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Summary Note: Mentoring the Process of Monitoring Public Procurement

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Problem Statement

Public procurements are part of a complex process by which the functionality of public authorities, creation of a competitive business environment, and promotion of public funds efficient use practices should be insured. At global level, public procurement represent from 10 to 25% of the GDP¹, on average, and almost 1/3 of the national state budgets, including the biggest part of government expenditures.² The huge amount of funds involved in this process and the close interactions between public and private sectors make public procurements extremely vulnerable to corruption. Up to one fourth (1/4) of the budget for public procurement is estimated to be extracted through corruption, globally.³

Preventing corruption risks in public procurement is a priority issue on the agenda of international organizations. The UN Convention Against Corruption⁴ provides that member states shall take actions towards creating a public procurement system based on transparency, competition, and objective criteria for making decisions, which shall be efficient in preventing corruption.⁵ Researches on public procurement related matters and recommendations for preventing corruption risks in the given area have been carried out by international organizations, such as the World Bank⁶, European Commission⁷, Organization for Economic Cooperation and Development⁸, European Bank for Reconstruction and Development⁹ and Transparency International.¹⁰

The share of public procurement in the GDP over the last decade varied between 5% and 10% in the Republic of Moldova, and constituted circa on third (1/3) of the national public budget revenues.¹¹ Multiple irregularities in performing public procurement in the Republic of Moldova are revealed in the reports of public entities, international experts, and NGOs.

A number of alarming indicators were identified in the Report on Assessing the Risks of Corruption in the Public Procurement System of the Republic of Moldova¹², the main of which are: bribes and illegal kick-backs; conflicts of interest; tenders with secret deals/collusion (in complicity); falsification of tenders; shell companies; disclosure of

¹ <http://ec.europa.eu/trade/policy/accessing-markets/public-procurement/>

² <http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB17-Report.pdf>

³ <https://www.unodc.org/southeastasiaandpacific/en/2017/07/anti-corruption-sdg/story.html>

⁴ The United Nations Convention Against Corruption has been adopted in New York la 31.10.2003, signed by the Republic of Moldova on 28.09.2004 and ratified by the Parliament of the Republic of Moldova by the Law 158/2007.

⁵ In this respect, the basic elements are: publication of information on procurement procedures and contracts, prior establishment of selection and award criteria; the use of objective and predetermined criteria for decision-making; the existence of a system of appeal to guarantee remedies for infringement procedures; Requirements for authorized staff (obligation to declare interests, selection procedures, training obligations).

⁶ <http://documents.worldbank.org/curated/en/309511468156866119/pdf/877290PUB0Frau00Box382147B00PUBLIC0.pdf> ,
http://siteresources.worldbank.org/INTDOI/Resourses/INT_inside_fraud_text_090909.pdf

⁷ https://ec.europa.eu/anti-fraud/sites/antifraud/files/docs/body/identifying_reducing_corruption_in_public_procurement_en.pdf

⁸ <https://www.oecd.org/gov/public-procurement/publications/prevention-corruption-marches-publics.pdf>,
<https://www.oecd.org/gov/ethics/48994520.pdf>

⁹ <https://www.ebrd.com/downloads/legal/procurement/ppreport.pdf> ,

<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395238797956&d=Mobile&pagename=EBRD%2FContent%2FContentLayout>

¹⁰ https://www.transparency.org/files/content/activity/2015_TI_G20PositionPaper_PublicProcurement.pdf,

https://www.transparency.org/whatwedo/publication/curbing_corruption_in_public_procurement_a_practical_guide

¹¹ https://tender.gov.md/sites/default/files/document/attachments/raport_anual_2017.pdf

¹² Raport de evaluare a riscurilor de corupție în sistemul achizițiilor publice în Republica Moldova,

http://www.md.undp.org/content/dam/moldova/docs/Publications/Deliverable%204%20-%20Final%20Assessment%20Report_Rom_for%20print.pdf

offer related information; unjustified public procurements from a single source; arranged specifications; exclusion of qualified bidders. Collusion, which is particularly manifested by dividing the territory among a limited number of companies has also been remarked as a risk factor. In the experts' opinion, the link between donations for political parties and awarding of contracts would also signal about the existence of serious problems in this area.

