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Civil Society Forum

# Monitoring Public Policies in Moldova - 5

EaP CSF, Moldovan National Platform, Working Group 1

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## Introduction

The COVID 19 pandemic that the world faced in the period between January 2020 and July 2021 as a snowball pulled many other problems, causing deaths, challenging the national health care systems, provoking economic decline, increasing even more the income gap between the rich and the poor, as well as raising moral un-satisfaction, violence, crime. The following in summer 2021 natural calamities raised new questions that have been always post-phoned “*for better times*”: How long would still Earth tolerate such a self-destroying object as the mankind? How short is the time left before we come to the point of no-return, or are we already there? When the problem of environment will be treated as a main resilience factor for the entire mankind? When all nations – rich and poor – will realize that to build democracy, rule of law and market economy a place to live is needed first?

*When the wind of change blows, some build walls, while others build windmills.* COVID 19 boosted the information technologies to the most distanced villages making possible to work remotely, organize on-line meetings, take on-line decisions and ensure more access to information. More and more societies realize that e-Governance is not only about the Executive branch of power. It is about e-elections and e-Legislature. It is about e-Justice. Cyber security becomes priority. The World is changing. Changing are our challenges.

During this difficult period of time the EaP countries have benefitted from a lot of assistance from EU, getting expertise, technical, financial support and much needed medical equipment and vaccines. In their turn, EaP countries need to consolidate their democracies, combat corruption, reform their justice systems, address environmental and economic problems to prove they are able to build a safe and attracting neighborhood, to share European values and be a natural part of its culture.

Besides all the above mentioned challenges, Moldova had to face its own problems. An anti-European political party that governed the country during this period of time came to its dead-end. As in its electoral campaign it promised to reform the justice sector that would finally put behind the bars those who captured the state power in 2014-2019, who facilitated international money laundering and drug trafficking schemes, benefitted from the USD 1 Billion fraud from the banking system; coming to power, the party made a silent agreement with the remains of those oligarchic circles, undertaking their corrupt and criminal schemes so that justice reform and combatting corruption became not priorities anymore. This discouraged even their own devoted electorate and during the early parliamentary elections on July 11, 2021 a single pro-European political party won the Parliamentary majority, getting chance to make serious reforms. The expectations of society are very high and the disappointment in case of party's failure may be huge. The success depends on the capacity of the governing party to unite all healthy forces, gather professionals, maintain integrity and verticality.

This report includes a compilation of summaries on monitoring public policies conducted by the members of EaP CSF, Moldovan National Platform, Working Group 1 within various projects during January 2020 – July 2021.

The main findings, conclusions and recommendations are presented in brief summaries on monitoring such domains as EU association, anticorruption, justice sector, economy, media freedom, human rights, democracy and electoral standards. The report closes with a compilation of public appeals and declarations made by the members of the National Platform.

*Lilia Carasciuc, coordinator of WG1, Moldovan National Platform*

## 1. EU Association Agreement

### 1.1 *Institute for European Policies and Reforms (IPRE): Shadow Report – Six Year of Implementation of the EU-Moldova Association Agreement*

During the sixth year of implementation of the Association Agreement (1 September 2019 – 1 September 2020), while summarising the results and constraints identified in the current Shadow Report, there is progress in those areas and sectors of the EU-Moldova Association Agreement, which have been conditioned by the budget support and macro-financial assistance programmes offered by the EU. The EU remains the most important economic partner of the Republic of Moldova, with over 63% of Moldovan exports oriented to the European market and almost 50% of imports that are of EU origin. No tangible progress was attained in the implementation of the values part of the Association Agreement.

At the same time, the EU has diversified the support framework for various actors of change, strengthening dialogue and cooperation with civil society, local authorities, SMEs and local communities. The EU's image among citizens continued to improve. Thus, over 63% of Moldovans say they trust the European Union, according to a recent survey conducted in the Republic of Moldova and other Eastern Partnership countries.

The process of implementation of the Association Agreement has been hampered by the lack of a new national planning document for the year 2020. For the most part, national authorities have focused their efforts on gaining on the 2017-2019 NAPIAA arrears and the priority actions provided for in the 2017 Memorandum of Understanding on EU Macro-Financial Assistance, as well as the eight additional general requirements set by the EU in February 2020. Priorities relevant to the commitments in the Association Agreement were reflected in the Government Action Plan. The COVID-19 pandemic affected the efficiency of the coordination and enforcement process of legislative and implementing measures planned for 2020. At the same time, on 1 July 2020, the Governmental Commission for European Integration approved the Calendar on monitoring the implementation of the backlogs of the 2017-2019 NAPIAA for the period 2020- 2023, a government internal planning document that has not been made public.

The EU-Moldova political dialogue was influenced by internal political developments, the level of achievement of the key reforms' agenda, related to the functioning of democratic institutions, justice and respect for human rights, but also by the COVID-19 pandemic crisis. The negotiation of a new Association Agenda, development of a new Action Plan to implement the Association Agreement and inputs to finalise the new deliverables of the Eastern Partnership post-2020 are the key priorities of the political dialogue, which could also provide opportunities to reset Moldova's European agenda.

Democratic institutions remain fragile and continue to be affected by narrow political and economic interests. We are witnessing insufficient progress in the area of justice, freedom and security. The regulatory framework in the field of foreigners and their integration has been completed. The controversial regulations on so-called 'investment citizenship' have been repealed by Parliament. Six years after visa liberalization, 2.3 million citizens travelled to the EU using biometric passports. In the latest report on the application of the visa suspension mechanism, the European Commission considered Chisinau's actions generally positive, but drew attention to the need to reduce unfounded asylum applications from Moldovan citizens. The extension of EUBAM's mandate until 2023 is being negotiated. The rule of law remains a challenge, given the controversial initiatives of the SCM, as well as the judges who have been proposed to be appointed to leadership positions at the Court of Appeal and Supreme Court. However, progress has been made in promoting a new strategic planning document in the justice sector. The TI corruption perception index worsened in 2019 compared to 2018. The activity of the General Prosecutor's Office did not provide the expected results on investigating the cases related to the Bank Fraud and "Russian laundromat". The Parliament adopted new regulations on the application of sanctions for money laundering and a draft strategic planning document in this area was drawn up for the next five years.

As in previous years, we are witnessing moderate progress in the field of EU-Moldova sectoral cooperation. Although progress has been made in the analysed areas, in some sectors initiatives have been partially implemented or their level of implementation was not as planned. Public administration reform did not make significant progress. The construction of the Ungheni-Chisinau Gas Pipeline (120 km of linear section) was completed. The development of infrastructure, including local roads, remains a key priority, given the current state of road arteries. Household waste continues to be a major challenge for the authorities. The field of

regional development made significant progress in adjusting policy documents and changing the sector's approach, from reducing disparities to increasing competitiveness and promoting sustainable development. The help of development partners was crucial in supporting the public health system afloat. The COVID-19 pandemic highlighted the low capacity and weak resilience of the national public health system in the Republic of Moldova. In the future, the approach to the medical system should change and emphasis should be on increasing investment in hospital modernisation. Limited progress was made, and the technical actions implemented have not contributed to increasing media freedom or solving the monopoly in advertising. The new Law on Non-Commercial Organizations was adopted in the final reading, but the dynamics of the relationship between civil society and authorities remain difficult.

There are some developments in the implementation of the Deep and Comprehensive Free Trade Area with the EU (DCFTA). During 2020, Annex no. XV-C of the Association Agreement was updated, thus increasing the tariff quotas for some products (table grapes, plums and fresh cherries). The effects of the pandemic generated by COVID-19, as well as the severe drought faced in 2020 by the Republic of Moldova are key factors that will affect the level of trade with the EU, especially in the case of agricultural products included in the list of goods exposed to the circumvention mechanism. The negotiation, signing and implementation of the Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) remains yet to be finalised. Although the measures and actions to be implemented to ensure the export products of animal origin (chicken and category B eggs) have been agreed, this right has not yet been obtained. The process of electronic customs clearance of goods has been facilitated and a large infrastructure project is being implemented for the rehabilitation of six customs posts at the Moldovan- Romanian border. Improving governance in the financial sector is one of the areas that will be included in the new programme with the International Monetary Fund. Strengthening the independence of the National Bank of Moldova (NBM) and reforming the non-banking financial sector will be the goals pursued by the authorities by summer 2023. Although both development partners and national experts continue to emphasize the importance of actions to increase the independence of the National Bank, some initiatives of political actors, on the contrary, seeks to diminish it. The activity of the Competition Council focused on areas such as advertising on the audio-visual market and fuel prices. However, the activities planned in the National Strategy in the field of Competition and State Aid have not been reported and evaluated, and another planning document in the field has not yet been prepared. Six years after the entry into force of the Association Agreement, including the Free Trade Area, the EU has initiated the procedure for carrying out the ex-post assessment of the social and economic impact of the implementation of DCFTA.

Cooperation in the field of financial assistance, anti-fraud and control (Title VI) attests to some developments, but also important constraints. The EU remains the main development partner of the Republic of Moldova. Financial assistance was resumed in the second half of 2019, with the EU providing over EUR 53 million in direct budget support and EUR 60 million in macro-financial assistance, consistently applying the principle of strict conditionality. However, the Republic of Moldova missed the last tranche, of EUR 40 million, of the macro-financial assistance due to the non-fulfilment of the outstanding conditions on time. In response to the COVID-19 crisis, the European Commission initiated a reorientation of more than EUR 87 million to address the socio-economic consequences of the pandemic. Another EUR 100 million as anti-crisis macro-financial assistance (Omnibus) will be transferred to the Republic of Moldova by the summer of next year. The first tranche of EUR 50 million is being offered following the ratification, in early September 2020, of the Memorandum of Understanding and the Credit Agreement. The second tranche of EUR 50 million will be disbursed once all six technical conditions agreed with the EU have been met. In addition, under the "Team Europe" approach, the EU has allocated around EUR 140 million in emergency assistance to Eastern Partnership countries, including the Republic of Moldova. Chisinau will also be able to benefit from the EUR 700 million targeted at SMEs, programmed by the EU in partnership with the EIB and the EBRD.

EU-Moldova cooperation in the field of anti-fraud continued on the basis of cooperation agreements between the NAC, the Customs Service and the Court of Auditors with the European Anti-Fraud Office (OLAF). The activity of the National Integrity Authority (NIA) and the Agency for the Recovery of Criminal Assets (ARO) has been strengthened compared to the first half of 2019. However, both NIA and ARO continue to show low efficiency. The biggest challenge in NIA's activity is related to the extended control of the conflict of interests and of the formal assets held by persons affiliated to the subjects of the declaration and to the evaluation of the assets at real market prices. ARO's work also needs to be strengthened through the adoption of a National Strategy on the Effective Recovery of Criminal Assets.

<http://ipre.md/2020/10/12/raportul-alternativ-sase-ani-de-implementare-a-acordului-de-asociere-ue-moldova/?lang=en>

## 1.2 IPRE: Moldova's Europeanisation – Beyond Process

European integration has dominated the domestic and foreign policy agenda of the Republic of Moldova for the last 20 years. However, the pace of the democratic transformation and broader Europeanisation process often stalled. Since 2009, EU-Moldova relations have been shaped by the EU's Eastern Partnership framework. In 2014, Moldova concluded and began the implementation of the Association Agreement, which also includes the setting-up of the Deep and Comprehensive free Trade Area (DCFTA) with the EU. Today the Association Agreement not only frames relations with the EU, but it also offers opportunities for the modernization of the society as a whole and represents as such a roadmap for the democratization of the Republic of Moldova. The values enshrined in the Association Agreement, such as the rule of law, freedom of expression, human dignity and democracy, are widely accepted values in Moldovan society. However, despite some achievements in particular in terms of improving sectoral cooperation and economic rapprochement with the EU, the value-based part of the Association Agreement continues to be a challenge.

This publication includes a compilation of three policy papers with the contributions of a group of researchers from the Republic of Moldova, Germany, the Netherlands and France who are analysing the Europeanization process of the Republic of Moldova via three dimensions that require decisive interventions at national level and with the support of the European Union, namely societal, political and security.

*The first chapter*, co-authored by Stanislav Ghilechi (IPRE), Cristina Gherasimov (DGAP, Berlin) and Sarah Pagung (DGAP, Berlin), answers the question of how to ensure Moldova's sustainable development based on European values, while ensuring an inclusive society able to address internal systemic problems faced by citizens, regardless of their political views, language or ethnic origin. Strong polarisation of Moldovan society is one of the obstacles for development. The Europeanization of the Republic of Moldova is an opportunity to eliminate the discrepancies that lead to the division of society on the basis of ethnicity.

*The second chapter*, written by Iulian Groza (IPRE), Erik Sportel (CESS, Groeningen), analyses the process of parliamentary development in the Republic of Moldova in the context of EU policies to support democracy. Moldova's Europeanisation means, first and foremost, the strengthening of democratic institutions and the rule of law. But strong political will is absolutely necessary for comprehensive systemic reforms. The integration of democratic values in the processes carried out in the Republic of Moldova requires an active involvement of the Parliament. The new EU vision on democratization, recently renewed by the Council of the EU, provides an additional opportunity for the revision and consolidation of the EU assistance that would also include the support for parliamentary development.

<http://ipre.md/2020/05/08/moldovas-europeanisation-beyond-process/?lang=en>

## 1.3 IPRE: Post-2020 Eastern Partnership Deliverables for the Three EU Associated Countries – Georgia, Republic of Moldova and Ukraine

The EU's Eastern Partnership (*hereinafter EaP*) policy, officially launched in 2009, achieved several successful outcomes. The EU has signed Association Agreements, started to implement deep and comprehensive free trade areas and agreed on visa-free travel regimes with Georgia, Republic of Moldova (*hereinafter Moldova*) and Ukraine.<sup>[1]</sup> It also helped these countries to modernize their economies, diversify trade flows, improve their energy security, strengthen civil society and political pluralism throughout the region. However, the political, geopolitical and security situation in the EaP region remains fragile and volatile. This is further complicated by the COVID-19 pandemic and its economic and social impact. Despite these challenges, the EU demonstrated continued commitment to deepening its relationship in particular with the three EaP partners that are currently implementing Association Agreements. Nevertheless, the consolidation of the ongoing progress and setting new ambitious objectives for the next 5 to 10 years need further sustained commitment from both the EU and its EaP partners.

Considering the lessons learned from the previous decade, we believe that for the next 5 to 10 years key deliverables for the EU and three associated EaP states require advancement in the following key priorities:

- The EU should use the occasion of the next 2021 EaP Summit to **reconfirm its clear acknowledgement of the European aspirations of the three associated EaP countries**, pursuant to Article 49 of the Treaty on European Union, which sets out that any European state may

apply to become a member of the EU provided that it adheres to the EU standards of democracy and rule of law.

- The three associated EaP partners should further strengthen their strategic dialogue with the EU over desirable policy and systemic developments. **The associated EaP partners should be invited to selected meetings of the EU Council and EU working parties.**
- Consolidate the existing EaP achievements and **aim at full implementation of the Association Agreements and comprehensive integration of Georgia, Moldova and Ukraine into the EU's Single Market based on the four freedoms.**
- Redouble efforts on the unfinished business of **strengthening institutions of democracy, the rule of law and the fight against corruption throughout the EaP area, in line with societies aspirations.**
- Take the EaP into policy areas which it covered less so far, but which are absolutely **key to the future of the Eastern Partnership states in areas such as security and the environment.**
- EU has dispatched in 2020 a timely emergency response to COVID-19 pandemic in the Eastern Partnership amounting to over [1 billion EUR](#) in the framework of the EU's "[Team Europe](#)" package support. **The EU should consider a flexible, tailored and comprehensive Investment and Economic Recovery Plan for the EaP countries.**

While implementation of necessary reforms requires a consistent and strong political will of the pro-reform elites in the partner countries, the EU's role in supporting those reforms is indispensable by offering incentives of trade liberalisation, providing assessments of the draft legislation and supporting creation of functional institutions. **The Europeanisation is a shared strategic goal of the EU and aspiring EaP partners.**

<http://ipre.md/2020/10/30/non-paper-post-2020-eastern-partnership-deliverables-for-the-three-eu-associated-countries-georgia-republic-of-moldova-and-ukraine/?lang=en>

#### **1.4 IPRE: Moldova's Foreign Policy – Smart Diplomacy for a Stronger Country**

Moldova is engulfed in multiple crises. Some are immediate. Some are structural. In the short run Moldova's foreign policy should be focused on (a) obtaining more vaccines for 2021 and pondering the need to place orders for vaccines for the next few years; (b) connecting Moldova to the pan-European effort to create a digital certificate that would allow vaccinated Moldovan citizens to travel freely; (c) putting together with international partners a significant economic recovery plan; (d) intensifying cooperation with law-enforcement agencies of other states to investigate Moldova-related money laundering and fraudulent money flows, trace and potentially recover stolen assets.

But Moldova cannot afford itself to deal with urgencies only. The country's structural problems are so deep that they need to be urgently tackled as well. On this front Moldova needs to start preparing the groundwork for more systemic reforms that would potentially yield results in a few years from now. Reform of the justice sector is only the first step in Moldova's wider reforms needs. There are plenty of states in the post-Soviet space, the Balkans or the Middle East and Africa that are less corrupt than Moldova but are not particularly dynamic economies anyway. Moldova needs a vision and conscious policies in many policy domains going beyond justice sector reform, on issues such as infrastructure development, environmentally friendly growth, or bringing Moldova into the digital age. The brief proposes the creation of a National Reform Council that would outline reform priorities and design legislative packages for much needed reforms.

To achieve these goals Moldova will need to subordinate foreign policy to the country's domestic transformations. On this front Moldova needs to boost connectivity and strong political partnerships with its neighboring Romania and Ukraine, cooperate closely with the EU, US and international institutions in trying to modernize the country. This also applies to the need to modernize and consolidate Moldova's security and defense sector, not least through greater international cooperation. At the same time, it is important, when possible, to minimize friction, with other partners, including Russia. This might be difficult, not least because of Russia's own foreign policy choices, its illegal military presence in the Transnistrian region, the lack of conflict-settlement in Transnistria and support for corrupt political forces in Moldova. At the same time, the absolute majority of Moldovan politicians cannot ignore the fact that a large part of public opinion prefers to avoid crises with Russia, be it on the diplomatic, economic or security front. Moldova should also capitalize on the added value stemming from the regional approach. This would mean that Moldova's diplomacy should find tools and synergies in advancing economic, infrastructure and transport projects. None of these objectives are achievable without an active foreign policy, which needs to be principled, predictable and consistent.

<http://ipre.md/2021/05/07/moldovas-foreign-policy-smart-diplomacy-for-a-stronger-country/?lang=en>

### **1.5 Expert-Grup: DCFTA opportunities in the context of the pandemic crisis – How DCFTA can cushion shocks and strengthen resilience**

In 2020, the world economy, which was already affected by the economic and geopolitical tensions between the major global players, was shaken by the COVID-19 pandemic. This has also had implications for the economic performance of the Republic of Moldova.

Thus, the latest statistics on foreign trade of Moldovan goods reveal a negative effect of the pandemic, including on the trade flows with the European Union (EU). These circumstances have fuelled discussions about the usefulness of the Deep and Comprehensive Free Trade Area (DCFTA) and, in particular, whether this trade regime can help absorb the shock caused by the pandemic and increase the country's exports.

In fact, the Moldovan exports to this destination are considered to be far from reaching their full potential given the opportunities offered by the DCFTA. Thus, it is appropriate to assess the current export potential of the Republic of Moldova to the EU. To meet this challenge, based on a recognized methodology, we have analysed, at the level of groups of goods, which of them have a high export potential that has not been fully utilised so far within the DCFTA.

[https://www.expert-grup.org/media/k2/attachments/FES-ZLSAC\\_2020-ROM-eng.pdf](https://www.expert-grup.org/media/k2/attachments/FES-ZLSAC_2020-ROM-eng.pdf)

## 2. Anti-corruption

### 2.1 Transparency International – Moldova (TI – Moldova): Monitoring the policy of Declaration and Control of Assets and Personal Interests

The monitoring is part of a project supported by the National Endowment for Democracy, with *the aim* of analysing how central public authorities (CPAs) apply the anti-corruption policies set out in the UN Convention against Corruption, identify eventual problems and come with recommendations to improve the quality of the public policies. *The subjects of monitoring* are 12 CPAs, including 4 subordinate entities at high risk of corruption. The *reference period* is 2018-2019.

**Methodological aspects.** The monitoring process included the analysis of the information provided by the monitored CPA, the data on their web pages and the government portals, data from the activity reports of the National Integrity Authority (ANI), the National Anti-Corruption Centre (NAC), the State Chancellery, studies of NGOs and articles of investigative journalists. The information was analysed from the perspective of the conformity to the relevant normative acts, confrontation of data from different sources. Following the analysis carried out, summary tables reflecting the current state of the policy were filled. The tables include individual findings and proposals to improve the situation, allow comparing the situation in different authorities and offer the possibility to undertake the good practices. Depending on the findings, the authorities were assigned scores on a scale from 0 to 4, **rankings were compiled** on each separate policy. The findings and brief recommendations in the profile of the policies monitored are set out below.

The results of monitoring attest that the authorities have made efforts to ensure the implementation of the policy, however, public servants often encounter difficulties while filling and submitting declarations of assets and personal interests (DAPI), training activities are insufficient, some authorities do not have internal procedures for declaring the assets and interests and do not publish information about the results of the implementation of this policy.

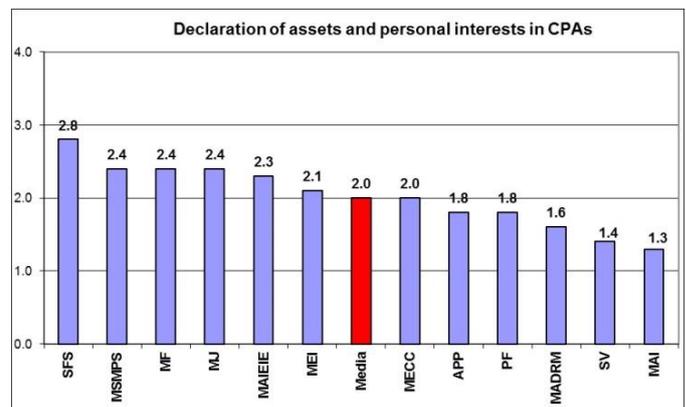
NIA, which promotes policy at the state level, has focused, in particular, on the verification of the filing within the time limit and compliance with the formal requirements of the DAPI, efforts to verify assets and interests, including the identification of unjustified assets, remain timid and below the expectations of society. Although NIA has expanded the training process, online schooling is virtually unused. Some problems are caused by imperfections in the legal framework, failures of the e-Integrity SIA and reduced control capabilities of NIA.

*Existence of the person/persons in charge for keeping records of the subjects of the declaration.* All entities have designated the persons in charge for the management of the Electronic Register of Reporting Subjects; they activate in the human resources sections, as required by the law. ANI has not detected any deviations in the activity of these persons.

*Internal procedures for declaring property and personal interests.* Most entities noted that they lead in the application of the Law on the Declaration of Personal Assets and Interests 133/2016, including SFS, MAEIE, MECC, MF, MJ, MSMPs also referred to the use of internal procedures. MAI, SV did not provide information.

*Training employees on integrity-related topics/declaration of personal wealth and interests.* The monitored entities provided general training data, with only some specifying the number of trainees on topics such as declaration of assets and personal interests. In several authorities, the participation in trainings was very low. The results of the survey of the servants from CPAs conducted by TI-Moldova show that although about 60% of respondents claim to have participated in such trainings, their level of knowledge remains low.

*Eventual problems while completing and submitting the declarations.* About 2/3 of the monitored CPAs reported on difficulties while completing and submitting the DAIP reported by the employees (MAEIE, MEI, MF, MJ, MSMPs, SFS, PF, APP), some of the authorities addressed the NIA to remedy them. MADRM and SV reported that no such problems had been identified and MAI and MECC did not provide responses to this question. The existence of such problems also reflected in the TI-Moldova survey: on average, 1/3 of the



respondents reported having problems, particularly technical problems in the functioning of the e-Integrity SIA. Singular deviations identified by integrity inspectors and sanctions. According to the NIA, following the examination of the DAPI submitted by public servants, in 2018 no deviations were identified in the declarations of assets and interests, in 2019 – 2 cases were identified in the MAI and one subordinate entity. In 2019, infringement fines amounting to 11,250 MDL were imposed in 4 institutions under the MAI.

It should be noted that during the reference period integrity inspectors examined about 4% of the DAPI submitted to NIA. Inspectors focused, in particular, on verifying the timely submission and compliance with the formal requirements of the DAPI, the identification of substantial differences between the income received and the acquired properties not being at the center of their activity. At the same time, investigative journalists reported on the luxurious way of life, the stately wealth, the donations received by public officials, including some ministers, secretaries of state, monitored APC officials. NIA's efforts to verify the assets and interests of public persons, including the identification of unwarranted assets, remain timid and below the expectations of society. Although the NIA announces that it is making "e-Integrity" available to citizens, facilitating access to information of public interest, in recent years the media and NGOs have access only to scanned declarations, access to the database of digitised declarations was not provided, including due to malfunctions in this system.

*Transparency of information on policy implementations.* Only some of the CPAs published on their web pages full information about the application of the policy (MAI, MF, MJ, MEI) or summary information (MECC, MSMPS), the others did not publish any data on this regard (APP, MADRM, MAEIE).

**Recommendations:**

*For the monitored public authorities:*

- Continue the training of public servants on the DAPI; Where needed, apply the training of trainees technique, intensify the on-line trainings;
- Take the attitude top wards the recommendations of public servants expressed in the TI-Moldova's survey of public servants;
- Develop internal procedures for policy implementation, taking into account the positive practices of other CPA (see the summary tables);
- Focus on monitoring the lifestyle of employees in MAI and SV;
- Publish the results of the application of the policy of declaring personal assets and interests on the website.

*For the National Integrity Authority:*

- Focus the efforts on verifying the declarations of assets and interests of highly ranked public officials, persons with public dignity positions, to identify eventual cases of undeclared or financially ungrounded wealth;
- Ensure that complaints about possible problems are recorded when filling out/filing DAPI, including the functioning of the e-Integrity SIA, take remedial action and inform about them;
- Provide access to a digitalized DAPIs database with automatic data sorting/selecting options;
- Publish on the website the register of persons who are prohibited from holding public office.

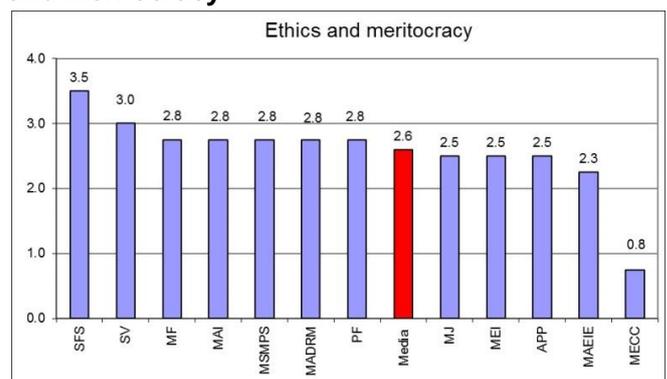
<https://www.transparency.md/2020/06/17/monitoring-the-anti-corruption-policies-in-central-public-authorities-declaration-of-assets-and-personal-interests-ethics-and-meritocracy/>

**2.2 TI-Moldova: Monitoring the policy of Ethics and Meritocracy**

The results of the monitoring indicate that the good part of the monitored entities implements the policy. The highest score was accumulated by SFS, the lowest – by the MECC, the average being 2.6 points.

The findings on the main monitored indicators are as follows:

Job openings based on open competition (rules, managers, share of persons employed on merit basis). All monitored entities recruit staff under the



conditions of a predetermined legal framework, developed by normative acts subordinate to the laws. Among the noticed problems is the inaccessibility of departmental normative acts – the Rules of Activity of the Evaluation and Competition Commission, approved by order of the MFAEI, no.830-b-100 from 09.09.2014, can only be found when accessing the search engine by [www.google.com](http://www.google.com).

Responsible for the process of organizing and conducting competitions are the competition committees, which have been set up and operate under the existing regulations. It should be noted that only one monitored entity provides the public, via the website, with information on the composition of the Competition Commission – SFS. From the information provided by the monitored entities, the competitions for opened positions do take place in main part of cases. Regrettably, not all entities provided information on the share of persons appointed to positions on the basis of merit (competition or promotion). However, entities that have provided data in the requested format prove that, in most cases, vacant positions are filled on a merit basis (competition or promotion).

Moreover, these data are consistent with the generalised data reported, with reference to the public service, by the State Chancellery. Thus, according to the Report on the civil service and the status of civil servant for 2018, the main way of filling public office is the competition (62%), which together with the promotion (13%) summarises three quarters of the ways in which public office is occupied. According to the same source, the share of vacant public positions filled on the basis of merit (competition and promotion) during the period 2011-2018, constant is an essential one.

Nevertheless, it should be noticed that quantitative data does not necessarily mean qualitative perspectives on promotion and competition processes (legality, transparency, integrity, etc.). Moreover, by confronting the data provided by the monitored entities with those provided by other authorities with competences in the field, it would appear that certain procedures, even if regulated, are not always respected. Thus, according to the National Integrity Authority Activity Report for 2019, only three of the monitored entities applied for integrity certificates, namely: MF – 7 certificates issued; MSMPs – 3 certificates issued; MADRM – 2 certificates issued.

*Accessibility of competition information (career department on the web page).* Virtually all the entities monitored have created career compartments on the web pages. Only one entity, the MECC, has limited itself to ensuring, for this purpose, access to the module on the [www.cariere.gov.md](http://www.cariere.gov.md) portal, which contains only the competition announcements. Thus, information relevant to the process of conducting competitions remains unavailable, such as: lists of candidates admitted to the competition; lists of candidates admitted to the interview; lists of candidates who have promoted the competition.

Only 4 of the 12 entities monitored, in terms of the career compartment on the web page, were rated with maximum score (MF, MAI, MADRM, SFS). The other entities have developed separate compartments, but the information delivered is not sufficiently well structured and organized. Thus, the information cannot be filtered, possibly – depending on the stage of the competition, which generates difficulties in the search/perception of data.

*Ethics (rules, officials, sanctions).* With reference to enforcing ethics in CPAs, all entities are either guided by a predetermined regulatory framework or have developed, where appropriate, specific regulations. As with the regulatory framework on the organisation and conduct of competitions, deficiencies in accessing departmental acts are to be noted. In the case of MFAEI, the regulations are to be found only through the search engine of the [www.google.com](http://www.google.com), and in the case of MEI, MF and SFS, the rules are inaccessible on the web. Only two out of 12 entities (SV and PF) have placed the ethical rules applicable to employees on their web pages.

As regards to sanctioning of violations, the legal framework is a practical, common one, for this purpose, according to the entities, being set up and functioning disciplinary committees. And in this compartment, we note the inaccessibility of departmental acts (MAEIE and SV). Seriously, no monitored entity has placed on the website information that would be relevant from the perspective of sanctioning procedures and that would be useful in any referral. This could be one of the causes of the reserved application of mechanisms to sanction violations of ethics and ethics rules. In general, at this indicator, seem more convincing SV and PF.

*Training on ethics rules.* All monitored CPAs that provided information reported training on ethics rules, but only one entity (SFS) developed online training modules. Despite all those mentioned, the public service still faces problems related to the implementation of the policy, confirmation of this being the results of the TI-Moldova survey on the implementation of anti-corruption policies among civil servants in the monitored

entities.<sup>[1]</sup> Thus, according to the survey, on average, a quarter of respondents mentioned that there were cases of violations of the Code of Conduct in the institution; about 1/3 of the respondents – that people got their public positions thanks to party relations, kinship, friendship; 1/3 – that the procedure for evaluating and promoting staff was not objective and transparent or that the professionalism of the employees was underappreciated, in contrast to the loyalty to the leaders.

**Recommendations:**

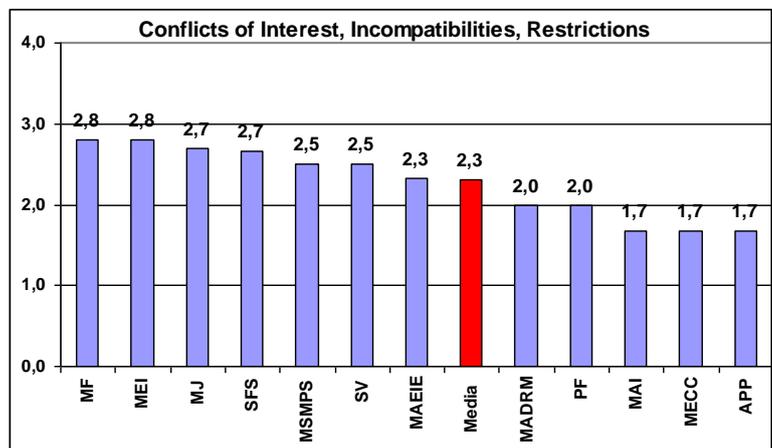
- Further consolidate an effective and full implementation of the legal provisions in the field;
- In the process of appointment to positions, always respect the procedures related to requesting and examining the information specified by law from ANI, NAC, SIS;
- Develop and order the career compartments on the web page – classification of information about the competition, possibly according to the stage of the competition;
- Provide access to the general public to comprehensive information on the applicable rules and procedures (particularly info on departmental normative acts), the composition of the competition committees and disciplinary committees;
- Elaborate upload on the web-pages clear instructions on the procedures for the liability of employees of the entity, in particular – how to refer to disciplinary committees;
- Harnessing online training methods, including in the ethics and ethics section.

<https://www.transparency.md/2020/06/17/monitoring-the-anti-corruption-policies-in-central-public-authorities-declaration-of-assets-and-personal-interests-ethics-and-meritocracy/>

**2.3 TI-Moldova: Monitoring the policies of Conflicts of Interest, Incompatibilities, Restrictions**

The results of the monitoring show that the CPAs have taken measures to implement the policy, however these measures seem insufficient. Although multiple trainings have been organized, public agents are not well acquainted with the provisions of the legal framework in the field. The number of conflicts of interest (CI) officially declared by public agencies and deviations identified in the monitored entities are very small, compared to the results of the survey of public servants on the quality of anti-corruption policies conducted by TI-Moldova.

It is worrying that some respondents who claim to have been in CI situations note that they have not stated and resolved them. This would mean that the monitored entities do not sufficiently control the application of the policy, possibly not involving the internal integrity / security subdivisions in this process. Some authorities do not have internal rules that would facilitate the implementation of this policy and ensure institutional memory, and do not publish information on the results of the implementation of the policy.



The National Integrity Authority identified a series of violations of the legal regime of CI, especially in the subordinated entities of CPA monitored in the territory (directors of kindergartens, gymnasiums, high schools, medical institutions). About half of them have been contested in law courts. Single fines were imposed on four public authorities.

*Persons in charge for keeping records of declarations of conflicts of interest.* In all monitored entities, persons in charge for keeping the Register of CI declarations were appointed, most of them working in human resources services (MAI, MADRM, MF, MSMPs, PF, APP) or, as the case may be, in the internal audit subdivision (MFAEI), legal section. (MEI), Special Affairs Section (MECC), Internal Security and Anti - Corruption Directorate (SFS), Integrity and Supervision Directorate (SV).

*Internal procedures that would facilitate the application of the policy.* MAEIE, MADRM, MJ, SFS, PF reported that they are governed by laws 133/2016 or 82/2017, without having any internal procedures, three entities did not answer the question or gave an irrelevant answer (MA, MECC, APP), and four others (MSMPS, MEI, MF and SV) mentioned that, in addition to the legal framework, they are governed by certain internal acts (instructions, orders, guides). The entities are interested in the elaboration by ANI of an explicit guide for the leaders of the public authorities regarding the application of the anti-corruption policies in its field of competence.

*Training of public staff members.* An insufficient participation of public officials from some entities in training should be noted and their insufficient awareness about the provisions of the legal framework, findings confirmed by the results of the survey of civil servants on the quality of anti-corruption policies in CPA conducted by TI-Moldova in 2019. Respondents do not know enough notions such as "close persons", "consumed conflict of interest", misinterpret the notion of "personal interests", are tolerant of violations such as the direct subordination of an official of his relatives, violation of post-employment restrictions and other).

*Declaration of conflicts of interest.* Five entities (MECC, MSMPS, SFS, SV, APP) reported on 11 cases of CI in 2018-2019. From the data provided we could assume that in some of them the CI situations have not been examined and resolved by the manager, as required by law, but by other persons (eg, the person responsible for keeping the Register of IC statements) and that some solutions applied to solve CI do not comply with the legislation.

Regarding the identification of consumed CI, only MECC and MSMPS reported on such cases, while the results of the TI-Moldova survey show that about 2% of respondents claim to have been in a situation of CI in the last two years (MECC, BVC, SFS, MEI, SV, PF). Worryingly, some of them said they had not told report them. Every 10th respondent indicated that he/she knows cases of CI, abuses in the institution where he/she works, related to the employment of close people, verification of affiliated companies, use of public property for personal purposes, etc. In this sense, the investigations of the journalists who drew the attention of the public and the competent bodies on possible CI in the activity of the decision makers from the monitored authorities and the subordinated entities are relevant.

*Identification of violations and application of sanctions by National Integrity Authority (ANI).* According to ANI, as a result of the controls performed, 33 violations of the CI regime and 6 violations of the provisions related to restrictions and incompatibilities in the monitored CPA and subordinate entities were found. Most of the violations concern the activity of the heads of educational institutions (kindergartens, schools, high schools) and medical institutions in the territory, in this case the employment decisions, promotion, awards, taken in respect of relatives. About half of the acts in which the violation of the CI's legal regime is found have been challenged. Single fines were imposed in MECC, MSMPS, MAI and SV.

