

## Monitoring anti-corruption policies in central public authorities: access to information via public web-pages and transparency of decision making process

### Executive Summary

The Republic of Moldova ratified the United Nations Convention against Corruption (UNCAC) in 2007, being currently on the second stage of evaluation of several chapters of this Convention. Based on this, Transparency International – Moldova initiated a new stage of monitoring public anti-corruption policies with the aim to analyse the quality of allied policies in central public authorities (CPAs), identify eventual problems and work out recommendations for the improvement of these policies, including their regulatory legal framework. The Object of this monitoring are the policies that are part of the UNCAC: transparency of decision-making; access to information through public web pages; declaration of assets and interests; conflicts of interests; quality of petitioning system; transparency and accountability in the management of public finances.

The Subjects of this monitoring are 12 CPAs, including 4 subordinated entities with increased risks of corruption.<sup>1</sup>

The reference period is 2018-2019. The monitoring was supported by the *National Endowment for Democracy*.

*The current summary presents in a sucking form the results of monitoring the first two above mentioned policies.*

**Methodological aspects:** within the monitoring process the information from the CPAs' web pages and the government portals ([data.gov.md](http://data.gov.md), [servicii.gov.md](http://servicii.gov.md), [careers.gov.md](http://careers.gov.md)) were analyzed in terms of corresponding to the requirements of relevant normative acts, requested official information from the CPAs and confronted data from different sources.

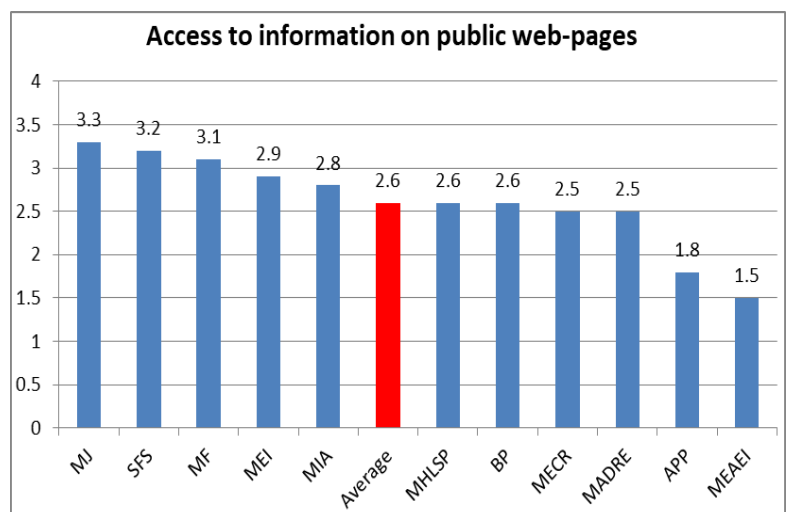
Following the analysis carried out, **summary tables** have been completed that reflect the current state of policy implementation for each monitored entity, include individual findings, proposals for improvement, allow comparing different authorities and take over good practices. Depending on the findings, the authorities were assigned scores on a scale from 0 (very bad implementation) to 4 (very good), with rankings being drawn on each policy.

Below is a summary on the main finding and recommendations of this monitoring.

### Ensuring access to information through the web-pages of CPAs

The results of the monitoring conducted in 15.01–20.02.2020 attest that the majority of CPAs largely comply with the content requirements for web pages. The best results in the application of the policy are at MJ (3.3 points), SFS (3.2) and MF (3.1), weaker - at APP (1.8) and MEAEI (1.5), the score average being 2.6 points. However, there are a number of issues in the implementation of the policy, including the legal framework, the mechanism for maintaining web pages and their content.

**Legal framework:** as a result of the changes in the legislation made in recent years, the obligation to place indicators on the web becomes outdated; some mandatory indicators are not sufficiently explicit, which creates confusion for the authorities; the requirements for publishing compulsory information are duplicated in different public policy documents.



<sup>1</sup> Ministry of Justice (MJ); Ministry of Finance (MF); Ministry of Economy and Infrastructure (MEI); Ministry of Internal Affairs (MIA); Ministry of Education, Culture and Research (MECR); Ministry of External Affairs and European Integration (MEAEI); Ministry of Healthcare, Labour and Social Protection (MHLSP); Ministry of Agriculture, Regional Development and Environment (MARDE); State Fiscal Service (SFS); Agency for Public Property; Border Police (BP).

*The mechanism for maintaining web pages:* Although the legal framework establishes the need for an internal regulation on the publication, updating and data security of on the web page, only half of the CPAs has such a document.