Risks of Corruption and Fraud Identified by Authorities

The Court of Accounts (CA) carried out specialized public procurement audits in 2009 and 2015, stating in its last report¹³ that a big part of violations and irregularities previously committed by public authorities were still persisting. Among violations, the CA mentioned the following:

- the authorities failed to correctly plan their procurements, did not insure transparency by compiling and publishing notices of intent,
- the authorities planned procurements in the absence of financial coverage, incorrectly selected the procedure, and unfolded procurement procedures that had not been included in the annual procurement plan,
- the members of working groups did not file and signed confidentiality and impartiality statements, minutes on opening and assessment of offers, and did not evaluate the offers appropriately;
- the authorities did not apply penalties on economic entities for infringing contractual provisions.

During the ex-post monitoring conducted in 2017, the **Public Procurement Agency (PPA)** indicated the following among the most frequent violations: dividing the procurement procedures, lack of the minimum number of bidders; non-compilation/defective or discriminatory compilation of requirements in the call for tender participation; unjustified amendment of contracts, including without any legal ground; using the criterion "most advantageous offer" by including some irrelevant evaluation factors. Along with this, the ex-post inspection carried out by the PPA revealed additional violations, such as: designation of offers that do not meet the qualification requirements as winning ones; non-fulfillment of duties by the working group upon signing the submitted offers and/or technical and price specifications, failure to plan the procurements, inclusion of fake data in the reports, unjustified inclusion of some limiting technical requirements, etc.

Serious problems in public procurement were also remarked by authorities in the Public Procurement Sector Anticorruption Action Plan for 2018-2020.¹⁴

Transparency International–Moldova: Public Procurement Monitoring

TI-Moldova monitored the public procurement process starting 2002¹⁵, highlighting the following among the main forms of corruption:

- bribes and other unofficial payments provided to civil servants for obtaining favorable decisions; relatively small facilitation payments provided to low-rank servants for speeding up legitimate decisions;
- frauds by submitting erroneous data;
- infringement of procedures for the submission and examination of bids;
- lobbying – promotion of the interest of certain bidders;
- collusions or cartel agreements.

A big part of resounding cases of corruption in procurements related to the construction of some important objects, particularly infrastructure facilities, procurement of costly equipment and medication. The energy sector is one of the areas of major corruption risks in procurements.

Corruption and risks of corruption can occur at different stages of procurement, starting from needs assessment and preparation of documents to contract execution, final payment and compilation of audit reports. Among the main alarm signals (red flags) about eventual risks of corruption in public procurement one should remark: the lack of transparency in the procurement budgeting/planning phase; limited access to procurements related information; abuses committed upon opening the bids of economic entities; frequent violation of contractual clauses; limited or inefficient control over the observance of procurement contracts; unannounced/urgent procurements at the end of fiscal year.

¹³ Decisiion of the Chamber of Accounts 37/2015 on the Audit of Performance of Public Procurement, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=361812>

¹⁴ Decisiion of the Chamber of Accounts 370/2018, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=375162>

¹⁵ Public Procurement and Public Ethics: Visions to Combat Corruption, Chişinău, 2002; Transparency International – Moldova, Transparenţa achiziţiilor publice în municipiul Chişinău, Chişinău, 2007.

