth USD 9823.

Note: the complete data regarding individuals involved in smuggling are not presented because the cases are being investigated.

It is important the fact, that in all cases of smuggling through custom there were instituted criminal proceedings mentioned above only based on Art. 75 paragraph 5 Penal Code (smuggling of merchandize), rather than taking also into account the corruption acts, committed by respective staff members (e.g. in this case of the Briceni customs service). It is obvious that smuggling of merchandize by the above-mentioned individuals were not performed without paying certain amounts to customs officers. This fact can be checked by declarations and incomes inspection. Also, it is important the fact that information is missing with regard to charging any customs managers for non-observance of the Law on Fighting Corruption and Protectionism.

In year 2001 the frequency of smuggling did not decline and, hence, *smuggling*, also, *becomes a “norm” for the economic agents and individuals.*

2.6 Sale of counterfeit goods

During the year 2000 the Ministry of Internal Affairs confiscated counterfeited commodities from offenders, worth about MDL 2,3 mil., including: 117,2 tons of alcohol worth MDL 1,0 mil., 138314 bottles of vodka worth about MDL 874,4 thousand, 18948 bottles of counterfeited brandies worth MDL 271,4 thousand, 2030 bottles of champagne worth about MDL 22,6 thousand and 8,3 tons of wines worth MDL 92,7 thousand. In line with the above-mentioned number of offenses, in year 2000 there were disclosed 13492 economic & financial contraventions. In relation to them fines were imposed worth MDL 1,9 mil. and goods confiscated worth MDL 1,3 mil.

2.7 Firms that serve as screens

As a result of the efforts on fighting economic contraventions a phenomenon was disclosed of using the firms as *screen* for hiding offences, including those related to corruption. For example, according to the data from the Ministry of Internal Affairs, by the date of 01.01.2001, in the Republic of Moldova 1341 firms were registered which acted based on statutes stipulating *also* permission to operate in international tourism. It has been disclosed that from the overall number of authorized firms, only 307 have had the license issued by the Ministry of Economy and Reforms to act in this field. In relation to this fact, and after being compelled to mandatory registration at the National Agency for Tourism, by the date of 01.01.2001 only 126 firms were re-registered. Of them 12

firms were licensed as economic agents for employment of Moldovan citizens abroad, and only 3 of them really were operating in this field. The others, to a great extent act illegally in the field of human trafficking, which implies also a big deal of corruption.

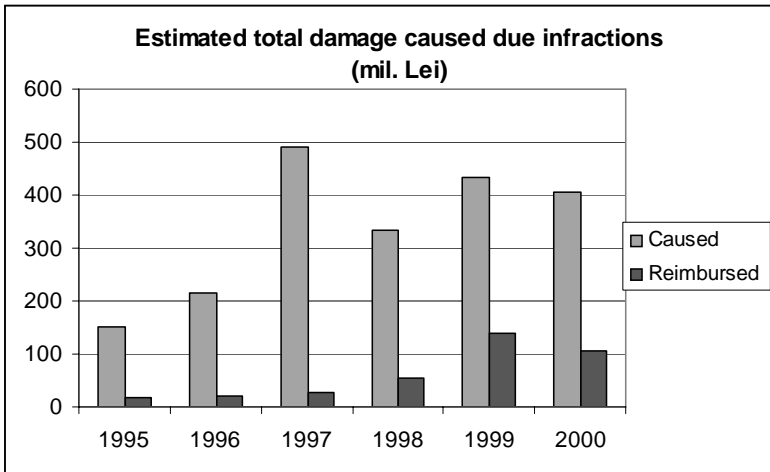
2.8 Corruption and organized crime

With a view to “Fighting economic-financial criminality” the Ministry of Internal Affairs states that “regardless to the undertaken measures, in the republic persists the trend of involving the vitally important branches of national economy in criminal activities. Attempts of criminals are increasing to penetrate in the state bodies, in line with a greater extension of bribery and corrupting of managers of economic structures, public servants, and their involvement in criminal acts. Regardless to the undertaken measures, the activity of groups involved in organized crime becomes more concerning, which profile their structures steadily by ramifying at international level”. One could see here the relation between corruption and organized crime, not only through traditional crimes but particularly through economic crimes, and shadow economy. As a result of corruption and economic crime extension a series of enterprises get destroyed, and even whole branches of the national economy.

Given that a part of public servants accept bribes on behalf of offenders, particularly from authorities and members of organized criminal groups, thus defending their illegal acts, they (public servants) become dependent on organized crime, and funded by the latter. By bribery the corrupted public servants defend the interests of organized crime, accept committing of offences related to organized crime. This way they favor dissemination of illegal traffic of drugs, guns, smuggling of goods, money laundry, prostitution, traffic of

humans, and other offences implied by organized crime. From these reasons corruption is a form or an element of organized crime and is perceived as a „mafia”, or „organized crime”.

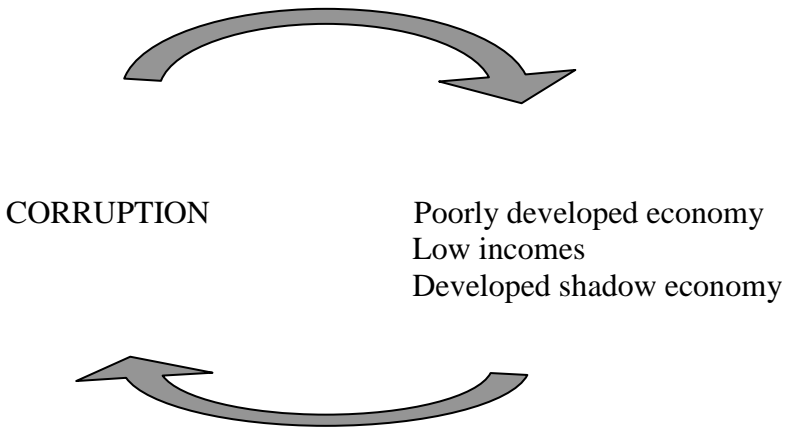
2.9 Social and economic decline



The funds obtained illegally are considerable (the diagram shows only the damages caused and losses restored from registered offences). These funds are laundered and are allocated in shadow economy, also, by corrupting public servants. Then, the shadow economy leads to raising tax evasion, reducing payments to the budget, salary and pension arrears increase, etc. For example, in 1998 the salary arrears amounted to MDL 276 mil.

As a result of the phenomena that took place the GDP reduced promptly and in the year 2000 it was less than one third of GDP from 1990 (GDP per capita in year 2000 amounted to about 360\$ (the lowest in the transition countries)). This corresponds to the corruption perception index, which ranks Moldova among the states with poorly developed economies.

Thus, corruption contributes to a poor economic development, low incomes and growing shadow economy, whereas the latter leads to deepening corruption, and creating a vicious circle as displayed in the scheme:



For these reasons, corruption is a “brake” in economic development and stalls-off the reforms in the country.

In line with the fact that corruption implies enormous losses, both material and financial, for the citizens and the state, these acts imply also a series of other consequences, such as:

- discrediting public authorities at all the levels, as well as the state structures;
- undermining the stability in the society, democratic bases of a new society;
- misrepresentation of legal principles, consolidation of organized crime;
- impeding the implementation of promoted reforms;
- failure of policies on supporting small and medium sized enterprises;

- failure of social policies, in the field of education, health care, environment, etc.;
- increasing state indebtedness;
- formation of both economic and political clan which imposes its will on the society;
- paralyzing state institutions.

In line with the negative economic impact there is the social impact, and impact on the political security of the state.

3. Problems of fighting corruption

3.1 The commitment to fight corruption

Regardless to deepening corruption, in the informative notes some drawbacks are mentioned in the activity of the legal bodies in terms of fighting corruption.

According to the General Prosecutor's Office, "cases of detecting and prosecuting of guilty of acts of protectionism, as stipulated by Art. 174¹⁷ and 174¹⁸ of the Code on Administrative Contraventions (CAC) – "The protectionism" and "Non-observance of provisions of the Law on fighting corruption and protectionism", are very seldom. Only the prosecutors of the Gagauz TAU and sector of Strasheni instituted 4 administrative proceedings on the basis of the Art. 174¹⁷ CAC (protectionism)".