*Transparency of the results of policy implementation.* Only a part of the monitored entities published on their web pages reports / informative notes related to the implementation of the Action Plan for the implementation of the National Integrity and Anti-Corruption Strategy (MIA, MF, MJ, MEI), others - placed insufficient information (MECC, MSMPS) or did not publish them at all (APP, MADRM, MAEIE).

### **Recommendations:**

#### *For the National Integrity Authority:*

- To support the public authorities by elaborating a guide regarding the application of anti-corruption policies in the field of competence of ANI, which would include examples / cases from its activity;
- To increase the control over the process of resolving the conflicts of interests in the public entities;
- To increase the interaction with the audit / control bodies (Court of Accounts, Financial Inspection, etc.), requesting regular information about the verifications that arouse suspicions of conflicts of interest, participation in the hearing of the results of audits/ controls, consult specialists;
- To strengthen the capacities of the legal department of ANI, to ensure the legal advice of the integrity inspectors;
- To publish on the web page the Register of persons who are forbidden to hold public positions;
- To intensify the training process, using online tools; to extend the trainings in the entities subordinated to the CPAs, including those in the territory.

#### *For monitored public authorities:*

- To engage in the training process public servants from central apparatus and from the subordinated entities – training dedicated to the relevant legal framework, applying on-line approaches and ToT technique;
- To elaborate / develop, eventually with the support of ANI, internal documents / rules that facilitate the application of the policy;
- To control the application of the policy in the institution, involving in this process the internal security / integrity subdivisions;
- To focus attention on the risk areas - the areas / subdivisions in which the probability of CI is higher, to take the attitude of the respondents' opinions about such subdivisions exposed in the surveys carried out;
- To inform the general public about the results of the policy application, including by publishing reports/information notes on the website.

*For other authorities:*

- The Chamber of Accounts, the Financial Inspection, - to publish on the web pages the results of audits and controls that include suspicions of conflicts of interest, to communicate to ANI about such potential conflicts;
- CNA, Working Group for Monitoring the National Integrity and Anti-corruption Strategy - to ensure the access of the media and NGOs to the Electronic Platform for Ensuring Institutional Integrity.

<http://www.transparency.md/wp-content/uploads/2020/07/Press-release-Eng.pdf>

## 2.4 TI-Moldova: Monitoring the Petition/Complaint system

The results of the monitoring show that the public entities have taken steps to implement the policy; however, there are a number of problems in this area:

Following the revision of the legal framework in 2018, regulations have become complex and difficult to understand for ordinary citizens. The instructions for holding secretarial work on petitions of natural and legal persons approved in 1995 are outdated and incomplete.

The management of the petition system leaves much to be desired. 2/3 of the monitored entities claim to have internal regulations on working with petitions, but the regulations are not usually updated.

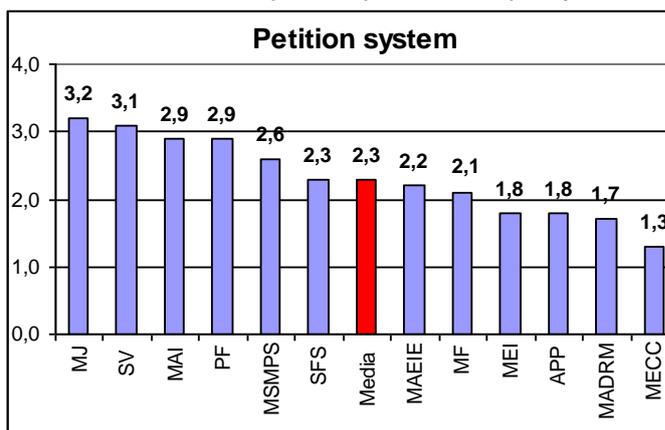
Although in 2018 there were changes in the legal framework in the field, requiring training for civil servants, 40% of entities did not organize them.

About 60% of the entities claim that they have not performed the control over the functioning of the petition system (Over the evidence of the process of registration, examination of petitions and reception in audience. The reports reflect, in particular, the dynamics of the petitions and citizens heard, the forwarding of petitions, the issues frequently raised by petitioners and the legality of decision-making).

In half of the monitored entities there is a high share of petitions examined in excess of deadlines, irregularities were identified following internal audits, however, the entities reported that they did not detect deviations and did not apply sanctions.

Only half of the entities reported on the preparation of reports on the operation of the petition system, which were not posted on the website. Although entities offer the possibility to submit petitions online, including through web pages, this option is poorly exploited by petitioners. Although assessing the level of satisfaction of petitioners with the functioning of the petitioning system could help to improve the quality of the system, no entity has conducted any surveys for this purpose.

Public entities use different SIA to manage documents / petitions, there are cases when they do not meet the current requirements of systematization and analysis of information, some statistics on the operation of the petition system are still collected manually.



The control carried out by the State Chancellery regarding the functioning of the petitioning system in the governmental authorities, including the monitored entities seems to be insufficient: there is no system of indicators that would allow the evaluation of the performances of the public entities;

The SIA used does not allow the generalization of data on the functioning of the petitioning system and the evaluation of managerial performances;

The report on the results of the control of the entities' compliance with the legislation in the field is not published on the Chancellery's website;

The issues related to the functioning of the petition system are not discussed at Government meetings.

**Recommendations:**

- Updating the normative framework regarding the keeping of secretarial works regarding the petitions of natural and legal persons;
- Elaborating / updating by the public entities of the internal documents regarding the work with the petitions and the reception in the audience, their placement on the web page in order to allow the exchange of experience between the entities;
- Ensuring the performance in the public entities of the control over the secretarial works regarding the petitions (with the presentation of the management of the weekly and half-yearly information provided), as well as on the legality of the decisions taken;
- Carrying out internal audit missions regarding the functioning of the petitioning system and publishing on the web page the synthesis / summary of the audit report;
- Systemically analyzing the situation regarding the functioning of the petitioning system based on the results of the controls and audits performed by the heads of public entities and, in case of identifying deviations, - sanction the guilty persons;
- Revising the reception schedule in accordance with GD 463/2019, exclusion of errors and updating of data on web pages (relevant legal framework, hearing schedule), placement of contact details for registration in the audience (tel., E-mail) and the responsible person ;
- Ensuring the continuous training of officials involved in the process of keeping records and examining petitions, especially through online methods;
- Familiarizing the population with the provisions of the legal framework in the field, in particular, the elaboration of an explicit and friendly guide regarding the functioning of the petitioning system;
- Promoting among the population the advantages of sending electronic petitions; offering the possibility to attach to the online forms the petitions on the web pages of the public entities, of the afferent documents;
- Increasing transparency in the application of the policy, in particular, by placing on the website of public entities the information / annual report on the examination of petitions and the reception of persons in audience;
- Periodically evaluating the level of satisfaction of the petitioners regarding the functioning of the petitioning system, based on surveys. To give the polls more credibility, conduct them with the support of NGOs;
- Modernizing the existing SIA / s for document / petition management or, possibly, elaboration of a new SIA, in compliance with the legal provisions related to the operation and use of such systems (technical concept, regulation, etc.). The system should allow the generation of different types of reports for the authorities, including in the profile of subordinate entities, as well as ensure access for petitioners to view the stage of the petition examination process, the official (s) responsible for examining petitions, their resolution, etc ;
- Strengthening the control of the State Chancellery on the CPAA's compliance with the legislation in the field of petitioners, publishing the report on the results of the control on the website of the State Chancellery, discussing the problems identified in the functioning of the petition system at Government meetings.

[http://www.transparency.md/wp-content/uploads/2021/07/TI\\_Moldova\\_Monitoring\\_petition\\_system\\_in\\_CPAs.pdf](http://www.transparency.md/wp-content/uploads/2021/07/TI_Moldova_Monitoring_petition_system_in_CPAs.pdf)

## **2.5 IDIS Viitorul: Monitoring Report – Transparency of Local Public Authorities from Moldova in 2019 (60 administrative and territorial units of first level and 32 administrative and territorial units of second level)**

The Institute for Development and Social Initiatives (IDIS) “Viitorul” has assessed the level of transparency of Local Public Authorities (LPAs) in 2019 with the assistance provided by the Institute for Economic and Social Reforms (INEKO) under the initiative “Supporting democracy, independence and transparency of key public institutions in Moldova”. IDIS “Viitorul” in partnership with INEKO implement this initiative with the financial support provided by the Programme for Official Development Assistance of the Slovak Republic. The initiative is aiming to raise public awareness about democracy developments and independence of key public institutions, as well as to improve transparency and financial sustainability of local public authorities and public undertakings. The ranking of the most transparent local public authorities is available at: [www.localtransparency.viitorul.org](http://www.localtransparency.viitorul.org).

The monitoring of Moldovan local governments of first and second levels was launched in 2016 and continues to date, having revealed persisting issues and deficiencies in ensuring transparent operation of these local governments.

The overall transparency average for 32 districts subject to monitoring equals to 37.67%, showing an upward trend relative to the average value determined for the four rankings conducted so far. On the other hand, the overall average for 60 of the largest towns and villages equals to 24.03%, showing a decline in comparison with the 2017 and 2018 rankings, although having a slightly higher value than the overall average of transparency calculated for the 2016 ranking.

The Law on access to information remains outside the agenda of many local governments. Overall, the share of districts that responded to the questionnaire sent out by IDIS “Viitorul” and to the request submitted by a natural person soliciting public information made up 50 – 60%, while the towns and villages answered those requests to the extent of 40 – 45%.

The national rules aiming to ensure an efficient and transparent decision-making process are not entirely applied in practice. Nowadays, subjecting the local government draft decisions to public consultation has a sporadic and flawed pattern. The outcomes show that 41% of districts and 58% of towns and villages subject to monitoring failed to conduct public consultations in 2019. Nonetheless, when such consultations were organised their outcomes were never made public.

The local public authorities bring to the knowledge of citizens some information about public procurement through their websites, and the public is able to find such on the electronic platforms for public procurements. The monitoring results show limited transparency at all public procurement stages. Likewise, more than 1/3 of districts and circa 3/4 of towns and villages do not publish the monitoring reports on public procurement contract performance and the annual statements on public procurement of low value at the final phase. Although this is not binding, a municipality published all its public procurement contracts on the website, while three local and one district government published such contracts only partially.

The administration of public assets remains one of the most obscure areas in terms of transparency. Over 70% of local public authorities fail to make public both the tender notices for sales/rental/ lease of immovable property owned by Administrative and Territorial Units (ATUs), and the tender outcomes.

Some local governments show a relatively good level of openness in terms of district and local budget development. Hence, only 1/5 of districts failed to publicly consult the draft budget and slightly over 40% of towns and villages failed to comply with this legal requirement. There are some achievements in terms of imparting the adopted budget. Approximately 80% of districts and 60% of towns and villages published their budget on the website.

Circa 1/3 of district authorities and 3/5 of local authorities do not post the data on public vacancies on websites, and 3/4 of districts and over 80% of towns and villages failed to make public the selecting/recruiting outcomes for filling the public vacancies in 2019. Following the monitoring we managed to identify ten districts and two towns that developed the Ethics Code for Civil Servants. At the same time, none of the towns and villages published an Ethics Code for local elected representatives, while two districts posted such codes on their websites. More than half of the districts failed to post their anti-corruption plans and the plan implementation monitoring reports. More than 90% of towns and villages failed to publish documents aimed to ensure local government integrity.

As many as 20% of district authorities and 10% of local authorities publicly disclosed the information on the available social services, having described the services, having listed the beneficiaries, the conditions/criteria and how the socially vulnerable people/families may apply for such services.

The activity of municipal-owned enterprises (MoEs) and commercial companies in which the majority stake belongs to ATUs remains an opaque area for the general public. More than 90% of districts and towns/villages do not post the annual financial reviews of those public entities on the website, in spite of the fact that they, as founders, and in compliance with the legal requirements, are bound to impart such information to the public.

Therefore, the 2020 monitoring outcomes reveal major transparency issues for district and local authorities for all indicators subject to monitoring. This is due to the LPAs' failure to comply with the rules in place, and such state of affairs is relying on certain objective grounds, but also on lacking viable control instruments to hold accountable those in breach of the law. Finally, the recommendations laid down in this report are intended, on the one hand, for the public authorities in charge for public policy development, improvement and implementation, and, on the other hand, for local governments to comply with the legal requirements on transparency and make public important information.

<http://www.viitorul.org/files/EN%20Raport%20transparenta%20APL%20fin.pdf>

## **2.6 Association for Efficient and Responsible Governance (AGER): Monitoring Public Procurement in Moldova during Covid-19 Pandemic**

Public procurements carried out since March 2020 took place in the context of COVID-19. Although the state of emergency declared in March 2020 ended on May 15th, 2020, derogating measures that limited the transparency of procurement were still implemented. On May 21st 2020, the Parliament adopted the Law no. 69/2020 on the establishment of measures during the state of emergency in public health and the amendment of some regulatory acts, which allowed for:

- a considerable reduction of overall timelines in the open tender, the restricted tender and the request for quotations;
- use of the negotiation procedure without prior publication of the contract notice in cases of extreme urgency;
- raising the thresholds for the application of the Law no. 131/2015 on public procurement;
- advance payment for public procurement necessary for the prevention and control of the COVID-19 infection.

The procedure of application of the Law no. 69/2020 was regulated by the Government Decision no. 494/2020 for the approval of the Regulation on public procurement necessary for the prevention and control of the COVID-19 infection. However, the Regulation did not provide for a legal definition and a clear delimitation of the "public procurements necessary for the prevention and control of the COVID-19 infection". The lack of delimitation of the procurement covered by this Regulation gives contracting authorities unlimited powers to apply the exceptions provided for in the Regulation.

The increased thresholds, as well as the shorter timelines for the procedure and for filing a complaint at the National Agency for the Settlement of Complaints (hereinafter NASC), allowed for abuses by contracting authorities that tried to circumvent the obligation to ensure transparency, while treating unfoundedly some procedures as procurement necessary to combat and prevent the spread of the COVID-19 infection. In addition to the lack of ex-ante control powers of the Public Procurement Agency and the lack of a competent authority that would apply sanctions for breaches of the public procurement law, the provisions of the Regulation on public procurement necessary for the prevention and control of the COVID-19 infection posed a major risk of fraud.

While reviewing the procurement procedures carried out in the MTender system between April 2020 and April 2021, we identified a number of problems at each stage, from their planning to the award of contracts:

- *Problems at the stage of planning of public procurement procedures:*
  - Improper public procurement planning;
- *Problems at the stage of drafting of the tender documentation:*
  - "Dedicated" specifications;
  - Unclear tender documentation;
  - Incorrect division of procurement into lots;

- Non-transparent or subjective evaluation algorithm;
- *Problems at the stage of conducting public procurement procedures:*
  - Incorrect usage of ESPD;
  - Restricted access to tender documentation;
- *Problems at the stage of tender evaluation:*
  - Designation of non-compliant tenders;
  - Unjustified cancellation of public procurement procedures;
  - Admission of tenders submitted with violation of legal provisions;
  - Award of contracts to blacklisted economic operators;
- *Analysis of NASC's decisions:*
  - Non – enforcement of NASC's decisions;

Thus, authorizing the use of non-transparent procurement procedures and increasing of the thresholds for some types of procurement lead to reduced opportunities for monitoring activity carried out by civil society and higher risks of inefficient use of larger amounts of public funds. Lax legal provisions coupled with the lack of legal mechanisms to ensure compliance with transparency mechanisms, due to legislative gaps, favoured the pursuit of non-public interests in public procurement procedures, leading to the following conclusions:

- Poor planning of public procurement procedures, which leads to a low efficiency of procurement and waste of public money;
- Regulatory acts in the field of public procurement for the management of the COVID pandemic lead to a lower transparency and a higher share of public money used outside the transparent procurement system;
- Competition in public procurement procedures was limited by the application of improper procedures or the adjustment of technical specifications;
- Public procurement contracts were awarded to economic operators who submitted non-compliant tenders;
- There are no mechanisms to enforce the NASC's decisions, which determines some contracting authorities to ignore them;
- Some contracting authorities repeated public procurement procedures on the same subject, after submission of complaints on initial procedures to the NASC;
- There is a lack of efficient control of and punishment for procurement violations.

<https://ager.md/wp-content/uploads/2020/06/RAPORT-DE-MONITORIZARE-MAI-2020.pdf>

<https://ager.md/wp-content/uploads/2021/04/Raport-de-monitorizare-aprilie-2021-1.pdf>

## **2.7 Association of Independent Press: Monitoring the transparency of the local authorities**

As part of the "Accountability and Civic Engagement for Good Governance" Project, implemented with the financial support of the European Union and Konrad Adenauer Foundation, the Association of Independent Press (API) monitors the transparency of local authorities of six towns – Donduseni, Falesti, Rezina, Hincesti, Causeni and Basarabasca – and prepares monitoring reports for the period from September 2019 to June 2020. These localities were selected based on weak indicators, recorded after the previous evaluation by independent experts. During 2021, API has already developed and publicly presented the monitoring reports for the towns of Donduşeni and Basarabasca.

Based on the methodological benchmarks, the conclusion is that Donduseni and Basarabasca LPAs ensures transparency only partially and efforts to ensure transparency should be strengthened. In this regard, the general recommendation is to develop the official website as well as the most efficient use of other ways of disseminating information for citizens and institutions (information billboard and local media resources, eventually radio stations, newspapers, etc.).

To enhance **transparency in LPAs work**, it is recommended to:

- Place CVs of the councilors and data about the factions and the specialized advisory committees, set up by the Town Councils, as well as the information about the subordinated entities on the official website;

- Complete the websites, in the *Town Hall* section, with data on the structure of the Town Hall, its subdivisions (duties and chiefs), its staff and manner of their recruitment;
- Develop and publish data in the *Public Services* department;
- Develop the websites with a section dedicated to the *Relevant Regulatory Framework*, which could have several sub-sections: *Laws; Subordinate Regulatory Acts; Local Regulations*.
- Post statistical summaries, which would include the basic indicators in the LPA work areas on the website;
- Post data on the programs and projects, including of technical assistance, which benefit the LPA, on the websites;
- Post application forms, other documents and instructions that would facilitate the public's relationship with the LPA, including in the petitions section;
- Develop the *Anticorruption* module on the websites.

To enhance transparency in **decision-making**, it is recommended to:

- Develop and approve internal rules on transparency in decision-making, and then post them on the LPA websites;
- Develop the *Transparency* section by publishing information on the official responsible for coordinating the public consultation process;
- Prepare the list of stakeholders and post it on the websites, and capitalize on the advisory boards or working groups in decision-making;
- Approve programs for drafting decisions and specify those draft decisions for which public consultations will be organized;
- Develop the *Transparency* section with the announcements on the initiation of decision drafting, removal of a draft decision from the drafting process, organization of public consultations, as well as with the draft decisions, related materials, references to the decisions made, and public consultation results;
- Announce in advance, through the LPA websites, the meetings of the Town Council, attaching the draft agenda, as well as the draft decisions as well as the related materials;
- Ensure online broadcasting of meetings with audio/video recordings and post recordings on the websites.

To increase **budget transparency**, it is recommended to:

- Prepare and publish/ pass on to the stakeholders – participants in public consultations, a synthesis with recommendations to the draft budget;
- Hold public consultations on budget rectifications;
- Develop a *Town Budget* section with data on the execution of the local budget as well as publish annual reports on the execution of the budget for the previous budget year;
- Develop and publish a *Budget for Citizens* section on the website, to facilitate its understanding by any citizen of the community.

To enhance **transparency in the public procurement process**, it is recommended to:

- Identify the organizations, associations and active citizens who would be interested in engaging and include them in the working group on public procurement in various procurement procedures;
- Ensure the publication of tender announcements and of award documentation or, at least, the link from the electronic system MTender, for electronic tenders, on the Town Hall's website, to facilitate the local community's access to the procurement process;
- Ensure transparency of low value procurements by posting the announcements as well as the annual reports on low value contracts awarded by the public authority on the websites;
- Ensure transparency at the stage of execution of public procurement contracts by preparing and publishing the biannual and annual reports monitoring the execution of public procurement contracts.

[http://api.md/upload/files/Raport\\_Donduseni.pdf](http://api.md/upload/files/Raport_Donduseni.pdf),

[http://api.md/upload/files/Raport\\_2\\_Transparenta\\_Basarabeasca\\_APROB.pdf](http://api.md/upload/files/Raport_2_Transparenta_Basarabeasca_APROB.pdf)

## 2.8 TI-Moldova: Boosting the Activity of Anti-corruption Bodies during the pandemic

In October 2020, TI-Moldova made an attempt to study the semi-annual activity reports of the anti-corruption authorities. At that time, the National Integrity Authority was the only anti-corruption authority that prepared and published an activity report for the first half of 2020.<sup>1</sup> As the relevant general statistics on the activity of CNA and PA were not available, the information published on the official web pages of these entities, as well as other portals, served as a source<sup>2</sup>

Following the successive assignment, starting with 24 February 2020, of the yellow, orange and red code alert, on 17 March 2020, a state of emergency was established, in connection with the epidemiological situation related to the spread of the COVID-19 virus.<sup>3</sup> The situation affected the activity of the authorities. Although several activities could be carried out remotely, the opportunity was not immediately and fully used by anti-corruption entities. The unique specifics of the monitored period cannot be ignored, and the institutional performances in this period cannot be compared with those in the similar period of last year.

TI-Moldova has studied the activity reports of the anti-corruption authorities for this period, as well as the information available on the web pages and comes up with some recommendations to boost the activity of the anti-corruption bodies and increase their visibility:

- Anti-corruption authorities should expand the effective and efficient use of remote working methods / techniques, in particular in training and other corruption prevention activities;
- The National Anticorruption Center should make additional efforts to reflect the results of the activity - the weekly summaries cease to be useful if they are not provided regularly. It would be valuable quarterly / half-yearly reports / notes that would contain an analysis of the main institutional performance indicators. On the website it is necessary to update, regularly, the information regarding: the files under management, the detained persons; court cases; calls to the National Anticorruption Line;
- The Anticorruption Prosecutor's Office should develop its own website, which is important in increasing visibility and credibility, the institution currently facing an image crisis generated by the results of the activity control, carried out at the disposal of the Prosecutor General, but also by the serious accusations in several criminal proceedings initiated against Mr. Viorel Morari, head of the PA;
- Anti-corruption authorities should provide regular, but regular, information on instrumented resonance cases. Otherwise, there is a risk that they will get lost in the routine of the activity, fueling the public's suspicions regarding the political engagement of the anti-corruption authorities;
- Given the budgetary difficulties, there are needs that must be covered. In the fourth year of reorganization, the National Integrity Authority, in several aspects of the activity, yields to the substituted authority - the National Integrity Commission, particularly in its cost-efficiency. Without filling all the functions of integrity inspectors, ANI will not progress;
- National Integrity Authority should do its utmost in executing the Decision of the Court of Accounts no. 70/2019 on the Performance Audit Report on the functionality and effectiveness of the Automated Information System "e-Integrity" - all entities concerned should provide support and assistance;
- The increase in the number of rectified declarations of wealth and personal interests could be managed by a better guidance of declarants - it would be useful to improve the guide for declarants by supplementing with concrete cases, starting from the most frequently reported problems and questions asked;
- The National Integrity Authority should develop an e-Learning module to focus efforts on control activity;
- To raise the quality of the control of wealth and personal interests, the interoperability of databases managed by different authorities should be improved and made accessible to integrity inspectors;
- The National Integrity Authority should make additional efforts to pursue the aims of controls: identified infringements; sanctions / prohibitions applied / enforced; actions for finding the documents null and void; unjustified assets confiscated. These are the indicators, based on which the usefulness of NIA will be judged;

<sup>1</sup> ANI activity report for the first 6 months of 2020, [http://ani.md/sites/default/files/Raportul\\_activitate\\_6%20luni\\_2020.pdf](http://ani.md/sites/default/files/Raportul_activitate_6%20luni_2020.pdf).

<sup>2</sup> Regarding NAC, the note was drawn up, in particular, based on press releases published on [www.cna.md](http://www.cna.md). Regarding the PA, the note was prepared, in particular, based on the news published on [www.parlament.md](http://www.parlament.md).

<sup>3</sup> Parliament Decision no. 55/2020 regarding the declaration of the state of emergency.

- The Integrity Council should provide the necessary strategic support to NIA. If he does not relinquish control over the assets and personal interests of the Chair / Vice-Chair of NIA and the integrity inspectors, this control must be ensured;
  - The Ministry of Justice should speed up the promotion of the draft law for the modification of the normative framework related to the control of wealth and personal interests, elaborated by NIA, not without the project being submitted to public debate;
  - Parliament, in the exercise of its powers of parliamentary scrutiny, must be fair, prompt and efficient. Nothing can demotivate an audited entity more than formalized procedures and politicized approaches.
- <http://www.transparency.md/wp-content/uploads/2020/11/DIGEST-Anti-corruption-bodies-during-COVID-19-pandemic-Engl.pdf>

## **2.9 TI-Moldova: The Evaluation of Central Electoral Commission (CEC) from the Prospective of the National Integrity System of Transparency International**

A number of problems were identified within this evaluation. Thus, although the law provides the CEC with adequate resources to carry out its mission, the CEC is not sufficiently represented in the territory. The CEC has adequate resources to carry out its mission, but problems are: insufficient workspaces, including those necessary for the secure storage of electoral equipment and materials; high staff turnover and insufficient staff training; insufficient qualification of electoral officials, particularly in the case of members of constituency electoral councils and polling stations, appointed by political parties.

The legal framework contains regulations designed to ensure the independence of the CEC, but they are not sufficient; It is appropriate to review the appointment of CEC members - their possible appointment based on professional criteria following a public competition.

The CEC is not perceived as an independent authority, which is determined, particularly, by the way it is set up, by the superficial verification of the candidates, as well as the lack of genuine approaches while hearings them.

The legal framework on the transparency of the CEC is not supported by internal rules on the organization of public consultation procedures in the process of drafting and adopting decisions. The CEC ensures some transparency of its activity and the electoral process, but this needs to be increased, as the transparency of the constituency electoral councils and the electoral bureaus of the polling stations is insufficient.

Although there are provisions, according to which the CEC can be held accountable, they are not without shortcomings, not being sufficiently comprehensive and explicit: the public nature of the hearing of the CEC reports is not foreseen; electoral contention is incomplete and defective. Thus, they are insufficiently regulated. This refers to the modality of filing and examining appeals by citizens who vote in polling stations set up abroad; the procedure for examining appeals lodged on election day, which could not be lodged with the court on the same day; the body competent to examine the appeals concerning the administration of the elections, after the election day; the need or lack of need to follow the preliminary procedure in case of filing appeals regarding the administration of the election, after the election day; the deadline for resolving appeals regarding the administration of elections, after election day, including in the case of filing an appeal by persons who voted abroad taking into account the time zone difference.

The Electoral Code contains only a certain regime of restrictions imposed on the membership of the CEC, without it being developed through rules of ethics and deontology. The CEC applies the tools to ensure institutional integrity, but efforts to do so need to be strengthened.

In terms of monitoring election campaigns, the CEC does not have the authority and resources to monitor, effectively and efficiently, the finances of political parties, but also the expenses of electoral contestants in the election campaign. In this sense, problems are: non-regulation of the online information environment during the election period; insufficient regulations on the use of administrative resources during the election period; low impact of information programs dedicated to the population, including - specific groups; lack of political pluralism in the media.

With regard to the administration of elections, problems remain due to the instability of the legal framework; the quality of the electoral lists; pre-registration of voters; reduced accessibility of polling stations for people with disabilities; the quality of the provisions meant to ensure the integrity of the electoral process; the quality of programs to promote electoral anti-fraud behavior.

A number of **recommendations** were made in the report, in particular:

- ensuring the stability of electoral legislation - in amending electoral legislation, guidance by international standards and the requirements of legislative technique;
- delegating the CEC the right to set up permanent representations in the territory;
- providing for the certification procedure of electoral officials;
- including in the composition of the electoral councils of the constituency and of the electoral bureaus of the polling stations, exclusively, of the certified persons;
- digitalizing the electoral process;
- revising the way of setting up the CEC - eventual appointment of the CEC members based on the professionalism criteria following a public competition;
- applying in practice the procedures of verification and hearing of candidates for membership of the CEC;
- developing the legal framework on the transparency of the CEC through internal rules on the organization of public consultation procedures in the process of drafting and adopting decisions;
- increasing the transparency of the CEC activity and transparency of the electoral councils of the constituency and of the electoral bureaus of the polling stations, by fully implementing the provisions of Law no. 239/2008 on transparency in the decision-making process;
- improving the legal framework meant to hold the CEC accountable, including the revision of the provisions related to the electoral contentious;
- ensuring a genuine hearings of the CEC reports in the plenary of the Parliament;
- developing the legal framework through rules of ethics and deontology applicable to CEC members;
- efficiently and fully implementing the instruments that ensure institutional integrity;
- developing an anti-corruption module and a career section on the web page of CEC website;
- improving the legal framework for monitoring the expenses of electoral contestants in the election campaign, as well as, in the same vein, increasing the capacity of the CEC, including through additional staff training;
- regulating the online information environment during the electoral period;
- improving the legal framework that prevents the use of administrative resources during the election period;
- increasing the capacities of the Continuing Education Center in the Electoral Field;
- increasing the visibility of information programs dedicated to the population;
- increasing the capacity of supervision, monitoring and sanctioning of the Audio-visual Council;
- combining the efforts of all responsible authorities in increasing the quality of electoral lists;
- reconsidering the mechanism of pre-registration of voters;
- increasing the accessibility of polling stations for people with disabilities;
- improving the legal framework aimed at ensuring the integrity of the electoral process;
- improving programs to promote electoral anti-fraud behavior.

[http://www.transparency.md/wp-content/uploads/2021/07/TI\\_Moldova\\_CEC\\_from\\_NIS\\_perspective.pdf](http://www.transparency.md/wp-content/uploads/2021/07/TI_Moldova_CEC_from_NIS_perspective.pdf)

## **2.10 TI-Moldova: Monitoring the Transparency of the Activity of State-Administered Enterprises**

The TI-Moldova study aimed to analyze compliance with legal requirements for the disclosure of information by state-owned enterprises (SOEs) and joint stock companies with state capital (SC), identify eventual problems and formulate proposals to improve the situation, including the legal framework. The object of the monitoring is the transparency of the policies related to the appointment, activity and remuneration of the administrators and members of the Boards of Directors (BOD) of the enterprises; conflicts of interest policy; public procurement; implementation of the recommendations of the state audit and control bodies; reporting on the results of the activity. The subjects of the monitoring are 38 SOEs and SCs administered by the CPAs.

**Methodological aspects.** The monitored enterprises were selected from the Register of Public Property, based on the importance of the enterprise and / or the risk for eventual abuses / corruption. The data were collected from various sources, in particular based on requests for information from enterprises and the analysis of the content of the websites of enterprises and their founders. At the same time, information was

requested from the Financial Inspection, the National Integrity Authority, the Public Property Agency; National Anticorruption Center, General Prosecutor's Office, and the Ministry of Internal Affairs. The decisions of the Court of Accounts, the reports of the Ministry of Finance, CNA, as well as the articles of the investigative journalists also served as sources of information. The period of reference period is 2018-2019.

The main findings of the study are as follows:

**Ensuring access to information.** Although TI-Moldova requested public information from the monitored companies, some companies avoided responding, categorizing some of the information as personal data or trade secrets. Some companies requested from TI-Moldova copies of the incorporation documents and the argumentation of the need to present the information, others pointed out the personal nature of the requested data, while on their web pages was already placed some of the requested data.

**Business administrators and their remuneration.** Although all monitored companies submitted data on the name of the administrator and the act by which he/she was appointed, every fourth company did not provide information on the value of their remuneration, arguing the refusal by personal data or suggesting their retrieval from the e-Declarations portal. Corporate responses to the value of directors' remuneration are often formal and incomplete, there are cases when the value indicated by the company does not correspond to the information from the directors' declaration of assets and personal interests, there is a fear that some directors do not submit statements year by year to some administrators. Some administrators do not submit their declarations of incomes and personal interests. Also suspicions raise some considerable and repeated donations made to these administrators indicated in their declarations of incomes and personal interests.

**Boards of Directors (BOD).** Although practically all the monitored entities indicated the names of the members of their Board of Directors and the authority they represent, every 5th enterprise did not indicate the individual value of the members' remuneration.

The analysis of the data provided by the companies allowed the identification of possible deviations when appointing the members of the Board of Directors / the composition of the Board of Directors. Thus, although the Law on the State Enterprise and the Municipal Enterprise prohibits the inclusion of the company's chief accountant on the board, this provision does not appear to be complied with. Even if the composition of the Board of Directors must necessarily include the representatives of the MoF, MEI, the representatives of the founder and of the work team, the practice of appointing a fairly large number of founder's representatives to the Board of Directors persists. Although the legislation allows, in the composition of the Board of Directors there are practically no specialists in the field of activity of the enterprise, specialists in economics and law.

*The process of promoting and appointing the members of the Board is not transparent and reasoned - a fact explained also by the lack of a special regulation approved by the Government, but also by the disinterest of the founders to change the state of affairs. And the founders' control over the Board's activity seems rather formal.*

*The practices of accumulating membership functions in a fairly large number of Board of Directors of SOEs and CAs persist, which could affect the quality of work of people in the basic workplace and the control over the activity of enterprises.* There may be errors in completing the declaration of assets and personal interests by the members of the Board, because some indicate donations from SOEs and CAs; some fail to indicate the name of the companies, members of the Board of Directors of which they are; discrepancies between the value indicated by the declarant and the one provided by the enterprises were identified.

**Purchases of goods, works, services.** Although the legal framework includes requirements for the transparency of procurement process for state enterprises (including the publication of procurement plans, notices of intent, the decision on the award and execution of procurement contracts), there are still reservations in complying with these requirements. Thus, about 2/3 of the monitored enterprises reported that they developed procurement plans, of which only 60% published them on their web pages. About 60% of companies reported that they set up Procurement Working Groups, but only a quarter of them provided data on their composition, which was not available on their websites. Only every 5th monitored company claims to publish the results of contract award procedures and only one company - the results of contract execution, *de facto* there are singular cases when such information is published

**Conflicts of interest (Col).** About 80% of the monitored companies noticed that in the years 2018-2020 there were no Col situations, but the results of the controls and audits performed prove the opposite - such situations took place, they were not reported and resolved. The legal provisions regarding Col,

incompatibilities, restrictions are not sufficiently known by the decision makers and the employees of the enterprises.

**Controls by the Financial Inspection (FI).** About 2/3 of the monitored companies reported that they were controlled by FI in 2018-2019, of which only ¼ - that they placed the results of the controls on their website. Only one company informed about the elaboration of the action plan for the implementation of the FI recommendations.

During the period covered, the FI has inspected 188 SOEs and 72 companies with state capital, finding irregular expenses of 109.6 million lei and estimated caused damages of about 17 million lei. Among the typical deviations, the IF noted: the irregular and unfounded payment of the salaries to the administration and some employees; granting prizes and material aids to the members of the Board of Directors from the salary fund; failure to make an inventory of debts and receivables; lack of transparency in procurement process; reflection of expenses in the absence of supporting documents, etc. 41 materials were sent to the law enforcement agencies.

**The audits of the Chamber of Accounts.** In 2017-2020 the Chamber of Accounts audited the activity of SOEs and CAs, identifying multiple irregularities in keeping records, records and management of assets, planning and making procurements, leasing of spaces, stating mismanagement of enterprises and the low level of responsibilities of management bodies. Although most of the companies subject to the audits of the Chamber of Accounts confirmed their performance, the entities did not include on their website information on the results of the audits and the measures taken to implement the Court's recommendations.

**Business decision makers in the view of law enforcement.** According to the law enforcement agencies, in 2018-2020 (9 months) about 100 criminal cases were initiated regarding the activity of SOEs and CAs, in a large part of the cases not the decision makers are targeted, but rather engineers, deputy branch directors, bosses train attendants, wagon attendants, store managers, customs brokers, etc. Almost every tenth case has been closed.

**Disclosure of information.** Although practically all monitored companies have web pages, only some of them contain consistent information such as their status, internal regulations, annual report, audit report, procurement documentation. Improvement also need the information on the activity of the enterprises.

### **Recommendations**

- Introducing in the legal framework of clear requirements for disclosure of information by joint stock companies / state-owned companies, regardless of whether or not they are public interest entities.
- Examining the opportunity to review / update the provisions related to salaries in units with financial autonomy, including managers / administrators of enterprises.
- Preventing the abusive secrecy of information about the activity of enterprises, including by informing / training the leaders and representatives of the founders about the legal provisions related to access to information and disclosure of information.
- Ensuring by the founders of transparency in the selection and appointment of candidates for the position of member of the Board of Directors, arguing their decisions in the respective orders of public authorities, placing them on the web pages of enter
- Ensuring transparency of the activity of the Boards of Directors, including by persons representing the state interest on the web page of the enterprises.
- Reducing the number of councils in which one person can participate simultaneously, attracting in their composition specialists in economics, law and in the field of activity of enterprises.
- Organising, with the support of the National Integrity Authority, trainings on the process of completing and submitting declarations of assets and personal interests, declaring and resolving conflicts of interest for business decision makers and members of the Boards of Directors.
- Carrying out by the National Integrity Authority of some thematic controls regarding the timely submission of the declarations of assets and personal interests by the administrators of the enterprises, as well as regarding the vericity of the data from the submitted declarations.
- Placing on the web page of the Financial Inspection the results of the inspections performed at the enterprises.