For example, when monitoring the procurements performed in Chisinau municipality, the most frequent forms of corruption in procurements were identified in¹⁶:

- *needs assessment*: economically unjustified expenditures, needs assessment decisions made in favor of certain suppliers; investments (except those made in infrastructure) that do not contribute to economic growth and gross domestic product; inception of works without organizing tenders, selecting the winner and developing an investment project checked by specialists; works planned without financial coverage;
- *preparation of documents*: task orders do not contain clear quality requirements, the documents are compiled in favor of certain providers, limiting competition;
- *selection of the winner and contract signing*: lack of transparency in evaluating the bids and selecting the winner, decisions approved in favor of certain bidders; excessive contract prices as a result of favoring certain bidders;
- *contract execution*: frequent amendment of contracts (extending the timeframes, increasing the value), low quality of goods/services/works that require early elimination of defects; the monitors from within the state authorities are not independent and justify forgery;
- *final payment and audit*: inefficient object transfer-receipt mechanism; municipality representatives are bribed or forced to accept fake transfer-receipt bills and certificates; lack of financial resources and failure to pay on time for the carried out works.

The results of monitoring by TI-Moldova of anticorruption policies on public finance management¹⁷ also revealed deficiencies related to low budget transparency, lack of transparency in public procurement planning; as a rule, procurements are performed through low-value and one-source procedures; failure to publish/delayed publishing of the results of awarding public procurement contracts, etc. TI-Moldova also remarked extremely rare practices of holding persons to blame for the violations stated by the Court of Accounts accountable, low capacity of public authorities in performing internal audit.

The lack of transparency and fairness in the procurement procedure, the formal character of tenders and the impossibility to win without making unofficial payments demotivate the business persons to participate in public procurements. According to TI-Moldova, the share of interviewed business persons sustaining that they had participated in public procurement bids decreased by circa three (3) times since 2008.¹⁸

Corruption Generating Factors in Public Procurements

The main factors that generate frauds and corruption in public procurement in the Republic of Moldova are: political influence, decisions approved in conflict of interest situations; low transparency of procurements; insufficient staff responsible for procurements and low level of professionalism among the latter; excessive number of contracting authorities (over 3000); non-functioning to a large extent of internal PP auditing units, particularly at local level.

Such situation has social, economic, financial, and political consequences which are manifested in:

- inefficient and fraudulent use of public money – squandering of public money;
- unfair competition on the market, demotivation of business persons to participate in public procurements;
- low trust of business persons and citizens in the system;
- satisfying the interests/enrichment of a narrow group of persons;
- impoverishment of the state and of the population.

In such conditions, it is necessary to reform the public procurement system in compliance with the RoM – EU Association Agreement and the policy documents approved by the authorities, particularly with the Public

¹⁶ Transparency International – Moldova, Transparency of public procurement in Chisinau municipality, Chisinau, 2007.

¹⁷ [http://www.transparency.md/wp-](http://www.transparency.md/wp-content/uploads/2017/02/TI_Moldova_Monitorizarea_politicilor_anticoruptie_in_autoritatile_publice_centrale_in_anul_2013.pdf)

[content/uploads/2017/02/TI_Moldova_Monitorizarea_politicilor_anticoruptie_in_autoritatile_publice_centrale_in_anul_2013.pdf](http://www.transparency.md/wp-content/uploads/2017/02/TI_Moldova_Monitorizarea_politicilor_anticoruptie_in_autoritatile_publice_centrale_in_anul_2013.pdf)

¹⁸ In 2015, approximately 7% of the interviewed businessmen claimed to have participated in public procurement procedures in the last two years, in 2008 - 22.1% of those interviewed: [http://www.transparency.md/wp-](http://www.transparency.md/wp-content/uploads/2017/06/TI_Moldova_Cercetare_Sociologica_2015.pdf)

[content/uploads/2017/06/TI_Moldova_Cercetare_Sociologica_2015.pdf](http://www.transparency.md/wp-content/uploads/2017/06/TI_Moldova_Cercetare_Sociologica_2015.pdf) , [http://www.transparency.md/wp-](http://www.transparency.md/wp-content/uploads/2017/02/TI_Moldova_Coruptia_in_RM_perceptiile_si_experientele_proprii_ale_oamenilor_de_afaceri_si_gospodariilor_casnice.pdf)