It is mentioned that "in 18 sectors of the republic not a single case was disclosed of bribery. The staff members of the operative services from sectors Basarabeasca, Dondusheni, Drokia, Camenca and Comrat have not disclosed such infractions during the last 5 years. The described situation however, does not display that in the above mentioned sectors this phenomenon is missing, or uprooted, but rather, it is an evidence of incapacity or lack of will of the competent bodies to unmask corruption, and of ignorance of investigation procedures" are reported, which confirm the statements made above; the real number of corruption acts is much larger and the majority of the corruption acts are not disclosed by the respective bodies. Moreover, in other cases office holders do not only fail to disclose corruption acts but rather are involved in that. For example, the chief o department "A" of the Operations Department and Special Missions of the General Police Inspectorate, police Lieutenant-Colonel M. Grosu

covered the escorting of 4 trucks, each transporting 19 tons of aluminum waste. On 11.09.2000 the General Prosecutor's Office instituted criminal proceedings on this case upon the Art. 185, paragraph 1 of the Criminal Code.

The General Prosecutor's Office pays attention, that "according to Art. 12 of the Law on fighting corruption and protectionism, the public authorities, managers of enterprises and institutions are obliged to take due measures towards their subordinates who are culpable of committing corruption and protectionism. Deliberate shirking from stipulated measures implies responsibility in compliance with the current legislation and their dismissal"; it is also mentioned here that "such cases are not known".

According to General Prosecutor's Office, "one of the primordial tasks of the state is to fight corruption. During the recent years, in the country, there is an increase of corruption, the situation becoming alarming. Although the need to fight corruption is much spoken about at highest levels, respective laws are adopted and decisions, measures and concrete actions practically are not taken, which actually means an imitation of fighting this social scourge, rather than taking real actions".

Thus, it is confirmed that the *problem of authorities' will to fight corruption* and effectiveness of this activity still persists.

3.2 Remuneration of state employees

Given the need to act more efficiently in fighting corruption some deviations are mentioned from observing the legislation, or, fighting corruption some times cannot be carried out because of legal loopholes. Thus, the General Prosecutor's Office shows, that "the guarantees provided in the Art. 6 item "c" of the Law on fighting corruption and protectionism, are not secured, which stipulates ensuring *public servants with*

salaries from the state budget and with privileges to the extent of their competencies and liabilities, a fact which could offer the latter and their families a decent living, and might exclude, to a considerable extent, corruption and protectionism occurrences"; that "struggle against corruption and protectionism is conducted practically only by way of enforcing the stipulations of the Criminal Code, and seldom of the Administrative Contraventions Code, rather than of the Law on fighting corruption and protectionism".

3.3 Declaration and control of incomes

The General Prosecutor's Office revolted by non-execution of certain legal stipulations, such as Art. 12 of the Law on Public Service, as well as of the Art. 10 of the Law on fighting corruption and protectionism. According to that, upon taking the public service, and afterwards, on yearly basis, the public servant shall be obliged to submit a declaration on incomes, both movable and immovable ownership, bank accounts and securities, financial liabilities, including the ones held abroad. According to General Prosecutor's Office, "these requirements remained as mere legal stipulations. Submission of declarations has been, and still continues to be, ignored; moreover this process is not controlled", "According to the Government Resolution No. 199 dated 02.04.96 the Department for Personnel Policies under the Cabinet of Ministers, during 3 months, was supposed to provide for submission by all public office holders from the Republic, in a manner established by law, of all incomes declarations. Although more than 4 years have passed, the *incomes declarations have not been submitted by anybody*".

This way it is stated that the *problem of income declaration and control of public office holders* is still open.

3.4 Collection of evidence

An important role in fighting criminality is played by the operative investigation. The General Prosecutor's Office regrets that "the possibilities and the measures of operative investigations stipulated in the Law on operative investigations, passed in 1994, has not been fully enforced so far. The results of these activities in many cases are not sufficient either for undertaking certain measures for disclosing the criminal attempts, or for prevention, curtailing, disclosure of offences and individuals that organize, commit and have been committing them, or in searching for individuals".

It is obvious that the law is not fully enforced due to poor link thereof with the Criminal Procedure Code. It is this reason why the *problem persists of recognizing evidence obtained on the stage of operative investigation* (before instituting criminal proceedings) *as evidence for criminal case*, as well as the *problem of recognizing "operative measures of investigations" as methods (that is means of investigation) for accumulation of evidence*. Given the fact that as evidence is recognized only facts obtained in accordance with the criminal procedure, presently the bodies for criminal and preliminary investigation use various procedures of "transforming" fact data (materials), obtained from operative investigation, into evidence on the respective criminal case. Also, due to this reason, there is much speculation about the preliminary term of arrest, which previously was up to 24 hours. Starting from 12.07.2001 this term was extended to 72 hours (Art. 25 paragraph 3 of the Constitution). Should all the data obtained have been recognized as evidence, *i.e.* not only that based on Penal Procedure Code, but also the one obtained as a result of the operative investigations, these problems would be excluded. This issue is of particular importance in fighting corruption and organized crime. Or, the principal evidence for this type of

crimes are obtained particularly during the stage of operative investigations. This is why, it is suggested that the Articles of the Criminal Procedure Code be modified, which would stipulate the following:

- to recognize as evidence, also, the fact data (materials) obtained as a result of the operative investigations, in accordance with the Law No. 45-XIII dated 12.04.94;
- to carry out the accumulation of evidence in conditions of and by using means of investigation, as stipulated by the Criminal Procedure Code and Law on Operative Investigative Activity.

3.5 Protection of individuals

A difficult problem, encountered by criminal investigation bodies and courts, is the *protection of witnesses, of the victim, of individuals providing assistance in the criminal proceedings and their relatives*. The procedures applied in criminal investigations, in many cases are not targeted towards protecting the categories of individuals mentioned above. Moreover, although the Law on state protection of witnesses and other individuals providing support in the criminal proceedings has been passed, it cannot be fully enforced due to missing of real financial support.

3.6 Liability of legal entities

The General Prosecutor's Office admits the existing problem of "the absence of a law on collective responsibility". For example, according to General Prosecutor's Office, "during the controls with regard to observing the law in the process of privatization of state patrimony, there were disclosed quite a few violations and even negligence of law, although, in all cases reference is made to decisions of the privatization

commission. For example, the Department of Privatization and State Property Administration, through its decisions allowed privatization of the package of shares owned by the state in the processing factories of corn seeds “Reuțel” and the joint stock company “Semințe-Nord”. By this act the state was damaged by MDL 14,9 mil., the price of these objects having been diminished. The contracts of sale-purchase have been nullified by the Economic Court on demand of General Prosecutor’s Office. Nothing else could be undertaken because the decision has been adopted by the commission. It is obvious that it is necessary to establish by law, in such cases, personal responsibility of the Chairperson of the Commission, or of the Commission as a whole. This manner would exclude taking such decisions”.

This problem emerged in many cases and the lack of responsibility of legal entities leads to the extension of corruption. Due to this reason, the suggestion is welcome to introduce modifications in the current legislation, by which *personal responsibility of the legal entities* would be stipulated, particularly because that it is already stipulated by the Criminal Law on Corruption.

3.7 Control of the activities and decisions of the prosecutor office

The Ministry of Internal Affairs is concerned by the fate of criminal cases and decisions made thereon.

It is mentioned that “according to the analysis for the period 1998 - 7 months of 2000, from 19,2 to 32,1 per cent of the instituted legal proceedings are suspended by the prosecuting bodies, based on the Art. 5, p. 1 and 2 of the Criminal Procedure Code” (one should remind, that in year 2000 in the Republic of Moldova there were registered 38267 crimes). This fact would mean, that a number of cases are suspended groundlessly and these cases are not handed over to the courts

for examination. Moreover, a contradiction emerges that makes one understand that from the very beginning criminal proceedings are instituted based on indicators of *corpus delicti*, and only later on these cases are suspended, as for example, due to absence of *corpus delicti*. This phenomenon is confirmed by the statistical data of the Department for Fighting Organized Crime and Corruption. According to that, from the total number of criminal cases suspended in year 2000 by the Prosecuting bodies 18 are related to corruption. All of the cases have been suspended based on Art. 5 paragraph 2 of the Criminal Procedure Code (due to lack of *corpus delicti*). Among the suspended criminal cases by the Prosecuting bodies there are many of them that are related to corruption or economic-financial crimes, which have seriously affected national economy. Thus, the prosecuting bodies have transformed into an archive of suspended criminal cases. To a great extent the *problem of suspending criminal cases* is the cause of the “conflicts” between prosecuting bodies and police, a fact which influences directly and reduces the efficacy of cooperation between those legal bodies and, as a result, mitigate the results of the activity on fighting crime.