- Organising, with the support of the Financial Inspection, workshops on typical irregularities detected in the activity of state enterprises for the administrators, their chief accountants and, as the case may be, the members of the Boards of directors / audit commissions.
- Intensifying the attention of the Boards of Directors to the results of audits / controls performed at companies and of the measures taken in order to remedy the situation.
- Developing/ updating the web pages of the enterprises, with the possible inclusion of a special column Disclosure of information, which would include at least the obligatory information (statute, internal regulations, annual report (complete ), audit report in full, procurements). In the case of companies that do not have a website, the information must be placed on the web pages of the founders.
- Warning the business administrators and members of procurement working groups on compliance with the requirements on transparency of procurement process (publishing plans, notices of intent, monitoring contracts and publishing information on their execution).

[http://www.transparency.md/wp-content/uploads/2021/07/TI\\_Moldova\\_Monitoring\\_state\\_enterprises.pdf](http://www.transparency.md/wp-content/uploads/2021/07/TI_Moldova_Monitoring_state_enterprises.pdf)

## **2.11 TI-Moldova: Open Governance in the Republic of Moldova: What Issues Stand on the Agenda?**

The study was made within the project "Strengthening the state of democracy and rule of law: the contribution of civil society", supported by the Embassy of the Kingdom of the Netherlands. The purpose of the paper is to analyze how the Action Plan for Open Governance for 2019-2020 was developed and implemented, identify potential problems and come up with recommendations, including for the next action plan.

The document was prepared based on the information available in the public space: self-assessment and monitoring reports on the implementation of the Action Plan for Open Governance (PAGD) for 2019-2020 prepared by the State Chancellery (SC)<sup>4</sup>, the report on the elaboration of PAGD 2019-2020 within the Independent Reporting Mechanism of the Open Governance Partnership (OGP)<sup>5</sup>, action plans of some OGP member countries. Also, the studies of the NGOs relevant to the field, the statements and appeals of the media and the NGOs regarding the non-compliance by the authorities with the legislation on access to information, decision-making transparency, etc. were taken into account.

The Republic of Moldova joined the OGP in 2012, so far four action plans have been developed and implemented. According to the SC reports, the level of implementation of the plans was quite modest, among the causes of non-implementation being invoked: insufficient financial means, in this case, for the creation of information systems and modernization of public services, limited staff capacity, insufficient involvement of relevant institutions in the implementation of these action plans.

In the process of drafting the PAGD 2019-2020, there are a number of positive moments, in particular the attraction of civil society in this process, the consideration of an important part of the proposals made and the publication of the summary of recommendations. The transparency of the activity of the OGP Steering Committee composed of representatives of public authorities and civil society is also appreciated. However, as before, within the process of the elaboration of PAGD 2019-2020, *some actions were taken over from other public policy documents*: Public Administration Reform Strategy for 2016-2020, Action Plan on Public Service Modernization Reform for 2017- 2021 etc., which reduced the innovative character and added value of the plan. Moreover, *the non-correlation in time of the deadlines for similar actions in different policy documents has generated confusion in the implementation and reporting of actions* by the responsible entities.

It should also be noted that *a number of actions included in the plan were not specific to the area of open governance* (eg, ensuring the implementation and monitoring of recommendations in the Chamber of Auditors' audit reports) *or repeating the tasks / functions of the authorities* (eg, publication by the MoF of the results of the financial monitoring, modernization of the ASP call center). *Some result indicators are unclear, being difficult to verify their achievement.*

The self-assessment report on the implementation of the PAGD for 2019-2020 reveals that most progress has been made in *ensuring access to information and promoting the use of open data*. For example, the level of implementation of the sub-action related to the publication on the official pages of the CPAA of data on

<sup>4</sup> [https://cancelaria.gov.md/sites/default/files/raport\\_autoevaluare\\_hg\\_1172\\_pa\\_2019-2020.pdf](https://cancelaria.gov.md/sites/default/files/raport_autoevaluare_hg_1172_pa_2019-2020.pdf),  
[https://cancelaria.gov.md/sites/default/files/raport\\_privind\\_implementarea\\_hg\\_1172\\_anul\\_2019.pdf](https://cancelaria.gov.md/sites/default/files/raport_privind_implementarea_hg_1172_anul_2019.pdf),  
[https://cancelaria.gov.md/sites/default/files/raport\\_monitorizare\\_hg\\_1172\\_anul\\_2020.pdf](https://cancelaria.gov.md/sites/default/files/raport_monitorizare_hg_1172_anul_2020.pdf)

<sup>5</sup> [https://www.opengovpartnership.org/wp-content/uploads/2020/07/Moldova\\_Design\\_Report\\_2019-2020\\_RO.pdf](https://www.opengovpartnership.org/wp-content/uploads/2020/07/Moldova_Design_Report_2019-2020_RO.pdf)

budget planning and execution, public procurement was considered substantial, among the arguments being the regular publication of mandatory information on the web pages of the authorities and the existence internal regulations on the publication and updating of data on web pages. However, the situation in this regard is not satisfactory, the results of the monitoring by TI-Moldova of the public policy *Ensuring access to information through web pages* in 12 CPAs attest that only ½ of the monitored entities had such a regulation; some of the mandatory data are missing or insufficient (reports on the results of public procurement; execution of budgets; results of audits and controls; programs and projects benefiting from the authority; reports on the implementation of the National Strategy for Integrity and Anti-corruption (SNIA).

In another sub-action, with more substantial progress - ensuring the publication of the results of public consultations on the decision-making process in the online environment, the SC mentioned the placement by the CPA of the results of public consultations on their web pages. The SC also reported that it oversees the way in which the authorities ensure decision-making transparency. However, the results of public policy monitoring Decision-making transparency in 12 CPAs show that there are problems in this regard as well. Although all monitored entities have managed to create sections dedicated to decision-making on web pages, they need to be further developed. Few entities have annual draft decision programs, one problem is the unavailability of public consultation results (including minutes of public consultative meetings, summary of recommendations), all entities are blamed for non-compliance with deadlines for publishing reports on decision-making transparency.

As the placement by the Authority of LPAs (ALPA) of about 425 thousand administrative acts in the State Register of Local Acts (RSAL) is welcome (sub-action Monitoring the placement by the ALPA of administrative acts in the RSAL), it is worth noting the problem of abusive secrecy by LPA representatives of public information in the normative acts published in the RSAL (eg, the names of the promoted / awarded civil servants / public agents, the value of their remuneration, including bonuses, allowances, etc.).

The sub-action on increasing the transparency of the activity of economic entities with state capital by publishing the results of financial monitoring is also considered to be carried out. Given the authorities' intention to increase the transparency of state-owned enterprises, it is understandable that the publication of such reports alone is insufficient to overcome the existing problems in this regard. The results of the monitoring by TI-Moldova of about 40 state-run enterprises, attest that some of them ignore the legal requirements on access to information, usually secreting the value of remuneration of directors and members of management bodies (Board of Directors, Commission of auditors), information on conflicts of interest, procurement, results of controls and audits. Although the legislation establishes requirements for placing information about the activity of enterprises on their web pages, only in rare cases the web pages contain consistent information (statute, internal regulations, annual report, audit report, procurement).

Against the background of implementing part of the commitments / actions undertaken in PAGD 2019-2020, major problems persist in the basic areas / pillars of open governance: ensuring access to public information, involving citizens in decision-making, promoting the prevention and fight against corruption.

*Thus, public authorities continue to restrict access to public information.* One of the causes is the imperfect and outdated legal framework, the representatives of the media and NGOs proposing, on a number of occasions, the revision of the Law on access to information<sup>6</sup>. Also, NGOs reported on multiple cases when public entities ignored the provisions of this law, refusing to provide public information under the pretext of personal data protection, state secrecy and trade<sup>7</sup>.

*The situation in terms of decision-making transparency is alarming, some of the draft normative acts with major impact on the public interest have not been consulted and debated with the public, they have not passed the anti-corruption expertise of CNA, being adopted under alert by the rulers.* Of particular note are: the Budget Law for 2021, the modification of the activity framework of ANI; repeal of the "Billion Law"; amendment of the Law on the public pension system, etc. Representatives of civil society condemned the deterioration of the quality of the governing act, drawing attention to the fact that the laws in question

<sup>6</sup> <http://api.md/news/view/ro-un-proiect-de-lege-pentru-imbunatatirea-accesului-la-informatiile-de-interes-public-a-fost-prezentat-si-consultat-online-2221?v=1617515367> , [http://api.md/upload/video\\_sf/Descifrare\\_propuneri\\_consultari-online\\_29.05.2020\\_mp.pdf](http://api.md/upload/video_sf/Descifrare_propuneri_consultari-online_29.05.2020_mp.pdf) , <https://cpr.md/2019/11/26/de-ce-si-cum-trebuie-modificata-legea-accesului-la-informatii/?fbclid=IwAR1DpiCAfDilXIKrVvuL85Mze2wtHTLbZBH1e6VJZJc6wHtIAFc0ku09qYM>

<sup>7</sup> [http://www.transparency.md/wp-content/uploads/2021/01/Transparency\\_International\\_Moldova\\_Raport\\_monitorizare\\_transparenta\\_IS\\_SA\\_2020.pdf](http://www.transparency.md/wp-content/uploads/2021/01/Transparency_International_Moldova_Raport_monitorizare_transparenta_IS_SA_2020.pdf) , <https://cpr.md/2021/04/28/cum-autoritatile-utilizeaza-starea-de-urgenta-pentru-a-ingradi-accesul-la-informatie-si-dreptul-la-petitionare/> , <https://cpr.md/2020/07/29/parlamentul-refuza-sa-apere-dreptul-la-informatie-2/>

compromise the fight against corruption, undermine the public budget, endanger relations with development partners and risk destabilizing the country's macro-financial situation<sup>8</sup>.

*The situation in the fight against corruption has not improved.* Although the country emerged from the shackles of a captured state, the new rulers took over some criminal schemes, and the Parliament brutally violated the rigors of decision-making transparency, adopting laws contrary to the public interest, with the intention of impeding ANI activity, taking control of SIS and trying to restore the duty-free shops. Only about half of the actions of the Action Plan for the implementation of the National Strategy for Integrity and Anticorruption have been fully implemented, but what is not completed does not bring results. State authorities have not taken any real steps to prosecute those involved in stealing the billion from the banking system and officials who have admitted fraud.

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### **Recommendations:**

- Inclusion in the PAGD of actions specific to the proposed objectives, relevant to the principles of open, measurable and achievable Government. Both activities and progress indicators need to be made explicit;
- Avoiding the direct taking over in PAGD of the actions from related public policy documents, as well as of the activities that repeat / double the attributions of the public authorities;
- Restoring the network of people responsible for e-Government, training and sharing their experience;
- Revising the legal framework related to access to information, in particular, the Law on access to information and the Government Decision on the content of the official pages of public authorities in Internet;
- Ensuring the access of NGOs and the media to the digitized database of declarations of assets and personal interests (SIA e-Declarations), with options for automatic data sorting and processing.
- Inventory of previously unimplemented actions, with the possible inclusion of the current ones in the future PAGD, eg: ensuring access to data on the performance of public authorities (in this case, anti-corruption authorities), elaboration and promotion of SIA e-Petitions.
- Ensuring that the CPA complies with the requirements regarding the content of the web pages, in particular the elaborating/updating the internal regulations regarding the placement of the information on the web pages; inserting mandatory information on web pages; ensuring the visibility of the sections intended for the submission of petitions and the reception of citizens in the audience.
- Developing of compartments dedicated to the decisional transparency with the information prescribed by law, on the web pages of the authorities, in this case the publication of the drafts of normative acts and the results of public consultations (minutes of public meetings, synthesis of recommendations);
- Elaborating and timely publishing the reports on the transparency of the decision-making process;
- Preventing the secrecy of public information in normative acts issued by LPAs, including by training local elected officials and LPA employees on issues related to access to information and decision-making transparency, supervising by the territorial offices of the State Chancellery of eventual deviations;
- Ensuring compliance by state-run enterprises with information disclosure requirements: developing of enterprises' web pages, including a visible section Disclosure of information; transparency of the activity of the Boards of Directors; the placement by the founders, on their web pages, of the obligatory information regarding the activity of the managed enterprises;
- Create an on-line publicly accessible Register of beneficial ownership of companies;

<sup>8</sup> <https://www.eap-csf.md/declaratia-publica-a-platfomei-nationale-privind-degradarea-procesului-legislativ-si-actului-de-guvernare-in-republica-moldova/>, <https://www.eap-csf.md/declaratie-publica-pe-marginea-derapajelor-de-la-procesul-democratic-din-3-decembrie-2020-comise-de-catre-noua-majoritate-parlamentara-psrm-partidul-sor-si-grupul-pentru-moldova/>

- Increasing the transparency of information on expenses incurred and purchases made by medical institutions;
- Ensuring access to data from the State Register of Resources and Information Systems;
- Extending the access of the population, especially vulnerable groups, to on-line legal assistance: assessment of the needs for legal advice to the population; increasing the offer of legal assistance for the population, including the expansion of the network of paralegals, developing partnerships with NGOs that provide legal assistance;
- Development of the e-learning Platform for pupils and students, conducting surveys on the expectations of beneficiaries, enrolling lessons of well-known teachers and ensuring access to them for beneficiaries;
- Modernization of public services, including facilitating the access of people with disabilities to such services; introduction of an online educational course for young people on the subject of electronic services; continuous literacy of the population, especially in the territory;
- The inclusion in the PAGD of new commitments, relevant to the field, for example, the extension of the open Government at local level.

[http://www.transparency.md/wp-content/uploads/2021/05/TI\\_Moldova\\_Monitoring\\_Open\\_Governance\\_Action\\_Plan\\_2019-2020\\_Executive\\_Symmary.pdf](http://www.transparency.md/wp-content/uploads/2021/05/TI_Moldova_Monitoring_Open_Governance_Action_Plan_2019-2020_Executive_Symmary.pdf)

## **2.12 Institute for Development and Social Initiatives (IDIS) "Viitorul": Assessment of the Integrity Plans and/or of Risk Registers Implementation by the State-owned and Municipally owned Enterprise**

The activity of state-owned enterprises (hereinafter, SOEs) and of the municipally owned enterprises (hereinafter, MOEs) from the Republic of Moldova represents a domain vulnerable to the corruption risks. The conflicts of interest, inefficient use of public money, inappropriate management of goods owned by enterprises or founders, absent or inefficient internal control systems, lack of transparency and access to the information on enterprises activity, etc. are among the problems negatively affecting the SOEs and MOEs activity.

With the adoption and entry into force of the Law on Integrity no. 82/2017, SOEs and MOEs have become responsible for implementing a series of measures to ensure the institutional integrity as foreseen by the Law, as well as the non-admission and denunciation of corruption, protection of whistleblowers, respect of ethics and deontology norms, compliance with the regime of conflicts of interest and of gifts and other integrity measures.

The Action Plan of the National Integrity and Anticorruption Strategy for the years 2017–2020 (hereinafter, NIAS) (Pillar VII) foresees the approval of the Corruption Risk Registers and/or Integrity Plans of the SOEs/MOEs. Likewise, it foresees the responsibility to publish the reports on the implementation of measures embedded in the Risk Registers and/or Integrity Plans on the websites of the SOEs/MOEs or of the public entities that control them.

At the beginning of 2018, NAC developed and published an Integrity Plan Template for the enterprises founded by the central and local public administration authorities. This template foresees actions to be implemented by the SOEs/MOEs determined based on the identified risks, which, in their turn, are generated by certain issues/risk areas. Each foreseen action has a timetable for achievement, monitoring indicators and a person in charge for the enforcement.

At the UNDP initiative, a Code of Conduct template was drafted in 2016 for the small and medium-sized enterprises, and the SEs/MOEs could take it over. This Code of Conduct template encompasses a series of anticorruption norms and principles necessary for the enhancement of the institutional integrity level within the enterprise.

This report aims to provide support to the NAC through an assessment of the implementation of Integrity Plans and/or Risk Registers by the SOEs/MOEs. The report embeds the results of the assessment process along with a series of recommendations to strengthen the integrity and reduce corruption within SOEs/MOEs.

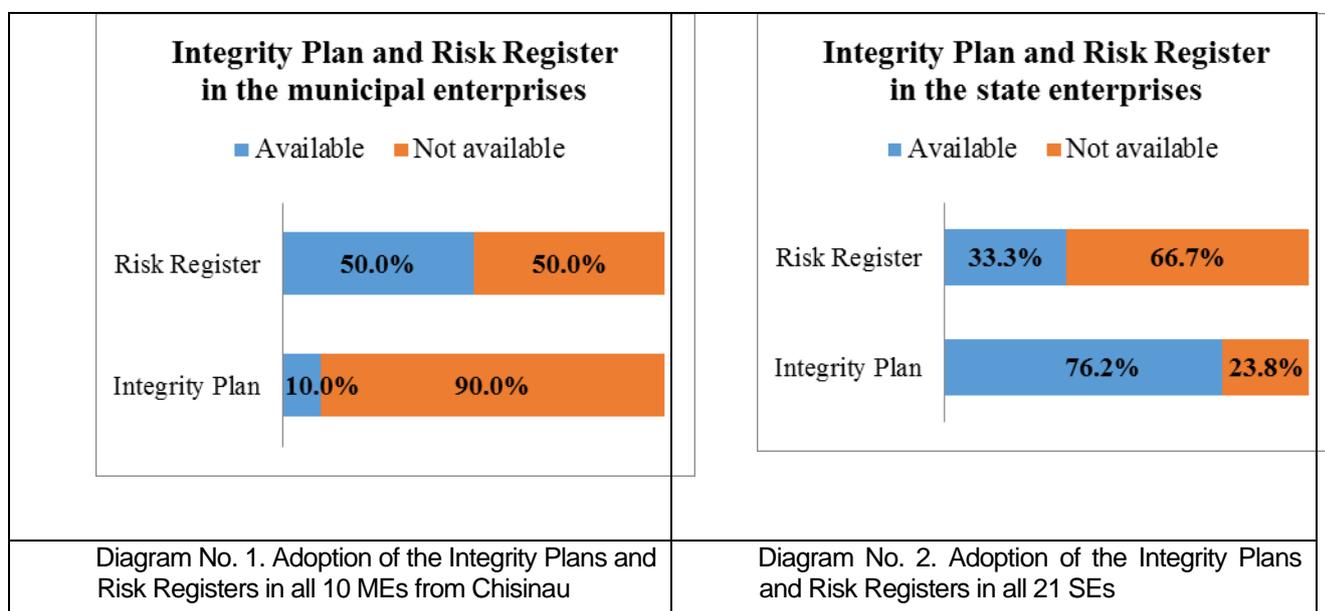
*Executive summary*

The 31 companies subject to assessment (10 MEs from Chisinau municipality and 21 SEs) that were analysed through the lenses of integrity and anti-corruption policies are behindhand in ensuring the institutional integrity, given that the performance indicators laid down in the 2017-2020 NIAS have not been reached.

The outcomes of the assessment show that 22 enterprises or 71% of the monitored enterprises (17 SEs and 5 MEs) have at least an integrity document (an Integrity Plan and/or a Risk Register) with actions for the prevention and reduction of corruption risks.

Referring to the situation of MEs from Chisinau municipality, in particular, we found that only one ME (10%) of those 10 under assessment had an Integrity Plan, while some of them claimed they were implementing the Integrity Plan of the Chisinau city hall (the latest plan was implemented during 2017-2018). Regarding the availability of Risk Registers in enterprises, including the corruption risk, half of the MEs (50%) subject to assessment (5 out of 10 MEs) hold such a register at the entity level.

The situation of SEs is better compared to that of the analysed MEs. Thus, 16 SEs (76.2%) of those 21 assessed have an Integrity Plan. On the other hand, only one third (33.3%) of the assessed enterprises (7 out of 21 SEs) have a Risk Register to document the risks and to establish the actions that have to be undertaken for their mitigation.



The results of the detailed assessment of 31 SEs/MEs reveal a low level of implementation of the prevention and corruption risks mitigation actions according to the integrity documents of the entities. Nevertheless, if we compare the situation of MEs with that of the SEs, in line with the sample assessed, the situation of SEs is better compared with the situation of the MEs from Chisinau municipality from the viewpoint of adoption of documents ensuring an appropriate institutional integrity climate, in particular, of Integrity Plan adoption at the entity level.

The enterprises that were analysed lack procedures for the denunciation of illegalities/inappropriate influences and protection mechanisms for denunciators/ whistleblowers.

Only 4 SEs approved such procedures through a Department Act and only 3 SEs have such protection mechanisms.

The available measures are not efficient to encourage the staff to report irregularities within the enterprise. Of those interviewed, only 58% consider they will not be protected if they denounce corruption deeds. As a result, the enterprises did not have any denunciations of corruption cases and no whistleblowings were sent to the NAC between 2018 and 2020.

The great majority of the enterprises subject to assessment have Codes of Conduct (71%), however, the description of the regime of gifts, the identification and management policy of the conflict of interest, and the disciplinary sanctions imposed for the breach of conduct norms is general and concise. Additionally, none of the Codes of Conduct foresees the anti-corruption commitments, including in respect to business partners.

One ME out of 10 and 13 out of 21 SEs subject to assessment foresaw actions to prevent the procurement-related risks (the risk of manipulating with the procurement procedure, the risk of money laundering, the risk of unjustified procurement, the risk of failure to report the conflict of interest).

Following the analysis of the procurement process and of the actions foreseen in the available integrity documents, we found that the SEs and MEs from Chisinau municipality do not apply unique rules in the procurement process and continue to rely individually either on their in-house regulations approved by the leader/Management Board or founder, or on the public procurement legislation and subsequent regulations, including the new normative provisions in the area of procurement for state enterprises approved by the Government this year. In particular, we refer to the GD No. 351 of 10.06.2020 for the approval of the Regulation on goods, works and services procurement by the state enterprise (a soft regulation for the entities founded by the LPAA).

The procurement process in the state and municipal enterprises has a reduced degree of transparency. Thus, we found that only 1/4 of the assessed enterprises (4 SEs and 4 MEs) published their annual procurement plans of the last 2-4 years on their websites and only 10% of the enterprises (2 MEs and 1 SEs) published information/reports on the monitoring of the execution of procurement contracts on their websites.

Only one ME out of 10 assessed enterprises and only half of SEs (11 out of 21 SEs) foresaw actions of prevention and mitigation of assets management-associated risks, including the risk of asset diversion and the risk of assets/material goods embezzlement in their Integrity Plans.

The state, as well as the municipal assessed enterprises did not take sufficient measures in view of ensuring the integrity and efficient use of assets. The results of the interviews showed that approximately 1/3 (28.6%) of enterprises had partially ensured the registration of the property right over the real estate under their management in the Real Estate Register, while almost half (47.6%) of the enterprises had not informed the public (offers, results, other information) about the rental, lease or free loan of the enterprise's goods. Only some SEs/MEs (19.0%) claim they published this information on the website.

The results of the interviews with SEs and MEs managers revealed that every 5th analysed enterprise (19%) did not implement an internal control system. Therewith, half of the SEs and 2/3 of the MEs did not implement the risk management in the company and therefore, there was no documentation of risks, including fraud and corruption risks and no measures were undertaken to prevent and reduce the risks.

Almost half of the assessed enterprises have internal regulations on service information management, which refer to confidential/secret information, but also regulations on the use and processing of personal data. Despite the processing of personal data, only 1/5 of companies have notified the competent authority of the fact.

The transparency and access to information of public interest are impacted by the absence of websites or by failing to regularly update the information, but also, by the groundless refusals to submit the information requested by the petitioners. Hence, 6 out of 31 enterprises (1 ME and 5 SEs) don't have a website. Yet, only in the case of 7 enterprises (2 MEs and 5 SEs) the websites contain regularly updated information and data. Moreover, the enterprises and founders, in particular the administration of Chisinau municipality, don't publish the documents expressly provided in the Law on the State and Municipal Enterprise.

According to the provisions of the Law no. 246/2017, only 10 enterprises publish the statute of the enterprise on their website, while 8 enterprises published their 2019 Annual Report; 5 enterprises publish their internal regulations, whereas 3 enterprises published their 2019 Audit Report on the website. All these are SEs and no MEs has published such documents on their websites. At the same time, there are 14 statutes of the monitored SE on the website of the PPA, along with the 2019 Annual Report, and a 2019 Audit Report. No internal Regulations of the enterprises were published. None of the aforementioned documents of the monitored enterprises were published on the website of the Chisinau municipality administration, which is the founder of ME.

Among the conditions that can favour the materialisation of fraud and corruption risks are the negative indicators of the return on assets (economic), of the return on equity (financial), of equity, net negative assets of the enterprises as well as other indicators to be further analysed in relation to the assessed MEs and SEs from Chisinau municipality.

Following the economic-financial analysis of those 10 assessed MEs, we found that in 2020 (situation of 1.01.2020), the value of the net assets of the 10 assessed enterprises (whose founder is CMC) constituted

2.23 billion MDL or 9.61% more compared with the situation in 2019 (situation of 1.01.2019), when the value of the net assets amounted to 2.10 billion MDL.

In the case of those 21 assessed SEs, the total net assets of those 21 SEs constituted 13.13 billion MDL in 2020 (situation of 1.01.2020) or 0.73% less compared with 2019 (situation of 1.01.2019), when the total value of the net assets amounted to 13.23 billion MDL. This is a slightly worsened situation of the assessed SEs, a fact that points towards the risk of assets embezzlement and/or suspicious increase of the total liabilities.

[http://www.viitorul.org/files/IS%20%26%20IM\\_UNDP\\_20112020\\_EN\\_0.pdf](http://www.viitorul.org/files/IS%20%26%20IM_UNDP_20112020_EN_0.pdf)

### 2.13 IDIS Viitorul: Impact Assessment of the Sectorial Anticorruption Action Plan in the Fiscal Sector

The core objective of this Report is to assess the Sectorial Anticorruption action Plan in the fiscal sector (SAP) based on the measurement of progress on the implementation of actions and of the impact generated by their implementation, as well as to formulate recommendations on the enhancement the implementation of anti-corruption measures in the fiscal sector for the next time segment.

The assessment methodology sets the rules and the general algorithm applicable for the SAP assessment. Thus, the level of implementation of the 16 actions included in the SAP was assessed against the following qualifiers: “*completed action*”, “*partially completed action*”, “*action to be completed*”, “*uncompleted action*”. The impact generated by the SAP actions was assessed against these qualifiers: “0” (*lack of impact*), “1” (*low impact*), “2” (*medium impact*), “3” (*major impact*). Nine impact indicators were developed and calculated in the process of impact assessment. Each encompasses 2-4 component sub-indicators. The value of impact indicators was established by calculating the weighted arithmetic average.

The application of the methodology for progress assessment purposes revealed the following outcomes: **seven actions were assigned the qualifier “completed”, six actions – “partially completed”, three actions – “uncompleted”.** To conclude, on the whole, the SAP was partially completed.

Table No. 1 The Outcomes on the Progress of SAP Actions

Number of Action	Assigned Qualifier	Number of Action	Assigned Qualifier
1	Partially completed	9	Completed
2	Uncompleted	10	Completed
3	Completed	11	Completed
4	Completed	12	Partially completed
5	Partially completed	13	Completed
6	Partially completed	14	Completed
7	Uncompleted	15	Partially completed
8	Partially completed	16	Uncompleted

The use of the methodology to assess the impact related to the implementation of the SAP actions revealed the following outcomes: four indicators show an average impact due to the implementation of the respective actions, while the other five indicators show a low impact. Regarding the four SAP priorities, the following can be mentioned:

- Concerning the **increase of transparency and uniform involvement of the stakeholders in the decision-making process**, the actions laid down in SAP have generated a *medium impact* in relation to the decision-making transparency, and a *low impact* in relation to the taxpayers' involvement into the decision-making process. Hence, the completion of these actions has not yielded significant positive changes to the tax sector, the participation in the decision-making process being low.
- As for the **increase of quality and transparency in the process of service delivery through the development and implementation of efficient and operational automated information systems**, there is a *medium impact* on the mitigation of the corruption risk. At the same time, the reduced accessibility of the users of e-services still remains an issue demanding immediate solutions by the State Fiscal Service (SFS). The delay in the implementation of the “VAT Return” module from “Case Management” automated information system shows an intensification of some shortcomings in the tax administration.

- In respect of **strengthening the integrity climate and addressing the vulnerabilities to corruption by building the institutional capacities**, there is a *low impact* of the actions embedded in the SAP and undertaken by the SFS. The efforts assumed to create an integral model of professional activity have not dramatically enhanced the trust of the taxpayers into the tax officials, while the expansion of tax officials' knowledge in the area of integrity has not triggered the denunciation of the corruption acts within the SFS.
- Regarding the **decrease of the tax evasion level through the implementation of measures for the management and monitoring of the tax inspectors' activity and enhancement of the discipline among taxpayers**, there's a *medium impact* following the actions undertaken by the SFS, with positive changes and some progress in the system. The enhancement of discipline among taxpayers could be explained through an increase of the revenues to the NPB administered by the SFS, which, although insignificant, shows some positive changes in the sector.

Table No. 2. The Outcomes of Assessment in line with Impact Indicators and their Components.

Impact indicators	Final Impact: Value and Qualifier (0 – 3)
1. Evolution of transparency and of SFS's participation in the decision-making process between 2018 and the 1 <sup>st</sup> semester of 2020	0.95 Low impact (1)
2. Evolution and changes that occurred in the period 2018 - 1 <sup>st</sup> semester of 2020 subsequent to the implementation of actions aiming at reducing tax evasion	1.56 Medium impact (2)
3. Evolution in the denunciation of corruption acts and of frauds by the SFS staff, as well as sanctions imposed during 2018 - 1 <sup>st</sup> semester of 2020	0,7 Low impact (1)
4. Increase in the digitalisation of tax services	1.8 Medium impact (2)
5. Taxpayers' perception (business community, individuals) of the phenomenon of corruption within SFS	1.06 Low impact (1)
6. Increase of the taxpayers' satisfaction level with the services provided by the SFS in its interaction with the taxpayers	1.73 Medium impact (2)
7. Increase of the satisfaction level with the e-tax services provided by the SFS	0.8 Low impact (1)
8. Evolution of the tax discipline and of taxpayers' level of compliance (legal entities and individuals) between 2018 and the 1 <sup>st</sup> semester of 2020	1.6 Medium impact (2)
9. Business community's perception of the efficiency of planned and conducted tax inspections	1.15 Low impact (1)

Following the outcomes of the assessment of impact of implemented actions, this Report comprises recommendations that were divided into two categories: recommendations on SAP implementation and reporting by the SFS and recommendations on strengthening the integrity and reduction of corruption within the SFS.

[http://viitorul.org/files/library/Raport\\_evaluare\\_IDIS\\_UNDP\\_SFS\\_01.12.020\\_0.pdf](http://viitorul.org/files/library/Raport_evaluare_IDIS_UNDP_SFS_01.12.020_0.pdf)

## 2.14 IDIS Viitorul: Independent and Regulatory Authorities of Moldova Interaction and Cooperation with the Parliament of the Republic of Moldova

This study offers an in-depth analysis of the activity of independent and regulatory agencies in the Republic of Moldova, as well as of their evolution in the 2013-2020 timeframe. The analysis presented in the report is summarized and systematized in six chapters having the following content:

- **The conceptual framework on independent and regulatory authorities** - focuses on the conceptual framework with the goal of analyzing the functioning and main institutional features of independent and regulatory agencies. The framework is based on public policy principles and guidelines for regulatory agencies issued by the Organization for Economic Co-operation and Development (OECD) and employed in the previous report.

- **An analysis of the independent and regulatory authorities of Moldova** - analyzes in detail the extent to which the instruments of independence and responsibility (described in the conceptual framework) are reflected in the functioning of the National Agency for Energy Regulation (ANRE); National Bank of Moldova (NBM); Court of Accounts (CoA); Competition Council (CC); International Association of Carriers of Moldova (AITA);
- **A comparative analysis and the general table of authorities examined in terms of independence and institutional responsibilities** - is an illustration through a graphical table of the analysis of the independent and regulatory agencies. This allows for a clear observation of the application of the tools defined and applied in the analysis.
- **The development of independent and regulatory authorities from the perspective of the Moldova-EU Association Agreement** - is a new chapter compared to the previous report, given that the Republic of Moldova has committed itself to and signed the Moldova-EU Association Agreement, which has a direct significant impact on the evolution of all state institutions, including independent and regulatory authorities. In this respect, the chapter presents and analyzes the main approaches and essential changes within the independent and regulatory authorities from the perspective of the implementation of the Moldova-EU Association Agreement.
- **The interaction and cooperation between the Parliament of the Republic of Moldova and the independent and regulatory authorities** - in this chapter, a number of indicative observations on the interaction of independent and regulatory authorities with the Parliament are being made.
- **Conclusions and Recommendations on independent and regulatory authorities in the Republic of Moldova** - the chapter contains the main findings and conclusions of the study, as well as a series of recommendations based on certain objective factors, which suggest the way to overcome inconsistencies and regulatory gaps in connection with the activity of the independent and regulatory authorities, and which may constitute in this respect "points de repère" for the Parliament and the Government of the Republic of Moldova.

[http://viitorul.org/files/library/Studiu\\_Agentii%20de%20reglementare.pdf](http://viitorul.org/files/library/Studiu_Agentii%20de%20reglementare.pdf)

### **2.15 IDIS Viitorul: Study Corruption Risk Analysis within the State Labor Inspectorate**

This report includes an analysis of the risks linked with the State Labor Inspectorate (hereinafter SLI). Such risks emerge from existing regulations in the normative framework and from the results of the activity conducted by the SLI.

The study comprises five compartments, which describe the current context and the purpose of the study, analyze the risk factors generated by regulations in the field, the existence of integrity tools provided by the regulatory framework, and possible ways of implementing measures to ensure institutional integrity. The report continues with the analysis of operational risk factors, which may arise from the management of work-related information, management of financial means, public procurement, and inadequate implementation of internal managerial control. A separate compartment is dedicated to the analysis of the risks related to the process of performing the state control, from the planning stage to the decision-making stage. The analysis of decisional transparency and of the access to information within the State Labor Inspectorate follows next. Finally, general conclusions were drawn up and several recommendations were submitted in order to eliminate the risks existing within the State Labor Inspectorate. The report highlights the inconsistencies of the provisions of the normative framework, which refer to the control activity of SLI; such inconsistencies create confusion and cause an inadequate implementation of existing rules. In addition, the report highlights the provisions of the normative framework, or the lack thereof, which may affect the independence of the ISM.

As a result of the analysis, several arrears were identified with regard to the implementation of the integrity measures established by the normative framework. A series of integrity tools necessary to ensure the institutional integrity within the SLI has not been implemented. In addition, we note the lack of transparency regarding cases of breaches of ethical standards and improper conduct by labor inspectors. According to the reports' findings, the risks of corruption related to the management of financial means within the State Labor Inspectorate are minor and have a low probability of occurrence.

The lack of transparency was also emphasized regarding public procurement, as not all the information and documents, stipulated in the regulatory framework in the field, are being published, something that may favor

the risks of corruption and conflicts of interest. In general, we note the low probability of corruption risks, as the State Labor Inspectorate has carried out few public procurements and they have are of a low value.

The risks related to the internal managerial control are serious and with a high probability of occurrence, which could have negative effects on the institution's reputation. This is the result of a lack of a Register of risks, including those of corruption, as well as of deficiencies in the organization and functioning of the internal managerial control system.

The report showcases the lack of a correct record of the data on the number of planned verifications, the number of performed verifications, as well as of their results, as major discrepancies have been identified in the public information presented in the annual activity reports of the State Labor Inspectorate and of the State Register of controls.

The analysis of the statistical data related to the state control, carried out by the State Labor Inspectorate in the last three years, highlights several aspects, which raise certain questions, can signal the presence of elements of corruption, in many cases underline the insufficient training of labor inspectors, but also indicate the need for a thorough analysis and taking the necessary measures by the management of the institution. In this regard, we mention the extremely small number of filed appeals against the minutes of the verifications, the lack of petitions and preliminary requests examined in the Council for dispute solving purposes, the annulment of the minutes by courts on the grounds of sanctionable findings, the expiration of the term of prescription and the incorrect drafting of the minutes, which led to their annulment. In addition, we note the inefficient accomplishment by SLI of its task of offering guidance to the economic agents.

[http://www.viitorul.org/files/library/Studiu\\_ISM\\_0.pdf](http://www.viitorul.org/files/library/Studiu_ISM_0.pdf)

## **2.16 IDIS Viitorul: Analysis of Corruption Risks within the State Fiscal Service**

This report includes an analysis of the risks related to the activity of the State Fiscal Service (hereinafter the SFS), risks emerging from the existing regulations in the normative framework, and from the results of the SFS' activity.

The study comprises five compartments, which describe the current context and purpose of the study, analyze the risk factors generated by regulations in the field, the existence of integrity tools provided by the regulatory framework, and the way of implementing measures to ensure institutional integrity. The report continues with the analysis of operational risk factors, which may arise from the management of service information, management of financial means, public procurement, and the inadequate implementation of internal managerial control. A separate compartment is dedicated to the analysis of the risks related to the process of performing state control, from the planning stage to the decision-making stage. Next follows an analysis of decisional transparency and of access to information at the State Fiscal Service. Finally, general conclusions were drawn up and several recommendations were submitted with the goal of achieving the elimination of the existing risks associated with the State Tax Service.