[content/uploads/2017/02/TI_Moldova_Coruptia_in_RM_perceptiile_si_experientele_proprii_ale_oamenilor_de_afaceri_si_gospodariilor_casnice.pdf](http://www.transparency.md/wp-content/uploads/2017/02/TI_Moldova_Coruptia_in_RM_perceptiile_si_experientele_proprii_ale_oamenilor_de_afaceri_si_gospodariilor_casnice.pdf)

Procurement System Development Strategy¹⁹, National Integrity and Anticorruption Strategy²⁰, Action Plan for Open Government for 2016-2018²¹, and others. The goal of these documents is to improve the efficiency of public procurement process, increase transparency of the latter, and reduce the risks of fraud and corruption.

It should be noted that such reform is broader than the legislation harmonization itself, also involving veritable implementation of the legal framework, building and strengthening the capacity of regulatory and contracting authorities, as well as increasing the responsibility of decision makers/entities for committed violations/abuses.

Relevant Legal Framework and its Enforcement

The legal framework in the given area, particularly the Law on Public Procurement²² has been harmonized and complies to a large extent with the European standards. However, there is still room for improvement. It should be particularly mentioned that a number of entities – state enterprises, municipal enterprises and joint stock companies with state share do not fall under this law, and there are major risks of non-compliant and abusive use of public funds. Also, one important public entity was excepted from the Public Procurement Law provisions (Agency for Public Services, in the case of procurements for multifunctional centers from localities²³), the journalists reporting multiple eventual violations, including abusive and inefficient use of public money by this entity.²⁴

It is also worth mentioning that in spite of recommendations provided by international experts, the ex-ante control duty of the Public Procurement Agency was fully cancelled, and not gradually eliminated, which fact has weakened the control over the procurement process.

The National Agency for Settling Complaints (ANSC), which was to insure veritable remedies for economic entities, started operating only in September 2017, i.e. over one year later. There are cases when in spite of some ANSC decisions indicating that the contracting authorities issued should re-examine the procurement results, the latter would execute Agency instructions formally, maintaining the decisions approved in favor of certain economic entities. Also to date, NGOs have no right to appeal the procurement procedures carried out by eventual violations in ANSC in order to prevent the signing of contracts that could damage the public interest²⁵.

The new legislation did not improve transparency in public procurement sufficiently: the contracting entities are further not required to publish or provide full access to all the procurement related information.

Although in practice there are some improvements regarding the transparency of procurements, particularly in publishing annual procurement plans, and procurement reports on the webpages of public authorities, the situation leaves much to be desired.²⁶ The authorities oftentimes limit the access of NGO representatives in the membership of procurement working groups or create impediments for their participation in meetings, and marginalize the access to procurement files and other information. Launching the M-Tender electronic procurement platform for piloting, and recently, in October 2018 – making it mandatory for contracting authorities could solve the transparency related problems, but not those relating to „arrangement” of tenders.

Although sanctions for misdemeanors in public procurement area have been included in the Misdemeanor Code (division of procurements, impeding free access to bidders in the procurement process, etc.), and the Public Procurement Agency has applied a number of sanctions, these are considered mild.²⁷

¹⁹ <http://lex.justice.md/md/368482/>

²⁰ <http://lex.justice.md/md/370789/>

²¹ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=368355>

²² <http://lex.justice.md/md/360122/>

²³ Prevedere introdusă în Legea 131 privind achizițiile publice prin Art. II din Legea 231 din 10.11.2017 și eliminată din 01.10.2018 prin Legea 169 din 26.07.2018.