Possibly, due to this reason the General Prosecutor’s Office initiated elaborating an agreement on cooperation between the legal and control bodies. Given that the draft agreement stipulated a mechanism which created a real possibility to make prosecuting bodies manage the activity of the legal and control bodies by way of mixed groups (this act contradicts the current legislation), the draft has not been supported nor adopted. The Ministry of Internal Affairs “does not put to doubt the need of supervising by prosecuting bodies how law is observed by police during solving criminal cases”. The activity of MIA subdivisions, including suspending criminal cases, is supervised by the General Prosecutor’s Office. Thus, illegal decisions, including groundless suspending of criminal cases (particularly as a result of corruption acts) can be detected.

In case of General Prosecutor's Office, the existing control on activity and decisions thereof is inefficient. Thus, is much less probable to disclose illegally taken decisions, including on suspending or instituting criminal proceedings, particularly as a result of possible corruption acts, moreover because the prosecutors and investigators avail of immunity by law. Thus, in line with the problem of suspending criminal cases, effectiveness of cooperation among subsidiaries of legal bodies is the *problem of judicial control on the activity and decisions of the prosecuting bodies, as well as the problem of immunity of prosecutors, and investigators of the prosecuting bodies.*

We believe that the problem of judicial control upon the activity and decision of prosecuting bodies is linked to the problem of dividing power in the state (legislative, executive and judiciary). Regarding the place and role of prosecuting body one could state that in the Republic of Moldova, in principle, the post-soviet structure has been preserved, based on which the prosecuting body, as a legal body, is not part of the Government, but rather a structure which according to the Law of Prosecuting Body (Art. 1 paragraph 4), „exercises its duties as autonomous body in the system of judiciary bodies”. Possibly, due to these reasons, an opinion is widespread that the prosecuting body is considered as a “state within the state”. In these conditions the control upon activity and decisions of the prosecuting body cannot be efficient and thus, it is necessary to determine the place and role of the prosecuting body in the context of the legal bodies. For these reasons in the judicial reform it has been *suggested, and still continues to be suggested*, to subordinate the General Prosecutor's Office *to the Ministry of Justice*, after the model of the developed democratic states and assigning thereof with its expected role. This act might allow to resolve emerged problems, including judicial control on activity and decisions of the prosecuting body.

3.8 Criminalizing corruption

The MIA states that “in 1999 the judiciary bodies from the Republic have imposed suspended sentences on 4711 cases, and, on 724 criminal cases decisions have been made to postpone the sentences. These negative trends can have unpredictable consequences, that cannot contribute to improving the crime rate in the country”. It is obvious that among most enumerated are causes related to corruption and economic crimes.

This concern is confirmed also by the General Prosecutor’s Office, which mentions, that “during 2000 the judiciary bodies have examined 28 criminal cases of taking bribes. 4 accused persons have been fined, 3 sentenced to imprisonment, 9 – with suspension of punishment, 2 cases have been reintegrated and stipulations applied of the Art. 43 of the Criminal Code, 12 accused persons have been acquitted (3 based on legal renunciation of prosecutor to charge), 3 sentences were appealed, due to reasons of softening punishment and 5 of acquiting”.

In this sense, one could observe the need to *review the stipulations of the Art. 42 (applying a punishment softer than the one stipulated by law), Art. 43 (punishment suspension) and 44¹ (suspension of sentence execution) of the Criminal Code, with regard to corruption crimes* and other kinds of serious offences. It is not logical, for example, that in case of taking bribes, which is recognized as serious offense, to apply „a softer punishment” or “punishment suspension”, even in the case of Art. 187 paragraph 2 (offense committed based on a preliminary agreement with a group of individuals, or repeatedly, or accompanied by bribe extortion, or by taking bribe in large amount).

3.9 Fiscal system

With regarding to fiscal offenses the MIA mentions that “one more reason consists in the multitude of difficulties related to imperfection of fiscal law”, that suspending a considerable number of criminal cases on fiscal offences “are generated by the instability of fiscal legislation”, that “the current legal stipulations do not correspond to the seriousness of offenses proceeding from the current situation” and that “so far the social dangerous nature of fiscal evasion is still under-consideration”.

In the context of the above- mentioned, some of the proposals of the MIA could be as follows:

- to modify the criminal provision (Art. 164² PC) on punishing the fiscal evasion;
- to modify the criminal provision (Art. 164¹ PC) regarding punishments for shirking from submission of income declarations;
- to extend the definition of serious offense (Art. 7¹ of the Criminal Code), by including a series of criminal provisions of fiscal nature, including “fiscal evasion” and “tax non-payment”.

When resuming the issue of tax evasion, the submitted data disclosed that a frequent shirking is noticed from payment of taxes and duties, that this phenomenon is widespread and becomes a “norm” for the majority (from 61 to 80 per cent) and that an increasing number of inspections is traced, which confirms the insistence of fiscal Inspectorates to collect taxes from economic agents. This fact derives from the Informative Note of the State Principal Fiscal Inspectorate, which shows, that the “The annual plan on collections to the consolidated budget in year 2000 is reached at a level of 100 per cent compared with 98,8 per cent in 1999”, “Collections to the State Social Insurance Fund in year 2000 amounted to MDL 916,1

mil, having increased in comparison with the same period of last year by MDL 202,8 mil. or by 28,4 per cent” and it appears, that the aim of the Inspectorate is, first of all, not to accumulate the taxes and duties in compliance with the current legislation, but rather, to reach the plan on collections to the consolidated budget and the State Social Insurance Fund.

Moreover, the economic agents are affected also, by the *control system which is not coordinated by the control bodies*. It is this reason why some measures are undertaken to improve the situation. Aiming to reorganize the inspection and control process of the economic agents, by the fiscal authorities, and to insure the exclusion of overlapping and parallelism in the activity of control within the Department of Financial Control and Revision, on 31.01.2000, the State Principal Fiscal Inspectorate (SPFI) issued the written disposition No. 14 “With regard to utilization in practice of control delegations-confirmations and coordinating the control activities with the subdivisions of DFCR”. Thus, the disposition stipulates that the sporadic trips of inspectors be excluded, and that obtaining the insurance of the economic agent subjected to control on observing the procedure of carrying out a fiscal control. In order to coordinate the activity of the DFCR and fiscal bodies a written disposition was issued by the Ministry of Finance No. 65 dated 22.06.2000 “Regarding the coordination of the control activity”.

In order to optimize the control system, the program “PACHET” (Package) was implemented, which provides collecting information about the tax payers, both general and in terms of fiscal reports, based on the data of the inspectorates, in order to make possible avail of information without resorting to multitude of reports.

Adjacent to the Fiscal Reform Project in Moldova, there was implemented the pilot program, which is supposed to perform the fiscal audit reform in the republic.

From these data one could conclude, that to a great extent, the reason of frequent shirking of economic agents from tax payment is the *unsuccessful fiscal system and existence of some conditions that do not provide for protection of legal interests of the economic agents and of the state.*

In order to improve the situation *fiscal reform* would be welcome, that might contribute to an efficient and coordinated struggle against corruption which would reduce the *fiscal burden* to an extent that would create an equilibrium allowing economic development and tax collection. This would also *raise subsequent responsibility for fiscal evasion and smuggling*, take measures insuring that the fiscal law enforcement authorities contribute to fighting corruption. Adopting a state strategy *on protecting the legal activities of the economic agents and economic security of the state* would also be welcome.

3.10 Immunity of state employees

With regard to fighting corruption, the Ministry of Justice mentions that: “in order to execute the instructions of the Prime minister on examination of the legal framework of the Republic of Moldova in terms of intercalating the latter within the continuation of reforms promotion process and disclosing the current laws, that may be considered as favoring corruption, on 27 April 2000, the Ministry of Justice organized a meeting of the representatives of the relevant bodies. During this meeting participated representatives of MIA, of the Ministry of Finance, Ministry of Economy and Reforms, Information and Security Service, Supreme Court of Justice, General Prosecutor’s Office and Center for Strategic Studies and Reforms.

In discussions several priority directions were profiled, particularly:

1. To modify a set of normative acts: The Law of Prosecuting Body, Law on Status of the Judge, with a view of withdrawing the established immunities; the Law on Licensing of certain kinds of activity, Law on Entrepreneurship Patent, and the Electoral Code.
2. Urging the adoption of the Law on preventing and fighting money laundry, Law on Lobbyism, Law on Limiting the Monopolistic Activity and Protection of Competition.
3. Conducting opinion polls among various social groups for defining the major corruption zones, in order to adopt certain measures of eradication of this phenomenon in the concrete structures, affected by it.