The report highlights the inconsistencies of the provisions of the regulatory framework referring to the control activity of the SFS, that create confusion and inadequate implementation of existing rules. The most important regulatory differences, which, in this respect, may constitute major risks in the control process, have also been indicated.

As a result of the analysis, there have been identified arrears in the implementation of the integrity measures as established in the normative framework. This analysis is also an investigation of the implemented integrity instruments, necessary in order to ensure the institutional integrity of the SFS.

With regard to public procurement, the authors of the report note the lack of transparency resulting from not publishing all the information and documents stipulated by the regulatory framework, from deficiencies and inconsistencies in published data; also noted is the non-compliance with legal provisions, which may favor the risks of corruption, conflicts of interests, but also the poor execution of contracts. The general conclusion is that there exists a high probability of corruption risks.

According to the findings of the report, the risks of corruption related to the management of the financial means with the State Fiscal Service are minor, with a low probability of occurrence. Regarding the risks related to the internal managerial control, they are moderate and with an average probability of occurrence. This finding is based on the noted deficiencies in the organization and functioning of the internal managerial control system.

The risks related to transparency in the decision-making process are moderate, but with a high probability of occurrence. The State Fiscal Service fails to ensure transparency and real public participation at all stages of the decision-making process. At the same time, the risks associated with the activity of providing access to information by the SFS are moderate and with a medium probability of occurrence. However, every year we notice court decisions finding violations, by the SFS, of the right of access to information.

The report discovered the lack of an appropriate record of the data on the number of controls performed, and on their results, as there have been identified major discrepancies in the public information presented in the annual activity reports of the State Fiscal Service - on one hand, and in the State Register – on the other hand.

The analysis of statistical data related to state control carried out by the State Fiscal Service in the last three years highlights several issues, which may raise some questions or signal the presence of elements of corruption. The findings emphasize in many cases the insufficient training of inspectors, and also indicate the need for a thorough analysis, and for necessary measures to be taken by the management of the institution. In this regard, we mention the extremely small number of appeals filed against control resolutions and decisions, the annulment of the results of fiscal controls by the courts on the grounds of late filing of appeals, the incorrect drafting of control acts, and unjustified sanctioning of the taxpayers.

[http://www.viitorul.org/files/library/Studiu\\_SFS\\_2021.pdf](http://www.viitorul.org/files/library/Studiu_SFS_2021.pdf)

## **2.17 IDIS Viitorul: MONITORING REPORT NO. 3 Transparency of public enterprises of the Republic of Moldova**

The Institute for Development and Social Initiatives (IDIS) “Viitorul” has measured the level of transparency of publicly-owned undertakings in the Republic of Moldova, relying on the Institute for Economic and Social Reforms (INEKO) aid under the initiative “Supporting democracy, independence and transparency of key public institutions in Moldova”. IDIS “Viitorul” has implemented this initiative in partnership with INEKO, being financially supported by the Slovak Official Development Assistance Programme (SlovakAid). The initiative aims to raise public awareness about the development of democracy and independence of key state institutions, as well as to improve transparency and financial stability of local public authorities and of publicly-owned undertakings of the Republic of Moldova. The ranking of the most transparent publicly-owned undertakings is available at: [www.companies.viitorul.org](http://www.companies.viitorul.org).

The monitoring process of Moldovan publicly-owned undertakings was launched in 2019, and is ongoing through 2021 as well, having revealed the lingering issues and gaps in terms of transparency in their work. Such status is due to the imperfect legal framework, undertakings’ failure to comply with the current requirements and the lack of viable instruments to hold liable those that infringe the law. The report findings reiterate the issues and gaps revealed over the past several years, which are still topical.

The assessment results of the country largest and most important enterprises (60 entities) reveal an overall average level of transparency of circa 26% out of 100%. In comparison with the previous ranking, one may notice an increase in the overall average by + 8.30 percentage points, including each of the six areas of transparency. Likewise, an increase in the overall average recorded for state-owned enterprises is noticeable against municipally-owned enterprises. This is due to the fulfilment of certain important transparency indicators by a larger number of state-owned enterprises such as disclosing the information on share capital, publishing public procurement plans, Ethic Codes, and economic and financial reports and reviews.

The Moldovan publicly-owned undertakings worsened their outcomes only for one transparency indicator, namely publishing the public procurement contracts. No undertaking published such contracts in the previous ranking or in the current ranking. If previously four enterprises posted limited information on the award of contracts, the contract subject-matter and value on their web pages, only three enterprises disclosed such information in their annual reports and statements under the current ranking. The issue related to the publication of public procurement contracts by enterprises is still topical and remains unresolved.

So far, the Law on access to information is not applicable to publicly-owned undertakings. Hence, circa 1/3 of enterprises subject to monitoring responded to the questionnaire circulated by IDIS “Viitorul”, and only 12% of them answered the request submitted by a natural person, which provided the information sought, thus, a slight increase has been recorded relative to the previous assessment.

The Public Services Agency web page, which is the founder of most state-owned enterprises, has been upgraded recently, and, as a rule, includes the enterprise charter, some economic and financial reviews of

earlier years, displaying a larger amount of useful information. Nonetheless, a series of important data of public interest is still missing, such as annual activity reports and current audit reports.

More than 2/3 of enterprises subject to monitoring have published their instruments of incorporation on their web pages or on the founders' websites, while over 4/5 of enterprises disclosed the data on their owners. However, the enterprises failed to publish the outcomes of the meetings held by management bodies, while six enterprises disclosed limited information to this end.

Public procurement carried out by enterprises is another obscured area in terms of transparency, the reason behind it being the inappropriate legal framework. The situation improved to some extent for the state-owned enterprises once some paramount regulatory acts have been passed to govern the procurement procedures employed by these enterprises and by those working in certain specific sectors. The situation of municipally-owned enterprises and of joint stock companies with full or majority state ownership still remains uncertain. Some of these regulations became applicable in mid-2020, while others are to enter in force in the second half of 2021.

Circa 3/5 of enterprises subject to monitoring do not publish notices of invitation to tender on their web page, and none of the enterprises published the public procurement contracts last year. Instead, 1/3 of enterprises subject to monitoring had used digital platforms for public procurement procedures in 2020, but this happened as per the intention and decision of the enterprise Founders and management rather than as a binding obligation covered by law.

Publicly owned enterprises disclose no information concerning their assets (lands and real estate) they administer or own. As a rule, the information about the economic use of those assets is published by the enterprises dealing with renting/leasing the premises under their management.

Circa 40% of enterprises subject to monitoring post job vacancies on their web page, but none revealed the selection procedure outcomes to fill the vacancies in 2020. Only two enterprises stated the administrator's wage and allowances received by the Management Board members. At the same time, no undertaking published the CVs of Management Board members. The monitoring helped identifying 22 enterprises that developed and published Ethics Codes for their employees and four enterprises that have Corporate Governance Codes.

More than 1/3 of enterprises developed certain in-house integrity instruments foreseen by the regulatory framework, shaped as anti-corruption policy or as ethics and Corporate Governance Codes. As for "Grants and charity", only five publicly-owned undertakings published on the website some limited information about events supported financially in 2020, which were directly related to the donations to fight Covid-19 pandemic. Therefore, the monitoring outcomes of this year have underline the same major issues in terms of transparency for publicly-owned undertakings, revealing gaps for all monitored transparency indicators. Finally, the recommendations formulated in this report are intended for, on the one hand, public authorities responsible for the development, improvement and implementation of public policy, monitoring and ensuring sound activity of publicly-owned undertakings, while, on the other hand, for enterprises to better comply with the legal requirements on transparency and made public important information.

[http://www.viitorul.org/files/EN\\_Raport%20transparenta%20companii%20Nr.%203%20FINAL.pdf](http://www.viitorul.org/files/EN_Raport%20transparenta%20companii%20Nr.%203%20FINAL.pdf)

## **2.18 IDIS Viitorul: Evaluation Report Moldovan Public Institutions' Independence Potential**

This report pursues the goal to evaluate the independence potential of Moldovan key public institutions and raise public awareness to this end, as well as to lay down the recommendations aimed at increasing the independence of public institutions. The ranking of the most independent public institutions represents an instrument to evaluate their independence potential, identify the major issues, barriers and gaps in the way how the governing bodies are organised and established, as well as in the public institutions' activity. Moreover, recommendations have been laid down with the aim to increase the independence of public institutions and support the competent public authorities in their endeavours to enhance the independence level.

Hence, according to the report, most public institutions subject to evaluation scored more than 50% of the maximum points available pursuant to the methodology and exceeded the overall average of 57% scored by all institutions, while five of them scored more than 70%, the top position being held by the General Prosecutor's Office. On the other hand, as per the methodology, seven public institutions scored less than

50% of the maximum points available, with the last positioned entity – the Public Services Agency – having scored only 25%.

To a large extent, the evaluation results are largely due to the appropriate regulatory framework, which governs the organisation and functioning of public institutions in the Republic of Moldova. The final score was altered by the fact that some institutions fall under the direct control and influence of the Government/line Ministries, as well as by the refusal of some institutions to respond to inquiries on access to information or to provide the requested data.

The process of appointing the governing bodies encompasses certain shortcomings, which may alter the independence of public institutions. In fact, there are few cases when this responsibility is shared among several subjects. The Parliament standing committees responsible for holding open competitions and selecting the candidates, pursuant to their mandate, do not represent actual tender commissions to involve other parties along with the members of Parliament (MPs). Moreover, public hearings is not a binding instrument of the selection process to fill the management positions in all public institutions, while the regulations in place are not applied in practice on a regular basis or fail to ensure holding actual public hearings.

A number of regulatory acts, which govern the organisation and work of public institutions, have no specific requirements in terms of education, work experience and political independence of candidates to fill a management position in an institution. Moreover, the evaluation of seven public institutions revealed cases when certain candidates were politically engaged/active during two years preceding their appointment.

Pursuant to the regulatory framework, the term of office of the Public Services Agency Management is not limited, while in eight public institutions the persons may hold management positions for an unlimited number of terms.

Six public institutions lack exhaustive and detailed grounds for the dismissal of governing bodies or do not have such grounds at all.

The information provided by public institutions reveal five entities where the income earned by the appointed persons and by employees represents an important element of independence of those institutions.

The review of gross average monthly income of governing body members shows that it is at least twice as much as the average monthly wage across the economy. There is also a notable discrepancy in the wage policy for the governing body members of different public institutions whereby some of the managerial positions are remunerated double, triple or even tenfold compared to other institutions. There are also significant discrepancies between the gross average monthly income of top rank managers and the management of some public institutions.

In most public institutions labour remuneration of ordinary employees is discouraging. In seven public institutions the gross average monthly wage of employees is comparable with the average monthly wage across the economy. The employees of “Teleradio – Moldova” Company, Superior Council of Magistracy and Constitutional Court have the lowest gross average monthly wages, which vary between MDL 6000 and MDL 7000.

<http://www.viitorul.org/files/EN%20Potentialul%20de%20independenta%20al%20institutiilor%20publice%20dec.pdf>

### 3. Justice sector

#### 3.1 *TI-Moldova Reflects on the Reform of the Justice System – One Step Forward and Two Steps Back* *The Judiciary's Strategic Approach: Reviewing Experiences*

In the Republic of Moldova, the judiciary is one of the most frequently reformed sectors. Initially, the policy documents in the field had a segmental approach, targeting institutions and issues separately. Subsequently, a comprehensive approach was attempted, with reform efforts combined in a unified policy framework, such as the Judicial Strengthening Strategy and the Action Plan for its implementation, approved in 2007. Admittedly, the reform intentions concerned only the judicial system and did not extend, to the same extent, to the other components of the justice sector (criminal prosecution bodies, related legal professions, the enforcement system, etc.), which were dealt with, further apart.[1]

In 2009, important reforms were initiated[2], which were finally found in a holistic document – the Justice Sector Reform Strategy for 2011-2016 (SRSJ) and, respectively, the Action Plan for its implementation[3]. It is worth noting the extension of the deadline for completing the JSRS until December 31, 2017.[4]

In the view of the authorities [5], many of the planned actions have achieved their expected result and many reforms, even if delayed, have been put into practice. Among the most important are invoked:

- legislative and institutional reforms that have strengthened the administrative capacity of the judiciary (the Superior Council of Magistracy (SCM) and its specialized bodies);
- launching the reform of the map of the location of the courts;
- the creation of new mechanisms for the selection, evaluation of the performance and disciplinary liability of judges, including the strengthening of the role and status of the Judicial Inspection;
- reform of the National Institute of Justice;
- strengthening the state-guaranteed legal aid system, broadening the spectrum of assistance and the circle of subjects;
- reviewing the procedures for enforcing judgments;
- rethinking and, as appropriate, consolidating the rules on the organization and functioning of the professions related to the justice sector (notaries, lawyers, bailiffs, judicial experts, mediators, licensed administrators, translators / interpreters);
- the reform of the Prosecutor's Office, of its administration bodies, of the statute of the prosecutors, the creation, the fortification of the specialized prosecutor's offices;
- creating the legislative basis for the rehabilitation of victims of crime and strengthening the child-friendly justice system;
- establishing new mechanisms to prevent corruption and ensure integrity in the justice sector;
- reviewing the codes of ethics of actors in the justice sector and creating mechanisms for investigating / reacting to ethical deviations;
- the reform of the People's Advocate institution;
- launching the process of modernizing and consolidating the legal and institutional framework of the penitentiary system and the probation system;
- adoption of new rules for the process of elaboration of normative acts.

The authorities insist that 86% of the JSRS were executed. However, difficulties in assessing the impact are acknowledged, with progress indicators mainly pursuing quantitative and not qualitative results. Moreover, the authorities, implicitly, acknowledge the errors in the strategic planning process. The objectives were too ambitious, and the spectrum and area of action were too wide, which is why not all the planned ones were achieved. Many of the actions were interconnected, the stagnation and procrastination of some leading to the chain failure of others. The implementation of the JSRS was also affected by poorly managed risks, even if they were anticipated:

- political instability;
- resistance from the authorities to the reforms;
- poor capacity to absorb funds for the implementation of the reform.

In fact, the results of the JSRS were not consolidated. In 2018, the priorities in the short-term sector were set only by the Ministry of Justice, being announced the so-called “Little reform of justice”, which was based on the following strategic directions [6]:

- reform of the judiciary and assessment of the integrity of all judges;
- restructuring of the judiciary (completion of the judicial map reform);
- strengthening the mechanisms of accountability of judges;
- strengthening the independence of the judiciary;
- increasing the efficiency and transparency of the judiciary;
- reform of the lawyer profession (advocatura) and the Constitutional Court.

From the achievements, the authorities insist on the legislative amendments related to:[7]

- reviewing the criteria for selection, evaluation and promotion of judges;
- ensuring competitiveness in the process of promoting and transferring judges;
- strengthening the role of the SCM, in particular by limiting membership to a certain term, but also limiting the voting rights of the Prosecutor General, the President of the Supreme Court of Justice (SCJ) and the Minister of Justice in matters relating to the career of judges (appointment, promotion, sanctioning). disciplinary action and dismissal of judges);
- ensuring the functional autonomy of the Judicial Inspection vis-à-vis the SCM;
- reviewing the mechanism for examining disciplinary violations.

However, the authorities also acknowledge the maintenance of several problems in the field, such as:[8]

- corruptible factors and elements affecting the integrity of judicial actors;
- insufficient performance capabilities in human resources management;
- underdeveloped legal culture;
- non-uniform judicial practices;
- poor application of the regulatory framework;
- excessive focus on short-term actions in drafting the legislative framework and lack of a medium- and long-term systemic vision;
- legislative instability (incoherent, uncorrelated initiatives without broad consultation).

<https://www.transparency.md/2021/05/17/transparency-international-moldova-reflects-on-the-reform-of-the-justice-system-one-step-forward-and-two-steps-back/>

### **3.2 *TI-Moldova*: The Strategy on Ensuring the Independence and Integrity of the Justice Sector for the Years 2021-2024 and the Action Plan for its Implementation**

The long political crisis has led to a lack of a strategic vision of justice. A new policy document in this field was submitted by the Government only on October 26, 2020[9], and was adopted by the Parliament on November 26, 2020[10].

The draft Strategy on ensuring the independence and integrity of the justice sector for the years 2021-2024 includes six chapters:

1. Situation analysis;
2. Strategic directions, specific objectives and expected results;
3. Estimating the progress, impact and costs of implementation;
4. The premises of an efficient implementation and the risks of implementation;
5. The elaboration process;
6. Reporting and monitoring procedures.

The policy paper focuses on the following strategic and objective directions:

Strategic directions	Objective
Independence, accountability and integrity of justice sector actors	Strengthen the independence of the judiciary and the Prosecutor's Office- Strengthen the integrity and accountability of the justice sector- Increasing the degree of transparency and trust in justice- Strengthen the capacity of the legal professions related to justice
Access to justice and the quality of justice	Improving access to justice and the human rights protection system in the justice sector- Improving the quality of judicial acts and standardizing judicial practice- Strengthen legal training and education- Strengthen alternative ways of resolving disputes
Efficient and modern administration of the justice sector	Continuing the process of optimizing the judiciary and the Prosecutor's Office- Strengthen administrative and managerial capacities in the justice sector- Development and implementation of judicial information systems

The project includes several important actions, some of which were taken over from those not carried out in the process of implementing the SRSJ, such as:

- standardization of the procedure for appointing judges in all courts by reviewing the manner of appointing judges of the SCJ – the appointment is to be made by the President of the Republic of Moldova at the proposal of the SCM;
- the exclusion of the provisions that establish the appointment of the presidents and vice-presidents of the courts by the President of the Republic of Moldova at the proposal of the SCM, these competencies will return exclusively to the SCM;
- the exclusion of art. 307 of the Criminal Code (Pronouncing a sentence, decisions, conclusions or decisions contrary to the law).

The implementation of other actions is also important from the perspective of the evaluation of the Republic of Moldova by specialized international bodies. We are referring to the revision of the place of the Prosecutors' Inspection, which would be subordinated to the Superior Council of Prosecutors (CSP). This action is in the spirit of the recommendations of the Group of States against Corruption (GRECO) addressed to the Republic of Moldova in the fourth round of evaluation – taking additional measures to increase the objectivity, efficiency and transparency of the normative and operational framework of disciplinary liability of prosecutors.[11]

### ***Deficiencies and (lack of) perspectives – conclusions***

Obviously, the Strategy on ensuring the independence and integrity of the justice sector for the years 2021-2024 is not a perfect document. The process of elaboration and promotion of the project was so long that the product no longer corresponds to the requirements of the legislative technique. In the meantime, the national legal framework on public policy documents has been revised. Thus, according to the Regulation on the planning, elaboration, approval, implementation, monitoring and evaluation of public policy documents, approved by Government Decision no. 386/2020, public policy documents are of two types – strategy and program. The strategy must define and plan the Government's long-term public policy (6-10 years) in one or more areas of Government activity. In the medium term (3-5 years), the public policy document serves the program. The program must derive from the strategy and, respectively, contribute to its implementation by detailing and concretizing the actions to be carried out in a field or subdomain of activity. The program must include the descriptive part and the action plan.

Another inconvenience is generated by the adoption of the Strategy by law and not by a decision of the Parliament. Neither the Strategy nor the Action Plan for its implementation constitute normative acts. Law no. 100/2017 regarding the normative acts, through art. 24, stipulates that policy documents, without being normative acts, are decision-making instruments that address existing problems in a certain field, which define the ways to solve those problems and describe the expected impact on the state and society. The policy documents are approved by Government decision. If the implementation of these policies involves the involvement of administrative authorities that are not subordinate to the Government, the policy documents are approved by Parliament. Parliament is unpredictable in this respect. For example, on 16 December 2020,

Parliament approved, by decision, the National Strategy for the Prevention and Combating of Money Laundering and Terrorist Financing for the Years 2020-2025 and the Action Plan for its Implementation.[12]

Worse, the new policy document was debated by political powers and actors, out of concern for the political image rather than out of concern for the quality of the document. Law no. 204/2020 “For the approval of the Strategy on ensuring the independence and integrity of the justice sector for the years 2021-2024 and the Action Plan for its implementation” was not promulgated. The slowness with which the law goes through the promulgation and re-examination procedure cannot be overlooked. Under the conditions of art. 74 of the Rules of Procedure of the Parliament, adopted by Law no. 797/1996, the law must be sent by the President or by one of the vice-presidents of the Parliament for promulgation to the President of the Republic of Moldova at the latest on the working day following the day of its signing. Prior to promulgation, the President of the Republic of Moldova has the right, if he objects to a law, to send it to the Parliament for re-examination within a maximum of 2 weeks from its receipt. The President of the Republic of Moldova may request the Parliament, only once, to re-examine the law for any reason that makes the law as a whole or part of it unacceptable.

Finally, the Strategy returns to Parliament for re-examination on 2 February 2021 without any objections to unacceptability. In the present case, emphasis is placed on the inclusion of actions relating to:[13]

- implement the external evaluation mechanism of judges;
- launch a viable reform of the anti-corruption system;
- strengthen the independence of judges by adopting legislative changes stemming from the recommendations of development partners and the international community;
- ensure an effective verification of the declarations of assets and personal interests of judges and prosecutors, as well as strengthening legal mechanisms to combat cases of unjust enrichment and violation of the legal regime of restrictions and limitations by the subjects concerned, but also their sanctioning;
- reform the SCJ;
- ensure transparent and fair mechanisms for the election and appointment of SCM and CSP members.

First of all, some of these proposals are too general. We refer to the proposal on strengthening the independence of judges by adopting legislative changes stemming from the recommendations of development partners and the international community.

Secondly, another part of the proposals should be examined in the context of other policy documents. We refer to the proposals related to the start of a viable reform within the system of anti-corruption bodies, as well as ensuring an effective verification of declarations of wealth and personal interests of judges and prosecutors, strengthening legal mechanisms to combat cases of unjust enrichment and violation of the regime. legal restrictions and limitations by the subjects concerned, but also their sanctioning. These goals would be found more organically in the new anti-corruption policy paper, which is delayed. Moreover, the Strategy on ensuring the independence and integrity of the justice sector for the years 2021-2024 contains actions in this regard, as well as actions related to the reform of the SCM, CSP, SCJ.

Thirdly, as regards the proposal for the implementation of the external judge evaluation mechanism, it is unfeasible as long as the national framework does not provide for this way of evaluating judges. Or, you can't implement mechanisms without them. We note that any regulations in this regard require major constitutional amendments, being justified, including in the light of international standards but also the experiences of other countries, only in exceptional conditions.

Surprisingly, Parliament did not rush to review the law either. The Legal, Appointments and Immunities Commission, in April 2021, conducts 3 rounds of public hearings with the participation of representatives of the authorities concerned. Following these hearings, on April 22, 2019, the Parliamentary Commission proposed to the Parliament the maintenance of the previously adopted decision on Law no. 204/2020[14]. In fact, the Strategy no longer has definite perspectives, the Parliament being dissolved on April 28, 2021.[15]

In generalizing the above, it should be noted that the reform of the judiciary has always been a sensitive issue for the other two powers. Prolonged political crises have deprived the sector of genuine strategic treatment. As of 2018, justice is no longer governed by any strategic vision, despite the fact that its reform has been declared a priority by all parties and political actors. An unprofessional and uncooperative political class cannot implement a true reform of the judiciary,

and the process will be mimicked as long as the policies in the field are promoted out of concern for their own rating. In fact, the next legislature will have a difficult mission – to restore justice, disturbed by unjustified, incoherent and populist initiatives. However, justice reform remains a priority that must be emphasized.

<http://www.transparency.md/2021/05/17/transparency-international-moldova-reflects-on-the-reform-of-the-justice-system-one-step-forward-and-two-steps-back/>

### **3.3 Legal Resources Centre from Moldova (LRCM): Survey “Perception of Judges, Prosecutors and Lawyers on Justice Reform and Fight Against Corruption”**

The survey was conducted between October and December 2020 at the request of the Legal Resources Centre from Moldova. The document sought to find out the opinion of judges, prosecutors, and lawyers about the functioning of justice, the initiatives to reform it, and the fight against corruption. It was commissioned from the Center of Sociological Investigations and Marketing CBS-RESEARCH by the Legal Resources Centre from Moldova (LRCM).

Judges, prosecutors, and lawyers were asked about legislative initiatives aimed at improving justice administration; the independence of judges and prosecutors; the quality of justice; the self-governance of judges, prosecutors, and lawyers; the reform of the prosecution system; and the phenomenon of corruption in the country and in the justice sector.

The questionnaires were meant to identify areas of intervention at the level of legislation, public policy, and law enforcement practices. Answers to the main questions were compared with those offered in a similar survey conducted in 2015<sup>9</sup> and with the results of a survey conducted exclusively among lawyers in 2018<sup>10</sup>.

At the 2020 survey, 562 respondents filled the questionnaires, which represents 19% of all judges, prosecutors, and lawyers effectively working in the Republic of Moldova. The questionnaires were filled out by 149 (37%) judges, 212 (39%) prosecutors, and 201 (10%) lawyers.

#### **Block 1. The Organization of the Judiciary**

67% of respondent judges, 54% of respondent prosecutors, and 46% of respondent lawyers consider that the *justice reform launched in 2011* had a positive impact on the judiciary. In 2015, this opinion was shared by 75% of respondent judges, 50% of respondent prosecutors, and 42% of respondent lawyers. This confirms that the perception of the impact of the justice reform has not changed significantly over the past years. Approximately two thirds of judges, more than half of prosecutors, and almost half of lawyers consider that the reforms launched in 2011 have had a positive impact on the judiciary.

84% of judges, 64% of prosecutors, and 70% of lawyers support the *specialization of judges* introduced by the Superior Council of Magistracy (SCM) between 2016 and 2020. If the specialization of judges would be implemented in all courts, 46% of judges, 38% of prosecutors, and 38% of lawyers would support the establishment of specialized panels instead of specialized courts. Asked about the recently announced initiative to set up anticorruption courts, 75% of judges, 65% of prosecutors, and 61% of lawyers don't support this initiative.

#### **Block 2. Legal amendments to improve the administration of justice**

89% of judges, 62% of prosecutors, and only 32% of lawyers agree that, in the Republic of Moldova, *law is applied equally to all litigants, regardless of their social or financial status or hold office*.

Asked whether in the present, *the quality of justice administration is better than five years ago*, 83% of judges, 59% of prosecutors, and only 35% of lawyers answered affirmatively. In 2015, 82% of judges, 46% of prosecutors, and 37% of lawyers were of the same opinion. These answers confirm that legal professionals' perceptions on these subjects have not changed significantly and lawyers are much more pessimistic about the improvement of the quality of justice administration.

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<sup>9</sup> LRCM, Survey, *Perception of judges, prosecutors and lawyers on justice reform and fight against corruption*, 2015, available at [https://crjm.org/wp-content/uploads/2016/01/CRJM\\_2016\\_SurveyJustice-ENG-1.pdf](https://crjm.org/wp-content/uploads/2016/01/CRJM_2016_SurveyJustice-ENG-1.pdf).

<sup>10</sup> LRCM, Survey, *Lawyers' perception regarding the independence, efficiency and accountability of the justice sector in the Republic of Moldova*, 2018, available at [http://crjm.org/wp-content/uploads/2019/04/Sondaj-2018\\_ENG-web.pdf](http://crjm.org/wp-content/uploads/2019/04/Sondaj-2018_ENG-web.pdf).

Asked whether *the current remuneration for judges is sufficient to ensure their independence and impartiality*, 40% of judges, 52% of prosecutors, and 58% of lawyers answered affirmatively. Asked whether *the current remuneration for prosecutors is sufficient to ensure their independence and impartiality*, 48% of judges, 40% of prosecutors, and 60% of lawyers answered affirmatively.

On 1 April 2019, the *Administrative Code* came into force. 55% of judges consider that this legislative act has lent more predictability to the judicial practice in contentious administrative court. Only 37% of lawyers share the same opinion. 62% of judges and 42% of lawyers consider that this law ensures a better observance of human rights. 59% of judges and only 37% of lawyers consider that the Administrative Code ensures a faster examination of cases. 33% of judges consider that the appeal and recourse procedures are regulated vaguely. This opinion is also shared by 57% of lawyers. These data confirm that judges and lawyers have divided opinions on the Administrative Code.

In 2019, it was proposed to *decrease the number of judges at the Supreme Court of Justice (SCJ) and to transform it into a genuine court of cassation*. 30% of judges, 49% of prosecutors, and 41% of lawyers support it. 46% of judges and only 18% of prosecutors and 28% of lawyers do not support this reform. In 2015, 11% of judges, 31% of prosecutors, and 55% of lawyers supported this statement. The number of judges who support the reform of the SCJ has tripled from 2015, and that of prosecutors with the same views has increased by one third. Still, one in four judges and one in three prosecutors remain neutral about this initiative. These data confirm that, should this initiative be promoted, it will not meet significant resistance from judges.

The survey contained questions about *random assignment of cases in courts and prosecution offices*. More than 86% of judges, 71% of prosecutors, and almost 60% of lawyers consider that the assignment of cases in courts is randomized and free from manipulation. Asked about the *random assignment of cases at prosecution offices*, 61% of prosecutors agreed that it was performed impartially.

In 2019, it was proposed to introduce the *external evaluation of judges' and prosecutors' professionalism and integrity by an independent commission*. Only 21% of judges and 25% of prosecutors support this initiative. 54% of judges and prosecutors do not support it. Instead, 64% of lawyers support the external evaluation, and only 18% do not support it. These figures confirm that only a quarter from each of the prosecutors and the judges group support the external evaluation. Still, one quarter of judges and one fifth of prosecutors are neutral about this reform.

### **Block 3. The independence and quality of justice**

Asked whether they *agree that judges are independent in 2020*, 83% of judges and only 22% of lawyers answered affirmatively. This confirms that judges and lawyers have considerably divergent opinions about the independence of judges. Asked whether they are independent in 2020, 60% of prosecutors answered affirmatively, and 39%, negatively.

Asked whether they agree that *judges take decisions without outside influences*, 83% of judges and 61% of prosecutors answered affirmatively. Only 25% of lawyers share the same opinion. Asked the same question about prosecutors, only 49% of judges and 24% of lawyers answered affirmatively. Instead, the share of prosecutors who answered affirmatively was 75%. These figures suggest lawyers' clear distrust that judges and prosecutors are genuinely independent and judges' moderate confidence that prosecutors are independent.

The respondents who disagree that judges' *decisions are fair and free from outside influences* consider that judges' decisions are most often influenced by politicians and least often, by police officers. 48% of judges stated that they were influenced by prosecutors. This opinion was also shared by 78% of lawyers. More than 60% of prosecutors and lawyers consider that judges are also influenced by other judges and by the SCM.

Asked whether they are convinced that *judges would adopt a legal judgment if they or a relative of theirs got in court*, 85% of judges, 72% of prosecutors, and only 46% of lawyers answered affirmatively. Asked whether they are convinced that *prosecutors would take a legal decision about them or their relatives*, 79% of prosecutors and only 60% of judges and 33% of lawyers answered affirmatively. These figures confirm that a significant share of prosecutors (28%) is not convinced of the fairness of court decisions and many judges (40%) are not convinced of the fairness of prosecutors' decisions. More than 65% of lawyers are convinced of the fairness of neither judges' nor prosecutors' decisions.

Confidence in justice in 2020 remains at the same low level as back in 2011, when the justice reform started. 80% of judges, 74% of prosecutors, and 59% of lawyers consider that *the low confidence in justice* has connection with the other two branches of power (legislative and executive). 72% of judges, 73% of prosecutors, and 68% of lawyers consider that the low confidence in justice is caused by politicians' attacks on justice. 40% of judges consider that some of their colleagues take decisions from political motives, which undermines confidence in the entire system. This opinion was also shared by 68% of prosecutors and 80% of lawyers.

Asked whether *the European Convention on Human Rights (ECHR) is respected in the justice system of the Republic of Moldova*, only 67% of judges, 70% of prosecutors, and 33% of lawyers answered affirmatively. Judges consider that this is because the law must be changed (65%)—an opinion which is also shared by 68% of prosecutors and by only 45% of lawyers. The opinion proposing another cause—that lawyers do not invoke the Convention's standards convincingly—was shared by 57% of judges, 51% of prosecutors, and only 31% of lawyers. 50% of judges, 68% of prosecutors, and 45% of lawyers considered that this was due to the difficulty of changing established practices. Judges' and prosecutors' insufficient knowledge of the Convention was supported as a cause by more than 40% of judges, more than 50% of prosecutors, and more than 55% of lawyers.

#### **Block 4. The Self-administration of Justice**

Asked whether they agree that the *admission to the National Institute of Justice (NIJ)* is meritocratic, only 53% of judges, 44% of prosecutors, and 28% of lawyers answered affirmatively. As for the graduation marks/qualification examination at the NIJ, only 56% of judges, 47% of prosecutors, and 28% of lawyers agreed that they were meritocratic.

That the *initial training offered by the NIJ* meets the real needs of aspiring judges and prosecutors was confirmed by 71% of judges and 68% of prosecutors. The same statement about the *in-service training* offered by the NIJ was confirmed by 75% of judges and 68% of prosecutors.

Answering about the *quality of the work carried out by the Prosecutor General's Office*, 68% of prosecutors stated that the current powers of the Prosecutor General's Office were adequate, 62% stated that the current performance of this entity contributed to the independence of the prosecution system, 58% stated that the work of this entity did not undermine the independence of prosecutors, 53% stated that inquiries from this entity (including about the generalization of practice) were not excessive and were justified, 58% stated that its practice was clear and predictable, and 78% stated that the prosecutor general's instructions were well substantiated and suggested right solutions.

As for the *SCM and the SCP activity*, 60% of judges and, respectively, 76% of prosecutors consider that it is transparent. Only 46% of judges consider that SCM's decisions are well reasoned. 77% of prosecutors consider that SCP's decisions are well reasoned. Only 30% of judges and 47% of prosecutors consider that the SCM and, respectively, the SCP ensure the independence of judges/prosecutors. In 2015, 71% of judges and 70% of prosecutors considered that the SCM/SCP were transparent, and 68% of judges and only 22% of prosecutors considered that the SCM's/SCP's decisions were well reasoned and clear.

Asked about the *appointment procedure for judges*, 68% of judges stated that it was based on merits. Nevertheless, less than half (48%) of judges stated that the promotion of judges was based on merits. 71% of prosecutors stated that the *appointment procedure of prosecutors* was based on merits, and 57%, that the promotion of prosecutors was based on merits.

As for the *disciplinary liability system for judges*, only 31% of judges and 14% of lawyers wrote that it was adequate. Most of judges' dissatisfaction concerned the participation of complainants in disciplinary proceedings, the large number of disciplinary violations, and their excessively broad definitions. Lawyers were dissatisfied with the superficiality of the work of the Judicial Inspection, the complexity of the admissibility phase, and the broad definition of disciplinary violations. Only 26% of prosecutors agreed that the *disciplinary liability system for prosecutors* was appropriate, citing the same reasons as judges.

56% of lawyers agreed that the *Council of Lawyers' Union of Moldova* has been transparent over the past four years. 76% of lawyers agreed that the *Commission for Lawyers' Ethics and Discipline* has passed fair decisions over the past four years. However, only 43% of lawyers wrote the same thing about the *Licensing Commission of the Moldovan Union of Lawyers*. More than 82% of lawyers stated that the *training organized by the Lawyers Union* had great importance for them. The survey also addressed the lawyers' preferred training topics.

## Block 6. The Perception of Corruption in the Justice Sector

Asked about the *level of corruption in the country*, 12% of judges, 9% of prosecutors, and 6% of lawyers affirmed that the Republic of Moldova was free of corruption. 51% of judges, 43% of prosecutors, and 16% of lawyers considered that there was little corruption in the country. 28% of judges, 43% of prosecutors, and 74% of lawyers answered that Moldova had lots of corruption. 9% of judges and 4% from each of the prosecutors and the lawyers group could not answer this question.

Asked about the *corruption trend in the justice sector from 2011 until the present*, 20% of judges, 8% of prosecutors, and 8% of lawyers answered that there was not such a thing. 49% of judges, 46% of prosecutors, and 27% of lawyers considered that corruption had decreased. 22% of judges, 40% of prosecutors, and 61% of lawyers considered that, during this period, the corruption in the justice sector had not changed or had increased.

With reference to the *presence of corruption in various institutions*, judges have the following opinions: 47% consider that it is present in the police to a very great or great extent; 21%, that it is present in the justice system to a very great or great extent; 46%, that it is present in the prosecution system to a very great or great extent; and 35%, that it is present in the bar. Prosecutors' opinions about this subject are as follows: 61% consider that corruption is present in the police to a very great or great extent; 45% consider that it is present in the justice system to a very great or great extent; 28%, that it is present in the prosecution system to a very great or great extent; and 52%, that it is present in the bar. Lawyers have the following opinions about this subject: 86% consider that corruption is present in the police to a very great or great extent; 69% consider that it is present in the justice system and in the prosecution system to a very great or great extent; and only 31% consider that it is present in the bar to a very great or great extent. These figures confirm that, overall, legal professionals acknowledge the issue of corruption in the justice system but prefer to believe that it is more widely spread in other professions than in the one whose members they are.

Asked *what courts are the most corrupt*, respondents from all three professions indicated appellate courts. Asked about the *most corrupt prosecutor's office*, representatives of the three professions indicated the Anticorruption Prosecutor's Office, followed by the Prosecutor's Office for Combating Organized Crime and Special Cases (PCCOCS). Choosing from among the self-governance bodies of the judiciary, judges and lawyers indicated the SCM, followed by the NIJ. Prosecutors placed firstly in this ranking the NIJ and then the Selection and the Career Board of Prosecutors. Respondents from all three professions consider that, when it comes to the bar, corruption is most widely spread at the Licensing Commission.

