



Monitoring the Implementation of the Chamber of Accounts decisions: the Case of the Ministry of Internal Affairs

Executive Summary

The study "Monitoring the implementation of the Chamber of Accounts (CA) decisions: the case of the Ministry of Internal Affairs (MIA)" is a continuation of the Transparency International - Moldova monitoring of the implementation of the decisions of the Chamber of Accounts (main state financial audit body) started in 2009. Previous research showed that even when the CA detected legislative infringements, virtually none of the responsible individuals were appropriately punished or penalized. According to the 2009 CA Report on the Management of Financial Resources and Public Assets, about a quarter of CA's recommendations are not put into practice, which highlights the persistent problems in implementing CA's decisions and recommendations.

The purpose of monitoring is to assess the situation regarding the implementation of CA decisions by public authorities, to determine the main obstacles that hinder this process, and to find solutions for the named problems.

CA decision no. 5 from 26.01.2010 was selected as the object of monitoring, since it reflects multiple legislative violations in the MIA activity. Specifically, it included cases when the Ministerial leadership avoided the legal use of special funds received from the Council of Europe and European Association of Police Colleges, supported expenditures in the interest of a certain political party and fraudulently appropriated real estate. It also addressed cases of public procurement in the absence of relevant budget allocations and without following the legal procedure. In turn, these cases caused considerable damage to the government budget.

The following *monitoring tools* were used:

- √ requesting information on measures taken by the MIA and other public authorities in order to implement the Decision of the CA;
- √ conducting a focus group with civil servants on systemic problems regarding the implementation of CA recommendations and on the ways to solve them;
- √ conducting sociological study regarding the quality of the CA audit, as well as the auditors' professionalism and integrity.

The study was conducted with the support of the Eastern European Foundation and with financial resources granted by the Swedish International Development Cooperation Agency (SIDA) and the Ministry of Foreign Affairs of Denmark (DANIDA).

Conclusions

The following can be deduced from the analysis of measures taken by public authorities to implement the CC decision no. 5 from 26.01.2010:

- All public authorities which have been contacted responded to the requests of information (two of them exceeded the deadline), however the general practice of giving ambiguous answers persisted.
- MIA reported on the measures taken so far and attached a relevant link on their website (mai.gov.md/content/5882). Documentary evidence indicated that MIA issued orders establishing public commissions, control of subdivisions, and the approval of the List of Paid Services provided by the Ministry. Nonetheless, due to the absence of documentary evidence and insufficient information on the MIA website, the implementation of permanent measures concerning the regularity of revenue collection for services (such as the use of special means of bookkeeping under the general rules set) could not be verified. At the same time:
- Under "Procurement" on the MIA website only ads about tendering were published. Significant information was missing regarding the 2010 Procurement Plan, information about the economic agents participating in auctions, and the Procurement Commission's decisions designating the winners. Consequently, the requirement of maximizing the transparency of procurement irregularities required under the Liquidation Plan, which has been approved by the MIA, has not been accomplished;
- No high-ranking civil servant who committed violations, such as misappropriation and mismanagement of governmental funds, has been punished by the Ministry. The most common reasons given being that "during the control these people were fired or they resigned after the control";
- The MIA information regarding the disciplinary punishment of high-ranking civil servants ("disciplinary sanctions were not applied") contradicts the statement by the State Chancellery ("several high-ranking civil servants have been punished");
- **So far, no high-ranking official from MIA has been charged with criminal sanctions.** Out of six criminal cases started only four remained pending (one at the Law Court of the Centre district, two more are at the Center for Combating Economic Crimes and Corruption (CCECC), where their examination has not been completed, and one case was suspended). Out of three civil cases, the Court requested a partial recovery of damages for only one¹. Given the slow pace of the investigation and the fact that many of the irregularities under investigation took place in 2002 - 2009 (9 months), **there is a risk that the prescription terms will expire, the guilty persons will not be held responsible and the damage caused to the state will not be compensated;**
- The answers submitted by the Ministry of Finance (MF) and the Parliamentary Committee on National Security, Defense and Public Order were superficial, without relevant supporting documentation. As a result, there are doubts about whether the measures have been implemented;
- There is no effective cooperation among the public authorities that are responsible for the proper use of public funds and those responsible for the implementation of CA decisions (particularly the Ministry

¹ According to the decision of the Court of Economic Appeals on the actions PG by PCRM of collecting a sum of 829.9 thousand Lei classified as enrichment without just cause only 42% of the damage caused is to be returned.

of Finance, General Prosecutor's Office, the Government and the Parliament committees). The wide range of issues identified during the CA audit, the high risk of not penalizing the guilty officials and of non-reimbursement of the damages caused to the state requires a more profound approach to resolve these problems.