By the presented draft law (worked out by the Ministry of Justice jointly with the MIA and Ministry of Economy and Reforms, with the purpose of executing the Government resolution dated 25.04.2000) it is suggested to withdraw the immunity of the employees of prosecuting bodies, and judges, who, according to Constitution, do not have immunities established by the respective laws, in order to observe the constitutional principle of equality under the law of all citizens”.

Thus, the *problem of prosecuting body employees' immunity spillovers on the immunity of judges*. In this context, in order to realize the Art. 16 paragraph 2 of the Constitution of the Republic of Moldova, which stipulates that “all the citizens of the Republic of Moldova are equal under the law and before of the public authorities, without discrimination on the basis of race, nationality, ethnic origin, language, religion, sex, opinion, political orientation, wealth or social origin”, as well as in order to exclude the impediments in documenting the illegal activities of the corrupted individuals, it is suggested to *withdraw the immunity of the prosecuting body employees, judges and members of parliament vis-a-vis investigation,*

prosecution and sanction related to offenses. This act shall correspond to one of the leading principles of fighting corruption, adopted by the Committee of Ministers and the Council of Europe.

3.11 Legality in the institutions of internal affairs

The MIA informs, that the disciplinary practice found that cases continue within the bodies and sub-divisions of the MIA, of severe violation of legal provisions, that abuses and excess of power are still frequent, deliberate commitment of crimes, traffic accidents with serious consequences, and other facts that are incompatible with the image of the police in the public opinion.

During year 2000 towards the bodies and subdivisions of MIA, in all, 5459 disciplinary sanctions have been imposed, of them 3326 on police employees, 1897 on carabinieri' troops and 236 on the staff of educational establishments. Due to negative reasons 431 individuals were dismissed. There were imposed 354 disciplinary sanctions for violation of legal requirements. There were detected 19 cases of illegal usage of guns. On 291 police employees and 113 carabinieri 387 there were instituted criminal proceedings. Of them only for extortion and taking bribes 37 were instituted criminal proceedings on police employees. 7 policemen and 67 carabinieri have been already sentenced.

It is obvious that in such conditions the citizens often do not apply for assistance to the local police or they are compelled to ask for assistance from the central bodies of the MIA, but even in such cases sometimes citizens remain disappointed.

An example which demonstrates the attitude of the MIA towards negative phenomena in the society is resolving the complaint of a group of citizens from the village of Pivniceni, Donduşeni, Edineţ (petition Col-135 dated 20.03.2001). In the petition of the citizens it is stated that in 1999 a group of 5

individuals created the cooperative “AGRO-FLUX”, with the president elected - Flocos Victor Vasile, the mayor of Rivniceni and Corbu villages. In 1999 the cooperative obtained a harvest as follows: 2500 tons of sugar beet, 260 tons of wheat, 60 tons of sunflower seeds, 18 tons of juice, 80 tons of barley, etc. From that amount Flocos distributed to the shareholders only 250 kg of wheat each, per land-share (total worth 43,75 tons), and the remaining of 216 tons of wheat, as well as the remaining harvest (sunflower, soybeans, etc.) was misappropriated by Flocos. In year 2000 the same problem happened. The petitioners ask for assistance from the MIA and request to investigate the case of misappropriation. Moreover, the petitioners show that they agree to submit additional information and evidence, but the officials from Chisinau send the petition to the sector police commissariat, which implies that the group of farmers will face another unpleasant outcome.

Given that during recent years the public officials are not paid and insured appropriately, as well as due to other reasons, many functions continue to be vacant. In order to fulfill the tasks laid on the responsibility of the respective bodies, the officials resort pretty often to employ individuals with poor background or with poor ethical standards, these places being abandoned by individuals with high levels of professionalism and other advance qualities.

For example, according to the data from the MIA “on 1 January 2001 in the MIA there are 1812 vacancies (11,9 per cent), including 471 (7,2 per cent) for the officers and 1341 (15,3 per cent) for persons. Only during last 5 years, 548 of criminal police employees were replaced, most of them being with a rich experience in fighting criminality. During year 2000 due to various reasons 1774 employees have left the service - by 307 more than in the previous year.

It is concerning the fact, that the number of those who leave the service voluntarily continues to increase– 1115 employees,

which leads to the destruction of the professional nucleus in subdivisions. Starting from 1998 the number of those who have left the service prevails above the number of recruited ones.

During the period of 1995-2000, due to various reasons, 533 young specialists, including 189 graduates of the Academy of Police and 344 of the Police College have left the service in the MIA. This phenomenon has not stopped but rather amplified.

The level of professional training of the young specialists – graduates of the educational institutions of the MIA is very low. As considered by the employees with high experience, the theoretical training of the graduates of the Police Academy is of about 53 per cent, and of those from Police College – only about 25,5 per cent.

The causes of the critical situation in the training process and abilities to apply in practice the attained knowledge are as follows:

- low level of learning and teaching of curriculum;
- discrepancy between theoretic training and practice, during the educational process;
- lack of special professional-psychological training and distraction *en mass* of students from educational process, for fulfilling certain obligations that are not typical for their level (guarding social-economic objects, agricultural works, patrolling, etc.).

Secondly, there is unqualified selection of future students both on behalf of the personnel department, as well as on behalf of admission commissions from the educational institutions. As a result, accidental individuals are admitted, with low intellectual level, and poorly developed logic” (cited from the materials of the MIA).

In the view of the MIA “the burning issue in the process of creation and maintenance of professional nucleus in

subdivisions is to adapt the young specialists in service, whose insufficiency is characterized by the following:

- unsatisfactory living conditions;
- inappropriate salarization of work;
- lack of conditions for exercising service duties;
- poor prestige of the police profession;
- irresponsible attitude of the educational structure.

All these problems taken together lead to mass dismissal of the young specialists, that cause to the state a huge economic damage”.

In order to finance the bodies of internal affairs in year 2000 the Parliament approved a budget worth MDL 101 mil. 024,5 thousand, which covers the minimum requirement, or only 36,7 per cent from the real needs. The salary arrears for the employees of the system as on 01.12.2000 was of MDL 19,078 mil., whereas the accounts payable to the employees and suppliers were in amount of MDL 43,256 mil.

In conditions when the professional level is declining in the bodies of internal affairs and when the public officials are paid poorly it is little probable that fighting corruption will be efficient and criminality will be low. Not accidentally, by the Parliament Resolution regarding the activity of the General Prosecutor’s Office and the MIA, in fighting the organized crime and corruption No. 490-XIV dated 09.07.99 (Art. 2), it is stated that the General Prosecutor’s Office and the MIA did not undertake necessary measures aimed at fighting organized crime and corruption.

3.12 Legality in the penitentiary system

With regard to corruption, the MIA informs that the criminality within the penitentiary system, which continues to be serious, is stemming from “unsatisfactory salarization of the staff of the Department for Penitentiary Institutions, non-payment of

arrears and indemnities due to the staff and the officers”, which in case of “missing other sources of living, provoke employees of the penitentiary system to resolve material problems by way of illegal cooperation with criminal world”.

During 5 months of year 2000 there were disclosed 30 cases of un-statutory relations of the penitentiaries’ employees with the representatives of the criminal world. 8 employees were dismissed for un-statutory relations with the convicted persons and their relatives, and against 3 employees there were instituted criminal proceedings.

The Ministry of Justice submits the following cases:

1. The controller of the penitentiary No. 3 from mun. Chisinau, the justice sergeant Lisnic N.E., for a material reward worth MDL 600 allowed a meeting of the convicted Nani R.G. with his relatives. N. Lisnic has been arrested on the moment of receiving bribe. On this case were instituted a criminal proceeding based on the Art. 187 paragraph 1 of the Criminal Code.
2. For having falsified the documents from the individual file of a convicted, and based on those documents the latter was supposed to be released before the end of the term, the chief of the department of the penitentiary No. 9, major of justice I. Salamaha was arrested red-handed on the moment of taking bribe. In the investigation process it has been established that I. Salamaha for similar cases had been taking bribes from 3 convicted individuals more.
3. For embezzlement of property of private owners, in particular large amounts, the Prosecuting Body of the mun. Chisinau instituted criminal proceedings against the major of justice G. Codru, former Deputy-Chief on logistics of the Republican Hospital.