Asked about the *causes of corruption*, respondents from all three professions wrote that the main causes included failure to hold the corrupt liable, lack of transparency at management and self-governance bodies, shortcomings in the career advancement system, and small salaries.

<https://crjm.org/en/sondaj2020-judecatori-procurori-si-avocati-reformare-anticoruptie-autoadministrare/>

### 3.4 TI-Moldova: A Follow-up on the Criminal Files of Public Resonance

On October 17, 2019, the Parliament heard the Report of the Commission of Inquiry to elucidate all the circumstances of the devaluation of the banking system of the Republic of Moldova and the investigation of USD 1 Billion bank fraud<sup>11</sup>. The Parliament took note of the report, coming up with recommendations and provisions for several authorities.<sup>12</sup>

The Commission of Inquiry for elucidating all the circumstances of the devaluation of the banking system of the Republic of Moldova and the investigation of bank fraud was set up on June 10, 2019, with the following nominal composition:<sup>13</sup>

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<sup>11</sup> LIVE! Meeting of the Parliament of the Republic of Moldova on October 17, 2019, <https://realitatealive.md/live-edin-a-parlamentului-republicii-moldova-din-17-octombrie-2019---101052.html>.

<sup>12</sup> See the Parliament Decision no. 143 of 17.10.2019 on the Report of the Commission of Inquiry to elucidate all the circumstances of the robbery of the banking system in the Republic of Moldova and the investigation of bank fraud.

<sup>13</sup> See the Parliament Decision no. 46 of 10.06.2019 on the establishment of the Commission of Inquiry to elucidate all the circumstances of the robbery of the banking system in the Republic of Moldova and the investigation of bank fraud.

Alexandru Slusari	Chair of the Commission	Parliamentary fraction „ACUM PLATFORM DA”
Vladimir Golovatiuc	Vice-Chair of the Commission	Parliamentary fraction of the Socialist Party of the Republic of Moldova (SPRM)
Lilian Carp	Secretar al Comisiei	Parliamentary fraction „Party of Action and Solidarity, Bloc ACUM”
Andrian Lebedinski	Member of the Commission	Parliamentary fraction SPRM
Dumitru Alaiba	Member of the Commission	Parliamentary fraction „Party of Action and Solidarity, Bloc ACUM”
Vladimir Ţurcanu	Member of the Commission	Parliamentary fraction SPRM

According to the Commission of Inquiry,<sup>14</sup> the aim pursued was the political appreciation of the actions / inactions of politicians and dignitaries empowered with legal attributions in the financial-banking field, which favored the organization and realization of the fraud from the banking system during 2011-2015. In order to achieve this goal, the Commission studied documents and heard relevant persons.

The report of the Commission of Inquiry contains findings on events from:

Years 2011-2012	Raider attack The activity of B.C. "Banca de Economii" S.A. (BEM) in the period 2011-2012 Ilan Şor's takeover of control over B.C. Unibank S.A.
Year 2013	Change of shareholders at BEM Ilan Şor taking control over B.C. "Banca Sociala" S.A. The media-financial attack Reidman Parliamentary Committee of Inquiry Assignment of the control package from the state The financial situation of the three banks in 2013
Year 2014	The financial situation of the three banks during January-October 2014 State guarantees The situation in the three banks on November 1-26, 2014 November 27, 2014

The Commission of Inquiry reviewed the consequences of the fraud from the banking system, concluding:

- The process of plundering the banking system has been well prepared over time and coordinated with politicians and dignitaries;
- The looting plan was carried out in stages, persevering, starting with 2011, making the necessary adjustments along the way;
- In the period 2011-2012 there was already a plan of a directed attack on BEM by the Plahotniuc-Platon group in order to ensure its control package. Judges, the National Financial Market Commission (NCFM) and the National Bank of Moldova (NBM) were involved in the implementation of this plan. Since the second half of 2012, this process has taken place against the background of a very passive position of the Filat Government;
- The Reidman Commission played an important role in triggering the BEM fraud process;
- A particularly negative role in the process of plundering the banking system in 2011-2014, through the assistance of raider attacks and passive behavior, was played by the NBM leadership;
- There were several information notes of the National Anticorruption Center (CNA) and the Intelligence and Security Service (SIS) on the risks in the banking sector and the danger of system robbery, which were ignored by state authorities - decision makers. CNA and SIS limited themselves to findings without, however, acting;

<sup>14</sup> See the Report of the Commission of Inquiry to elucidate all the circumstances of the robbery of the banking system of the Republic of Moldova and the investigation of bank fraud, <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/4757/language/ro-RO/Default.aspx>.

- The actions / inactions of several dignitaries in 2013 related to the loss by the state of the control package at BEM, including former Prime Minister Iurie Leanca, had serious repercussions and can be qualified as abuse and negligence.

Between November 7-27, 2014, when the Government had already decided to grant state guarantees for emergency loans obtained from the NBM amounting to MDL 9.5 billion, the three banks operated without special state administration, finally stealing colossal amounts of money from the banking system. During the mentioned period, according to the data provided by the NBM, these banks offered only to legal entities loans in the total amount of over MDL 25.5 Billion. Respectively, both the Government leadership and the NBM leadership acted in that period at least with abuse and negligence;

According to the Kroll Report 2, the main final beneficiaries of the bank robbery were the Plahotniuc, Șor and Filat related groups;

The General Prosecutor's Office, in the period 2015-2019, practically sabotaged the investigation of the fraud of the banking system, starting criminal cases segmented on multiple episodes, not having a systemic and integrated approach. The investigation in several cases was intentionally delayed or used for political purposes.

The Commission of Inquiry recommended:

- Declassification of all materials relating to the embezzlement of the banking system, including the Kroll report, insofar as this declassification will not prejudice the conduct of the investigation;
- The finding by the President of the Parliament of the circumstances that would allow the initiation of the procedure of revocation from office of the vice-governors of the NBM, Ion Sturzu and Aurel Cincilei;
- The examination by the Anticorruption Prosecutor's Office, from a criminal point of view, of the actions / inactions of the former leadership of the Government and the NBM, in particular, of Iurie Leancă, Dorin Drăguțanu, Andrian Candu, Anatol Arapu, Emma Tăbîrță and others, as appropriate, which, in 2014, did not take the necessary measures to prevent the large-scale fraud from the banking system. The same persons admitted the granting of state guarantees to the three banks without the immediate introduction of the special state administration, which had serious repercussions for the banking system by stealing colossal amounts between 07-27 November 2014;
- Transparency of economic activity and combating illicit or unclear sources of financial flows. Combating money laundering and limiting the activity of companies in non-transparent jurisdictions (offshore areas) must be a priority. Government signing agreements with all offshore areas on the exchange of tax information;
- Examination by the General Prosecutor's Office of the causes of stagnation admitted by the Anticorruption Prosecutor's Office, in the period 2015-2019, in the investigation of the fraud from the banking system;
- Intensifying the cooperation of the Office of the General Prosecutor with the special services of other countries in the investigation of bank fraud and the recovery of stolen funds, especially with the FBI;
- Presentation by the General Prosecutor's Office, within 30 days, in the plenary of the Parliament, of a report on the investigation of the fraud from the banking system;
- Carrying out by the Ministry of Finance an audit on the legality (including the manner) of the distribution of the allocated financial means as emergency credits;
- Urgent examination of the opportunities to revise Law no. 235/2016 regarding the issuance of state bonds in order to execute by the Ministry of Finance the payment obligations derived from the state guarantees no. 807 of November 17, 2014 and no. 101 of April 1, 2015;
- Creation of a Parliamentary Commission of Inquiry into the money laundering process of tens of billions of dollars through the banking system of the Republic of Moldova (laudromat);
- The creation of a Parliamentary Commission of Inquiry into the liquidation process of the three banks, as there is information that the embezzlement of the banking system continued in the liquidation process of BEM, the Social Bank and Unibank.

The hearing of the Prosecutor General's Office's report on the investigation into the USD 1 Billion fraud took place much later, on February 19, 2020.<sup>15</sup> The hearing did not take place in the plenary of the Parliament, but

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<sup>15</sup> LIVE! Parliament: Hearing the interim report of the General Prosecutor's Office on the investigation of the robbery of the banking system,

in the meeting of the National Security, Defense and Public Order Committee, the finality being not clear - no decision in this respect is published on the Parliament's website.

According to those reported, in the case of bank fraud, approximately 200 criminal cases were initiated, being investigated facts from 2009-2014 related to the three disputed banks - BEM, Banca Sociala and Unibank. Criminal cases include, in addition to negligence, various forms of crime, such as fraud, fraudulent acquisition of credit, breach of credit rules, tax evasion, money laundering, mismanagement or fraudulent bank management, obstruction of banking supervision, creation and management criminal.

According to the General Prosecutor's Office, the criminal scheme was trivial - the provision, in the period 2009-2014, of non-performing loans, of which an imposing part were not repaid. The total turnover of loans is about MDL 42 billion, of which MDL 13.5 billion has not been repaid. The damage found at the time of reporting is MDL 13.5 billion. The government will have to repay 22.9 billion MDL, including interest on the loan. At the time of reporting, 1,380,217,000 MDL were reimbursed from BEM, Banca Socială - 697,500,000 MDL, Unibank - 320,741,458 MDL, in total - 2,398,458,000 MDL. As of January 31, 2020, the debt of the three banks in the process of liquidation to the state budget was 11,723,300,000 MDL. According to the Report, from June 2019, together with the Agency for the Recovery of Criminal Property (ARBI), measures were taken to recover the damage, seizing goods (real estate, land, means of transport, etc.) amounting to 1,224,531,000 MDL. The goods were to be valued.

In general, in connection with the bank fraud, 41 individuals and 11 legal entities were attracted as suspects.

From 2013 to 2019, 28 criminal cases were sent to court (20 regarding individuals, 8 - legal entities). Of the criminal cases referred to justice, 8 have convictions. At the time of the report, criminal cases involving the management of BEM and the Social Bank were pending.

The complexity of these cases, according to the General Prosecutor's Office, is determined by the nature of extraneousness. The criminal investigation body appointed 26 requests for letters rogatory, of which only 8 were executed. The letters rogatory cover several jurisdictions, such as: Latvia, USA, Russian Federation, Switzerland, Austria, Cyprus, Monaco, Liechtenstein, Czech Republic, France, Estonia, Germany, Israel, Ukraine, Bulgaria and the United Arab Emirates. In general, 5,516 financial-banking transactions were investigated, which requires rogatory commissions to 35 countries.

The General Prosecutor's Office, in the robbery of the banking system, distinguishes two stages:

- Gacichevic stage - years 2007-2012;
- Şor stage - years 2012-2014.

According to the General Prosecutor's Office, in connection with bank fraud, several economic interest groups are being investigated:

- Gacichevici Group;
- Şor Group;
- Platon Group;
- Plahotniuc Group.

During the years 2019-2020, evolutions take place, especially in the files of Şor, Platon and Plahotniuc, in the same sense, being interesting also the evolutions in the so-called file of bankers, but also in the file of Şor Party deputies.

### **The Şor file<sup>16</sup>**

Two criminal cases are being filed in Ilan Şor's name. The first case was started on May 6, 2015, the investigation being ongoing, for abuse of office with serious consequences, committed during the period when he held the position of Chairman of the Board of BEM.

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<http://parlament.md/LinkClick.aspx?fileticket=113mPEPiTh0%3d&tabid=130&mid=507&language=ro-RO>,  
<https://realitatealive.md/live-parlament-audierea-raportului-intermediar-al-procuraturii-generale-privind-investigarea-devalizarii-sistemului-bancar---106126.html>.

<sup>16</sup> Summary prepared on the basis of: Candidate profile: Ilan Şor, <https://www.moldovacurata.md/profil-candidat-ilan-sor-1-2254>; Monitoring report on the selectivity of criminal justice, Chişinău, 2019, [https://freedomhouse.org/sites/default/files/2020-02/Judicial\\_Integrity\\_Selective-Criminal\\_Justice\\_ROMANIAN\\_FINAL.pdf](https://freedomhouse.org/sites/default/files/2020-02/Judicial_Integrity_Selective-Criminal_Justice_ROMANIAN_FINAL.pdf); Press releases on the website of the General Prosecutor's Office – [www.procuratura.md](http://www.procuratura.md).

The second case was started on June 22, 2016 for fraud and money laundering, in particularly large proportions. In August 2016, the case was sent to court. The Chisinau court reclassified the deed from fraud in particularly large proportions (the deed is punishable by 8-15 years in prison, according to art. 190 para. (5) of the Criminal Code) in case of material damages by deception or abuse of trust in proportions particularly high, if the deed does not constitute an embezzlement (the deed is punishable by imprisonment for up to three years, according to art. 196 para. (4) of the Criminal Code) and money laundering in particularly large proportions. Finally, in June 2017, Șor was sentenced to 7.5 years in prison in a semi-closed penitentiary. The prosecutors had requested in the court of first instance the conviction, through a series of offenses, to 19 years in prison, with deprivation of the right to hold positions in the banking system for 5 years.

For more than half a year, the case was suspended on the grounds that the court of first instance could not find a translator to translate the reasoned decision. Currently, the case is being examined on appeal by the Cahul Court of Appeal.

The examination of the case on appeal was moved to Cahul in February 2018 - all judges of the Chisinau Court of Appeal had declared it incompatible to judge the case. Subsequently, the case was suspended at the Court of Appeal due to a financial-accounting expertise, which was requested by Ilan Șor's lawyers and accepted by the court in September 2018. It is noteworthy that, even if it had been particularly large (2.5 billion), the convict's assets were not seized. Thus, Ilan Șor managed to alienate several properties. Moreover, Ilan Șor managed to escape illegally in Israel in June 2019, immediately after the transfer of power by the Democratic Party of Moldova.

The General Prosecutor's Office has requested his extradition, but according to its national legislation, Israel does not extradite its citizens. Law enforcement agencies filed a criminal case against him for leaving the country illegally, the deputy being deprived of parliamentary immunity on August 15, 2019.<sup>17</sup>

#### **Platon's file<sup>18</sup>**

On October 7, 2020, at the request of the General Prosecutor's Office, the Chisinau Court, Ciocana headquarters, suspended the execution of the sentence by Veaceslav Platon. It was ordered to suspend the execution of the sentence of the Chisinau Court, Buiucani headquarters, of April 20, 2017, issued regarding Veaceslav Platon, by which he had been sentenced to 18 years in prison for fraud, money laundering and active corruption. The continued execution of the sentence by Veaceslav Platon is conditioned by the evolution of the procedure for reviewing the criminal process, initiated by the Prosecutor's Office for Combating Organized Crime and Special Cases.

In fact, in the summer of 2020, in connection with Veaceslav Platon, a media scandal broke out after a sequence from his hearing was published in the press. According to the General Prosecutor's Office, Veaceslav Platon had been heard in the criminal case, taken over from DIICOT Romania, in which Vladimir Plahotniuc and several dignitaries are targeted. The hearing was carried out by a group of prosecutors, in the presence of his defenders, the trial being filmed by a forensic expert. Regarding the leak in the press of the video sequence, it was ordered, under the conditions of Law no. 3/2016 on the Prosecutor's Office, conducting a service control, but also initiated a criminal case in fact (art. 303 (Interference in the administration of justice and criminal prosecution) and art. 315 (Disclosure of criminal prosecution data) of the Criminal Code).

#### **Plahotniuc's file<sup>19</sup>**

Vladimir Plahotniuc has been prosecuted in two criminal cases. Both were launched on September 23, 2019 and are related to the bank fraud and laundromat. He was charged with three counts: creating and running a criminal organization, fraud on a large scale, and money laundering on a large scale. On May 22, 2020, he was arrested in absentia, being searched. During 2020, according to the available information on the whereabouts of the accused, the competent authorities of the USA, Turkey, Cyprus and Saudi Arabia were

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<sup>17</sup> See the Parliament Decision no. 117 of 15.08.2019 regarding the approval of the lifting of the parliamentary immunity of the deputy in the Parliament Ilan Șor.

<sup>18</sup> Summary elaborated based on the press releases on the web page of the General Prosecutor's Office – [www.procuratura.md](http://www.procuratura.md).

<sup>19</sup> Summary elaborated based on the press releases on the web page of the General Prosecutor's Office – [www.procuratura.md](http://www.procuratura.md).

requested to extradite him. During 2020, properties of Vladimir Plahotniuc from the Republic of Moldova, Switzerland, France and Romania were seized.

According to the Prosecutor General, there is evidence that Vladimir Plahotniuc is the beneficiary of the money obtained in the form of loans from BEM, through the Șor Group, covered accordingly from the NBM's financial means - in total, over 100 million USD. The amount had been directed to procure the package of shares of a bank, the buildings of the ASITO Insurance Company, the Fashion House and the "National" Hotel. Also, according to the Prosecutor General, the money was used by Vladimir Plahotniuc for personal purposes or by his affiliated companies to purchase a plane, pay for personal charter flights, but also for people in his entourage.

### **Bankers' file<sup>20</sup>**

In the context of the bank fraud investigation, in March 2020, several NBM dignitaries were detained and charged: Dorin Dragutanu (former governor); Emma Tăbîrță (former deputy governor); Aureliu Cincilei (vice-governor), Ion Sturzu (vice-governor) and a chief executive. They are suspected of participating in fraud and money laundering in particularly large proportions. It should be noted that Emma Tăbîrță had been detained in 2016, together with two heads of departments from the NBM, for negligence in office, in connection with the investigation of the laundromat. The Deputy Governor of the NBM, Emma Tăbîrță, together with the President of CNPF, Artur Gherman, were dismissed on March 24, 2015, after the hearing by the Parliament, in closed session, of the Report of the Commission of Inquiry on the situation in the banking sector.<sup>21</sup>

### **The file of the deputies from the Șor Party**

On October 2, 2020, the Anticorruption Prosecutor's Office announced its decision to remove from prosecution, in the case of bank fraud, four Unibank shareholders, including deputies Marina Tauber and Reghina Apostolova. The action comes about a month after the prosecution of six shareholders of the same bank, including the former president, Petru Lucinschi.<sup>22</sup> On September 16, 2019, the interim general prosecutor had requested in Parliament the lifting of the immunity of the two deputies, who were detained.<sup>23</sup> Subsequently, Unibank's ten shareholders were indicted, accused of committing particularly large-scale fraud and money laundering in the interest of an organized criminal group. According to the Anticorruption Prosecutor's Office, after a thorough study of the evidence, it was concluded that the deeds of those persons do not meet the elements of the imputed crimes.

### **Conclusions:**

- Parliament fails to push for effective investigation into bank fraud. The report of the General Prosecutor's Office on the investigation of the case was not heard, except in the meeting of the Parliamentary Committee on National Security, Defense and Public Order, without its decision on the hearings being clear;
- Six years after the looting of the banking system, only the governor and the deputy governors of the NBM are under criminal charge. It is not clear whether the Prosecutor's Office examined the possible criminal prosecution of the members of the Government who guaranteed the loans offered to the disputed banks without their being placed under special administration, of the heads of other authorities with supervisory / control responsibilities in the field. to prevent money laundering;
- Resonance cases only demonstrate the selective nature of criminal prosecution and national justice. Ilan Șor manages to alienate properties, but also to escape from the country. Vladimir Plahotniuc is being prosecuted only after he relinquishes power and leaves the country. Even after been seen in Romania

<sup>20</sup> <https://unimedia.info/ro/news/ab5cac3cb0ee08f3/viceguvernatorii-bnm-aureliu-cincilei-si-emma-tabarta-retinuti-pentru-72-de-ore-lui-dragutanu-i-a-fost-inainttaa-invinuirea.html> <https://www.mold-street.com/?go=news&n=5030>; <https://www.mold-street.com/?go=news&n=3680>; <https://www.jurnal.md/ro/news/75c5f8bdd2f1e8fa/fostul-viceguvernator-bnm-emma-tabarta-mutata-din-izolator-in-arest-la-domiciliu.html>.

<sup>21</sup> Parliament Decision no. 42 of 24.03.2015 regarding the dismissal of a deputy governor of the National Bank of Moldova, Parliament Decision no. 43 of 24.03.2015 regarding the revocation from the position of chairman of the Board of Directors of the National Commission of the Financial Market.

<sup>22</sup> General Prosecutor's Office, The bank fraud: other four shareholders of Unibank, exempted from prosecution, <http://www.procuratura.md/md/news/1211/1/8434/>.

<sup>23</sup> See the Parliament Decision no. 126 of 16.09.2019 on approving the lifting of the parliamentary immunity of the Member of Parliament Marina Tauber; Parliament Decision no. 127 of 16.09.2019 on approving the waiver of immunity in Parliament Reghina Apostolova.

and Turkei, according to mass-media, a request of his extradition followed with a considerable delay<sup>i</sup>. And the review of Veaceslav Platon's criminal trial raises questions - the person's profile is not without reputational problems. In this regard, whatever the decision on the case, the Prosecutor's Office will have to come up with convincing arguments, if it wants to be perceived as an independent and impartial institution;

- The mechanism for lifting immunity continues to be perceived as a tool to put pressure on Members in some hidden political negotiations. The explanations of the Prosecutor's Office regarding the lack of constitutive elements of the crime in the deeds of deputies Tauber and Apostolova are insufficient;
- The General Prosecutor's Office announces recoveries of damage without giving further details. If it is money obtained from the sale of banks' assets in liquidation, the approach is not exactly the right one. Obviously, over time, recovering stolen money becomes difficult if not impossible. In this regard, Parliament and the Government should provide full support for speeding up investigations.

<http://www.transparency.md/wp-content/uploads/2020/11/DIGEST-Follow-up-on-the-criminal-files-of-public-rezonance-Engl.pdf>

### **3.5 Legal Resources Centre from Moldova: The Anticorruption Court: Does the Republic of Moldova Really Need It?**

Every country must adopt the anticorruption institutional framework that fits its national context best. Article 115 (2) of the Constitution of the Republic Moldova provides for specialized courts for certain categories of cases. Under this constitutional rule, Parliament has the discretionary power to set up specialized courts. It is not clear whether this rule also allows specialized appellate courts, but it seems that a supreme anticorruption court would be contrary to the Constitution. Any decision concerning the law system should rely exclusively on a rational analysis of the conditions and specificity of each individual country.

The initiative to set up a specialized anticorruption court does not fit in with the policy measures taken by Moldovan authorities in the past years when all specialized courts have been disbanded. The initiative is also contrary to the optimization of the judicial map started on 1 January 2017 and expected to end in 2027.

The establishment of the anticorruption court would also entail additional financial costs from the state budget (for example, to pay judges and personnel salaries, to allocate a separate building, to provide it with technical resources etc.). Decision-makers should estimate how the public budget will be impacted and whether it can bear new expenses. The judiciary's budgeting needs require annual negotiation, often in an extremely politicized context with many other competing public spending needs. So far, authorities have not presented any cost analysis for the establishment of such a specialized court.

Moldova does not have enough cases that require a specialized anticorruption court. According to official statistics, in the past five years, from 2015 through 2019, courts tried 199 criminal cases concerning corruption a year on average. At that, in the same five years, the average annual caseload of a judge included approximately 620 cases, and the average number of cases disposed with a judgment was 610. According to the concept that lies at the core the judicial map optimization, a court cannot have fewer than nine judges. If decisionmakers decide to establish an anticorruption court, its nine judges will have the smallest caseload—approximately 22 cases a year each. If the anticorruption court has minimum three judges, the average annual caseload of a judge in this court will include 66 cases. This is the average monthly caseload of a judge established for district courts in the past years.

That a single trial court - which will likely be located in Chişinău - will try all corruption cases means there will be difficulties with the trial of cases brought from regions because these cases will require all participants to travel to the capital city. Over the past two years, approximately two thirds of cases of corruption were tried in the courts outside Chişinău.

Establishing a court and judicial panels specialized in corruption cases involves the need to have a limited number of judges specialize in a narrow branch of law. There are no international standards that regulate the narrow specialization of judges. Dividing a jurisdiction into secondary branches of law or categories of cases is not very suitable for countries with small population and a low level of activity.

One of the objectives presumably pursued by this initiative is the uniformization of the case law concerning corruption. But the case law is relatively uniform when it comes to sanctions against corruption, and discrepancies exist only in strongly politicized cases. The establishment of specialized courts could be justified only if this branch is so complicated that judges really needed special expertise and experience to

deal with these cases. But the complexity of corruption cases lies in their investigation rather than trial in court. Courts of general jurisdiction—which occasionally adjudicate even more complicated cases—can try corruption cases easily. Moreover, in the better part of corruption cases, suspects admit their guilt or plead guilty when prosecutors produce evidence.

The initiative involves numerous related risks, which are not likely to help the fight against corruption. It is much easier to put inappropriate influence on a small and known number of judges than on a numerous body of judges who receive cases through information systems.

The available literature highlights that the most quoted argument in favor of constituting specialized anticorruption courts refers to the need for more efficiency in trying corruption cases and for showing the public within and outside the country that authorities take the fight against corruption seriously. Most specialized anticorruption courts in other countries were established voluntarily. In some cases, the requirements of international organizations and foreign assistance programs played a decisive role. That said, the practical efficiency of anticorruption courts has not been proven beyond doubt yet.

Although one cannot say that best practices recommend the establishment of anticorruption courts, the accumulated experience and existing models allow some conclusions. Setting up anticorruption courts cannot eradicate corruption all by itself. Moreover, countries with the lowest levels of corruption do not have such specialized courts. And judges who specialize in criminal matters can also specialize in corruption cases.

The LRCM considers that the Ministry of Justice and the Moldovan government should abandon the initiative concerning the establishment of an anticorruption court because it is not justified legally, comes at odds with the optimization of the judicial map, and is essentially contrary to Moldovan authorities' declared objectives concerning the fight against corruption.

An efficient solution for the fight against corruption in the Republic of Moldova would be the strengthening of the Anticorruption Prosecution Office (APO). Although, the APO has been set up to fight high-level corruption, it spends lots of effort on cases of petty corruption. Its powers should be limited exclusively to cases of high-level corruption. The reduction of the cases handled by anticorruption prosecutors will lead to a better quality of investigation during the prosecution phase and a better representation in court and will streamline anticorruption efforts.

<https://crim.org/wp-content/uploads/2020/11/CRJM-Oportunit-Instanta-anticoruptie-2020-En.pdf>

### **3.6 Legal Resources Centre from Moldova: The disciplinary liability of judges in the Republic of Moldova – an evaluation of laws and practices**

Over the last five years, the Superior Council of Magistracy (SCM) received more than 7,500 complaints against judges. The Disciplinary Board initiated disciplinary proceedings against 250 of them and imposed 49 disciplinary sanctions. To ensure the functioning of the disciplinary mechanism, each case that passes through all stages of a disciplinary proceeding requires the involvement of 30 to 38 persons from five entities. Each case lasts on average up to 400 days.

These are the findings of the analysis of the laws and practices on disciplinary matters applied over the last five years in the Republic of Moldova. In 2015, a new law on the disciplinary liability of judges came into force, which should have streamlined this procedure. But even with significant amendments made in 2018, the results are still waited.

The current legal framework has certainly set off a disciplinary activity that has a long way to become more efficient. Today even to impose a simple warning to a judge, a disciplinary a verification and investigation by the Judicial Inspection shall be launched, followed by an examination at the Disciplinary Board, then an appeal before the SCM, and finally an appeal against the decision before the appellate court and the Supreme Court of Justice. The time and human resources involved in this process should be reduced.

The entities that initially were subordinated to the SCM are now specialized. The current regulations emphasize this trend, however, some elements allow us to say that the Judicial Inspection and the Disciplinary Board are only mere components of a mammoth institution named the SCM and that their autonomy needs to be effectively implemented in practice, not only by law.

The regulations of the Judicial Inspection and the Disciplinary Board should be tools for enforcing the law rather than for making it. For example, this analytical document outlines some inconsistencies between the law and the regulations.

The role of the Judicial Inspection should be strengthened: it should become autonomous from the SCM, with more inspectors and amended their selection criteria; inspectors should be specialized and remunerated much better, and they should have own apparatus. It should be the only entity that has the power to bring a case to the Disciplinary Board, so that the person who complained would not have another procedural role. We recommend introducing rules for own initiative-based procedure into the Inspection's rules and clarifying the procedure for considering the admissibility of complaints.

The rationale laid out in the decisions of the Admissibility Panel of the Disciplinary Board should be improved. Currently, the rationale sections only cite the law and the decisions of the Constitutional Court. If an appeal is dismissed, the litigant should have been ensured with the right to appeal in court.

At the Disciplinary Board, the institution of member-rapporteur is useless. Because of multiple changes made over time, it is the inspector who presents the report to Disciplinary Board members, so the only remaining duties of the rapporteur are administrative ones. The number of Disciplinary Board members sitting on a case should always be the same because they act as a disciplinary tribunal. Therefore, when a member is away even temporarily, an alternate member should take its place.

The disciplinary duties of the Disciplinary Board and those of the SCM seem to overlap. We consider that the SCM should withdraw and all disciplinary duties should be delegated to the Disciplinary Board.

After the Administrative Code came into force, the SCM's decisions became appealable in two-level courts: the appellate court and the Supreme Court of Justice (SCJ). We believe that the law should be amended to exclude the appellate court.

Judges may not be punished for poor professional performance or offences of ethical nature. Disciplinary offences should be linked exclusively to judge's duties. The definition of some disciplinary offences should be rewritten to make them clear and to make it easier for judges to accommodate legal requirements. Along with the strengthening of the judicial system, efforts should be made to optimize judges' work—ensuring a proper caseload and enough judges and technical staff. Moreover, judges should be protected against pressure within the system (particularly from the management of courts) and outside it (from prosecutors and politicians). Such pressure may also take the form of a disciplinary action filed by a litigant discontented with a judge's actions—an inconceivable situation that contradicts the principle of judicial independence.

Offences committed by judicial inspectors, SCM members, or members of other specialized bodies should also be regulated, and judges who are sanctioned should be automatically removed from such bodies. Judges in administrative positions should never receive disciplinary sanctions for poor management and should only be removed from the administrative position they hold.

As the efficiency of the system and the accountability of judges increases, it would be possible to consider publishing the disciplinary decisions only after they are final. Until then, it is not advisable to include the names of judges under disciplinary investigation who have not been sanctioned yet in the annual reports of the SCM or specialized bodies.

In the case of minor offences or mild disciplinary sanctions, sanctioned judges should not be banned from getting transfers. When a judge receives a final disciplinary sanction for acting with bad faith or gross negligence and such circumstances have influenced the resolution of a case, the case should have the possibility to be revised.

In the author's opinion, the low efficiency of the current disciplinary proceedings has two causes: legislative and human. By the legislative cause, we mean that the legal framework is still problematic, as shown in the document. The human cause refers to the misunderstanding of the law by litigants (who often complain to disciplinary bodies about the way judges apply the law) and, sometimes, the questionable way of applying the law by those who are responsible for this job. To address this cause, legal education programs for citizens shall be conducted with the view to explain them clearly their rights, the ways to exercise them, and institutions to address when their rights are violated. On the other hand, the members of the entities involved in the disciplinary proceedings should benefit from intensive trainings to get to know the laws in this field, the applicable national and constitutional case law, and relevant international standards.

<https://crim.org/en/en-the-disciplinary-liability-of-judges-in-the-republic-of-moldova-an-evaluation-of-laws-and-practices/>

### **3.7 Legal Resources Centre from Moldova: Resetting the system of selection and promotion of judges**

The practice of biannual contests is welcomed and should be kept. This change enables a better career planning for candidates and saves the SCM resources and time, which, until the 2018 changes, were unwisely used on separate contests for each vacancy within the system.

The SCM should require the candidates to the position of judge who graduated the NIJ to express their option about all vacancies put out to contest. This change will solve the issue of unfilled positions and the impossibility of filling less attractive judge positions outside the Municipality of Chişinău, which usually have very few applications. Therefore, the SCM should genuinely implement the rule that candidates shall express their option about all vacancies in the system right away.

The SCM needs to develop an interview methodology for evaluation of candidates. In the first contest held under the new rules, the SCM failed to organize a proper interview with the candidates, with specific questions and the evaluation of all candidates by standard evaluation criteria. The score offered by the SCM for more or less similar performances varied between 4 and 20 points, and the SCM did not explain at the meeting, or in writing, in its decisions, the underlying reasons for such discrepancies in the awarded scores.<sup>24</sup> This had a significant influence on the final score for some of the candidates, who lost up to 17 positions in comparison with the initial ranking.<sup>25</sup> Therefore, we recommend the SCM to develop a new methodology for conducting interviews for candidate evaluation. This methodology will help to score and choose in a merit-based way between candidates with equal scores in contests for the vacancies in the judiciary. Considering the number of participants, it would be wise to allocate several consecutive days for the last phase of contest at the SCM to allow enough time for the evaluation of each participant. In this case, the video recordings of the interviews can be released at a later moment, after the evaluation of all participants. Pending the development and approval of such methodology, the LRCM recommends suspending the contest announced on 13 December 2019.

The SCM should give away their “exclusive vote” when selecting and promoting judges. It seems that the SCM failed to give up the practice of nominating candidates for selection or promotion of judges based solely on the “exclusive vote” of each SCM member. Thus, if a candidate does not receive the required number of votes to get their candidacy submitted to the President of the Republic of Moldova, the SCM will organize another contest. This provision is problematic because it is not clear why there is a need to vote for a candidate again when each member of the SCM has evaluated and scored them. The mere vote counting may not stand as sufficient and fair reasoning. The SCM’s decisions should lay out the majority’s arguments in favor of these candidates. All the selection and performance filters as well as the legal amendments introduced in 2018 are inefficient and useless if in the end all that matters is “the exclusive vote” of the SCM members.

<https://crim.org/en/schimbarea-practicilor-de-selectie-si-promovare-a-judecatorilor-de-catre-csm-este-necesara-pentru-a-asigura-numiri-in-functie-bazate-pe-merit/>

## 4. Economic Development

### 4.1 Expert-Grup: State of the Country Report 2020

2020 was marked by the Covid-19 pandemic, which caught the Republic of Moldova unprepared. The repercussions of the virus have amplified the underlying vulnerabilities related to the state of the country.

Already at the beginning of 2020, before the onset of the pandemic crisis, the economy of the Republic of Moldova had begun to slow down, the budget deficit was already increasing, and a number of key macroeconomic indicators (e.g. exports) were in decline. In addition, the country entered the pandemic with a low level of competitiveness (86th place out of 141 states according to the 2019 Global Competitiveness Report – similar to Ukraine, Tunisia, Sri Lanka and Lebanon) and economic freedom (87th place out of 180 states according to the Heritage Foundation 2020 Index of Economic Freedom – along with Belarus and Samoa), and with a high level of corruption (120th place out of 180 states according to the Transparency International 2019 Corruption Perceptions Index, along with Sierra Leone, Niger and Pakistan). According to surveys, the majority of companies were unprepared for the pandemic, entering the crisis without (or with low) cash buffers and internal governance poorly adapted to crisis management, a low level of technological endowment, limited capacities to manage digital tools and a low level of diversification of suppliers and sales channels. All of these vulnerabilities, which have contributed to the country's decline from one year to the next, have increased substantially with the onset of the pandemic. Thus, the crisis caused by the Covid-19 pandemic undermined the competitiveness of the private sector because of restricted access to raw materials, markets and capital/ financial resources, as well as through the decline in labour productivity. At the same time, the quality of the democratic process, the legislative process and public policy-making in general has deteriorated.

#### **Moldova continues to lose external competitiveness and fails to converge with its neighbours and other countries from the Central and Eastern Europe.**

The analysis of the country's scores according to the most popular international indexes that are relevant for assessing the state of the country (GDP per capita,<sup>1</sup> Global Competitiveness Index, <sup>2</sup> Human Development Index <sup>3</sup> and Corruption Perception Index <sup>4</sup>) reveals that Moldova's position worsened compared to other ECE countries<sup>5</sup> and stagnated in comparison with its neighbours (Romania and Ukraine). The only positive improvement that could be observed was with respect to GDP per capita, where some marginal convergence has occurred. It reveals the poor quality and sustainability of the economic growth that Moldova has registered during recent years, because it did not allow the country to improve its external competitiveness. During the Covid-19 crisis, the country's development gap compared to the ECE region will most likely continue to widen and this will generate significant medium- and long-term risks (e.g. failure to compete for foreign direct investments, emigration of the working age population, poor integration into international supply chains and globalization/regionalization processes etc.).

#### **The Covid-19 crisis also revealed the chronic deficit of public trust in government, which worsened amid the social and economic repercussions of the pandemic, in parallel with an inefficient and inadequate anti-crisis response from the Executive.**

Low confidence in government has always been a problem in Moldova. Many opinion polls show that most citizens believe that things in the country are going in the wrong direction, and that the main state institutions (political parties, government, Parliament and the justice system) are the least trusted by the public. This further undermined the effectiveness of pandemic mitigation measures: people almost completely ignored basic personal protection requirements, such as wearing masks and physical distancing, which further aggravated the pandemic situation, creating a vicious circle. Moreover, the measures introduced to mitigate the economic and social repercussions of Covid-19 were neither sufficient nor effective. Invoking a rapid increase in the budget deficit, the Government failed to develop a comprehensive anti-crisis programme for both companies and the population. Except for unemployment benefits (which benefited only a limited number of people), a postponement of tax payments for a few months, a moratorium on state inspections and a mechanism to subsidize loan interest payments of companies facing urgent needs (which was not popular among SMEs), the Government failed to provide any vision or more substantial measures to compensate, at least in part, the losses incurred by companies and the population in the context of the pandemic. The figures serve as proof: they show that the total intervention accounted for about 0.4–0.5 per cent of gross domestic

product (GDP), which is about five to six times less than the anti-crisis programmes implemented by other states in the region.