²⁴ <https://unimedia.info/stiri/mold-street-cine-a-construit-si-cat-a-costat-primul-centru-multifunctional-al-agentiei-servicii-publice-144819.html>,

<http://agora.md/stiri/42298/oficiul-registru-din-criuleni-ocupa-o-cladire-a-companiei-conduse-de-fiii-lui-filip-si-reparata-din-haznaua-statului>

²⁵ <http://www.ager.md/sites/default/files/RAPORT%20monitorizare%20%28AGER%29%201.pdf>

²⁶ <http://www.ager.md/sites/default/files/RAPORT%20monitorizare%20%28AGER%29%201.pdf>,

<http://www.transparency.md/wp-content/uploads/2018/11/TI-Moldova-Raport-OGP-2016-2018-rom.pdf>,

[\[2018_07_17.pdf\]\(http://www.viitorul.org/files/library/5323294_md_raport_achizit%202018.pdf\)\[http://www.viitorul.org/files/library/5323294_md_raport_achizit%202018.pdf\]\(http://www.viitorul.org/files/library/5323294_md_raport_achizit%202018.pdf\),](http://www.transparency.md/wp-content/uploads/2018/07/STUDIU-FINAL-</p></div><div data-bbox=)

²⁷ <http://www.ager.md/sites/default/files/Raportul%20de%20Monitorizare%20Nr%204.pdf>

Mentoring the Process of Monitoring Public Procurement

Within this project Transparency International – Moldova, as the Moldovan partner of PASOS facilitated the process of building capacities in monitoring public procurement, exchange of experience and common actions by sub-grantees.

To achieve this objective, TI-Moldova:

- organised 12 monthly Skype conferences with the 5 Moldovan sub-grantees to check on the status of the implementation of these project, the progress made, clarified the problems in their implementation and identify the solutions;
- consulted some of the sub-grantees in the elaboration of a questionnaire, drafting a conference resolution, reporting process, helped finding potential partners in future projects, raised funds for sub-grantees;
- shared with sub-grantees its experience in monitoring public procurement at national and international level, organised meeting with relevant experts from GIZ, Chamber of Accounts and UNDP;
- conducted in partnership with PASOS and TI-Ukraine a webinar to share the experience of Moldovan and Ukrainian NGOs in monitoring public procurement with representatives of other countries;
- participated in the events organised by sub-grantees and encouraged reciprocal participation in their events, as well as in the conference dedicated to the subject by EBRD;
- provided an opinion on the draft Guide on conflict of interests in public procurement;
- elaborated a knowledge base of PiE that will allow using the monitoring experience accumulated during the implementation of this project by other4 NGOs, experts, institutions;
- elaborated a synthesis on monitoring public procurement in the Republic of Moldova.

As the result of the implementation of this project 4 Moldovan NGOs (ExpertGrup, IDIS Viitorul, HABITAT and WatchDog) improved their capacities in monitoring public procurement and conducted their monitoring at national and international level, focusing on various objects for their monitoring, coming with a broad number of policy recommendations and involving in their advocacy campaign representatives of public institutions, businesses, mass-media, civil society.

Based on some irregularities identified within the monitoring process by ExpertGrup, the National Anti-corruption Centre initiated a criminal investigation. It also required consultancy of one of the sub-grantees related to the implementation of the Law on Public Procurement.

TI-Moldova with the Moldovan sub-grantees got united when taking attitudes towards t5he process of public procurement and the legal framework that regulates this process in the country. They signed a common declaration on the modification on the Law on public procurement. At the proposal of Ministry of Finance and EBRD, they signed a Partnership Agreement and became members of an inter-ministerial working group for monitoring the implementation of the E-procurement system in Moldova.

To ensure sustainability of the monitoring process, one of the sub-grantees (IDIS Viitorul) received funding from the EU for a 30 month project with a total budget exceeding 200,000 EUR to further use the methodology elaborated within this project. Currently, TI-Moldova and the sub-grantees of this project formed a consortium and applying for funding to EBRD to continue the process of monitoring public procurement.

Summary of the results of monitoring the PASOS Project Sub-Grant beneficiaries. The goal of monitoring was to analyze the legislation enforcement by public authorities; identify eventual problems/challenges and formulate proposals for improving the situation.