The Ministry of Justice considers that the possibilities of the operative services in order to fight corruption are used insufficiently from various regards:

- lack of guarantees of personal security;
- unsatisfactory material insurance of employees of the security services and special missions;
- lack of a complex and unique program of the relevant ministries in fighting organized crime, corruption and protectionism.

In order to raise the efficiency of the fighting corruption and protectionism the Ministry of Justice considers necessary to:

- raise salaries by over 50 per cent for the operative investigative work, by taking into account the specific nature of the hazardous job, for both life and health state, acts of aggression on behalf of the convicted and arrested. This may make possible recruit most qualified and experimented employees, up-keep motivation thereof, diminish staff rotation, and raise the prestige of the operative services.
- increase the article of the expenditures estimates of the Ministry of Justice for stimulating the confidential structure.

From the above- mentioned, one can conclude that in order to efficiently fight corruption, there should be resolved the following problems: *professional training of the employees, their adequate remuneration and providing for due working conditions, respecting ethical norms of conduct in exercising service duties and creating conditions for preventing corruption, optimizing structure and staff by downsizing idling units and structures.*

3.13 Situation in the Fiscal Inspection

In compliance with the data from the PSFI during 1999, based on operative information, complaints and petitions submitted by both individuals and economic agents, the Department for

Security and Armament of the SPFI performed 36 investigations. In 27 cases the reported signals turned to be true. As a result, 4 employees of the Fiscal Inspectorate were dismissed for abuse of the office, others 32 were subjected to administrative sanctions.

The State Principal Fiscal Inspectorate examined 492 petitions and appeals of the economic agents, which contested the actions of the subordinated inspectorates. In 152 cases, the facts that were communicated proved to be true either entirely or partially, and illegal decisions were abrogated.

In order to enhance the efficiency of fighting corruption and protectionism within the SPSI, there were carried out 162 operative investigations. As a result, at the joint internal control posts 9 employees were dismissed for disclosed violations in registration, storage and usage of forms of strict registration and 14 employees were sanctioned. In all, at the State Fiscal Service for committed violations were sanctioned 54 employees, 14 of them were dismissed.

3.14 The viewpoint of the Ministry of Finance

In view of the Ministry of Finance „a big drawback in preventing corruption is that the ministry and subordinated bodies does not always avail of information regarding the criminality in the financial, fiscal and customs systems. As usual, the legal bodies do not inform the ministry and its subordinated bodies about the employees subjected to criminal investigation for committing offences. In the view of the ministry officials the main drawbacks in fighting criminality, corruption and protectionism, are as follows:

- *lack of co-operation between the legal and control bodies in detecting and investigating committed crimes;*
- *low level of measures of crime prevention;*

- selection of staff in the legal and control bodies based on kinship, acquaintances and nepotism.

In order to improve the situation the following measures would be appropriate:

- enhancing educational work with the staff, at all levels, particularly raising juridical culture of the public servants;
- showing on TV the court hearings regarding serious crimes;
- cancel the notion of “reasonable terms” in the criminal procedure and introducing definite terms;
- applying adequate measures on the accused, in compliance with the committed offense;
- instituting criminal proceedings against both executors of offenses and organizers (leaders) of criminal and corrupted groups.

3.15 Quality of personnel

Should we resume the issue of fighting corruption, it is important to know what is the level of corruption in the legal and control bodies. Previously a series of corruption acts were mentioned, to have been committed among these bodies. Unfortunately in the framework of legal and control bodies, as well as in many other public bodies, the level of professionalism and ethics is not always the expected one. Due to this fact violations of legislation are possible by public servants, including corruption.

To a great extent there is no operational mechanism that could be targeted towards selection of desired personnel, that would correspond to all requirements for fulfilling job duties, first of all professionally, and moral standards. Often, one could notice, that for various functions individual are assigned, who do not possess respective qualities. Moreover for these

functions selfish individuals are assigned, a fact which leads to deepening corruption, embezzlements, other offences, that damage the citizens and the state entirely. *Usually, one never resorts to organizing transparent competitions for holding public offices.*

While analyzing the problem of staff one could mention, that in compliance with the information of the *Department for Personnel Policies of the Government*, the number of public officials, according to the staff of the ministries, departments, prefectures and county councils (except for the Ministry of Internal Affairs, General Prosecutor Office, Information and Security Service) is of 6123,2, including 5445,85 (88,9 per cent) really employed, vacancies -677,35 (11,1 per cent).

At ministries, departments, prefectures and county councils the number of the staff increased from 4788 to 6123, that is by 1335 public servants.

It is still rather low the level of training of the office holders. With regard to the data submitted by the Department for personnel policy “training courses in public administration have been offered to 247 public servants ...only 4,03 per cent have attended various courses, seminars, lessons and training in the field of public administration”.

The performed study demonstrates that at the ministries, departments, prefectures and county councils, no due attention is paid to the training of public servants.

Proceeding from the submitted data, in order to make the activity more efficient and prevent corruption within the public bodies, it is necessary to:

- *review the structure and staff of the public bodies* in view of making institutions more efficient, downsize the idling units and structures;

- *select the staff members based on competition, by organizing competitions for taking up (filling) the vacant public offices;*
- *review the current remuneration system in order to provide them with competitive salaries;*
- *implement training programs for public servants;*
- *work out and adopt Ethical Codes (codes of conduct) for various types of public servants.*

3.16 Measures to fight corruption

From the first stages of development in conditions of market economy, when it was obviously noticed the deepening of corruption in Moldova, the relevant authorities undertook a series of measures aimed at curbing this phenomenon.

On 30.04.1992, by Presidential Decree No. 104 „Regarding measures on fighting corruption in the state structures and state administration”, the Coordinating Council was created on fighting corruption.

On 17.11.1992, the Parliament adopted the Law no. 1198-XII regarding the fiscal system (published in “Monitorul Oficial”¹⁷ on 02.12.1999).

On 03.12.1992, the Parliament passed the Law No. 1216-XII regarding the state duty (published repeatedly in “Monitorul Oficial” on 02.12.1999).

On 03.01.1992, there was passed the Law No. 845-XII regarding the entrepreneurship and enterprises.

On 01.04.1992, there was passed the Law No. 998-XII on foreign investments.

¹⁷ Official gazette

On 1.07.1993, there was issued the Presidential Decree No. 98 „On some additional measures on coordinating the fight against criminality, corruption cases, violations of legislation, discipline and public order in the republic” by way of instituting a new composition of the Coordinating Council under the President of the Republic of Moldova.

On 08.11.1994 there was issued the Presidential Decree No. 315 based on which, under the Government, there was created a Coordinating Council for Fighting Criminality and Corruption and securing the maintenance of public order.

On 12.04.1994 the Parliament passed the Law No. 45-XIII regarding the operative investigative activity of investigations.

On 19.07.1994 the Parliament passed the Law No. 186-XIII on local taxes.

Also on 19.07.1994 there was passed the Law No. 190-XIII regarding the petitioning.

On 04.05.1995 the Parliament passed the Law on public service No. 443-XIII.

On 07.07.1995 there was passed the Parliament Decisions No. 518-XIII, based on which the special Parliament Commission was created, empowered to supervise the execution of legislation on fighting corruption.

On 14.03.1996 there was passed the Decision of the Parliament No. 780-XIII, based on which, under the Government, there was created the Department for personnel policy.

On 17.05.1996 there was passed the Law No. 837-XIII regarding the public associations.

On 27.06.1996 the Parliament passed the Law No. 900-XIII on fighting corruption and protectionism.

Given that the level of corruption amplified, based on Presidential Decree No. 116-II dated from 07.04.1997, there

was created a specialized subdivision „The Department for fighting organized crime and corruption”.

On 30.04.1997 the Parliament passed the Law on acquisition of goods, works and services, for the needs of the state No. 1166-XIII.

On 07.11.1997 there was adopted the Decision of the Government No. 1038 on approving the Regulation regarding the organization of competition for filling public service vacancies.

Also, the Parliament passed amendments and supplements to the Articles of the Criminal Code Chapter VIII „Offenses committed by office holders” and also on this Chapter, new articles have been introduced:

- by Law dated 03.05.1996 – Art. 189¹ „Abuses in issuing securities”;
- by Law no. 1326 dated 25.09.1997 – Art. 189² „Abuses on the securities market”;
- by Law No. 1375 dated 19.11.1997 - Art. 188¹ „Trading in influence”, Art. 189³ „Acceptance by public servants of illegal rewards” and Art. 189⁴ „Non-observance by office holders of stipulations of the Law on fighting corruption and protectionism”.