**In addition to the pandemic, 2020 was also marked by drought, which highlighted another major vulnerability of the country – increased exposure to climate shocks.**

Extreme climate phenomena (droughts, frosts, hail, floods) are becoming more common in the Republic of Moldova, being a clear effect of global climate change, in parallel with poor environmental management (including corruption, weak institutions, failure to curb illegal deforestation, poor management of natural resources and water bodies, etc.). The neglect of environmental issues in recent years, manifested by sacrificing environmental goals in favour of economic ones, or in favour of vested interests (advocacy and lobbying), is a good example of the political myopia that politicians in the Republic of Moldova have long shown. The effects of this neglect of environmental objectives, and the constant undermining of environmental governance and the related institutional framework, are increasingly being felt by both the economy and the country in general. The 2020 drought is a case in point. Also in relation to this crisis, the government has not shown a vision and firm actions to immunize, in the short-term, the agricultural sector against such shocks, and, in the medium and long-term, no measures were undertaken to strengthen the current environmental institutional framework and governance. Thus, after several protests, farmers were provided with tax facilities and subsidies in order to compensate them, at least in part, for the losses incurred because of the drought. At the same time, the government ignored the more fundamental issue of how to increase the resilience of the agricultural sector (e.g. through implementation of modern irrigation systems, reorientation of farmers towards more drought-resistant crops, stimulation of intensive agriculture with increased added value, elimination of anti-competitive arrangements among intermediaries of agricultural products, and facilitation of farmers' access to markets). No firm actions have been taken to ensure more sustainable and efficient environmental management (e.g. strengthening the Environment Agency, the environmental departments of the Ministry of Agriculture, Regional Development and Environment and other relevant institutions in the field; combating deforestation and ensuring a substantial increase in forest areas; more efficient regulation of the exploitation of water resources, etc.). Continual neglect of these issues will further weaken the state of the country, with increasingly serious repercussions for the agricultural sector, public finances and the environment.

**The way in which the authorities responded to the two major crises of 2020 (the Covid-19 pandemic and drought) reveals a fundamental vulnerability of the country: a low sense of statehood among politicians, government and society in general.**

By this we mean the sense of belonging to a country, a feeling which arises from a common desire for the nation to prosper in the long run. This fundamental weakness of the state of the country is revealed by the current weak management of the country, which is often inconsistent, unpredictable, influenced by vested interests and lacks a vision and systemic approach to priority development issues. A stronger sense of statehood would unite the government, politicians and society in the fight against Covid-19, help in efforts to mitigate the effects of the drought and, in general, ensure cohesion on issues that are critical for the long-term development of the country (e.g. a real fight against corruption, the development of a functional market economy system, the integrated and sustainable management of natural resources, etc.). Added to this problem is the capture of the policy agenda by politicians whose horizons of interests and priorities are limited to electoral cycles. An eloquent example here is the dominance by politicians or high-ranking officials (the country's president, the head and some members of the executive) of the role of communicators on the management of the pandemic, despite the fact that none of these officials are experts in health issues or public communication. This has generated public disapproval, further weakening the relationship and trust between citizens and the authorities/the state.

**Against the background of the impact of both the Covid-19 pandemic and the 2020 drought, the state of the country in the coming years will be significantly undermined by worrying economic developments.**

It is already clear that there will be an economic decline in 2020, and the developments we can expect in 2021 are uncertain. Most likely the pandemic will continue during 2021, constraining the process of global economic recovery. In this context, the economic outlook for the Republic of Moldova is quite bleak. According to forecasts, in 2021 the economy will not manage to recover to the level before the crisis. The economy is forecast to shrink by 7.5% in 2020, as a result of two overlapping crises: Covid-19 pandemic and drought, making it a worse crisis compared to the recession of 2009. The most affected sectors are

agriculture, where the gross value added (GVA) will decline by 33.8%, followed by transport (-16.7%) and the industrial sector (-8.2%). It will undermine investment activity and exports, which will also be declining this year. Additionally, the budget deficit could reach a worrying level of 10% of GDP, limiting significantly the room for manoeuvre for the government. Nevertheless, according to our baseline scenario, the economy is planned to revert to positive growth in 2021 (+5.7%), due to the low comparison base (low economic growth in 2020), but also assuming that the Covid-19 pandemic will gradually fade away, allowing the economy of Moldova, and in the region, to breathe easier. A more detailed forecast is presented in the report.

**Another impact of the Covid-19 crisis is related to the deepening of inequalities, which even before the crisis posed important challenges to the state of the country.**

At the level of companies, inequalities have increased between small and medium-sized enterprises (SMEs), most of which were poorly prepared for such a shock, and larger enterprises, which are more resilient thanks to their technological endowment, liquidity reserves and long-term contracts with suppliers and customers. At the level of the population, the labour market and income indicators show that women, young people, people with a low level of education and those with low incomes were most affected by the Covid-19 crisis. In the absence of adequate response policies, the Covid-19 crisis has deepened the economic and social inequalities in the Republic of Moldova, which has major repercussions for the state of the country: increasing the poverty rate and social tensions; negatively affecting the competitive environment, with a negative impact on the welfare of consumers/ the population; and, last but not least, the stimulation of a new wave of migration that could take shape after the lifting of international restrictions on movement.

**The Covid-19 crisis and the inefficiency of anti-crisis measures could stimulate a new wave of migration that will aggravate the demographic situation and lead to the loss of the demographic dividend.**

A possible increase in the emigration of the working-age population, after the elimination of international restrictions on movement, could be generated by the intensification of people's interaction with the healthcare system in the Republic of Moldova, which is weak and has previously led to emigration. Emigration could also be caused by the closure/restructuring of businesses, which will remove a significant part of the working-age population from the economic system. In a context of deepening inequalities, limited economic opportunities and inefficiency/ lack of anti-crisis policies, this category of the population, which is also the most mobile, will become even more inclined to emigrate, further aggravating the demographic situation. This, in turn, could lead to the final failure of the second demographic dividend mentioned in the previous editions of the State of the Country Report, expected to be generated by the approach by the largest cohort of the population born during the demographic explosion of the 1980s to the age with the highest productivity and economic potential.

**The Republic of Moldova urgently needs both an anti- and a post-crisis strategy, with a short- and long-term vision, and firm measures, focusing on the most vulnerable.**

First, it is necessary to increase the financial envelope for anti- and post-crisis measures. Resources have to be identified both internally (monetary easing by reducing the mandatory reserves norm given the favourable inflationary environment, as well as increasing the issuance of T-bills, taking into account the low level of indebtedness of the country) and externally (improving relations with development partners, enhancing the coordination of external assistance and issuing of Eurobonds). According to the most modest calculations, these measures could allow the mobilization of about €1 billion, which will be enough to compensate for the losses caused by the pandemic and to ensure a rapid recovery in the post-Covid-19 period. Second, urgent and bold measures are needed to compensate for the losses suffered by companies and the population as a result of the pandemic. The support measures must aim at directly and immediately compensating 70–80 per cent of the lost income of employees, and fully guaranteeing loans contracted by companies for urgent purposes (e.g. paying wages and/or suppliers). In addition, there is a need for a radical change in the approach of the institutions that regulate the business environment (e.g. the Tax Inspectorate, the National Food Safety Agency etc.). The emphasis should be on providing advice to companies rather than on controls and fines. In this sense, a training programme is needed for officials of these institutions, who need to switch from regulators to business consultants. Third, state programmes are needed, possibly co-financed by development partners, which would allow for a faster post-crisis recovery. These programmes should target five priorities: (i) digitalization of businesses (grants and subsidies for the development of online marketing and sales platforms, electronic payment instruments and training of employees to manage effectively digital mechanisms); (ii) training employees and the unemployed in order to make the labour market more flexible

and to accelerate the reallocation of the labour force from the companies/ sectors most affected by the crisis to those that will be able to survive, or even grow; (iii) training, consulting and support actions to facilitate the access of SMEs to markets; (iv) grants and subsidies for processors using local raw materials, which will also support domestic raw materials producers, as well as boosting the creation of added value in the economy; and, (v) subsidies and state guarantees for loans aimed at increasing the level of technological endowment of companies and the orientation towards high value-added economic activities (e.g. advanced processing of local raw materials). These measures should target mainly the most vulnerable groups in the context of the crisis: SMEs, but also women, young people, people in rural areas and those with the lowest incomes.

[https://www.expert-grup.org/media/k2/attachments/State\\_of\\_the\\_Country\\_Report\\_2020..pdf](https://www.expert-grup.org/media/k2/attachments/State_of_the_Country_Report_2020..pdf)

#### **4.2 Expert-Grup: COVID-19 Crisis: How Does the Republic of Moldova Finance its Budget Deficit?**

Context In addition to the threats related to the population's health, the crisis generated by the Covid-19 pandemic presents the first economic challenges. Quarantine and social distancing measures have significantly reduced the activity of companies, with the global economic growth forecasts being significantly revised towards a global recession of about 3%.

The economy of the Republic of Moldova is no exception as several sectors are already registering a drastic decrease in the sales and revenues because of the impossibility to carry out the usual activity. In addition, the public finances are being put to a severe test - on the one hand they are affected by the reduction in the tax revenues, on the other hand, there is an increase in spending to support the healthcare sector. Also, the Government cannot leave the real economy without support, the expenses for supporting the enterprises and the population will increase considerably. In the situation of a state of emergency imposed as a result of the spread of Covid-19, the Government and Parliament approved a significant budget correction.

The adjustment is based on a somewhat optimistic macroeconomic scenario, with a decrease in GDP in real terms of (only) 3.0% compared to 2019, an average annual inflation of 2.8% and an average exchange rate MDL/ USD of about 19 lei. Even so, the revenues of the national public budget will decrease significantly, by more than 7.5 billion MDL, while the spending will increase by about 1.3 billion MDL. In this context, the budget deficit may reach 16.2 billion MDL, which is more than double than initially estimated (7.4 billion MDL at the time of approval of the State Budget Law for 2020). Although the current level of public sector debt is not a problem, in the current context any expenditure must be thoroughly justified. Simultaneously with the review of existing spending programmes, the Government has included a number of new programmes to support the healthcare sector with immediate and longer-term impact. Expenditure programmes are also provided to mitigate the negative impact of the pandemic on the businesses and population. Credits attracted from international financial organizations and bilateral loans from the governments of other countries will serve as sources of financing for the envisaged measures. Creditors such as the International Monetary Fund (IMF), the World Bank, the Council of Europe Development Bank, the European Union (EU) and the Government of the Russian Federation are mentioned.

##### **The core problem:**

In the context of the state of emergency, the Republic of Moldova has several options for financing the budget deficit. The establishment of the state of emergency is a widely accepted reason for extending the budgetary expenditures beyond the limits imposed by the budgetary-fiscal legislation. While internally the financing options are limited (loans from banks, privatizations or, indirectly, money from the NBM), externally, the range of creditors becomes much more diversified. In the context of the Covid-19 pandemic, international financial institutions such as the IMF and the World Bank have made billions of dollars available to members through fast, cheap and unconditional reform instruments. For Moldova, the support announced by the two institutions amounts to about 300 million USD. In response to the crisis, the EU also announced non-reimbursable support for both member and associated countries. A non-reimbursable financial support of about 87 million EUR has already been announced for our country along with the possibility of providing assistance of around 100 million EUR. In addition to the financial support from the IMF and the EU, the authorities also resort to less traditional creditors that can affect our country's external relations both financially, politically and even geo-politically. Recently, Moldova signed a loan agreement of 200 million EUR with the Government of the Russian Federation which, although presented as a response and support in the context of the Covid-19 pandemic, it is rather intended to support the electoral projects announced at the beginning of the year. A good part of the financial resources (1,3 billion MDL) has already been included in the budget rectification draft for the implementation of the "Road Infrastructure Development Programme with the support of the

Russian Federation" Project, which is nothing more than a new "Good Roads" Programme. Obviously, we do not doubt that any public infrastructure works will help the economic agents somewhat in times of crisis, however, the most delicate question remains the opportunity of these works and how to achieve them in the context of the existence of several conditionalities. The loan agreement signed with the Government of the Russian Federation raises several questions about both financial provisions and non-financial conditionalities. Though presented as a budget support loan, the Government cannot use this money as it sees fit, but only to support joint development projects and with the involvement of companies of that country. Thus, the Government does not seem to have the possibility to individually assess the project opportunities as the decision will be taken together with the Russian side. Another provision that deserves special attention and additional explanation is related to the consolidation of all debts of the Moldovan side, without clarity regarding the current situation of all the active obligations of the Republic of Moldova towards the Russian Federation. Such obligations cannot be accepted without expressly adding the list of existing obligations. Finally, the repayment terms, including the interest on this loan, seem to be among the toughest on the list of all financing agreements that our country has in force at the moment, or which are at an advanced stage of approval.

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### **4.3 Expert-Grup: Study on Political Clientelism in the Management of Public Funds**

Corruption, political clientelism and the low institutional capacity of public authorities to adequately respond to people's needs are factors that continue to determine the low development level of the Republic of Moldova. These issues are present both at the central level, in the highest circles of government, and at the local level, where local budgets are limited and often used inefficiently. A pronounced manifestation of corruption, favouritism and political clientelism can also be observed in the process of allocating public funds from the central budget to local budgets. In this case, the political affiliation of mayors and district presidents is a key element on which depends largely the political situation and the parties that comprise the central government.

The study on political clientelism in the management of public funds was conducted under 'Inform, Empower and Act! Civil Society for good budgetary governance in Moldova' project. The analysis is part of component 3 of the project ("Act"), and is part of the research activities aimed at promoting changes in the process of allocating financial resources from central to local level.

Political clientelism is considered to be a common practice in relation to public finances. This phenomenon occurs most frequently in the form of violations of the law on public procurement, as well as in the decision-making process and the management of public property or public funds. At other times, political clientelism does not fall within the scope of criminal or contravention law, since legally it cannot be considered a conflict of interests or vitiation of the decisionmaking process. Such cases include especially the nomination to public office, either directly or on a competitive basis, where the element of a group of persons united by a common interest exists, but there is no strong enough connection in order to be considered a violation of the criminal or contravention law. For the purposes of this research, political clientelism is analysed on the basis of a broad definition, focusing on economic and financial benefits. Thus, various instruments for allocating public funds to level-one LPAs (mayoralities) are assessed from the perspective of resource formation and decision-making on their distribution. At the same time, the study determines an index of political clientelism for each tool, as well as an overall aggregate index. An important aspect has to do with the political affiliation of mayors, which is constantly changing due to the migration of local elected officials from one party to another.

Mayors' migration from one political party to another is a common practice in the Republic of Moldova. On the one hand, this denotes the presence of corruption in the political environment, on the other hand it stimulates and amplifies the level of political clientelism in the use of public funds. The migration of mayors intensified in an unprecedented way during 2015-2019, being a direct result of the political movements at the central level started shortly after the parliamentary elections of 30 November 2014. Obviously, the migration of mayors has only one direction – towards the ruling party, respectively out of the 898 mayors elected in the 2015 elections, at least 471 have changed their political affiliation, some even three times.

The research methodology was based on both a qualitative evaluation of the subject and a quantitative one with empirical estimates. Thus, the quantitative evaluation took into account the programs under which the financial resources were appropriated, including the list of appropriations by each locality/commune. The evaluation focused on examining how public financial resources were allocated from the state budget to local

public authorities with the identification of specific indices of clientelism. For this, we've selected six instruments used to allocate funds in 2018 and 2019, namely:

- Transfers for capital works and other general-purpose transfers from the state budget to local budgets through the State Budget Law;
- Road Fund and 'Good Roads' Program;
- National Ecological Fund;
- National Regional Development Fund;
- Moldova Social Investment Fund;
- Energy Efficiency Fund.

Subsequently, political clientelism was analysed on several dimensions that take into account the political affiliation of mayors, the number of mayoralties that benefited from appropriations, the number of people living in communities that benefited from appropriations. In addition, the quantitative aspect of the study was to come up with an Index of Political Clientelism for each fund, as well as an Aggregate Index of Political Clientelism. The aggregate indices revealed a pronounced manifestation of clientelism in the distribution of funds. Moreover, in 2019 compared to 2018, there is an increase in the aggregate index of political clientelism. Thus, in 2018, an inhabitant of a government-affiliated locality could have benefited from an allocation 2.3 times higher than a person living in a locality not affiliated with the government. In 2019, an inhabitant of a government-affiliated locality was already 2.6 times more advantaged than a person from a locality not affiliated with the government. Likewise, both in 2018 and

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#### **4.4 Expert Grup: Economic Cost of Gender Inequalities in the Republic of Moldova**

**Gender inequality is one of the key challenges for a sustainable and fair economic growth.** Gender inequalities are caused by cultural factors, prejudices and lack of economic incentives. Decrease and elimination of gaps is an objective to both ensure gender equality and harness women's economic potential. For these reasons, achieving gender equality and empowering all women and girls is one of the objectives of the 2030 Agenda for Sustainable Development.<sup>1</sup>The final goal of the Agenda is to close the gaps by 2030 and ensure equal participation of women in the economic and politic areas.

**Persisting gender inequalities generate enormous economic costs due to the insufficient involvement of women in the economic life.** Globally, many efforts were made to measure the economic costs of the gender inequalities in order to understand the scale of the problem and estimate the efforts needed to narrow the gaps, including as part of 2030 Agenda. But the shortcoming of these estimates is that the different studies come up with different estimated costs, depending on the methodology, and some measures are not disaggregated.<sup>2</sup>The absolute majority of the estimates are made on global or regional level, with no estimates for the national level, especially for low-income countries. These costs vary significantly from one state to another because of the totally different gender inequality circumstances. An estimate of costs and areas with prevailing gender inequalities on the national level contributes to a more efficient use of public funds. This argument is also valid for the Republic of Moldova.

**Lack of efficient measures to reconcile family and professional lives is a barrier to gender equality.** Harmonisation of professional and family duties is difficult, especially for women, who are primarily responsible for childcare and housework. In these circumstances, women's participation in professional, public and political life is very complicated. Adoption of some effective measures to reconcile family and professional lives will enable women to achieve financial independence and increase their influence in public and political life, as well as on the labour market.

**The purpose of this report is to estimate the economic costs caused by gender inequalities in the Republic of Moldova and identify a series of strategic recommendations.** This report assesses the latest developments related to gender inequalities in the Republic of Moldova, especially from the perspective of changes in demographical statistics and on the labour market. Economic costs of gender inequalities are calculated on the basis of these developments, taking into account the methodological approaches already applied at the international level. Development of institutional and legal framework concerning reconciliation of family life and professional duties is one of the public policies that could diminish gender inequalities. Good international practices and peculiarities of the Republic of Moldova are analysed in order to identify possible areas of intervention of public authorities. A particular emphasis is placed on the early childhood education and the potential costs for its extension in the Republic of Moldova, aiming at determining to what extent the

implementation of this public policy is possible. Finally, this report includes a series of recommendations that could diminish gender inequalities and their economic costs.

## **Conclusions and recommendations**

The Republic of Moldova made some progress in the last decade in diminishing gender inequality, but there still are significant gaps. GGGI is one of the statistical tools used to quantify gender inequalities that increased from 0.713 in 2006 to 0.757 in 2019 (1 is perfect equality). Despite the growth of the Index, the gaps in economic and political fields are still significant. Moreover, the recent changes in the labour market statistics emphasised that the economic gender inequalities are much higher and have grown in the last years. An amplification of gender gaps in the last years implies that the national economy is losing much more from the less active engagement of women on the labour market.

The macroeconomic costs of gender inequalities are significant and are increasing in the Republic of Moldova. The gaps between women and men on labour market lead to a lower GDP, compared to the gender parity. Due to the fact that women are less active on the labour market and are working fewer paid hours, compared to men, they have a lower labour productivity on the average. These factors cause the loss of 10- 20% of registered GDP value in the national economy. Around 10% are lost because of low participation rates of women, and if to take into account all three factors, the annual cost is amounting to 20%. Furthermore, the amplification of inequalities on the labour market in the recent years resulted in higher macroeconomic costs, which grew by 2-4 p.p of the GDP.

Tradition, cultural specificity and gender prejudices are determining women to give up on trying reconciling family and professional life and decide to take care of their children until they are eligible for kindergarten. Women on childcare leave are facing additional issues compared to men on such a leave, as according to traditions and gender stereotypes the household duties are attributed to women. Although, in legal terms, men are also entitled to get a partially paid leave for childcare up to the age of 3, statistically, they exercise this right much rarer than women.

Legal provisions do not motivate fathers to participate in childcare activities. The national legislation does not provide for a period of leave exclusively for fathers, and is not sufficiently flexible in order to enable parents to use a part of the partially paid leave after the child turns 3 years. The national legislation does not contain provisions that would encourage mothers and fathers to share the childcare leave. A great number of uninsured women are on childcare leave and benefit from a monthly allowance of MDL 640, which makes them more vulnerable and financially dependent on their spouse or domestic partner.

Even if the legal framework was improved in terms of encouraging parents to return to work after they have been granted the childcare leave, and keep their monthly allowance, the insufficient number of nurseries impedes them to exercise this right. The access to nursery services is an example of critical measure for ensuring professional training and development, especially for women who are on childcare leave, and granting gender equality. The creation of private nursery services does not solve the issue of the lack of public nurseries, because the cost of these services is not affordable for many families. Parents consider private nursery services attractive due to the low number of children, endowment and rooms' sanitation, food, video surveillance, teaching staff formation, but they do not use them because services are expensive.

The lack of public financial resources required to fund nursery services is one of the factors causing insufficient public nursery services. This insufficiency enhances women's vulnerability, affects their professional training and development, as well as their participation in the labour market and causes an increased risk of social exclusion. The amounts needed for the significant expansion of the nursery network represent about 1.7% of the GDP in 2019, which makes it actually impossible to carry out a comprehensive investment program in the short run, especially under the conditions of a permanently deficient budget.

**In order to reduce gender gaps and their economic costs, the implementation of the following measures is recommended: Economic cost of gender inequalities:**

- Set up a Government authority responsible for gender equality;
- Ensure effective cooperation between gender units from ministries and the Division for Gender Equality Policies;
- Mainstream gender in school textbooks;
- Promote gender mainstreaming in budget programs by establishing gender-sensitive indicators;
- Introduce and implement gender equality dimension in policy documents of all areas;

- Raise public awareness through national and centralised information campaigns concerning gender equality, the role of women and men in the society and family, reconciliation of private and professional lives, overcoming gender stereotypes, change of attitudes and behaviours that increase inequalities between women and men;
- Enhance the efficiency of policies regarding gender equality, focusing on ensuring the required conditions for women's political and economic empowerment;
- Monitor employers in terms of observing women's rights at work, as well as eliminating discrimination against women in the workplace.

#### **Measures to reconcile family life and professional duties in families with children**

- Implement educational policies to eliminate stereotypes and prejudices and promote mutually assumed parenting;
- Adopt and effectively implement policies aiming at harmonising family and professional lives, during quarantine periods or in other circumstances determining a special access to educational services, by creating and developing care services for children under 3, monitor employers in terms of introducing measures such as flexible work schedules, arranging spaces for breast milk extraction and storage, etc.;
- Adopt the draft law to amend the Labour Code of the Republic of Moldova No. 154/2003 in order to regulate the flexible working schedule and diversify flexible schedule options by allowing the employees to work remotely, from home, to take career breaks, by appropriately stimulating the employers to this end;
- Adjust the legal framework in order to include provisions on the length of the childcare leave set up exclusively for fathers, encouraging parents to share the childcare leave between them, possibility to benefit from a shorter childcare leave with a higher allowance, the possibility for parents to use a part of the partially paid leave after the child reaches 3.
- Set up sufficient nursery services for the existing demand, both in rural and urban areas. In the light of the budgetary constraints, it is recommended to gradually extend and focus on developing the nursery network in communities with a higher demand for these services. It is also recommended to find external financial resources to fund capital investments as in the case of the past years' investments in the development of the kindergarten network;
- Create nursery services so that they could satisfy the requirements of a quality nursing for the child's development;
- If nurseries are not available, ensure required financial support so that women could get back to work;
- Encourage and stimulate private companies/enterprises to create childcare services, including arranging places for breastfeeding.

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#### **4.5 Expert-Grup: Municipal Bonds – an Instrument to Develop Local Communities**

This study aims at exploring one of the main viable instruments that could be used by the Local Public Authorities (LPA) for developing the localities and to fortify the local autonomy – the local bonds. In the international practice, these are also called municipal bonds that represent securities issued by cities or other forms of local authorities. Based on these instruments, the LPAs can borrow financial means in order to obtain financing, usually for capital investments.

In the Republic of Moldova, although the legislation foresees the possibility for local authorities to issue bonds by local authorities of all levels, however, up to this moment, no such entity has engaged in such activities. The causes are multiple, both legal, investment and even financial infrastructure ones. On the one hand, interacting with the capital market requires that the LPA have special financial and economic forecast competencies. On the other hand, the legal framework does not seem to be favourable both in terms of municipal bonds issuance as much as investing in them. As well, the national capital market remains shadowed by the banking system, the possibilities allowed by the latter being limited and also, little known.

The first chapter offers an overview of the current legislative and normative framework provisions in order to reflect the mechanism on issuing municipal bonds. This refers to the conditions in which the municipal bonds can be issued, the purpose of issuing, the Ministry of Finance endorsement, the stages of the issuing process

and reimbursing the loans attracted as a result of issuing the bonds. The emphasis is made on the aspects that limit somehow the possibility to implement this instrument, particularly: (i) the inequitable fiscal regime of investments in municipal bonds, (ii) the indebtedness cap set at 20% from revenues excluding the special destination transfers and (iii) the impossibility to issue bonds in foreign currency.

The second chapter analyses the international practice, because in the majority of states from the region, issuing municipal bonds is the simplest way to attract a pool of investors from outside of the banking sector. Particularly, the chapter analysed in detail the evolution of the local bonds market from 3 states in the region, an experience which is relevant for the Republic of Moldova. The analysed states are Romania, Bulgaria and Serbia.

The third chapter analyses the LPAs revenues, particularly if they allow real financial autonomy and how financially sustainable they are to issue bonds. The analysis of local budgets is crucial in the context of discussions regarding the local bonds, in light of respecting prudential norms and avoiding the transformation of this instrument in financial and electoral adventures. The chapter analyses the local tax base, the indebtedness level of the LPA and the local financial autonomy degree of the LPA, especially from the perspective of issuing local bonds.

The fourth chapter presents the opportunities related to issuing municipal bonds. Aside from the advantages and opportunities presented by the municipal bonds, certain criteria that must be respected for ensuring success in using this instrument are specified.

Overall, this study emphasizes the legal, fiscal, financial and institutional barriers that prevent the LPAs to issue bonds, as well as presents a set of policy recommendations based on the experience of other states comparable, in terms of valuing this instrument, by respecting prudential and good governance norms.

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#### **4.6 Expert-Grup: Using Behavioral Science to Encourage People to Take the Vaccine Against Covid-19**

As effective vaccines may soon be approved by the US and European Union's health authorities, it is important to stress that these can be a powerful weapon against Covid-19 only if people take them. There has always been reluctance around vaccine uptake. However, recent surveys show that the skepticism has been on the rise in the last few months and is sufficiently high to render community immunity a challenging goal.

Differences in acceptance rates range from almost 90% (China) to less than 55% (Russia, France). With missing data from Moldova, one can only speculate about the acceptance rates. However, it is reasonable to expect that the acceptance rates would not differ much compared to Russia, which is one of the countries with the most pronounced skepticism toward vaccination.

The high levels of reluctance to take the vaccine against Covid-19 need to be taken into account by public authorities before they launch official campaigns promoting vaccination. Promotional messages coming from public authorities may backfire. In effect, these may increase even further the number of those who refuse to take the vaccine, especially when there is low trust in messages coming from central authorities. Because vaccination is a highly controversial issue, public officials cannot use the standard regulatory tools: impose sanctions for those who don't comply or render vaccination mandatory. These measures are likely to reduce people's trust in central authorities and spur further opposition toward vaccination.

It is of utmost importance for public authorities to (i) better understand the motives that drive people's refusal to take the vaccine, and (ii) to design policies that are likely to change the specific beliefs and attitudes against the vaccine. Behavioral science can be a powerful tool to understand what's holding someone back, what sub-populations have different concerns, and try to tackle those things. For example, when it comes to changing behaviors, one simple policy with a potentially noticeable impact is to change the default option: instead of asking people to book an appointment at a nearby clinic, public authorities could work with employers to automatically book appointments for their employees, leaving them the freedom to opt-out. Results from previous behavioral studies on the take-up of vaccines show that this measure has the potential to dramatically increase the number of people who get a vaccine. A group of researchers from Rutgers University (USA) sent a letter to 408 university employees to inform them about a campaign of vaccination against influenza. Employees were divided in two groups (without knowing that). The first group received an email indicating the date, time and place where they had to be vaccinated. In other words, their appointment

their appointment had been scheduled for them, but they could cancel it any time (opt-out). The other group received an email requesting them to choose a date to be vaccinated (opt-in). The results show a significant effect of the opt-out option: 92% of the employees in the first group kept their appointment and therefore received a vaccine, while only 50% of those in the second group made the necessary appointment in order to be vaccinated.

Other behavioral interventions could be envisioned, depending on citizens' motivations to refuse the vaccine. For example, knowing that a majority of citizens in one's country are in favor of vaccination may motivate an individual to seek conformity and therefore to take it as well. The research in behavioral economics shows that one of the most powerful predictors of behavior is perceived social norms — what we think everyone else is doing. Country leaders — including the political class — often convey that in their behavior, their symbols. It is therefore important that early in the process our leaders publicly express their commitment to the science behind Covid-19 vaccines and that they be among the first ones to take it.

Public authorities could also use insights that have proved their efficiency in the context of blood donations or other civic duties, such as voting, where associations offer participants badges, stickers or bracelets so that they can signal to others that they donated their blood or that they performed their civic duty by voting. Such simple and cost-efficient tools could be used in the context of vaccination against Covid-19. The greater the number of citizens wearing badges signaling that they performed a civic duty by taking the vaccine, the greater the social pressure that may motivate others to follow through.

These tools that are based on social norms and people's psychology are not the silver bullet. However, given that these are not costly to implement, the returns on investment, measured in the number of saved lives, can be extremely high. Their implementation can also raise ethical issues which should be addressed ex ante by integrating ethical considerations at the design stage in order to ensure the necessary transparency and to avoid that citizens may feel manipulated.

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#### **4.7 Expert-Grup: How can the Economy be Relunched in 2021**

The pandemic crisis will cause this year the sharpest decline of the Moldovan economy in the last twenty years. While at the beginning of the year the macroeconomic scenario predicted an economic growth by 3.8 per cent, the data used for the last budget rectification in August indicate an economic decline by 4.5 per cent.

Moreover, the latest statements of the authorities show a revision of the expectations according to which the economy will contract by 6.5 per cent this year, an indicator close to the previous estimates of 7.5 per cent by the Expert-Grup in the State of the Country Report. The actual data for the first half of the year indicate an economic decline by 7.2 per cent, the most affected sectors being those involving the population's interaction and mobility, but also those in the informal economy (HoReCa, household activities, art, leisure and recreation activities, transport). In the second half of the year, as a result of this year's drought, the economic sectors with the sharpest decline will also include agriculture, the figures for the first nine months of the year already showing a decrease in the agricultural production by 25.3 per cent.

The latest forecasts of the National Bank indicate a perspective of persistent disinflationary pressure until Q3-2022 against the background of the decrease in the aggregate demand. The anti-epidemic measures, the declining external demand, the negative cumulative fiscal impulse since the beginning of the year, the real appreciation of the national currency, and the unfavourable agrometeorological conditions, which have affected the volume of agricultural production, are the main factors contributing to the reduction of aggregate demand. The return of demand will take time, taking into account the uncertainty as to the evolution of the pandemic, the change of the population's consumption behaviour, the difficulty of the labour market conditions and the risk of the continuous migration trend of the economically active population. Under the current conditions, the central bank has pursued a monetary policy of easing the conditions by successively reducing the base rate to the historical low of 2.65 per cent, but also the rate of the minimum required reserves in national currency to 32 per cent. These measures have led to reduced financing costs and have released several billion of liquidity for the economy, which have benefited, first of all, the state, which has been financing this year its budget deficit from the domestic debt in the amount of MDL 6 billion.

The business environment, especially SMEs, has been severely affected, including due to reduced adaptability. One of the recent surveys conducted in July with the participation of over 200 enterprises shows that only 13 per cent of respondents felt a positive dynamic or had a similar level of revenues compared to the same period of 2019, the rest being on a negative trajectory, including 40 per cent of companies that reported

decreased sales of over 50 per cent. The local companies have been affected by the limitations imposed during the pandemic crisis and face challenges existing for a long time in their distribution networks. These challenges include administrative and mobility constraints, unstable supply chains, limited skills in accessing new markets, the underuse of IT solutions' potential to streamline business, bureaucracy and government regulations that hinder business processes, as well as poor operational access to financing. A study on the Covid-19 impact reveals that according to the statistics for the first months of the pandemic, the missed sales amount to MDL 86 billion, which implies lost revenues to the national public budget in the amount of MDL 17.3 billion or 27 per cent compared to its level in 2019. The developments in this period have also been accompanied by changes in the structure of entrepreneurial activities. The activities in the ICT and the IT and telecommunications equipment trade sector have excelled the best by far in terms of growth during this period, but also the food retail, which has partially occupied the HoReCa market, at the opposite pole being the businesses providing services to the population, but also the non-food trade. Postponing strategic and current investments, reducing the rental and administrative costs, reducing staff costs, reducing the operation/production, as well as the attempts to enter the online market have been the most widely applied measures by companies in their struggle for survival.

The pandemic has left vulnerable the most active category of people in the economy – the employees. As shown in one of the presentations of the MACRO 2020 Conference, the current COVID-19 crisis does not seem to have a major impact on the groups that are traditionally regarded as vulnerable - the elderly or the women in rural areas. The employees have been hit the hardest this time, and their rehabilitation and economic reconversion is essential because the longer they stay unemployed, the more their professional relevance will decrease or they will eventually find themselves forced to emigrate. These findings are also substantiated by actual data. Thus, the NBS data show that in Q2, the employed population accounted for 821,5 thousand persons, being less by 8,8 per cent compared to Q2 2019 (901,1 thousand). In Q2 2020, every tenth person aged 15 and over, or over 217 thousand people, said that the epidemiological situation in the country has had a direct impact on their relationship with the labour market. Of these, the absolute majority - over 92 per cent - is employed and 7 per cent are people who have become inactive in the labour market due to the pandemic. The impact of the pandemic on the situation at work has manifested itself mainly by: interruption/cessation of activity, work from home, the transition to part-time work, reduction of working hours etc. Another research of the NBS5 on the "The impact of the COVID-19 pandemic on the households" in Q2-2020 reveals that only a little over half of the households obtained income from work, about 1/4 obtained income from remittances, and over 90 per cent received salaries, pensions, and social benefits. At the same time, 17.0 per cent have mentioned reduction or loss of income from work, 8.3 per cent reported reduction or loss of remittances from abroad, and only 3.6 per cent reported delays in the payment of salaries, pensions, and social benefits.

The economic reality of the pandemic has increased the pressure on public finances. The data of the last budget rectification this year have shown that the state budget will lose MDL 7 billion in 2020, given that the expenditures will increase by 4.1 billion compared to the planned level, based on the natural need for the state intervention to limit the impact of the pandemic. Therefore, the initially planned level of the budget deficit of 3.6 per cent of GDP has been adjusted to 8 per cent. However, based on the latest information presented by the authorities, the latter expect an effective budget deficit of 6 per cent of GDP, which also indicates a chronic lack of capacity to absorb resources, especially related to capital investments and infrastructure projects.

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#### **4.8 Expert-Grup: COVID-19 Lessons for Moldova – Strengthening the Country's Immunity System in the Face of new Crises**

For more than one year, the COVID-19 tests to extreme the limits of the national emergency systems across the world. In this brief, we apply the Integrated Emergency Management analytical framework to review the strategic response of the Moldovan government to the complex and multifaceted challenges that COVID-19 posed. The irresponsible behavior of Moldovan politicians, the negative personal example they gave to the wider public and the political intrusions in the crisis management have been among the key factors hindering Moldova's progress in fighting COVID-19 and its socioeconomic consequences. A number of institutional measures are necessary to safeguard the independence and effectiveness of the emergency management bodies in the face of future crises.

### *Analytic framework*

Across the world, the COVID-19 crisis unfolded as a natural experiment exposing weaknesses and strengths of national systems for disaster management. By doing so, the crisis has been offering many lessons - albeit at huge human and economic costs. This note undertakes an overview of Moldova's strategic response to crisis and a summary of key lessons.

Differently to other crises, COVID-19 manifests itself as a complex one encompassing each and every aspect of social life. While unique in its nature, magnitude and duration, the COVID-19 crisis involves all 'classical' features: 1) an existential and highly disruptive threat; 2) a huge initial surprise; 3) a sequence of cascading and rapidly unfolding ramifications; 4) short lead times and decision times; and 5) need for balanced response in a highly uncertain environment<sup>2</sup>. These features allow a brief analysis along the five key components of the Integrated Emergency Management (IEM) framework<sup>3</sup>:

- Assessment, which encompasses identifying hazards and threats, assessing the likelihood of their materialization and measuring their disruptive impact.
- Prevention, which is quite self-explanatory, albeit rarely possible in its entirety; when prevention is not possible, plans for mitigation and limitation of cascading effects are essential.
- Preparation, an activity which essentially involves planning of actions, training, simulations and drills, essential inventories and stocks checks, allocation of financial resources.
- Response, which is often the key phase in a crisis management, both by intended impact and complexity, as it requires high level of inter-agency coordination.
- Recovery, the final phase which addresses the human, material, natural, economic and other impacts caused by emergency.