The monitoring process was based on a number of tools, such as: requesting and analyzing official information related to procurements (including annual procurement plans, procurement files, copies of awarded contracts); conducting surveys by covering different categories of respondents (specialists from contracting authorities, business persons, beneficiaries of public services provided by authorities); participation of NGO representatives in the working group for procurements in contracting authorities; analysis of information from available open sources (webpages of contracting authorities, open data governmental portals, State Registry of Public Procurement,

Public Procurement Newsletter); involvement of specialists to provide expert opinions on public services/works (repairing of roads/drinking water quality, etc.).

• In 2016, **IDIS Viitorul** monitored public procurements in a number of localities focusing on identification of "red flags" at each stage of the procurement process. The *Monitoring Report on Public Procurements: identified deficiencies and policy recommendations*²⁸ revealed a number of problems faced in the public procurement system, concerning the low level of transparency and competitiveness on the procurement market, and the low level of observing the legal and institutional frameworks. Among the most important problems invoked were:

- poor and inefficient planning of procurements;
- non-transparent procurements;
- insufficient number of civil servants specialized in public procurement within the public authorities, and the lack of a training program for the latter;
- low quality of technical specifications and awarding documentation;
- lack of the monitoring of procurement contracts and of the quality control for goods/services/works.

In 2018, IDIS Viitorul continued monitoring the public procurements, focusing on the observance of legislation in the given area in mayor's offices from three localities.²⁹ Taking into consideration the impact and relevance for public interest, the biggest procurement contracts awarded by mayor's offices, as well as the procurement procedures with particular impact on public interest had been selected for monitoring. Among the main problems, the experts particularly found:

- indications of procurement arrangement, favoring of some bidders by the working group members;
- avoidance of public procurement system by signing much more permissive delegation contracts;
- awarding documentation developed with deficiencies (after contract awarding one frequently finds that the procured goods cannot be used/adjusted to the needs);
- lack of interest on behalf of public authorities in attracting more economic entities in procurements;
- insufficient familiarization of economic entities with requirements of the procedure for contesting procurements;
- limitation of the access of monitoring experts to procurement related information (irrelevant, formal answers to requests for public information);
- insufficient information about procurements on the webpages of contracting authorities, while in some authorities, such information is practically missing;
- non-acceptance by some authorities of the civil society representatives in the working groups for procurements.

During the two monitoring exercises, the authors came up with a number of recommendations on insuring a consistent and easy to apply legal framework; avoiding over-regulation in the given area; establishing a central public procurement unit which would reduce the costs of procurement; increasing transparency of procurements; raising public awareness, and encouraging the citizens' involvement in the decision making process and central and local levels.

• **Expert Group.** The monitoring experts focused on public procurements performed in the road infrastructure projects implemented in Chisinau Municipality and revealed a number of problems in the organization and performance of procurements, as well as in the execution of works.³⁰ The monitoring process covered the rehabilitation works in seven streets of Chisinau municipality carried out in 2012-2016.³¹ The total budget for works constituted 437.2 million lei, covered from own sources, as well as from loan agreements with EBRD, EIB, and International Finance Corporation (Chisinau Municipality annually allocates circa 3% of the budget for capital repairs, and circa 9% for current repairs).

²⁸ http://www.viitorul.org/files/library/5323294_md_raport_achizit%202018.pdf

Achizițiile publice în Republica Moldova probleme, reglementări și reforme așteptate

http://www.viitorul.org/files/library/5214294_md_economic_repor.pdf

²⁹ Rapoartele de monitorizare a achizițiilor publice în primăriile Orhei, Bălți și Rezina:

<http://www.viitorul.org/files/library/Monitorizare%20achiziti%20Orhei%20WEB.pdf>,

http://www.viitorul.org/files/library/Raport%20transparenta%20Balti_mod.pdf,

<http://www.viitorul.org/files/library/Raport%20Rezina%20II.pdf>

³⁰ Expert Grup, Achizițiile publice în domeniul lucrărilor de reabilitare a infrastructurii rutiere din mun. Chișinău, 2016, <https://www.expert-grup.org/ro/biblioteca/item/1359-achizițiile-publice-in-domeniul-lucrarilor-de-reabilitare-a-infrastructurii-rutiere>