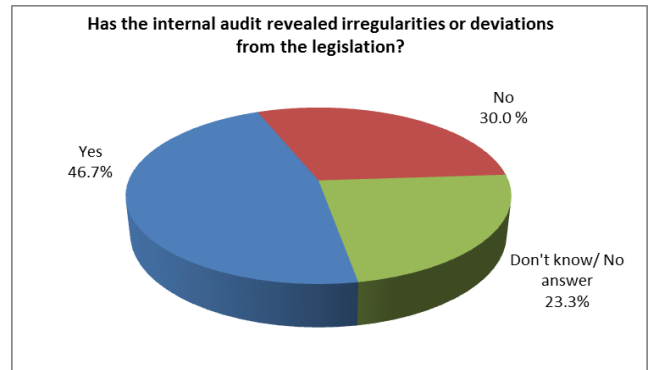
Various *problems* have been identified during the group discussions with representatives of public authorities on the implementation of CA decisions. These are:

- **Legal problems** - lack of a clear mechanism for the implementation of CA decisions, as well as absence of clear sanctions in case public authorities disregard CA decisions;
- **Political issues** - the actions of representatives of public authorities /institutions are determined by political affiliation and kinship. Furthermore, there are cases when public officials who admittedly committed violations are still being promoted within the same institutions or in other departments, because they have solid political coverage);
- **Procedural issues** that may delay or even prevent the implementation of CA decisions: the audited institutions do not perceive CA decisions as mandatory; difficulties in the process of investigating crimes and accumulating evidence material, as well as the difficulty of investigating ghost-enterprises;
- **Low functionality and lack of transparency of internal audits:** some managers of public institutions do not realize the importance of the internal audit; there is a high risks that if managers commit violations the internal auditors will cover up the irregularities; internal auditors do not have sufficient experience in the field; in some public institutions access to internal audit reports is limited;
- **There are tensions / animosities between institutions engaged in the prosecution.**
- **Lack/insufficient training of public authorities regarding the implementation of CA decisions:** for example, the Parliament has not yet analyzed the 2008 and 2009 CA Reports. Also, even though CA has informed the Parliamentary Committee on National Security, Defense and Public Order about several irregularities found in MIA decisions (CC decision no. 19 of 28.05.2009, no. 5 of 26.10.2010, no. 19 of 15.03.2010, no. 58 of 07.09.2010²), the Parliament has not yet taken a stand regarding the matter;
- **Independence for the CA:** there is a persistent risk that a politically affiliated person could be in charge of conducting the Chamber and influence the CA's activity according to his/her political party's interests (he/she will be in a conflict of interest).

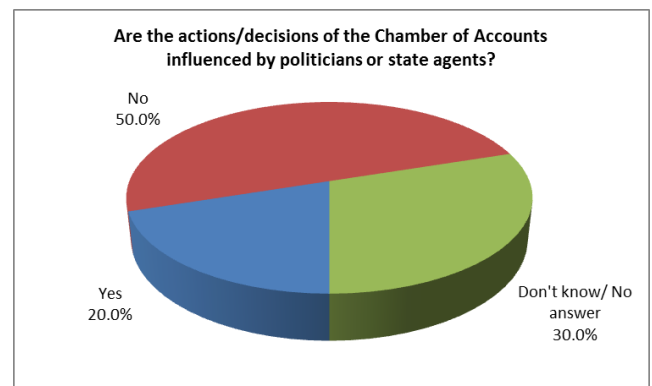
²CA decision nr. 58 from 09.07.2010 also mentions the *non-execution of CA requirements and recommendations by previous inspectors* as a cause for irregularities.

The *results of the sociological study* on the quality of CA audits, the auditors' professionalism and integrity allow concluding the following:

- in comparison with 2009, public institutions were more willing to participate in the survey, which reflects an opening of these organizations towards more communication with representatives of civil society and an improvement in the truthfulness of the answers they give (in 2009 several institutions refused to participate in the survey, delayed or postponed meetings, while in 2011 the process of interviewing could be carried out twice as fast; in 2009 the respondents refused to answer a series of questions or answered them only in a positive manner, while in 2011 respondents have become more critical and seem to be more sincere in their comments). This means that the results are of rather little informative value when comparing the two periods; yet they are informative with respect to the fact that a number of performance indicators remain unsatisfactory.