In case of diffuse crises like COVID-19, these components rarely unfold in as orderly a fashion as above; instead, they overlap and interact. Risks are assessed continuously at different geographical scales, while the preparatory plans are to be checked against reality and societal response. The effectiveness of the IEM assumes synergy of three managerial levels:

- Operational – the level where 'real' response and recovery work is undertaken;
- Tactical – the level ensuring that operations are coordinated, coherent and integrated;
- Strategic – this level sets goals, gathers feedback and adjusts the strategy accordingly.

We lack the professional expertise to assess the operational and tactical responses to COVID-19. By all means, the Moldovan medical personnel, as well as other frontline staff (such as police), deserve full appreciation for their steady effort and commitment. In the following we concentrate on the strategic level of the crisis response. Key errors have been made by Moldovan strategists, not by the doctors. However, it is clear that strategic failures inevitably undermine the effectiveness at lower levels.

### *Discussion of the strategic response to COVID-19 crisis in Moldova*

To begin with, Moldova's emergency legislation is considered adequate and in line with international standards<sup>4</sup>. Despite this, Moldova lacks formal IEM strategy and practice and the concept itself is not yet part of the policy. While Moldova is prone to many hazards of catastrophic nature, there is no comprehensive and systemic mapping of disaster risks. No surprise, the response to COVID-19 has been largely intuitive, and often mimicking what others were doing. We'll turn now to components of the IEM one by one, albeit, as mentioned above, COVID-19 is not the typical case where the components would manifest sequentially, but instead they have been rather simultaneous.

### *Assessment*

Before the crisis itself, there was little Moldova could have done realistically to anticipate such a crisis, assess potential risks and get ready for it. Indeed, the COVID-19 has been a great surprise for the world. However, while the great majority of national leaders approached the COVID-19 with due concerns and seriousness, key Moldovan leaders positioned themselves as COVID-sceptics: the-then Moldovan president Igor Dodon stated on 20 of March 2020 that COVID-19 behaves "like a light flu, going through the body without even noticing it"<sup>5</sup>. This certainly contributed to the public attitudes depreciating the risk of the infection in Moldova.

The crisis itself in Moldova evolved in a snowball manner. What began as a sanitary crisis rapidly morphed into an economic one, with yet more psychological, social and political damage still likely to come.

On the one hand, the Moldovan government benefited of real-time data for monitoring the epidemiological component of the crisis.

On the other hand, the Government has not been able to satisfactorily measure the associated socioeconomic risks for a simple reason – lack of real-time data. Headline macroeconomic, sector-level and social climate indicators - all come with significant delays, giving rise to doubts regarding statistical quality, while the statistical infrastructure proved a bit too rigid to perform under new conditions requiring physical distance and remote work.

While companies hold useful alternative economic data, which can be potentially used for a more up-to-date assessment and for designing policy response (such as weekly data on fuel sales, daily data on electricity consumption, hourly data on telecommunication services), the Government did little to harness them. As a result, the whole package of economic response measures has been lackluster and poorly-targeted<sup>6</sup>. As for the response to social risks of confinement (such as increased domestic violence, petty crime, abuse of substances, psychological distress and so on), it is simply missing.

### *Prevention*

With COVID-19 starting on a global scale, the possibility of prevention at the national level is questionable. However, once set in motion, it gathered steam with each new infection case. Preventing escalation and new waves is the key reason why epidemiologists emphasize the prevention measures at early stages of epidemics.

In this regard, Moldova failed lamentably. Besides poor enforcement of the adopted administrative restrictions, another reason has been the highly doubtful strategic decision of keeping to a relatively low level of mass testing<sup>7</sup>, despite a daunting positivity rate in Moldova – 30 percent of total tests taken between 26 of February 2020 and mid-March 2021. The exact reasons for this decision are not known, which in itself reveals another failure of a strategic communication during the crisis. Such a high rate of positivity obviously means that more testing should have been done and more rigid measures for prevention of virus transmission were warranted. In May 2020 the World Health Organization advised a 5 percent threshold of positivity rate for at least two weeks as a minimum criterion for 'reopening'. By all means, as of mid-March 2021, Moldova should have been 'closed' or with very strict measures of individual confinement and territorial lockdowns.

### *Preparation*

Preparation should be done before the crisis itself strikes. In this regard, the national disaster management system turned out to be poorly prepared for any nation-wide crisis. With hindsight, the national responses to catastrophic droughts in the recent decade could have been more exemplary.

Among its unexpected positive consequences, the COVID-19 crisis raised awareness of the real social and economic value of the medical profession and the dramatic impact of brain drain. Very poor payment has been the main cause of the exodus: while in Moldova a medical doctor receives an average pay of 400 USD, in the neighboring Romania the same doctor can get up to 4000 USD<sup>8</sup>. Considering the proximity and cultural identity of Moldova with Romania, and dual Moldova-Romanian citizenship of many Moldovans, the outflow of Moldovan doctors to Romania has been only a question of time. Between 2014 and 2019 a total number of 3,200 medical personnel left Moldova, i.e. the system lost 8 percent of its personnel in only five years.

The crisis also revealed a core problem related to domestic capacities of production of pharmaceutical, medical and sanitary essentials, as well as very poor management of strategic goods, here including food.

While formal rules for interaction among different organizations are enshrined in the emergency legislation, they were rarely practiced in realistic national drills. Poor interoperability led to utterly anomalous situations when emergency situations were instituted by local public authorities without any consideration of the national policy.

### *Response*

Unfortunately, the Moldovan government was not able to provide an integrated response to multiple challenges posed by the COVID-19 crisis. By and large, the epidemiological component of the crisis has been adequately addressed at operational and tactical level, but the overall epidemiological strategy lacks coherence and clarity. As a result, some of the initial decisions were hastily adopted (such as initially closing all retail and then reopening some, or organization of snap partial elections in Hancesti district amid difficult

local epidemiological conditions at the early stages of the epidemic), while others have been slowly adopted (such as reintroducing the lockdown, which is imperatively required by current conditions as of March 2021).

The economic and social response package has been even more disordered, giving rise to suspicions of vested interests and corrupt arrangements. Giving 5 percentage points reduction in the VAT rate to the HORECA sector, while leaving other affected economic sectors without comparable fiscal support is only one of the most illustrative cases. In fact, there was not even a unique, national-level, plan of actions for economic response; the National Bank of Moldova adopted its own measures, while the Ministry of Economy, the Ministry of Finance and Prime-Minister's Economic Council tried to outcompete each other rather than to cooperate for adoption of a unique governmental plan. As a result, the support to firms and people amounted to only 0.8 percent of the GDP (the lowest in the region) and only an estimated share of 6 percent of companies benefited of any form of direct or indirect support.

While presidential electoral campaign in 2020 may have deterred adoption of some unpopular yet necessary measures, from our point of view, the most fundamental problem undermining the national response has been the diluted leadership caused by divergent political goals and hidden agendas. To illustrate this point: the national legislation provides that during the period of declared emergency the Commission for Emergency Situations (CES), chaired by the Prime-Minister, is the highest and the only decision-making body responsible for overall strategic coordination. Contrary to this imperative provision, during the period of emergency in 2020 the CES received orders and advice from the Supreme Council of Security (SCS) and from the Unique Center of Command (UCC) – both controlled by then-president of the country. While the SCS is a permanent advisory body, the UCC is not even foreseen by the national legislation, and has been an ad-hoc invention of the then-president Igor Dodon.

As heavy political figures tried to dominate the picture, the public voice of medical and epidemiological professionals was silenced. While there are indications that behind-the-door discussions were often heavy and that politicians disputed with health specialists, these meetings have not been adequately documented, and there was not enough transparency behind the reasons for adopting this or that policy.

No surprise, then, the Government found it very difficult to implement the anti-crisis measures. The adherence of the population to restrictions has been very poor, medical masks are not universally used, city markets and buses are overcrowded, trust in vaccines is very low, while one quarter of the population seem to be COVID-deniers. Lamentable personal examples of the national leaders contributed to these dismissive popular attitudes: the then-president meeting and giving full hugs to veterans of war; the prime-minister organizing the wedding of his son amid public health emergency restrictions; the public health officials not wearing masks in closed public spaces etc.

Assessment of this phase is irrelevant, as COVID-19 crisis is yet far from over. Nonetheless, it is obvious that problems affecting the efficiency of planning and response are guaranteed to undermine the recovery phase.

#### *How to prepare (better) for future crises?*

As international relations get more complex, the crises become more diverse, while their frequency is set to increase. For Moldova, which grows more integrated in the global economy, a key implication is that its exposure to global threats and hazards will broaden. Moldovan society itself turns more interdependent, which creates new vulnerabilities. The domestic and international mobility of people increases thus facilitating the spread of risk carriers. Urban settlements, especially the capital area, provide home to people resettling from rural areas and thus boosting the demand for and concentration of additional critical infrastructure.

As the exposure to hazards and threats will inevitably increase, the key strategy for maintaining the continuity of life at "normal" levels is to reduce vulnerability and to build resilience against known and unknown threats and hazards. A number of points are worthwhile being emphasized.

Comprehensive assessment of existing and potential risks is imperative. This assessment should be done by a permanent or periodically convening body, of sufficiently high stance in the hierarchy. It can be created anew or the mission can be entrusted to the secretariat of the Supreme Council for Security. The body should adopt a cross-organizational approach to risks evaluation, have access to all relevant technical documentation, while at the same time enjoy a sufficient degree of intellectual freedom and creativity. A formal, comprehensive, periodically reviewed and updated map of risks with detailed technical advice and organization-level recommendations should be the main output of its activity.

Innovative use of conventional and alternative data is necessary for early warning, effective emergency management and evidence-based policy response. Statistical strategy and program of statistical works should be reviewed against the evidence brought forward by COVID-19 crisis, and the statistical procedures should be adapted to function under restrictions. Data sharing agreements should be signed with private holders of useful data. The provisions of the law on protection of personal data should be brought in line with the need of the statistical authorities to access personal data for the sake of sampling and survey. It may sound ridiculous that during lockdown, the national statistical authorities could not undertake telephone-assisted households and labor surveys because they do not have access to the register of cell phone numbers.

Besides, an integrated information system for management of strategic supplies is warranted. The information system should integrate data on stocks available with private and public suppliers, at central, regional and local levels. This will also require legal amendments regarding the commercial trade rules during emergency situations.

Standard operating procedures (SOPs) should be developed for public and private sector to fit different emergency scenarios. COVID-19 has shown that unclear, ambiguous directives may increase the vulnerability amid an ongoing emergency. While normally SOPs are defined for case management in hospitals, the COVID-19 has proven that they are necessary across all economic sectors in order to maintain an acceptable level of economic functionality and security.

Performance of the emergency management institutions amid COVID-19 crisis should be thoroughly audited against the written rules and procedures. The results of the audit should be used to better insulated them from political interferences in the future crises. Politicians should take a step back during emergency situations. They may formally remain in the headlines, but they should be aware of how poor disaster managers they really are. During COVID-19 crisis they too easily resorted to populist decisions undermining the overall crisis management strategy. Institutional framework should be reviewed and secondary legislation be adopted to ensure that professionals are really in charge during emergency.

Transparent and well-communicated decisions are of key importance for public trust. Meetings of the bodies involved in management of future emergencies should be adequately documented / taped / videorecorded. This is very important not only for the sake of transparency and public control, but also as a factor deterring political figures from intruding too much. Public communications guidelines should be developed and shared by all levels (operational, tactical, strategic), messages should be coherent and consistent across all levels.

Community mobilization should be improved. In this regard, emergency management bodies should stand ready to establish partnerships with influential community leaders. During COVID-19 the Government failed to realize that religious organizations, including the two orthodox churches represented in Moldova, could be very useful in convincing the community to abide by restrictions and rules. Failing to do so, some organizations adopted skeptical attitudes regarding the pandemic and, probably to a significant, yet unknown extent, contributed to spreading the infection.

Improved international cooperation. EU-Moldova Association Agreement may be an opportune framework which Moldova could use, not only for response per se (here including vaccination), but also for learning more advanced practical experience. The Chapter 21 on Public Health foresees in Article 114 that the parties shall cooperate in area of epidemiological surveillance and control of communicable diseases, such as for example HIV/AIDS, viral hepatitis and tuberculosis, as well as increased preparedness for public health threats and emergencies. Moreover, the Chapter 22 on Civil Protection the parties shall cooperate and provide mutual assistance in case of emergencies.

[https://www.expert-grup.org/media/k2/attachments/Prohniitchi\\_COVID-19\\_lessons\\_for\\_Moldova.pdf](https://www.expert-grup.org/media/k2/attachments/Prohniitchi_COVID-19_lessons_for_Moldova.pdf)

#### **4.9 Expert-Grup: Assessing the Impact of Support Programmes for Women's Economic Empowerment**

The values of respect for human dignity, freedom and equality are indispensable elements of the rule of law. Equal rights are guaranteed by the Constitution of the Republic of Moldova and the international legal instruments to which the Republic of Moldova is a party. The Republic of Moldova has made efforts to align the legal framework in the field of equality, which led to it being ranked 23rd out of 153 states according to the 2020 Gender Inequality Index developed by the World Economic Forum. Women, however, continue to face a number of challenges related to gender inequalities in the distribution of paid and unpaid work, women's

primary responsibilities for unpaid domestic work, and inequalities in access to economic opportunities, which stem from historically unequal relationships between women and men.

The economic situation of the Republic of Moldova, the difficult business environment, low employment opportunities, the educational system not adapted to the socio-economic realities create major difficulties for the entire population of the country, with women being especially affected. The Republic of Moldova has the lowest employment rate in Europe, being a country with the lowest per capita income. The economic situation is precarious, especially in rural areas. These factors put the population in difficulty. The young women and girls, and especially the vulnerable groups of women and girls, in addition to the challenges specified above, face discriminatory attitudes driven by beliefs about the role of women in the family and society, limited opportunities to make choices about their life and professional development and to participate on equal terms with men in the labour market. Thus, in order to improve the situation, the fundamental problems of the society that generate the socio-economic vulnerabilities for women must be addressed, both at the level of the society in general as well as at the individual level.

The study on the evaluation of women's economic empowerment programmes focuses on the analysis of recent programmes funded from external sources, which aim to stimulate the economic empowerment of women, including the vulnerable groups of women. At the same time, providing recommendations on making women's economic empowerment programmes and the corresponding national policies more effective, in order to make them better targeted to the most vulnerable groups and to ensure their stronger impact, is a key aspect of the evaluation. The evaluation involved experts from the Independent Analytical Centre 'Expert-Grup', responsible for analysing the economic aspects of women's economic empowerment programmes, and specialists from the 'Women's Law Centre' NGO who analysed the programmes for the economic empowerment of women from vulnerable groups.

Economic empowerment programmes are of major importance in compensating for the deficiencies of the socio-economic system helping women to achieve the pursued economic objectives. The most successful programmes are those that provide practical training for women entrepreneurs, both in starting up a business, as well as developing it, in combination with financial support to boost the implementation of the human potential of the beneficiaries of these programmes. The women from vulnerable groups need specialised assistance to develop their personal skills, and then be referred to and integrated into entrepreneurship training and financial assistance programmes.

The Covid-19 crisis has affected both women and the operating environment of women's economic empowerment programmes. Thus, the crisis has diminished the opportunities for economic achievement for the entire population, including women. The population employment rate decreased by 8.8% at the end of the second quarter of 2020 compared to the same quarter of 2019. Women's employment rate decreased by 10%. The women from vulnerable groups are at increased risk in such situations and need specialised assistance. Due to the restrictions determined by the state of emergency, coordinators of economic empowerment programmes had to change their approach, moving some of the activities online. Enrolment of women in vocational schools has also become more difficult, with bleaker employment prospects after graduation. In addition, women from vulnerable groups often do not have online communication equipment, and in some cases are unable to benefit from training and assistance. In times of crisis, women's assistance programmes will have to keep abreast with the new challenges posed by it (reduced economic opportunities, restricted movement, avoidance of group activities, the need to implement digital communication solutions, etc.).

Solving the problems women face when trying to access the labour market is not simple and requires a comprehensive approach. The first necessary step is to assess the main causes of the difficulties women face. And solutions must be aimed at eliminating or mitigating the impact of these causes. It is certain that opportunities for professional and entrepreneurial development are reduced in Moldova, and economic and financial education in the school education system is completely lacking. The lack of effective policies to reconcile family and professional life is a factor that affects women's economic activity. These problems can be addressed through an efficient cooperation among state authorities, international bodies, the donor community and civil society organisations, whereas others – through nationwide gender equality promotion and awareness campaigns, the revision of school curricula and increasing girls' interest and involvement in STEM.

The main purpose of economic empowerment programmes is to provide the set of skills and tools needed by women to fit into professional or entrepreneurial economic life. The most successful programmes for women

offer a combination of educational and financial support, providing one-stop-shop support services. If a woman wants to develop in new areas, start a business, make a career transition, it is important to provide her with practical information in that newly selected area, mentoring and assistance as to the concrete steps in achieving these goals, assistance in dealing with external institutions: banks, tax agency, employers, educational institutions for taking additional courses, etc. In order to address some of women's economic challenges, the optimal solution would be to offer in schools professional guidance on the most requested and prospective professions, courses on entrepreneurship and organisation of economic activities, so that young women can make more informed choices that are less influenced by the society's stereotypes.

The key recommendations for supporting women in entrepreneurship developed with the contribution of the European Business Association (EBA) are based on 4 basic pillars: business mentoring; industry leaders sharing their success stories; assistance in the implementation of programmes; financial support. Educational programs that are accompanied by mentoring have a much greater positive impact on the guided business. Practical solutions to specific business problems of the beneficiaries have, most of the times, an increased value and amplify the value of the generic courses. Inspiring women through visits to market leaders and understanding of practical solutions already in place in Moldova's economic environment ensure both practical knowledge, as well as confidence in the success of the solutions applied. Training and assistance to apply for national and international programs is one of the 'fishing rods' for the woman-entrepreneur to be able to successfully access assistance programmes for the selected economic field. For beginner women-entrepreneurs, financial support combined with educational assistance according to the one-stop-shop principle is critical to ensure confidence at the initial stage of the business. Currently in the Republic of Moldova there are some programmes to support women that target vulnerable categories, but they are few and have no continuity. The primary objective of the programmes targeting women from vulnerable categories is their economic empowerment together with instilling self-confidence and helping deal with psychological problems. At the same time, the programmes dedicated to vulnerable women have a greater impact if they provide vocational or entrepreneurship courses together with the necessary financial assistance as a one-stop-shop or in partnership with other specialised institutions or programmes.

The key recommendations for the economic empowerment of women that target vulnerable categories are the development of programs focused on their specific needs, with a holistic and multidisciplinary approach that can be achieved in partnership with various educational institutions, CSOs specializing in working with vulnerable groups, National Employment Agency and territorial structures, but also economic agents. Programs dedicated to vulnerable women will have a greater impact if they ensure access to the program as close as possible to their living environment and promote success stories.

An important recommendation is for the development agencies to assess the possibility of providing assistance for improving the infrastructure, which would directly contribute to creating enabling conditions for women to engage in economic activities. At the Women's Empowerment Forum OECD identified 4 key areas of intervention for women's economic empowerment, namely: public services, infrastructure, social protection, redistribution of household responsibilities. At the forum, it was identified that these factors affect differently the economic empowerment of women. Social protection, very important for reducing poverty and improving the quality of life, has a rather low impact on economic empowerment, whereas an infrastructure in place is an important precondition for the economic empowerment of women – a necessity neglected both at national and international level, despite the fact that it plays a key role in reducing the time needed to complete domestic chores and increasing opportunities for engaging in economic activity. The interviews confirmed the existence of barriers to assistance due to the lack of a basic infrastructure.

[https://www.expert-](https://www.expert-grup.org/media/k2/attachments/en_Study_Impact_of_women_economic_empowerment_programs_2020_prefinal_AL.pdf)

[grup.org/media/k2/attachments/en\\_Study\\_Impact\\_of\\_women\\_economic\\_empowerment\\_programs\\_2020\\_prefinal\\_AL.pdf](https://www.expert-grup.org/media/k2/attachments/en_Study_Impact_of_women_economic_empowerment_programs_2020_prefinal_AL.pdf)

#### **4.10 Expert Grup: Implementation of Extended Producer Responsibility Mechanisms to Ensure Waste Recycling**

Human life and activity strongly depends on the availability and quality of natural resources. All the products we use in our daily lives are made from natural resources and with the help of natural resources. But not all of these resources are renewable.

Many of the natural resources, such as gas, crude oil, copper, iron, lead, etc. are non-renewable, they get depleted as they are used for energy production and in manufacturing various goods for current use. In this context, taking into account our responsibility towards future generations, it is important to use natural

resources rationally, and the recycling of products comes as a solution for prolonging the life of certain natural resources.

Recycling is the process of collecting certain materials that would otherwise be considered waste, such as metal scrap, paper, wood, plastic, etc., and turning them into new reusable products. Recycling involves collecting and processing of recyclable materials, manufacturing products with recycled content and purchasing recycled products, which create a continuous loop that ensures the overall success and the value of recycling. To increase the share of recycled materials, scientists and experts in circular economy develop various economic tools, which are later transposed into public policies. One of the tools applied in international practice is the Extended Producer Responsibility (EPR) mechanism.

Extended Producer Responsibility is an economic instrument intended to make the economic operators more responsible at the production stage, in order to make the most rational use of natural resources by reducing the components/structure of the manufactured product and/or unnecessary packaging, as well as at the stage of placing the goods on the market, by assuming the responsibility to collect from the market recyclable waste generated by the consumption of these goods.

Moldovan national legislation defines the principle of Extended Producer Responsibility (EPR). However, the mechanisms and practical tools that would ensure the effective implementation of this principle are missing. Thus, despite the EPR provisions in the Law on Waste Management, the secondary regulatory framework that would implement the given provisions is incomplete and/or non-stimulatory. In these conditions, the companies that are potential waste generators are neither stimulated, nor encouraged to diminish their impact on the environment.

*Goal.* The Study aims to analyse the interaction of key stakeholders of this chain: Producers/traders - Consumers - Recyclers - State and the incentives in this area, and to recommend mechanisms that would encourage the participants to this process to return and recover the waste generated from consumption.

To develop an appropriate secondary legislation, it is necessary to analyse and define a comprehensive mechanism, establishing the roles and relationships between the multiple participants to this process. The Study will focus on defining the roles and on describing the key processes and streams in an EPR mechanism, in particular the stream of materials and stream of funds.

*Methodology.* The study was conducted during May-November 2020. The following research methods were used:

- Benchmarking methods: compared the national regulatory framework with the best European practices in the region, evaluated the differences in the implementation of EPR mechanism;
- Qualitative methods: Interviews with representatives of public institutions and businesses;
- Modelling methods: analysed the role of participants in the EPR mechanism and established the networking model to ensure a proper functioning of EPR tool.

Thus, the desk review covered the practices of implementing the extended producer responsibility in European Union countries, in particular Romania, Sweden, Estonia etc. These models were presented and discussed in a focus group, organised on 1 October 2020, with representatives of the State, business associations and operators/producers from sectors of interest. We collected opinions and visions about possible ways of implementing the mechanism of extended producer responsibility. We also had individual interviews and consultation with waste processing enterprises and representatives of business associations.

[https://www.expert-grup.org/media/k2/attachments/EN\\_Study\\_Responsabilitatea\\_Extinsa\\_a\\_producatorilor\\_2021\\_03\\_29\\_En\\_sq\\_vq.pdf](https://www.expert-grup.org/media/k2/attachments/EN_Study_Responsabilitatea_Extinsa_a_producatorilor_2021_03_29_En_sq_vq.pdf)

#### **4.11 IDIS Viitorul: Study on International Practices Organization and Activity of the Business Ombudsman**

This study is a comparative analysis of the institution of the Business Ombudsman in nine countries and includes useful examples and findings for the Republic of Moldova with the intention of creating such an institution to protect the rights and interests of people from the business environment.

The study comprises five sections, which describe the current context and purpose of the study, analyze the appointment and finalization of the mandate of the Business Ombudsman in other countries, list the functions

of the Ombudsman responsible for the business environment, as well as the organization of its and of the procedures for the settlement of the complaint, followed by general conclusions and recommendations for decision-makers in order to establish the position of the People's Advocate for the rights of entrepreneurs.

The study indicates the various models of organization of the Business Ombudsman, from a separate institution to a specialized subdivision within the Ombudsman's Secretariat for Human Rights, and even the non-governmental status offered by some countries to the Business Ombudsman.

The study analyzes the process of appointing the Business Ombudsman, noting the involvement of several subjects with different roles, with the business having a voice in the appointment procedure. The study also highlights the requirements that the candidate for the position of Business Ombudsman must meet, indicating the specific professional experience required to gain access to the post. Incompatibilities with the position of Business Ombudsman and possible grounds for termination of the Ombudsman's term of office were also analyzed.

The study identifies a number of advocacy functions of the Business Ombudsman, important for improving public policies governing entrepreneurship and for eliminating systemic causes of violation of business rights and interests. In this sense, we highlight the information and submission of the recommendations of the public authorities, the elaboration of opinions on the draft normative acts, the evaluation of the impact of the normative acts that regulate the entrepreneurial activity, and the notification of the Constitutional Court.

The analysis continues with a description of the assistance functions of the Business Ombudsman, which are performed based on notifications of economic agents, if they meet certain admissibility requirements, or in case of self-notification of the Business Ombudsman if they find out from public sources about the violation of economic agents' rights. The study lists the main actions that can be taken by the Ombudsman to resolve examined cases, as well as the guarantees he enjoys for the efficient performance of his duties. Finally, the results of the examination of the referral by the Business Ombudsman are described, which take the form of decisions, either to reject the request or to accept the referral with the issuance of remedial actions, which are binding on public authorities.

In the end, the study includes general conclusions and several recommendations, addressed to decision-makers and public authorities responsible for developing and adopting public policies, which can contribute to the establishment of the institution of the Business Ombudsman in the Republic of Moldova.

[http://viitorul.org/files/library/IDIS\\_Analiza\\_Ombudsman\\_2021\\_1.pdf](http://viitorul.org/files/library/IDIS_Analiza_Ombudsman_2021_1.pdf)

## 5. Media Freedom

### 5.1 *Independent Journalism Center: Media Monitoring During the Electoral Campaign for the Presidential Election/November 2020*

Purpose and objectives of the project: To monitor and inform the public about media behavior during the election campaign and the access of the candidates to the media.

Monitoring period: October-November, 2020

Media outlets monitored: 10 tv stations with national and regional coverage.

The full content of the main daily newscasts on each TV station was monitored, and items with a direct or an indirect election character were analyzed by content and context to determine whether they were favorable or unfavorable to a party or political entity.

The main conclusions: Most media monitored covered electoral candidates in a neutral way, the tone of coverage being neutral for most candidates. Four out of 10 tv channels were biased towards specific candidates, favoring or disfavoring them. Thus, NTV Moldova, Primul in Moldova and Accent TV favored the PSRM candidate Igor Dodon and disfavored the PAS candidate Maia Sandu, while TV Centrală favored the PP Shor candidate Violeta Ivanov. The other media outlets, including the public broadcaster, provided neutral coverage of candidates.

[http://media-azi.md/sites/default/files/Media\\_Report\\_nr5\\_EN\\_0.pdf](http://media-azi.md/sites/default/files/Media_Report_nr5_EN_0.pdf)

<http://www.media-azi.md/en/report-no-5-media-monitoring-during-electoral-campaign-general-local-elections-october-21-%E2%80%93-november>

### 5.2 *Independent Journalism Center: Media Monitoring: Elements of Propaganda, Information Manipulation, and Violation of Journalism Ethics in the Local Media Space*

Purpose of monitoring: The monitoring was aimed at determining whether the media observed professional ethics or used manipulation techniques in their coverage of topics of public interest. In particular, the monitoring sought to identify the mistakes made by journalists (intentionally or unintentionally) while reporting facts, so that case studies and monitoring reports could play an educational role for professionals in the field. Another objective was to contribute to increasing consumer awareness of the risks of getting information from unsafe sources.

Media Monitored: 9 tv stations and 3 web portals.

*The main conclusions:*

Some media outlets continued covering events of public interest in a tendentious manner and based on political preferences. For example, the televisions NTVMoldova, Accent TV, Primul în Moldova and online platforms Sputnik.md, KP.md were supporting the Party of Socialists of the Republic of Moldova (PSRM), and TV 6 was supporting the Shor Political Party.

During the monitoring period, the number of labeling incidents decreased. However, the incidence of cases of blurred information and/or statements, tendentious headlines, and selective presentation of statements increased significantly. The media where such ethical violations and manipulation techniques were most often detected are NTVMoldova, AccentTV, Primul în Moldova, and Kp.md.

<http://media-azi.md/en/elements-propaganda-disinformation-and-violation-journalism-ethics-local-media-space-february-15-%E2%80%93>

### 5.3 *Independent Journalism Center: Monitoring Report – Activity of Media Outlets and Journalists on the Social Network Facebook During the Campaign for the Presidential Election on November 1, 2020*

*Purpose of monitoring:*

- To assess how journalists and the media used the social platform Facebook to inform the public about the political and electoral discourse of candidates by systemically collecting open data published on their Facebook profiles and pages.
- To assess how the posts of the media outlets and journalists monitored complied with the Journalist's Code of Ethics.

Period of monitoring: October 29-November 4, 2020

Media monitored: Social network pages of 5 online portals and portals of 5 prominent journalists

*The main conclusions:*

In the run-up to the election, non-compliance with Article 1.6 regarding political partisanship and propaganda for a candidate was a widespread practice on Facebook for media outlets that favored Igor Dodon. The large number of posts favorable to his candidacy and to the members of the Party of Socialists is the key indicator of a campaign to form a positive image of the candidate and to manipulate public opinion with the intention of attracting voters. This method was also used to denigrate and attack other electoral competitors.

Monitoring the social network pages of media outlets and journalists is useful for detecting political affiliations and electoral preferences as well as for observing the general trends and goals of the outlets around elections.

Social networks are additional tools for amplifying messages that in most cases do not differ from those transmitted through other channels of communication with the public.

The report can be found here: <http://media-azi.md/en/activity-media-outlets-and-journalists-social-network-facebook-during-campaign-presidential-electi-0>

#### **5.4 Independent Journalism Center: Monitoring Behavior of the Public Broadcaster MOLDOVA 1**

Purpose of monitoring:

The monitoring aims to determine whether the public television station Moldova 1 is journalistically fair, neutral, and impartial when it informs the public about the government's activity in relation to the political opposition in moments of tension and/or crisis.

Period of monitoring: August 31 – September 6, 2020

*The main conclusions:*

The monitoring data show that in the main newscast Mesager:

- ✓ Central authorities are still among the entities most frequently targeted in Moldova 1 news. However, compared to the previous monitoring period (March 9-15, 2020), the share of direct or indirect citations of central authorities (Presidential Office, Government, Parliament) has decreased. On the other hand, the number of cases in which representatives of local authorities, especially from Chisinau Municipality, were cited directly or indirectly has increased.
- ✓ The persons mentioned or cited – directly or indirectly – most often as sources in Moldova 1 news were President Igor Dodon; Prime Minister Ion Chicu; Education, Culture, and Research Minister Igor Sarov; and representatives of Chisinau Mayor's Office.
- ✓ President Igor Dodon benefited from the largest presence in Moldova 1 news. The head of state was either mentioned or cited directly or indirectly in at least 16 news stories out of 138, which represented 11%. In other words, every ninth news story featured President Igor Dodon.
- ✓ In its news stories, Moldova 1 presented President Igor Dodon in a positive light (some news stories were on the verge of political advertising and looked rather like electoral news).
- ✓ Moldova 1 presented in a neutral and impartial manner the information about opposition parties and politicians (Action and Solidarity Party, Dignity and Truth Platform Party, ProMoldova Party, Shor Party, Our Party, Liberal Party of Moldova, etc).

[http://media-azi.md/sites/default/files/Monitoring\\_Report\\_August\\_September\\_2020.pdf](http://media-azi.md/sites/default/files/Monitoring_Report_August_September_2020.pdf)

#### **5.5 Association of Independent Press: How do Authorities React to Journalistic Investigative Reports?**

With the support of the Criminal Justice and Law Enforcement Department of the United States Embassy in Chisinau, the Association of Independent Press (API) and Transparency International Moldova was developed a study about how do authorities react to investigative reports on integrity and corruption.

Well-documented investigative reports are regularly published in the Moldovan media about the assets that by far exceed the incomes declared by the politicians and officials, about conflicts of interest and non-

transparent or rigged procurement competitions, and about other corruption schemes. In some cases, the public institutions in the field of the fight against corruption reacted to the reports and initiated control procedures, but in others no reaction followed or the reaction was discretionary and conjunctural, depending on the political reality. These are some of the conclusions of the study „[Authorities' Reactions to Investigative Reports on Integrity and Corruption](#),” launched on 5 May 2021. The authors of the investigative reports – journalists **Viorica Zaharia** and **Victor Moşneag**, looked at how the anti-corruption authorities reacted to the facts described in 19 professional investigative reports on corruption and integrity, and the study also contains a retrospective of the authorities' reaction to 10 such reports published in the last five years, targeting key people in public institutions who have committed illegal or arguably legitimate acts.

After monitoring the reactions to 19 investigations on corruption and integrity issues, published between August 2019 and December 2020 by the Center for Journalistic Investigations, Ziarul de Gardă, RISE Moldova and MoldovaCurata.md, the study authors found greater readiness than in previous periods by the National Integrity Authority (NIA) to check and initiate controls based on media investigative reports. Reactions followed in all the cases monitored, either NIA took action, or other state institutions reacted. However, the effectiveness of such controls cannot be assessed yet, as most of them are still ongoing. Three of the officials targeted in the investigations became subjects of criminal cases, but only one for the facts described in the report, after a complaint filed by a third party. Only one resignation followed the investigative reports, on grounds that included the facts described in the report, but it happened only after other state institutions started controls.

After reviewing 10 resonant investigative reports, published in the last five years, the authors concluded that the authorities do not react after the publication of investigations targeting people affiliated with the government. In some cases, the reaction appears only after the change of government. They have reacted to investigations about judges, prosecutors or other important people only when such people have become hostile to the government and were 'sacrificed'. For the most part, the criminal cases started have had no outcomes, and we do not have persons sanctioned for the violations and illegalities committed.

The study found that anti-corruption authorities reacted discretionarily to investigative reports, mostly conjuncturally, depending on the political reality. In many cases (Judges Melniciuc and Sternioala), criminal cases based on information from media reports were started only after changes took place at the political level. In the case of former Democratic Party President Vladimir Plahotniuc, the information in the investigations was confirmed almost a year after the politician fled the country and his party lost the governance. It is extremely rare for people responsible for mismanagement of public money or alienation of public assets to go to court and material damage is not recovered. An exception is the return to state ownership of illegally privatized buildings, including the former government canteen, but in other cases, including the construction of the sports complex in Rezina, for which 13 million lei were spent without any purpose, the funds have not been recovered and no steps have been taken in this regard, and the persons with positions of responsibility that allowed the waste of public money have not been sanctioned.

The study contains a number of recommendations for state institutions, including those with criminal investigation functions, for political parties and blocs, non-governmental organizations and journalists, to ensure operational and appropriate reactions to the facts described in professional investigative reports.

[http://api.md/upload/files/Studiu-reactia\\_institutiilor\\_publice-2021.pdf](http://api.md/upload/files/Studiu-reactia_institutiilor_publice-2021.pdf)

## **5.6 Association of Independent Press: Report on Attacks on Journalists and Media Workers in Moldova 2020**

On June 8, 2021, the London-based Justice for Journalists Foundation launched the Report on attacks in relation to the workers and editorial offices of traditional and online publications in 12 post-Soviet countries for the year 2020, with the exception of the Baltic States. The partner of the "Justice for Journalists" Foundation in the Republic of Moldova is the Association of Independent Press (API).

The key findings of an analysis of attacks in relation to the Moldovan media workers in 2020:

**68 instances of attacks/threats** in relation to professional and citizen media workers and editorial offices of traditional and online publications in Moldova were identified and analysed in the course of the research. The data were obtained from open sources in the Russian, Romanian, and English languages using the method of content analysis.

1. In 2020 the most frequent forms of intimidation and persecution of Moldova's media workers were non-physical and/or cyber-attacks and threats, namely: defamation, spreading libel about media outlets or media workers, and illegal impediments to journalistic activity/denial of access to information.
2. The main source of non-physical and/or cyber-attacks and threats in relation to media workers were representatives of the authorities, including politicians, parliamentary deputies [MPs], president of the Republic of Moldova Igor Dodon (until 15 November 2020), and other persons holding public office at the central and local/regional levels.
3. Of the five physical attacks against journalists recorded in 2020, four were carried out by employees of the State Protection and Guard Service, policemen, and Russian military personnel stationed in Transnistria.
4. Charges of libel, insult, and reputational damage are the most widespread variety of judicial attacks on journalists and media workers in Moldova. Six cases of the given subcategory were recorded in 2020.
5. The most attacks on journalists were recorded during protests and important political events, for example: 2 March – a protest by veterans of the Transnistrian conflict; 20 July – consideration by the parliament of a vote of no confidence in the government; 12 August – a protest by the workers of private preschool day care centres; 9 September – registration of Igor Dodon as a candidate for president; 15 November – the second round of the presidential elections; 16 December – a protest by farmers.