Also, new articles have been included in the Code on Administrative Contraventions, such as Art. 174¹⁷ „Protectionism” and Art. 174¹⁸ „Non-observance of Stipulations of the Law on Fighting Corruption and Protectionism”, passed by Law No. 1375 dated 19.11.1997.

In line with that, the Parliament passed a series of laws pertaining to the activity of various categories of public servants, such as:

- the Law No. 902-XII dated 29.01.1992 regarding the prosecuting body;

- the Law No. 39-XIII dated 07.04.1994 on the status of the Member of Parliament;
- the Law No. 317-XIII dated 13.12.1994 on the Constitutional Court;
- the Law No. 544-XIII dated 20.07.1995 regarding the status of judge;
- the Law on financial institutions No. 550-XIII dated 21.07.1995;
- Law No. 186-XIV dated 06.11.1998 regarding the local public administration;
- the Law on customs service No. 1150-XIV dated 20.07.2000, and other laws,

whereas previously, on 18.12.1990, the Law No. 416-XII on police was passed.

On 28.01.1998 there was passed the Law No. 1458-XIII on state protection of victims, witnesses and other persons providing assistance in criminal procedures.

On 25.02.1998 the Law No. 1545-XIII was passed, regarding the procedure of compensating the prejudice caused by illicit actions of criminal investigation and preliminary investigation bodies, as well as of the prosecuting and judiciary bodies.

On 09.07.1999 there was passed the Law No. 491-XIV regarding the local public finances.

On 16.07.1999 there was passed the Law No. 523-XIV regarding the public property of the territorial-administrative units.

On 04.11.1999 based on Government Decision No. 1017 there was adopted the State Program on fighting criminality, corruption and protectionism for the period of 1999-2002.

On 28.05.2001 through Presidential Decree No. 57-III under the Presidency of the Republic of Moldova was reconstituted the Coordinating Council for fighting corruption. The Council

is headed by the President of the Republic of Moldova, and members thereof have been included as follows: Chairman of the Parliament, Prime-minister, Chairman of the Parliament Commission for National Security, General Prosecutor, Minister of Justice, Minister of Internal Affairs, Director of the Information and Security Service, Chairman of the Chamber of Accounts.

On 21.09.2001 through Presidential Decree No. 238-III there was approved the Regulation of the Coordinating Council in fighting corruption.

On 15.11.2001 the Parliament approved the Law No. 633-XV on preventing and fighting money laundering.

The latter and other normative acts have both a direct and indirect effect on the activity related to preventing and fighting corruption in Moldova. It is these measures that show that in the Republic of Moldova there is a potential, having the purpose to prevent and curb corruption. However, with regard to efficiency of undertaken measures on fighting corruption, one should admit that the results are poor. Moreover, the reports of the legal bodies display an aggravation of the situation in this sense. The undertaken measures have not been enough to create equilibrium, when both parts involved in the corruption acts (public servants or office holders, on the one hand, and individuals or legal entities on the other hand) would disregard corruption acts. It is these aspects that make one undertake more insistent actions in fighting corruption. Of the results thereof depends the level of development in the country.

3.17 Other legal and organizational issues

In the current legislation, as well as in the activity on fighting corruption, there is a series of *loopholes and contradictions*, that do not contribute to fighting corruption efficiently.

For example, there are some contradictions between the Law on Fighting Corruption and Protectionism and the Criminal Code of the Republic of Moldova, which is a signal of the need to unify the notions of corruption acts in various normative acts.

The Law on fighting corruption and protectionism	The Criminal Code
Notion: corruption	Notions: taking bribe; mediating bribery; giving bribe.
Notion: protectionism	Notion: trading in influence

In line with the loopholes mentioned above, one could mention the following additional issues. In the current legislation it is not stipulated the responsibility for laundering of proceeds of crimes, regardless to the fact that, in 2001 there was adopted the Law on preventing and fighting money laundering. Due to the lack of such a responsibility, in principle, the Art. 23 (money laundering) of the Law on Financial Institutions was not enforced.

The Law on Fighting Corruption and Protectionism and the Law on Public Service provide that the public servants submit declarations on incomes and their properties, however until nowadays the mechanism of declarations and control of incomes has not been implemented. Moreover, there is not stipulated the responsibility for shirking from incomes

declaration. One could mention in this regard, that on 29.11.2001 the Parliament adopted in the first reading the draft law on declaration and control of ownership of office holders, judges, prosecutors, public servants, and other public decision-makers. Without putting to doubt the need to adopt such a law, one could consider that the suggested mechanism of control of declarations of incomes is not real and in case of adopting this law in the version accepted by the Parliament (in the first reading), the aim pursued by law will not be reached and the law will not favor real prevention of corruption and abuses in the country.

It was neither stipulated the liability of legal entities. In reality the mechanism of competition-based selection of individuals for public offices does not function, regardless to the fact that in 1997, by Government Decision on the Regulation was adopted regarding organizing the contest for filling the vacant positions for public offices.

The body specialized in fighting corruption is not independent, to the desired extent, in order not to be influenced “from above”. This fact was showed by the practice of the activity of the Department for Fighting Organized Crime and Corruption, and this body is not equipped with necessary means for the efficient activity of evidence collection.

Moreover, some legal provisions favor creation of barriers for the activity of fighting corruption. This is the immunity provided by the law to some categories of public servants, such as Members of Parliament, judges of various levels, prosecutors, and investigators of the prosecuting bodies. This fact does not make possible to disclose and efficiently register the corrupted individuals, and to a big extent does not allow to stall-off corruption.

There can be mentioned an obvious discrepancy of national legislation with European conventions regarding corruption,

signed by the Republic of Moldova. This can be easily observed, for example, if one compares the responsibilities stipulated by the Criminal Law Convention on corruption and the Criminal Code of the Republic of Moldova:

Criminal Law Convention on Corruption	Criminal Code of the Republic of Moldova
<p><u>Responsibilities:</u></p> <ul style="list-style-type: none"> - active bribing of domestic public officials; - passive bribing of domestic public officials; - bribery of the members of the domestic public assemblies; - bribery of foreign public official; - bribery of members of foreign public assemblies; - active bribery in the private sector; - passive bribery in the private sector; - bribery of officials of international organizations; - bribery of members of international parliamentary assemblies. - bribery of judges and officials of international courts; 	<p><u>Responsibilities:</u></p> <ul style="list-style-type: none"> -taking bribe; -bribery mediation; - giving bribe;
<ul style="list-style-type: none"> - trading in influence; 	<ul style="list-style-type: none"> - trading in influence
<ul style="list-style-type: none"> - laundering of proceeds from corruption offences; 	<ul style="list-style-type: none"> - ---
<ul style="list-style-type: none"> - corporate liability; 	<ul style="list-style-type: none"> - ---

Given that the Republic of Moldova signed the Civil Law and the Criminal Law Conventions on Corruption, it would be welcome to be adopted amendments to the national legislation

for adjusting it to the European Conventions. Moreover, this adjustment is necessary both for a more efficient activity in fighting corruption, as well as for having possibility to ratify these conventions and for an efficient collaboration at international level within the European structures, such as the Stability Pact for the South Eastern Europe, GRECO, etc.

It is necessary to adopt the corresponding notions and to provide for in the national legislation the responsibility, both concrete and differentiated, for both active and passive corruption of public officials (either national, foreign or international), as well as in the private sector, the liability of legal entities, the responsibility for trading in influence and laundering of proceeds from corruption offences.

In view of improving the national legislation it would be welcome, also assistance of relevant international institutions in order to run an expertise of legal acts and measures for fighting corruption. Or, in case of Moldova's ratification of the mentioned conventions the Group of States against Corruption (GRECO) could provide for (monitor) the implementation of the Conventions.