³¹ Streets A. Russo, Prigoreni, bd. Ștefan cel Mare și Sfânt, Ion Dumeniuc, Humulești, V. Alecsandri și Negruzzi repaired in 2012 - 2016

As a result of monitoring, the experts concluded that Chisinau Municipality does not focus on identifying priority projects to allocate resources for them. This creates conditions for including projects on „political will basis” in the budget with the risk to use public money on less important projects.

The experts identified a number of problems at different procurement stages, starting with needs identification and finishing with acceptance of works. The experts particularly referred to non-transparent procurement planning, low quality of technical documentation, as well as to the fact that the long-term procurements are planned without a document that would justify the priorities in this sector. Attention was drawn on the low level of competition within public procurements, and on the lack of public information campaigns on planned procurements. The experts identified risks of conflicts of interest in cases when companies affiliated to decision-makers participated in the tenders. There were detected risks of tender arrangements as there were coincidences of the price offered by bidders with the price planned by the public authority. The monitoring experts drew their attention to the amendment of the deadline and value in practically all contracts monitored, as well as to the discretionary amendments of repairs projects during their implementation; unsatisfactory quality of newly paved roads and sidewalks.

To improve the situation, the experts provided a number of institutional recommendations to stakeholders involved in the procurement of road infrastructure works. Thus, the Chisinau City Hall and the Municipal Council should insure transparency in the budgeting and decision making processes by publishing the Council decisions, the reports on municipal budget execution, and activity reports. It is necessary to review the streets repairing program (by including additional information in it, such as: degree of wear, traffic intensity, etc.) which would enhance the argumentation of decisions on making the repairs of certain streets a priority.

- In 2016, **AO Habitat** monitored the public procurement of drinking water supply and sewerage services in the mayor's offices of four localities. The monitoring experts requested and analyzed data from the public procurement files and contracts, the State Registry of Public Procurements, and information from the webpages of mayor's offices. They also assessed the implementation of contracts on the site, interviewed the beneficiaries of services about the drinking water quality, and conducted a focus group with experts on the quality of water supply and sanitation services. Pro-active citizens from Local Habitat Committees were involved in respective activities.

During the monitoring, there were detected problems related to non-transparency of procurement procedures, signing of contracts with a pre-established economic entity (upon instructions of an MP or minister), failure to timely execute the contracts, non-application of sanctions to economic entities for infringing the contractual clauses. The Monitoring results showed that, depending on the contract, the works were completed in a proportion between 30 to 90%, some works remained unfinished over a period of three years, which allowed the experts to suppose that the allocated funds were not used efficiently or were used for other purposes. The monitoring experts forwarded petitions to the National Anticorruption Center, informing them about detected violations. The NAC confirmed that the detected violations had proved true, and the documents had been sent to the Anticorruption Prosecutors' Office.

- In 2018, **Watch Dog** monitored public procurements carried out in the rehabilitation and reconstruction of road infrastructure in Chisinau³². Similar to other NGO-s, the experts were faced with limited access to public procurement related information in the City Hall (the requests for information being ignored, or receiving evasive answers), as well as with insufficient information about procurements posted by the City Hall on their webpage. The report revealed that although the annual City Hall budget allocated for construction and capital repair works of streets in the capital city has been increased for the second consecutive year already, the City Hall does not manage to absorb resources according to their initial destination. The institution continues focusing on financing the current repairs of streets, avoiding capital and intermediate repairs, which can be interpreted as inefficient and defective use of public money. Thus, the funds are used extremely poorly: by the end of September 2018, only 0.42% of the money allocated for the planned capital repairs have been used. Tenders are either not organized or economic entities do not participate in them. No unique multiannual budget classifier is observed, and capital investments are moved to current expenditures, while periodical repair works are financed without organizing a tender, as current repairs.