*Presence on web pages of mandatory information:* Although the monitored CPAs' web pages contain varied information on their activity, some important mandatory information is insufficient or missing:

- *Activity reports* - about 60% of the authorities did not post them on the web (eg, for 2019: PF, MARDE, MHLSP, MECR, CS, MEAEI, APP). The latest activity report of the APP is for 2017, at MEAEI - the annual activity reports are missing;
- *Implemented programs and projects, including technical assistance* -  $\frac{3}{4}$  from the PCAs have not published any data on this matter (MEAEI, MIA, APP, MEI) or the published information is summary and not updated (MECR, MF, MHLSP, SFS, CS);
- *Budgets* - although most PCAs publish planned budgets on the web, their execution data is often missing (eg, for 2019 - in  $\frac{2}{3}$  of PCAs: MEAEI, MIA, MARDE, MF, MJ, MHLSP, BP, APP). The most recent data on budget planning and execution in BP are for 2014, in APP this info is missing;
- *The format of the presentation of budgets is not uniform* - from aggregate data in some CPAs, to detailed information (including on programs / subprograms) – in others. *Sectorial spending strategies* are usually not published;
- *Public procurement* - although annual procurement plans and changes to them are uploaded on web the pages (sometimes without the date and the reference to the order), reports on procurement results for all types of procedures are usually not included (e.g., for 2019 - about 60% of public authorities: MEAEI, MARDE, MEI, SFS, CS, BP, APP).  $\frac{2}{3}$  of the authorities did not display the information on the composition of the working groups for procurement, some documents are not updated;
- *The results of the audits / controls* - although in 2018-2019 the monitored PCAs were audited by the Chamber of Accounts and, possibly, verified by other control bodies,  $\frac{3}{4}$  from these authorities do not have their results on the web pages (MEAEI, MIA, BP, MHLSP, APP) or have summary information (MARDE, MECR, MJ, MEI);
- *The presence of the reports on the implementation of the Action Plan of the National Strategy for Integrity and Anticorruption* - most monitored authorities have not published them on their web-pages (for 2018: MEAEI, MIA, MARDE, MECR, MHLSP, MJ, APP). There are also deficiencies when publishing the reports for the implementation of the sectoral anti-corruption plans: the reports for 2019 were either not published (CS, MARDE - the agri-food sector), or some quarterly reports (MECR, MHLSP) were published, or only summary reports (SFS) were presented.

As far as the *presence of legal acts* are concerned, they are often scattered in different sections of the web pages, making it difficult to search them; there are references to repealed acts (eg laws on conflict of interest, petitioning, preventing and combating corruption).

It is worth noting that some *web pages that are in development do not contain archived data or references to the previous version of the page*. Some *information is placed under improper headings* (eg, the report on decision-making transparency - under the Statistics section, public procurement - under the Services section).

*Authorities do not usually comply with the requirement to insert the date of publication / update on the information on the web page*, except the announcements, the references to some internal reports / documents. *None of the authorities indicated the source of the information / responsible subdivision*, although some authorities have internal regulations that establish the persons responsible for providing the information.

A series of data sets are placed in the profile of the monitored authorities on the *Open Data Portal*, but *some of them are not being updated* (eg. those related to MADRM, MSMPS, MJ, PF activity). Only  $\frac{1}{4}$  of the authorities have inserted on the web pages catalogues / updated lists of open data (MF, SFS, SV), ensuring access to such data.

## Recommendations

*On the regulatory framework:* to exclude the obligation to place obsolete indicators on the web page; ensure that evaluation / progress indicators are as explicit as possible; to avoid, as far as possible, duplicating the requirements for publishing the same information in different public policy documents.

*For public authorities:*

- to elaborate regulations regarding the publication and updating of the materials on the web page, or, as the case may be, to supplement the existing internal documents with such provisions (possible sources of information - the regulations of the MIA, MJ, SFS);
- to upload on the web pages the mission/insufficient obligatory information, such as: the activity reports; execution of budgets; reports on procurement results (on all types of procedures); information about programs / projects, including technical assistance; reports on the implementation of the National Integrity and Anticorruption Strategy and, where appropriate, the sectoral anti-corruption plans; the results of the controls and audits;
- to upload on the web pages the catalogues of the Open Data, the lists of the services provided by the CPAs and their subordinated entities, to ensure their updating and the connection with the government portals [www.date.gov.md](http://www.date.gov.md), [www.servicii.gov.md](http://www.servicii.gov.md);
- to inventory the content of the web pages and exclude the information placed in the improper sections, as well as to ensure the archiving of the information / connection with the previous version of the web page;
- to ensure that the information on the web page includes references to the date of publication (the latest update, details) and the source of information (responsible subdivision).

## Transparency in the process of decision making

According to the assigned scores, the monitored by 09.03.2020 entities were classified according to the diagram. The average score per policy is 1.5 points.