Should one examine those 20 guiding principles in fighting corruption, worked out by the Committee of Ministers of the Council of Europe, one could find out, that most of these principles are becoming for Moldova problems. These problems ought to be resolved in order to diminish the level of corruption. These are itemized as follows:

- raising public awareness, promoting a behavior in compliance with ethical norms;
- coordinated criminalization of both national and international corruption;
- securing the necessary degree of autonomy and independence of individuals assigned to prevent, investigate, prosecute and sanction corruption offenses;

- ensuring individuals who provide assistance to authorities in fighting corruption;
- adopting appropriate measures for disclosing of proceeds of corruption offences;
 - adopting respective measures for avoiding cases of using the legal entities as screens for hiding corruption offenses;
 - withdrawing the immunity versus investigation, prosecution and sanction of corruption offenses, necessary in a democratic society;
 - ensuring that the fiscal legislation and the authorities empowered to implement thereof contribute to fighting corruption (efficiently and in a coordinated manner);
 - ensuring a degree of transparency that would be compatible with organizing, functioning and the decision-making in public administration;
 - the problem of the number of public servants and public bodies' structure;
 - adopting codes of conduct (ethics) and regulations for public officials, who would take into account the exigencies of fighting corruption and which might stipulate due and efficient disciplinary measures;
 - ensuring the activities of the public administration and the public sector with adequate audit measures;
 - adopting procedures regarding public procurements with an adequate degree of transparency in order to favor fair competition and discourage corrupted individuals;
 - guaranteeing mass media freedom in getting or communicating information regarding corruption acts;
 - encouraging researches in the field of corruption;
 - the problem of money laundry and corruption links with the organized crime;
 - the problem of adjusting the national legislation to the international one, and developing international cooperation.

The experience demonstrated that fighting corruption implies immediate incomes. Thus, according to certain estimates from the Western Europe, the actions focused on economic agents from the national geographic perimeter, an effort worth one pound engenders incomes worth 23 pounds, whereas those targeted to fighting transnational corruption acts, the incomes per one pound spent surpass the amount of 250 pounds¹⁸. Thus, fighting corruption can serve as a starting point for a multilateral development of the state.

It is obvious that the final purpose of fighting corruption can be reached only provided those *3 main elements* mentioned at the Regional Conference of the Central and Eastern European Countries *in fighting corruption* (Bucharest, 30-31 March, 2000) :

1. *will;*
2. *existence of a relevant legislation;*
3. *existence of a relevant mechanism of implementation of legislation, as well as whether in the process of fighting corruption are involved all the capable forces of a society.*

3.18 National „Anti-Corruption” Program

At present a working group of „Transparency International – Moldova” acts in the framework of the UNDP, MOL 01/002, “Strengthening the National Capacities to Fight Corruption in the Republic of Moldova”.

We consider that the purposes of strengthening the national capacities in an efficient fight of corruption might be reached by working out and adoption of a National Anti-Corruption Program. Its implementation could be done by both, governmental structures, as well as the civil society. Moreover,

¹⁸ I. Bogdan, Corupția și criminalitatea economică, (Corruption and economic crime) “Curier Economic”, 45(347)

the adoption of such a program might be welcome for an efficient activity of the Republic of Moldova within the Stability Pact in South-Eastern Europe, one of its initiatives being Anti-Corruption Initiative.

In this context „Transparency International – Moldova” worked out a block of proposals, that may be included in the National Anti-Corruption Program. In the process of elaboration of these the stipulations of the Government Activity Program, Initiatives of the Stability Pact in the South-Eastern Europe, European Convention on Corruption, guideline principles on fighting corruption of the Committee of Ministers under the Council of Europe, experience of some countries in this field, as well as the drawbacks in fighting corruption have been taken into account.

As a basis for the draft of the Program the structure of the commitments of the anti-corruption initiative of the Stability Pact for South-Eastern Europe was taken. The suggestions have been divided in 5 components, including the following measures:

- I. Adoption and implementation of European instruments and other international instruments, extending international cooperation:
 - Ratification of Civil and Penal Conventions on Corruption, European Convention on Money Laundering, tracing-out, seizure of incomes proceeding from criminal acts. Adherence of the Republic of Moldova to other international mechanisms focused on fighting corruption;
 - Initiating the process of signing the Agreement between NIS member-states regarding collaboration in the field of preventing and fighting corruption at international level, fighting „money laundering”, as well as solving the problem of repatriation of funds attained illegally;

- running negotiations and signing intergovernmental agreements with regard to collaboration in the field of fighting crime (including corruption at international level) between the Republic of Moldova, Central and Western European countries and other states.
- Undertaking necessary measures, that would contribute to an efficient cooperation in fighting and counteracting corruption at international level, having as basis the European conventions, treaties and agreements, to which the Republic of Moldova has adhered; undertaking efficient activities in the framework of European structures (Stability Pact in the South-Eastern Europe, GRECO, etc.);
- Requiring the assistance from respective international institutions in running an expertise of the legal acts and measures to fight corruption and trading of influence.

II. Promoting a good governance and a good public administration worthy of trust

- Working out a real mechanism of implementation and observance of Law on public procurements in order to promote an efficient, open and transparent process of acquisitions in compliance with international standards;
- Working out and adopting the Law on public finance, which might permit to raise the efficiency, transparency and responsibility in preparation, execution and control of the state budget in order to confirm it with international practices established by the European Community. Renouncing to the system of extra-budget funds;
- Organizing training programs on normative acts that regulate the activity of the public servants and on their

- responsibility for corruption acts and other infractions committed thereby;
- Implementing a real mechanism of competition based employment for public officials, and of the system of merit based promotion;
 - Reviewing the actual structure and staff of the public organizations for the purpose of raising their efficiency, downsizing the number of staff in public sector by eliminating the idling units, non-admission of overlapping activities;
 - Re-examination of the existent system of remuneration of the public servants (including governmental employees) with the purpose of providing them competitive salaries; implementing mechanisms of awarding bonuses for effective and professional activity;
 - Working out and adopting the Code of Ethics (of conduct), which would specify the expected behavior of various types of public servants, as well as modifications in regulations of the public institutions, which would include regulations regarding the conflict of interests. Ensuring that the regulations regarding the rights and the obligations of the public servants take into account the anti-corruption principles and stipulate appropriate and efficient disciplinary measures;
 - Elaboration and adopting a mechanism of declaration and control of incomes by the public servants, in compliance with the Art. 12 of the Law of Public Service, Art. 10 of the Law on fighting corruption and protectionism and Art. 83 of the Fiscal Code, with appropriate procedures of verifying the declarations;
 - Implementing the practice of mandatory declaration and registration of presents and other kinds of tokens presented to public officials;

- Working out and adopting amendments to the Code on Administrative Contraventions and Penal Code regarding the responsibility of individuals employed in the public service for their refusal to declare incomes or false declaration thereof;
- Organizing periodical reunions, at various levels, of the governmental structures and civil society (seminars, TV programs, publication of materials in mass media) in order to make public opinion aware of the need to promote an ethical conduct and to prevent corruption;
- Working out a real mechanism of implementing the Law on Bankruptcy;
- Mandatory publication in the official newspaper “Monitorul Oficial” of the financial sources of political parties and providing for a control thereupon;
- Insuring the freedom and efficiency of decision making, regardless to departmental interests, in order to avoid pressures, procrastination implying corruption;
- Creating additional mechanisms of internal control in order to ensure quick and efficient re-examination of doubtful decisions, by creating real possibilities of objective examination of complaints from subordinates regarding the acts of corrupted individuals;
- Implementing an effective control system and raising responsibility of managers for the actions of their subordinates;
- Implementing permanent control mechanisms on the activity on of the state bodies and local administration on behalf of civil society.

III. Strengthening the legislation and promoting the state based on law

- Working out and adopting amendments to the Law on state security by which corruption would be recognized

- as representing a particular threat for the economic security of the state and by including a control system on the economic security of the state;
- Working out and adopting amendments to the Criminal Code in compliance with Criminal Law Convention on Corruption which would stipulate an appropriate penal responsibility for:
 - both active and passive corruption by the national and foreign public servants, public and foreign assemblies, active and passive corruption in the private sector, corruption of foreign public servants, members of assemblies, judges and other international public servants;
 - corruption of legal entities;
 - Finalizing the projects and adopting the new Criminal Code, Code of Criminal Procedure, Civil Code, Code of Civil Procedure and Code on Administrative Contraventions;
 - Working out and adopting modification of the legal acts regarding withdrawing the immunity of some categories of public servants (prosecutors, investigators of prosecuting, judges, members of parliament) versus investigation, pursuing and sanctions related to corruption offenses.
 - Working out and adopting amendments to the current legislation in order to avoid cases of usage of legal entities as screen for committing or hiding corruption acts;
 - Working out and adopting modifications and amendments to the Law on fighting corruption and protectionism, by which:
 - the respective law would be adjusted in compliance to the requirements of the Civil and Penal Convention on corruption;