³² Analysis of budget allocations and procurement process in Chisinau municipality regarding the repair and maintenance of the road infrastructure for the year 2018, <https://watchdog.md/2018/11/12/analiza-alocatiilor-bugetare-si-a-procesului-de-achizitii-publice-in-mun-chisinau-privind-reparatia-si-intretinerea-infrastructurii-rutiere-pentru-anul-2018/>

The study „*Road Infrastructure in Chisinau: from investments in holes to investments in mobility*” carried out by Watch Dog³³ states that the allocation of funds for road repair and maintenance works in the municipality in 2018 is neither efficient, nor sustainable. The condition of roads in the city is worse and worse, with the persisting practice of allocating funds mainly for filling the holes and randomly repairing some street sectors. The ratio of capital investment (in roads, new street lights, illumination, etc.) to current maintenance/repairs (“fillings”, payment for electric power used for public illumination, current repairs of street lights and illumination objects, etc.) is approximately 1:2. This tells us about the existence of a misbalance resulting from the lack of a local public policy on road and walking infrastructure.

The experts came up with a number of recommendations regarding the need for strategic planning of capital constructions, identification of additional sources for insuring an efficient financing of the given area and modernizing the roads and streets in the municipality; the need for increasing transparency in procurements by the municipality; and improving the budget planning process.

Generalities

As a result of public procurement monitoring carried out by the civil society representatives within the PASOS Project there were invoked a multitude of problems that have been persisting in the given area for a long time, even though the legal framework was brought in line with European standards in public procurement and certain progress can be remarked in enforcing the legislation, particularly in connection with the recent introduction of the M-Tender electronic procurement system.

The proposals of monitoring experts were basically focused on improving the legal framework, building the legislation implementation capacities at the level of public authorities, improving the integrity of decision makers, and reducing the risks of corruption in this area. The monitoring experts consider it timely to sign and implement Integrity Pacts, oversee the officers responsible for public procurement, publish the results of inspections and audits with regard to procurement related matter, provide the right to contest the public procurements raising suspicions of violations to the civil society organizations in order to prevent the damaging of public interest.

Advocacy actions. With the view to promote changes, the NGOs involved in public procurement monitoring carried out a number of actions, including media coverage and submission of monitoring reports to the Parliament, Government, regulatory authorities (Ministry of Finance, Public Procurement Agency, National Agency for Settling Disputes), promoted good practices in the activity of authorities; and reported about the problems identified during the monitoring to the Court of Accounts, Competition Council, and National Anticorruption Center. A Memorandum was signed with the Ministry of Finance and foreign partners on monitoring the new M-Tender procurement system. A e-Petition was launched for the allocation of additional funds for repairing the streets/roads in Chisinau Municipality in the draft state budget for 2019, as well as a Declaration of civil society representatives was launched with the view to make additions to the Law on Public Procurement to increase transparency in this area.

Visibility activities of NGOs included: press conferences on public procurement monitoring results; round table discussions/workshops with representatives of public authorities and local NGOs; interviews and participation in radio and TV programs; on-line questionnaires filled in by citizens on the NGO webpage and within vox-populi; and promotion of the respective subject in social media.

The impact of projects particularly resides in improving the legal framework on public procurement; raising awareness among citizens about the importance of this sector, and about the possibility to put pressure on the authorities to observe the legislation, about voluntary citizens’ involvement in the procurement monitoring process; and taking a stand by control/auditing authorities and by law enforcement authorities towards the violations reported by the monitoring experts.

³³ Road infrastructure in Chisinau: from investment in pits to investment in mobility

<https://watchdog.md/2018/10/12/infrastructura-rutiera-din-chisinau-de-la-investitii-in-gropi-la-investitii-in-mobilitate/>