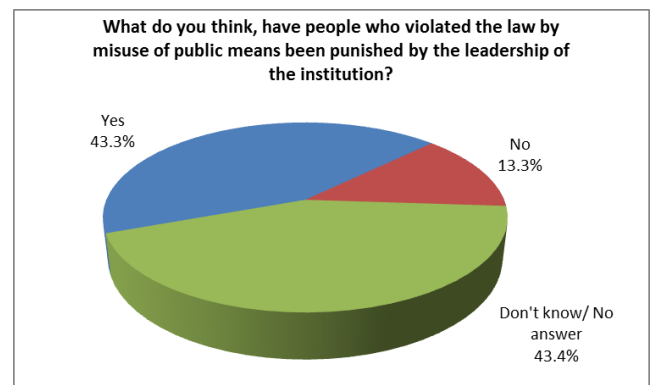


- A comparison of the 2009 and 2011 surveys shows that public institution have slightly improved their implementation of internal controls, as well as their audit systems. They are also ensuring increased transparency regarding controls/ internal audits and regarding the implementation of CA decisions. Also, the independence and impartiality of CA auditors has increased, while the level of involvement of policy-makers and state officials in preparing audit reports has decreased.



- Although there is some improvement, the situation remains unsatisfactory regarding the transparency of internal audits and the implementation of CA decisions, further action is required here. Similarly, although there has been some progress regarding controls and internal audits, these are usually not fully implemented, which creates and environment in which abuses in the management of public institutions is likely to occur.
- The study showed a deterioration of the following indicators: CA auditors' objectivity, professionalism, politeness, and respect towards the representatives of the audited institutions.

- A paradoxical situation persists when, on the one hand, respondents know about the external audits because CA decisions are being published, and on the other hand, they are not informed about the measures to implement CA decisions because this information is not published.



- The percentage of respondents aware of the existence of irregularities detected by internal audits decreased, while the share of respondents informed about the irregularities detected by CA audits increased.

- The respondents' expectation that those guilty of breaking the law by using public funds for personal interest will be punished became more "modest", which may encourage further violations of legislation in the administration of public funds.

Recommendations

Given the results of monitoring the implementation of the CA decision no. 5 from 26.01.2010, the problems identified in group discussions with representatives of public authorities on the implementation of CA decisions, and research results regarding the quality of CA audits, the auditors' professionalism and integrity, we recommend to take the following measures:

- to introduce legal sanctions for failing to implement CA decisions;
- to increase the Government attention towards irregularities unveiled by the CA in the activity of the Executive (examining the implementation problems, organizing governmental hearings of the heads of public authorities/ institutions regarding the measures they take to execute the CA decisions, applying sanctions when necessary);
- to increase the awareness of the Parliament and parliamentary committees about the necessity to take a stand regarding the implementation of CA decisions (examination of the CA Report on Administration and Public Financial Resources at a session of Parliament; upon necessity, to hold meetings at a parliamentary committee level with hearings of representatives of audited institutions that failed to implement CA recommendations, to allow relevant committees to request Reports from the Government etc.);
- to examine the possibility of establishing joint liability in the activity of the committees that take decisions;
- to increase the accountability and set in place adequate punishment for those guilty of infringement and misuse of public funds, but also those who evade the implementation of CA decisions; to increase CA's independence and to mitigate the political influence over this entity (possibly by creating a Parliamentary Commission to Control the Use of Public Money and Public Property, which collaborates with CA but reports to the opposition);
- to strengthen the internal audit in public institutions and to ensure its independence: to fully implement internal control and audit in public institutions, to continuously train auditors and enhance their professionalism (including seminars and methodological guidance), to ensure that managers of public institutions are aware of the benefits and functions of an internal audit;
- to ensure that the activities of public authorities are transparent, specifically to ensure that their websites are regularly updated and contain information on measures taken to implement CA decisions, results of internal audits (e.g. the reports on internal audits), the use of foreign assistance, public procurement (the annual procurement plan, information about the economic agents participating in auctions, the Procurement Commission's decisions designating the winners, etc.);
- to reduce the length and frequency of the external audits, as well as increase the training for those auditors with insufficient experience in the field;
- to strengthen the integrity of CA employees in order to ensure the audit's objectivity, and to increase the credibility and professionalism of CA employees;
- to strengthen CA employees' work-ethic, while cultivating a respectful attitude towards the representatives of the audited organizations.