- in line with the specialized system, to empower some other public authorities in anticipation of corruption, institutions of the educational system, civil society and mass media;
- Working out and adopting amendments to the Art. 42 (applying a softer punishment than the one stipulated by law), 43 (suspension of punishment) and 441 (postponing of sentence execution) Penal Code with the purpose of excluding or non-applying these articles to cases of corruption;
- Undertaking measures on running special anti-corruption expertise of the normative acts and public discussion of draft normative acts;
- Approving and implementing measures, that would insure independence, autonomy, and protection of specialized anti-corruption units, excluding inappropriate influences in the anti-corruption activity;
- Based on the proposals of legal and control institutions, to undertake the necessary measures with modern technical means, criminology equipment, transport, liaison means, equipment and other efficient means for collecting evidence in the activity of prevention and counteracting corruption;
- Stimulating the activity of law enforcement employees, as well as their technical-material supply, on the account of confiscated means from illegal transactions;
- Implementing training programs focused on corruption and specializing individuals or assigned bodies to fight corruption in educational institutions;
- Adopting modifications and amendments to the Art. 1642 and 1643 Criminal Code, as well as Art. 75 which would stipulate raising responsibility of both legal entities and individuals for shirking from payment of taxes and smuggling. These modifications should be

- introduced in line with diminishing fiscal burden as a result of fiscal reform;
- Working out and adopting the law „On measures to insure the arrest and confiscation of any assets obtained by crime, that was used for obtaining illegal incomes”;
 - Working out and adopting amendments to the Criminal Code with new articles, which would stipulate responsibility for:
 - shirking from customs duties,
 - laundry of incomes from criminal acts.
 - Working out and modifying articles of the Criminal Procedure Code, based on which:
 - to recognize as evidence, also, fact data (materials) obtained as a result of operative activity and investigations in compliance with the Law No. 45-XIII dated 12.04.94;
 - accumulation of evidence should be made in conditions and by using investigations means stipulated in the Criminal Procedure Code and Law regarding operative activity of investigations No. 45-XIII dated 12.04.94.
 - Working out and adopting the Government Resolution regarding the stimulation and insuring the security of individuals who provide assistance to legal bodies in prevention and counteracting corruption;
 - Working out and adopting the Parliament Resolution regarding creation of an integral informational system of the legal and control institutions, as well as other interested public bodies, as well as adopting the Regulation on functioning of the informational system;
 - Working out and adopting amendments to the Code regarding administrative contraventions and Penal Code which would stipulate responsibility for threatening, constraining, or violating security of witnesses, injured individuals, and of individuals providing assistance in

the penal process, relatives thereof; protection of mass media;

- In the framework of legal reform to adopt modifications in legislation regarding judiciary control upon activity and decisions of prosecuting, and subordinating the General Prosecuting to the Ministry of Justice;
- Working out and implementing the mechanism of executing the “Law on Money Laundering”;
- Working out and adopting the “Law on Lobbyism”;
- Based on current legislation and amendments adopted, the respective bodies, as well as civil society, will undertake additional coordinated organizational measures for the purpose of preventing and fighting corruption, which would insure the fundamental human rights and liberties.

IV. Promoting transparency and integrity in business

- Working out and implementing a compatible transparent mechanism of organizing, functioning and decision-making processes in the state institutions; working out and implementing procedures regarding public squares, based on an appropriate transparency for favoring a loyal competition and discouraging corrupted individuals;
- Working out and adopting the Law (Parliament Resolution) „On the mechanism of repatriation and legalization of exported capital and attracting financial means in the economy of the country”;
- Working out and implementing the mechanism of reintegration of the capital from shadow economy into the official one;
- Working out and adopting modifications in fiscal legislation that would contribute to efficient and

coordinated struggle against corruption and might reduce the fiscal burden, to the extent that would contribute to the economic development and efficient tax collection;

- Working out and adopting measures that would ensure that the fiscal law enforcement personnel will contribute to prevent and fight corruption;
- Developing and implementing of modern accounting standards, of both internal and external audit systems;
- Working out and implementing a real mechanism of protecting the legal economic interests of the economic agents and of the state; ameliorating the regulatory system of the financial control procedures;
- Introducing the practice of independent monitoring of the privatization procedures of the objects of strategic importance;
- Ensuring transparency and participation of NGOs, mass media and representatives of international organizations in monitoring the distribution of humanitarian assistance;
- Supporting the decisions of the professional unions, collegiums, associations (accountants', auditors', lawyers' associations) that corruption contradicts the professional norms of activity, and individuals involved in corruption acts should be unavoidably excluded from the respective associations and deprived of the right to act in respective professional fields.

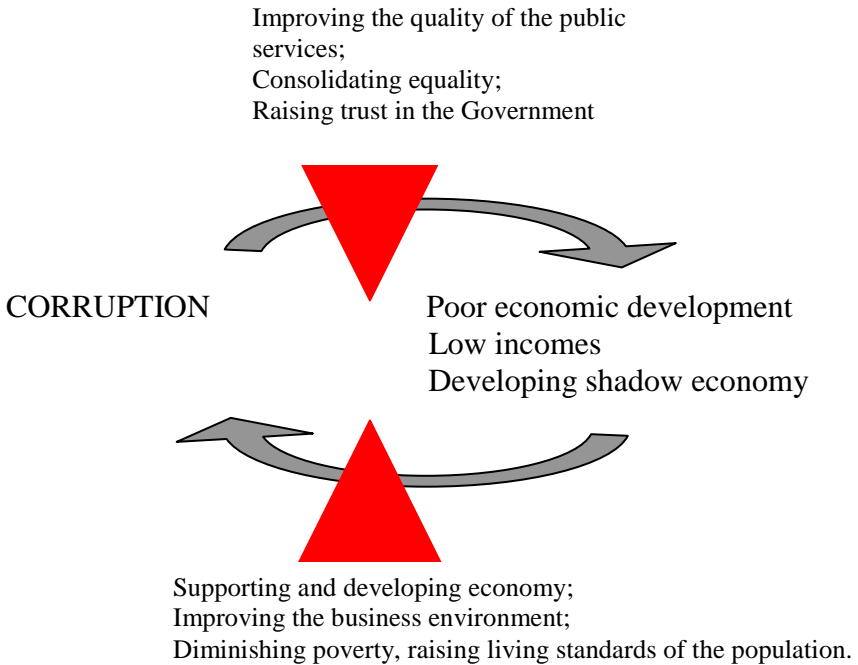
V. Promoting an active civil society

- Undertaking organizational and practical measures in consolidating the NGOs, encouraging the representatives of the civil society to cooperate with the purpose of preventing corruption;

- Undertaking the necessary measures in guaranteeing the freedom to NGOs and mass media in receiving and dissemination of information regarding corruption acts under the limits of a democratic society in compliance with the current legislation.
- Undertaking necessary measures that would encourage researches on corruption; periodical conducting of opinion polls regarding activity of state institutions;
- Undertaking measures targeted to raise the access to information regarding the plans, decisions and activity of the executive;
- Implementing educational programs to promote the ethical values;
- Organizing professional seminars with the purpose of supporting investigative journalism, training in the field of objective journalism and professional ethics in the process of relating the reportages, augmenting the capacity of corruption denunciation;
- Promoting an educational campaign regarding the rights and obligations of the public servants.

The measures of the program are supposed to prevent and counteract corruption in two manners. On the one hand, while having a poor economy, to impede deepening corruption by supporting and developing the economy, improving the business environment, reducing poverty, raising living standards of the population. On the other hand, to counteract corruption in order to avoid the economic decline and improve the quality of the public services, consolidate equality, and raise trust in the Government according to the scheme that follows. Realizing these and other measures within the National Anti-Corruption Program, would contribute to the consolidation of the national capacities to fight corruption, to

reduce considerably corruption and, as a result, to development multilaterally.



Given that under the President of the Republic of Moldova the Coordinating Council for fighting corruption was created, and that the respective Council is headed by the President of the country, and members thereof are included the Charmin of the Parliament, Prime-minister, heads of legal bodies, the Chairman of the Parliament Commission for National Security, the Chairman of the Chamber of Accounts, one could consider that it is this body that can express regarding the adoption of such a program. It would comprise measures in the realization of which could be involved both state bodies and civil society. This is why „Transparency International – Moldova”, as an

NGO with a purpose to contribute to consolidating national capacities in fighting corruption, submitted this block of suggestions to this Coordinating Council. This is why the block of suggestions was submitted to the Minister of Internal Affairs, given that he has been assigned as the national coordinator on behalf of the Republic of Moldova at the Anti-corruption Initiative within the Stability Pact for the South-Eastern Europe, to study and undertake concrete steps in working out and adopting the National Anti-corruption Program. Later on, these were submitted to the Minister of Justice and Parliament Commission for National Security.

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