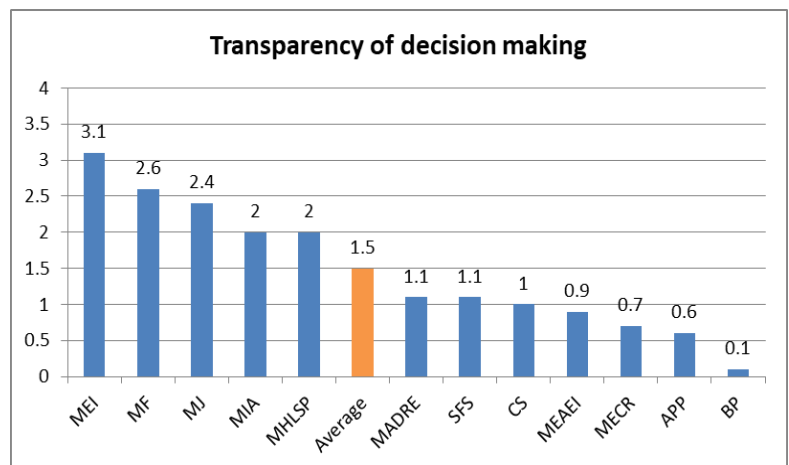
Even if all entities have succeeded in creating compartments dedicated to decision-making transparency on their web pages, they need to be developed. Moreover, MECR and MARDE have limited themselves to ensuring, from the web pages, the access of the modules on [www.particip.gov.md](http://www.particip.gov.md). In the case of BP, the compartment seems to be completely abandoned, the information has not been updated for several years.

*Half of the monitored entities (MEAEI, MECR, MARDE, CS, BP, APP) did not ensure the adoption / availability of the internal rules regarding decision transparency. It should be noted that they are not always placed in the compartment dedicated to decision-making transparency (eg, MF).*

*The person responsible for coordinating the public consultation process is indicated only in 2 entities (MEI, MHLSP), whose web pages contain exhaustive information in this regard. In ther entities, the information is either unavailable or confusing.*

*Only two entities (MF, MEI) have annual programs for drafting decisions, in both cases the programs do not materialize the projects that will be subject to public consultation. In the cases of other 5 monitored entities (MJ, MECC, MSMPS, MADRM, SV) certain information is contained in the annual activity plans, which, however, do not contain data regarding the projects that will be subject to public consultation. As for the other entities, the information is unavailable.*

*Regarding the announcements of the initiation of the decision making, 2/3 of the entities placed them on the web pages (MJ, MF, MEI, MIA, MARDE, SFS, APP). However, in the case of some entities, the advertisements do not always contain the elements established by law.*



Regarding the announcements of withdrawal of a project from the elaboration process, only one entity (MEI) published on the web page such an announcement, which does not contain the placement date.

Only half of the monitored entities (MJ, MF, MEI, MIA, MEAEI, CS) placed on the web pages the announcements regarding the organization of the public consultation. However, it should be noted that ads do not always contain the required elements. Moreover, in the case of MJ, on the official website, for the year 2018 there is no announcement, and for the year 2019 – there is only one announcement.

All entities, with the exception of BP, have made draft decisions available on their web pages. As far as the related materials are concerned, in most cases, only informative notes are available. The situation is different regarding the decisions taken. Basically, all monitored entities, except MEI, do not pursue the purpose of the decision-making process.

A problem is also the unavailability of the results of the public consultation, all the entities having deficiencies in this regard. All entities are to be blamed for non-compliance with deadlines, non-identification and non-sanctioning of cases of violation of legal requirements.

Half of the monitored entities (MJ, MF, MEI, MIA, MECR, MHLSP) have the reports on transparency of decision-making process for 2018 on the web pages. No authority has published the report for the year 2019 within the period provided for in point 42 of the Regulation regarding the public consultation procedures with the civil society in the decision-making process, approved by point 1 of the Government Decision no. 967/2016 - the end of January of the year immediately following the reference year.

The information regarding the institutional telephone lines for informing the civil society is inserted on the web pages of 1/3 of the entities (MJ, MF, MEI, MHLSP), and the list of interested parties - to 1/2 of the monitored entities (MJ, MF, MEI, MIA, MHLSP, MARDE).

The legal framework in the field, even if it is not perfect and needs to be improved, offers the possibility of implementing the policy. Despite this fact, the authorities do not ensure true transparency in the decision-making process in some sensitive cases, such, for example, as "The Law of Capital Amnesty" and "The Law of Citizenship through Investment". However, it is worth noting that the most controversial legislative initiatives usually come from MPs. Moreover, in the process of promoting some bills, the Members of the Parliament seem to be used precisely to avoid the demands meant to ensure transparency of decision-making.

## **Recommendations:**

Monitored entities are recommended to make additional efforts in implementing the policy, in particular:

- elaboration, approval and publication of internal procedures regarding transparency in the decision-making process;
- designating the persons responsible for coordinating the public consultation process with the civil society in the decision-making process;
- establishing the institutional telephone line for informing the civil society;
- elaborating, updating and publishing the list of non-governmental organizations by activity areas;
- elaborating and publishing in time the annual reports on transparency of the decision-making process;
- sanctioning for the violations of legal provisions meant to ensure decision-making transparency;
- developing on public web pages of the departments dedicated to decision-making transparency through information on: the internal rules regarding the procedures for information, consultation and participation in the decision-making process; contact information of persons in charge for transparency for decision-making process; programs (quarterly / annual) for drafting decisions, indicating which ones are to be submitted to public consultation; announcements (regarding the initiation of decision making; withdrawal of a project from the elaboration process; organization of public consultation); the draft decisions, their related materials and the decisions taken; the results of the public consultation (minutes of public meetings, summary of recommendations); the annual report on the transparency of the decision-making process.

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