It should be noted that some attacks and threats do not become known to the public and are not reflected in the media because many journalists consider attacks in the virtual space and non-physical threats to be an unavoidable part of their everyday professional activity and therefore do not report them.

The quantity of physical assaults on media workers fell from 16 incidents in 2019 (the majority of these being recorded during the political standoff in the country in May-June) to 5 incidents in 2020.

Non-physical and/or cyber-attacks and threats remain the most widespread form of pressure on journalists in Moldova – in 2020, 73% of attacks and threats were of a non-physical nature (this indicator increased a little over the year). Compared with 2019, the quantity of attacks of two types increased sharply – defamation, spreading libel about a media worker/media outlet, and illegal impediments to journalistic activity, denial of access to information. In 38 of the 49 instances, the source of the attack was representatives of the authorities, primarily government officials.

Attempts at defamation were undertaken most often in relation to the TV8 television channel (4 instances), the Ziarul de Gardă newspaper, and the PRO TV Chişinău television channel (3 instances each).

The majority of instances of illegal impediments to journalistic activity and denial of access to information were recorded in the second half of 2020, during the pre-election campaign. The regional internet portal Nordnews.md and the TV8 television channel reported more frequently than anybody else about such attacks addressed at them. It is worth noting that in 9 of the 15 recorded instances journalists were not allowed into meetings of then-President Igor Dodon or then-Prime Minister Ion Chicu.

14 instances of attacks via judicial and/or economic means were recorded in 2020; this comprises 19% of the overall number of attacks and threats (Figure 4). They affected six editorial offices and the employees of two newspapers – Ziarul de Gardă (6 instances) and Znamya (2 instances), two television channels – PRO TV Chişinău (2 instances) and TV8 (2 instances), and two internet news portals – Deschide.md and Ziarulnational.md.

<https://ifj.fund/reports/>, [https://ifj.fund/report-2020\\_3/#mld](https://ifj.fund/report-2020_3/#mld)

## 6. Human rights

### 6.1 Promo-LEX: Promoting and Defending Human Rights in the Transnistrian Region

Based on the monitoring activity, during April 2020 – May 2021, Promo-LEX developed and presented two brief reports on human rights in the Transnistrian region, as follows: [Report](#) “Human Rights in the Transnistrian Region of the Republic of Moldova - 2019 Retrospective” and [Report](#) “Human Rights in the Transnistrian Region of the Republic of Moldova - 2020 Retrospective”. *The Reports includes findings on the human rights situation in the Transnistrian region, as well as an analysis of the actions of relevant actors.*

In addition, Promo-LEX developed a brief [Report](#) on human rights situation in the Transnistrian region during the COVID-19 pandemic. The monitoring period covered March 12 - June 1, 2020. The Report includes an analysis of the most important events that have affected and continue to affect the fundamental rights and freedoms of the inhabitants of the Transnistrian region. The report was [presented](#) on June 5, 2020, via a public event held in Molovata Nouă village, Dubasari district (left bank of the Nistru).

On April 16, 2020, Promo-LEX issued an [Opinion](#) on the consequences of the forced enrolment of young people into paramilitary structures in the Transnistrian region.

On October 13, 2020 Promo-LEX, [presented](#) the [Study](#) “Incidents in the Security Zone from a Human Rights Perspective”. The study examines the events, trends and developments in the Security Zone in terms of violations of the SZ regime from the perspective of provisions of the Agreement of 1992 and the relevant decisions of the Joint Control Commission, as well as the way in which such breaches led to human rights violations. In addition, the study includes a series of political and legal recommendations that can and should be applied by the constitutional authorities of the Republic of Moldova.

On June 16, 2020, Promo-LEX [presented](#) the Brief Assessment [Report](#) on the 2018-2022 National Human Rights Action Plan implementation. The report covers the period of 2018-2019 and focuses on 2 areas: Ensuring the observance of human rights for persons in state custody; Ensuring the observance of human rights in the Transnistrian region; Reducing the number of human rights violations in the Transnistrian region and adjacent areas; and Increasing the role of civil society in the process of monitoring human rights violations in the Transnistrian region.

The report highlighted the main implementation issues, such as superficial implementation of some activities, without taking into account the result indicators, the lack of an effective mechanism for coordinating, monitoring and evaluating the National Human Rights Action Plan.

On March 2, 2021, Promo-LEX launched the [brief report](#): List of persons responsible for human rights violations in the Transnistrian region. The report provides the list of persons (representatives of the regional administration, judiciary, law enforcement forces, others), responsible for human rights violations in the Transnistrian region, based on the findings of the European Court of Human Rights.

[https://promolex.md/wp-content/uploads/2021/05/Report\\_Human\\_Rights\\_in\\_the\\_transnistrian\\_region\\_of\\_the\\_Republic\\_of\\_Moldova\\_retrospective\\_of\\_2020.pdf](https://promolex.md/wp-content/uploads/2021/05/Report_Human_Rights_in_the_transnistrian_region_of_the_Republic_of_Moldova_retrospective_of_2020.pdf), [https://promolex.md/wp-content/uploads/2020/06/Raport\\_Regiunea-transnistreana\\_COVID-19.pdf](https://promolex.md/wp-content/uploads/2020/06/Raport_Regiunea-transnistreana_COVID-19.pdf), <https://promolex.md/18913-studiu-incidentele-din-zona-de-securitate-din-perspectiva-drepturilor-omului/?lang=ro>, [https://promolex.md/wp-content/uploads/2020/07/Raport-de-evaluare-PNADO\\_2020\\_16\\_06-.pdf](https://promolex.md/wp-content/uploads/2020/07/Raport-de-evaluare-PNADO_2020_16_06-.pdf)

### 6.2 Promo-LEX: Combating Torture and Inhuman or Degrading Treatment

On April 20, 2020, Promo-LEX submitted to the Committee of Ministers of the Council of Europe the [Report](#) on the execution of the ECtHR Judgment on the group of cases I.D. v. the Republic of Moldova. The report focus on conditions of detention in Moldovan penitentiaries. The reports was examined at the meeting of the Committee of Ministers on this group of cases (ID v. Moldova) on 4 June 2020. The Committee expressed its concern about the application of the preventive and compensatory mechanism by the courts (in particular, about the deadlines for examining cases in court), but also indicated that the current amount set by law as financial compensation for a day of detention in poor conditions (approx. EUR 2.55) is too small.

On 17 July 2020, Promo-LEX together with the World Organization against Torture (OMCT) [prepared and sent](#) to the UN Committee against Torture (CAT) for its 70th session (9 November - 4 December 2020),

[Report](#) on the list of issues on legal safeguards for detainees and victims of domestic violence. The Report indicates that the Republic of Moldova remains overdue with the implementation of the previous CAT recommendations concerning the lack of an effective mechanism for investigating torture, inhuman and degrading treatment and an effective system for the protection of those who denounce torture.

Promo-LEX developed an Evaluation [Report](#) on the implementation of the 2016-2020 Penitentiary System Development Strategy and the Action Plan. The report includes the analysis of the implementation of the Action Plan with reference to the execution or not of the actions, based on the analysis of the documents presented by the National Administration of Penitentiaries. The analysis focuses on assessing the degree of achievement of the objectives of the Strategy, with the focus on Objective III to improve the conditions of detention in the penitentiary system and Objective VI to improve healthcare services in the penitentiary system.

The report refers to the implementation of the actions for the period 2016–2019.

On November 11, 2020, Promo-LEX submitted to the Committee of Ministers of the Council of Europe the Report on the execution of the ECtHR Judgment on the group of cases Levinta (Corsacov) v. the Republic of Moldova. The report addresses the following issues: ill-treatment in police custody; lack of effective investigations (substantive and procedural violation of Article 3 of the European Convention of Human Rights); lack of a legal remedy for compensation for damage as a result of an inefficient investigation (infringement of Article 13 of the Convention).

On December 30, 2020, Promo-LEX presented the [Monitoring Report](#) No.1 on the management of the COVID-19 pandemic in the penitentiary administration system in the Republic of Moldova. The monitoring focuses on the assessment of the measures taken by the prison administration system in the context of the COVID-19 pandemic. Highlights of the monitoring process were international practice and the recommendations of international organizations specialized in the field. The monitoring was initiated to identify the challenges faced by the prison administration system in the context of the COVID-19 pandemic and possible solutions. The report presents a summary of the situation regarding the prevention and control of COVID-19 in the penitentiary system for the period March 1 - November 30, 2020.

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809e45ec](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809e45ec),  
[https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MDA/INT\\_CAT\\_IC\\_S\\_MDA\\_42604\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MDA/INT_CAT_IC_S_MDA_42604_E.pdf),  
[https://promolex.md/wp-content/uploads/2020/10/Raport-Evaluare-Implementare\\_PASDSP-1.pdf](https://promolex.md/wp-content/uploads/2020/10/Raport-Evaluare-Implementare_PASDSP-1.pdf),  
<https://promolex.md/wp-content/uploads/2021/03/Raport-Mmonitorizare-1-Covid-19-%C3%AEn-penitenciare.pdf>

### **6.3 Legal Resources Centre from Moldova: Republic of Moldova at the European Court of Human Rights in 2020**

To raise the public awareness about the activity of the European Court of Human Rights (ECtHR), the Legal Resources Centre from Moldova (LRCM) has analysed the activity of the ECtHR for the year 2020. The analysis has been carried out based on the [ECtHR's Activity Report](#) for the respective year and the study of the ECtHR case law regarding Moldova.

The main findings are the following:

- in 2020, the ECtHR registered by 6% fewer applications than in 2019, and much fewer than within the period of 2016-2018. It seems that the decrease is determined by the decrease in the number of applications filed against states that traditionally had many applications and judgements (Russian Federation, Turkey, Ukraine, Hungary, etc.). Also, the popularity of the ECtHR decreases after the ECtHR has dismissed without explicit reasoning about 350,000 applications in the years 2011-2019. This could not but have a discouraging effect on lawyers. The small number of received applications is also due to the pandemic as courts in many European countries did not work;
- in 2020, the ECtHR received the lowest number of applications against Moldova for the last 12 years - 523 applications. However, per capita of the country's population, the number of applications filed against Moldova is very high. In 2020, Moldovans applied to the ECtHR 3 times more often than the European average;

- as of 31 December 2020, 1,054 Moldovan applications were still pending before the court. Over 95% of them have high chances of success. This number is equal to the total number of applications on the basis of which Moldova has been convicted within 23 years since people can sue Moldova to the ECtHR;
- By 31 December 2020, the ECtHR had delivered 473 judgements in Moldovan cases, of which 32 were delivered in 2020. In this respect, Moldova is far ahead of Germany, Spain, Portugal or the Netherlands - the countries that have joined the European Convention on Human Rights (ECHR) long before Moldova and have much larger population than Moldova. By the number of judgments delivered in 2020, Moldova ranked 7th out of 47 member states of the Council of Europe;
- the most frequent types of violations found by the ECtHR in Moldovan cases included failure to enforce judgements (old judgements), ill-treatment, improper investigation of ill-treatment and deaths, detention in poor conditions, illegal detention, and irregular annulment of final judgements.

In addition to the analysis of the statistical data regarding the Republic of Moldova, this document contains a summary of the ECtHR's judgments and decisions concerning the Republic of Moldova delivered in 2020.

The LRCM has performed similar analyses for the years 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018 and 2019 as well as a summary of all violations found by the ECtHR regarding the Republic of Moldova until June 30, 2020.

<https://crjm.org/wp-content/uploads/2021/02/Nota-analitica-CEDO-2021-EN.pdf>

#### **6.4 Legal Resources Centre from Moldova: Analysis of the Practice of Courts of Law and of the Equality Council concerning Equality and Non-discrimination in the Republic of Moldova**

Law no. 121 on Ensuring Equality was adopted in the Republic of Moldova in a regional and national context where Europeanization was the main element that mobilized the elites to adopt antidiscrimination rules. The adoption of this law, however, was merely the first step in the process of building an efficient mechanism to fight discrimination and promote equality. To ensure that the provisions of the law can turn from theoretical provisions into daily practice, it is necessary to empower the agencies mandated to enforce the law. Eight years after the adoption of Law no. 121, this report analyzes how the Equality Council and the courts of law interpret and apply the law, the relationship between various actors, and the opportunities and risks which emerged or are foreseeable. The Equality Council has grown impressively, and its achievements are due to a large extent to its team. Their passion helped the organization to cope with the lack of resources and to overcome challenges in a transparent and open way. The organization managed to foster dialogue with the society by issuing individual and general recommendations, developing bold case law on sensitive subjects, and taking the lead in sounding the alarm when the public discourse swerved toward hatred and assaults on dignity during election periods and in times of crisis. The Council also proved its worth by acting as a mediator, coming up with general recommendations that offered systemic solutions to some forms of structural discrimination. The analysis also highlights the risks—triggered by the Council's limited mandate—in granting efficient remedies as, despite the Council's power to find acts of discrimination, it cannot punish them. Instead, it has to refer notices of contravention and case files to competent courts of law, which perform a new examination and establish sanctions in light of the Contravention Code. This detour takes time and energy, and sometimes, courts have a poor understanding of the antidiscrimination law as a special law. Another identified risk was that the Council risks losing independence and efficiency because of insufficient resource allocation or the risk of politization due to attempts to make the Council a tool in political strife. Unfortunately, deficiencies in applying the procedural guarantees when issuing Council decisions have often led to the annulment of these decisions by the courts. An unexpected finding concerned the way some judges viewed the Equality Council and their ambiguity regarding its legal status as an administrative-judicial authority, which led them to take an incorrect and uncooperative stance, as they did not understand the importance of an efficient and loyal cooperation between institutions meant to protect the rule of law.

One of the key elements that can render the application of Law no. 121 meaningful consists in the mandate vested in the courts and their efficient involvement in following the spirit and the letter of the law. While being still in its early stage, the examined case law shows that courts gradually improve their ability to apply the antidiscrimination law. Still, there are some discrepancies caused by judges' poor understanding that the antidiscrimination law has the status of special law (*lex specialis*) and there are significant difficulties in aligning, or even failure to align, with international—particularly the ECtHR's—practice when courts are asked to assess the balance between freedom of expression, on the one hand, and the prohibition of discrimination

and protection of equality, on the other hand. The rigid legal interpretation and lack of understanding of the special law status ensured to Law no. 121 also transpire in many instances where courts annul the Council's decisions, particularly on procedural reasons, with a superficial analysis of the merits and with no analysis of the potential impact their judgments have on victims of discrimination. Another issue concerns judges' misunderstanding of the Equality Council's role and of its relationship with courts, including the allegations that the Council interferes with justice or judicial independence by examining complaints against courts or judges, whereas in fact the Equality Council simply carries out its legal mandate. This can be explained by the failure of the National Institute of Justice to provide and regularly assess training and workshops to bring Moldovan judges up to date with the international case law on discrimination, incitement to discrimination, harassment, reasonable accommodation, and accessibility. Latest court judgments give reasons for optimism as they show the understanding of the need to correlate remedies to the discriminatory deeds and a greater flexibility in establishing sanctions. In the long run, this approach will help to define an efficient mechanism of remedies for cases of discrimination. In terms of the areas in which discrimination occurs, a greater part of cases brought before both the Equality Council and the courts of law concerned discrimination in the field of employment, and fewer cases are of discrimination in access to education or healthcare. Even in the absence of officially filed complaints, the Equality Council may perform the proactive role of monitoring certain fields strategically and take ex officio action to educate and encourage victims to initiate litigation. Unfortunately, despite its mandate under Article 13 of Law no. 121, the Council hesitates to act ex officio.

<https://crim.org/en/en-analysis-of-the-practice-of-courts-of-law-and-of-the-equality-council-concerning-equality-and-non-discrimination-in-the-republic-of-moldova/>

## **6.5 Institute for European Policies and Reforms: A Hybrid War Early Warning Model – Towards an Early Warning Mechanism for the Republic of Moldova**

Designing and implementing an Early Warning Mechanism is charting new terrain for the Republic of Moldova. The current analysis is proposing a model of a hybrid-war-early-warning mechanism, targeted at the monitoring, analysis, and interpretation of a set of tailored crisis indicators. Conceptually the model is using the term “hybrid war” instead of “hybrid threats”, as the threat is a potential cause of harm, while there is evidence that the respective harm is already being done. Thus, this mechanism is built on a general model of hybrid war, prepared based on the evaluation of Russia's hybrid activities in both developed and developing countries, including Ukraine and Moldova. Given the need for a greater understanding and preparation of the Moldovan authorities against hybrid war, employing such a mechanism would offer a set of benefits: the anticipation of resources, training, and actions required to improve an effective response; the creation of response algorithms allowing to reduce the time gap between observing the crisis event and responding to it; the decrease in inflicted costs that a crisis event is likely to generate; and the increased chance to prevent an escalation to a more violent conflict, given a properly designed early response.

A distinct element of the model is that it could be applied both by the competent national authorities to enable the identification of security risks for the rapid response needs, as well as by representatives of civil society and the media for the monitoring of hybrid threats. Thus, an important effect in will be the watchdog one, as it may push the governmental agencies be more active and avoid ignoring certain incidents and developments.

The Moldovan authorities should start discussions and designate a leading actor/agency for the national efforts to counter hybrid threats and activities (most suitable from the point of view of this author are SIS or the Presidential Administration). A budget should be identified for funding personnel (10-12 people), facility, technical support, and training, to create a national EW Center; the benefit is that it could monitor, in addition to listed hybrid war indicators, some additional ones, including health/pandemic related; a potential approach would be pooling funding from a number of interested governmental institutions. Particular attention needs to be paid to the data protection and security of information and communication.

Below you can find the complete version of the Study. This paper was presented during an [Online Workshop](#) organized the 25<sup>th</sup> of March 2021, which gathered more than 35 national and international participants from governmental institutions, think-tanks and academia.

<http://ipre.md/2021/03/30/a-hybrid-war-early-warning-model-towards-an-early-warning-mechanism-for-the-republic-of-moldova/?lang=en>

## 7. Democracy and Electoral Process

### 7.1 IDIS Viitorul: Report on the State Democracy in the Republic of Moldova – Moldovan democracy threatened by bank fraud, corruption and distrust in the state institutions

Summary The state of Moldovan democracy has been assessed by the Institute for Development and Social Initiatives (IDIS) “Viitorul” with the assistance provided by the Institute for Economic and Social Reforms (INEKO) under the initiative “Supporting democracy, independence and transparency of key public institutions in Moldova”. This initiative is implemented by IDIS “Viitorul” in partnership with INEKO with the financial support provided by the Programme for Official Development Assistance of the Slovak Republic (SlovakAid). The Initiative is aiming to raise public awareness about democracy developments and independence of key public institutions, as well as to improve transparency and financial sustainability of Moldovan local public authorities and public undertakings.

The Report on the state of democracy pursues the goal to assess the quality of Moldovan democracy in relation to political participation, independence of public institutions, civil liberties, scope of corruption, etc. The rule of law and the civil society are unthinkable without democracy, this being an inherent condition for their creation, enhancement and practical expression. The rule of law is a sine qua non for democratic governance, while an extremely weak rule of law leads profoundly to high levels of corruption.

The Republic of Moldova is currently seen as a country at the border of fragile and non-consolidated democracy. Expressing some of democracy attributions, it is stable in the short-term, but it is far away from the democratic ideal. Hence, our country is positioned amongst the states with hybrid governance, getting closer and closer to an authoritarian regime, where the Government political culture and functionality are underdeveloped. In economic terms, it paralyses investments, opportunities and competition. In political terms, the justice sector institutions are often seen as toolkits for their own interests. At the same time, the Moldovan Government efficiency is low, displaying an omnipresent and chronic issue. A continuous challenge for the Moldovan democratic governance is the lack of public accountability. To operate efficiently the Government shall meet citizens’ needs and become accountable for its actions.

After the declaration of independence, the first Parliamentary elections were conducted in the Republic of Moldova on 27 February 1994. Since then and up until now, nine Parliamentary elections have been conducted in our country: namely, six ordinary and three anticipated elections. Throughout the parliamentarism, ten political parties, eight electoral blocs, three independent candidates and other 20 political parties within electoral blocs acceded to the Moldovan Parliament. Over the period subject to review, the left-wing segment was characterised by a strong political party in place, while the rightwing segment was characterised by excessive fragmentation. Out of those eight electoral blocs, which acceded to Parliament, only one was a left-wing bloc. Amongst all blocs, only the bloc ACUM ruled for a five-month period, the remaining blocs being in opposition. Over those 26 years since the first Parliamentary elections were held, the Republic of Moldova was predominantly ruled by left-wing political parties.

According to the Report on the state of democracy, citizens (focus-group participants) perceive democracy differently, having most often associated it with the freedom of expression, a better quality of life, as well as with chaos/disorganisation. The same applies to the assessment of the quality of democracy. While some people appraise the quality of Moldovan democracy at a middle level (scoring five out of ten), other people are inclined to rate it lower (scoring 1-4 out of ten). Some participants appraise the current state of democracy in our country with zero points or even negatively, having brought such arguments as: selective justice, mass migration of population and low standards of living.

The majority of respondents consider that elections in the Republic of Moldova are free. In terms of truthfulness of elections held, the respondents’ opinions are split. Some of them consider that the elections are fair, having argued that they worked for local electoral commissions and there are national and international observers in place who monitor the electoral process. Others, on the contrary, mention that the elections are not fair as different manipulation methods (media) are used, voters are corrupted (by giving them electoral gifts), blackmail/pressure is exercised (on the side of employers, the ruling political parties).

Over the last ten years one can notice citizens’ total disappointment with the level of democracy in the country. The number of those who are considered to be the pillars of democracy declined dramatically from the average of 20-30% in 2005-2009 to less than 10% over the last decade. The survey outcomes show also direct correlation between the number of people who consider that the country is governed democratically

(the elections are free and fair, while the country is governed as per the will of the people – the pillars of democracy) and the degree of citizens' trust in public authorities (Government and Parliament). Hence, the number of pillars of democracy increases when the Government and the Parliament enjoy the highest level of public confidence. And, vice versa, during the times of crises, as it was during the bank fraud, the level of public trust in state authorities reached the historical minimum level. People showed total disappointment in authorities, the confidence rate dropping to 4%.

When analysing the matrix of political stability we determine that the number of citizens who consider that the elections are free and fair, while the country is governed as per the will of the people, equals to only 6.6%, which is one of the lowest levels over the last 15 years. The 2014 bank fraud caused even a lower number. In sociology, these people are considered to be the pillars of democracy in a society. At the same time, there is an extremely large number of dissatisfied people who consider that the elections are neither free nor fair, while the country is not governed by the will of the people. The share of dissatisfied people reached maximum rates, amounting to 81.5%, which means poor legitimacy of governance. Therefore, the Index of political stability equals to -65.9. When analysing the experts/public persons survey outcomes, the matrix of political stability shows a more positive situation. Hence, the number of those who consider that the elections are free and fair, while the country is governed as per the will of the people, reaches 10.9% in comparison with 6.6% in the case of citizens.

Similarly, the share of dissatisfied people, who consider that the elections are neither free nor fair, while the country is not governed as per the will of the people is also pretty high amongst experts (60.9%), but smaller in comparison with the matrix of political stability (citizens). At the same time, 13.7% of citizens say that the state of democracy is good and very good, and another 15.0% think it is rather good. Pillars of democracy Disappointed Spectators Dissatisfied Pilonii democrației: cetățeni versus experți Citizens Experts/Public persons Pillars of democracy: citizens versus experts Figure 1. The matrix of political stability (citizens versus experts/public persons) Source: National survey of citizens and experts/public persons Most Moldovan citizens (67.6%) believe that democracy in our country is determined by the quality of life. People make direct relationship between the standards of living and the level of democracy in the country.

The level of dissatisfaction of citizens with regard to democratic institutions is determined also by the low quality of life. Concurrently, 43.1% of citizens think that the state of democracy is poor, while 28.7% of citizens have a more or less positive impression in this regard. Under the survey of diaspora, we identified the factors affecting the most the quality of Moldovan democracy, i.e. protecting human rights (+1.11 points); involving citizens in public affairs (+1.00 points); quality of NGOs (+0.92 points); and freedom of the media (+0.87 points).

To the question how democracy in the Republic of Moldova is seen in comparison with the neighbouring countries the outcomes show visible divergences in appraising the state of democracy by experts, diaspora and citizens. The Russian Federation is the point of discord. While the experts appraise the state of Russian democracy as extremely poor (-2.47 points), the citizens consider that Russia is doing far better than Moldova in terms of democracy (+0.22 points). However, there are two clear consensuses amongst all categories of respondents, i.e. that Romania is the only country within the region that is positively appraised in terms of democracy by all groups of respondents.

Hence, the citizens gave a score of +0.77 points, the experts were slightly reserved, giving +0.66 points, while the diaspora gave the lowest score (+0.28 points). Another consensus is the state of Moldovan democracy, which is considered to be poor by all three categories of respondents. The citizens have the most reserved opinion regarding the state of Moldovan democracy (-0.54 points). Both diaspora and experts believe that democracy in Moldova is poor, preceded only by Russia. In this area, diaspora is even more categorical (-1.66 points) than the experts (-1.15 points).

[http://www.viitorul.org/files/Report%20on%20the%20state%20of%20democracy%20web\\_0.pdf](http://www.viitorul.org/files/Report%20on%20the%20state%20of%20democracy%20web_0.pdf)

## **7.2 Promo-LEX: Combating Hate Speech and Promoting Clean Public Speech**

During May - June 2020, Promo-LEX carried out an advocacy campaign "STOP hate. VOTE for the law", in order to promote the amendments to the and the adoption of the draft law no. 301/2016 draft law no. 301 on crimes motivated by prejudice. To this end, a [Public Appeal](#) was issued and signed by 24 civil society organizations and Equality Council.

In May 2020, Promo-LEX elaborated the [Analytical Note](#) on the need to develop and establish a mechanism for monitoring hate speech in the audiovisual media and for the collection of disaggregated data by the

Audiovisual Council. The document includes arguments on the importance and necessity of developing the monitoring mechanism, the strengths and weaknesses of the current Audiovisual Council monitoring methodology, the risks involved in implementing a mechanism for monitoring and collecting disaggregated data, as well as international experience in the field. The Analytical Note includes a series of recommendations regarding the development of the monitoring mechanism, the creation of monitoring tools, others.

Between July 6 and August 9, 2020, Promo-LEX conducted the Information and Awareness Campaign “Filter words. Report the hatred!” The aim of the Campaign was to promote clean public discourse in the online environment, among politicians, opinion formers, religious representatives, journalists and citizens. During the campaign, five animated [video spots](#) and other 17 video materials, infographics, informative posts, etc.

On January 27, 2021, Promo-LEX Association presented the [Report](#) “Hate Speech and incitement to discrimination in the public space and mass media in the Republic of Moldova within the electoral campaign for the presidential elections of 1/15 November 2020”.

On May 14, 2021, Promo-LEX presented the [Analytical Note](#) on the provisions of the internal regulatory documents of the political parties of the Republic of Moldova regarding the prohibition of hate speech and incitement to discrimination. The Analytical Note includes a series of recommendations addressed to political parties, the Central Electoral Commission and the Audiovisual Council.

[https://promolex.md/wp-content/uploads/2021/01/Sumar\\_Raport-DIU\\_ENG.pdf](https://promolex.md/wp-content/uploads/2021/01/Sumar_Raport-DIU_ENG.pdf)

<https://promolex.md/20246-nota-analitica-cu-privire-la-prevederile-documentelor-de-reglementare-interna-ale-partidelor-politice-din-republica-moldova-referitoare-la-interzicerea-discursului-de-ura-si-instigarii-la-discriminare/?lang=ro>

### **7.3 Promo-LEX: Promoting and Defending Freedom of Assembly**

On November 24, 2020, Promo-LEX presented, via an online [Press Conference](#) the [Study](#) on the legal framework and the exercise of the freedom of online assembly in the Republic of Moldova.

The study includes an analysis of the legal framework of online assemblies; the advantages and disadvantages of online assemblies; examples of online assemblies in the Republic of Moldova and conclusions.

Starting with March 2021, the Promo-LEX monitors the freedom of assembly in the Republic of Moldova in the context of the restrictions imposed during the COVID-19 pandemic. The purpose of monitoring is to promptly identify any issues that could adversely affect the exercise of the right to peaceful assembly and protest. The monitoring focus on changes to the legal framework affecting freedom of assembly, the practical impact of restrictions, abuse and unequal treatment by public institutions, obstacles, sanctions and other issues against persons and organizations exercising the right to freedom of assembly, by offline and online protest. Based on the monitoring, monthly [Digests](#) are published.

[https://promolex.md/wp-content/uploads/2020/11/Study-Online-Public-Assemblies\\_2020.pdf](https://promolex.md/wp-content/uploads/2020/11/Study-Online-Public-Assemblies_2020.pdf)

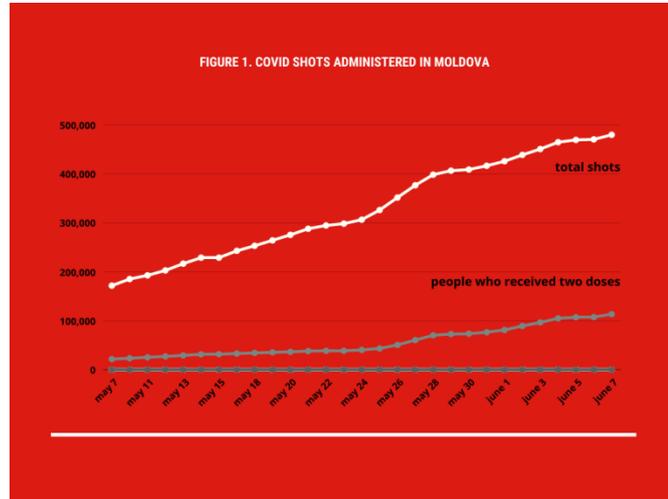
### **7.4 Promo-LEX: Promoting an Enabling Environment for Civil Society**

On December 11, 2020, Promo-LEX presented the [Report](#) CSO Meter/Assessing the Civil Society Environment in the Eastern Partnership Countries. The report presents an update to the CSO Meter report produced in 2019 to assess enabling environment for CSOs from the Republic of Moldova. [CSO Meter](#) is a tool developed to assess the civil society environment in Eastern Partnership countries. It consists of a set of standards and indicators in 10 different areas that measure both law and practice. The report reflects the most significant updates in 10 areas of CSO Meter and suggests key priorities for improvement.

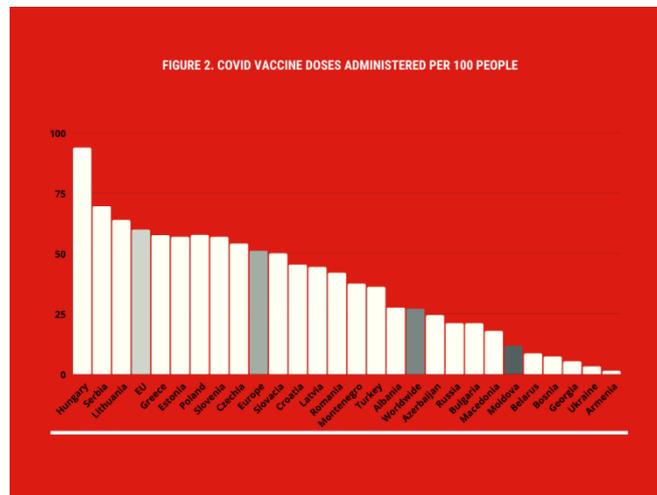
<https://promolex.md/19306-cso-meter-evaluarea-mediului-de-activitate-al-organizatiilor-societatii-civile-din-statele-parteneriatului-estic/?lang=en>

### 7.5 Association for Participatory Democracy (ADEPT): Coronavirus Developments Ahead of Snap Parliamentary Election

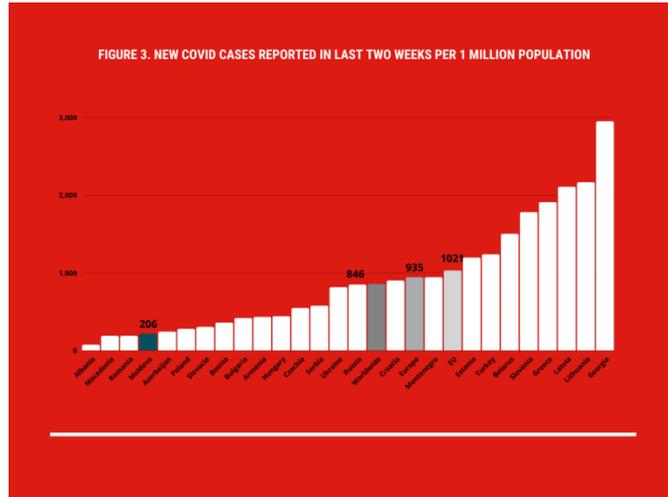
From the angle of the pandemic factor, the campaign prior to the snap parliamentary elections of July 11, 2021 is conducted in much more favorable conditions. The COVID-19 infection rate this May was lower than in the corresponding period last year. Currently, before the snap parliamentary elections, the infection rate is about ten times lower than before the presidential elections of 2020. Undoubtedly, the reduction in the number of infections is due to the start of the vaccination process.



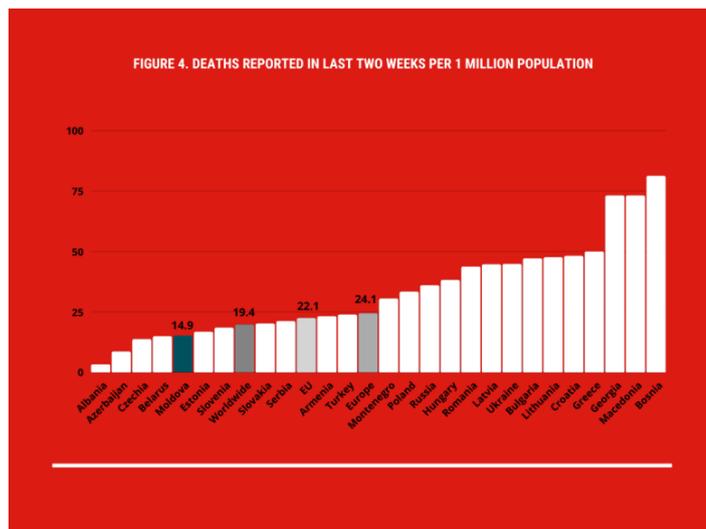
The improvement of the pandemic situation is not only due to the immunization of the population. There are also other factors that are probably influenced by the fact that the politicians stopped interfering in the handling of the health crisis, allowing the health professionals to fulfill their duties without exerting pressure. Such a conclusion is reached when comparing the pandemic developments in the Republic of Moldova and those in Central and Eastern European countries, which have a much greater economic and health potential and can immunize their population much faster and more efficiently.



Despite the fact that the immunizations process in the Republic of Moldova is much slower than in most of the countries of Central and Eastern Europe and is under the global and European averages, the infection rate during the past two weeks (May-June 2021) declined disproportionately, emphasizing the quality of the medical personnel and of public health professionals.



Together with the decline in the number of daily infections, the number of deaths from COVID-19 decreased dramatically. In May, the number of deaths caused by the infection declined almost three times compared with April. Globally, this indicator looks encouraging if we take into account the fact that the immunization pace in the Republic of Moldova is much slower.



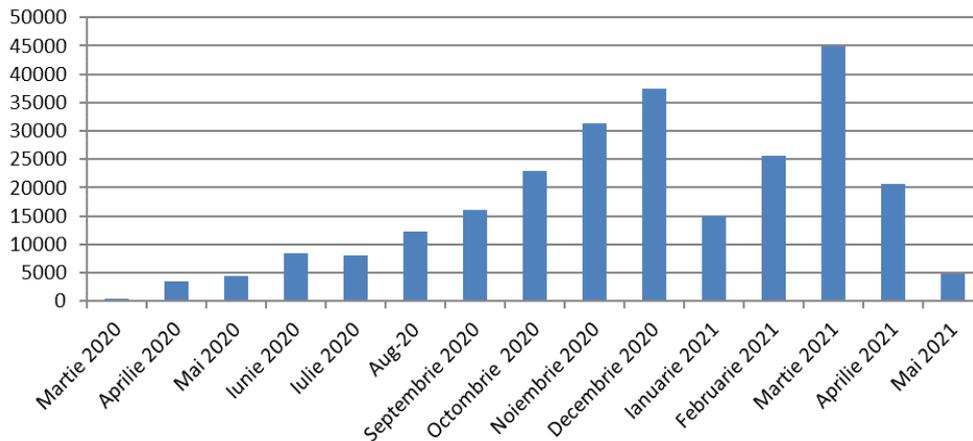
In conclusion, we can say that the doctors in the Republic of Moldova, with the support of the development partners, especially the European Union, cope with the pandemic challenges excellently if they are not impeded by politicians. However, the election campaign can reverse the positive tendencies in the process of containing the COVID-19 pandemic. That's why it is very important that the authorities insist on the observance of protection measures by the citizens, without becoming involved in the area of activity of professionals, if only they are asked to.

[https://www.ipn.md/en/coronavirus-developments-ahead-of-snap-parliamentary-elections-analysis-by-igor--7978\\_1082169.html](https://www.ipn.md/en/coronavirus-developments-ahead-of-snap-parliamentary-elections-analysis-by-igor--7978_1082169.html)

### 7.6 ADEPT: Impact of COVID-19 on snap parliamentary elections

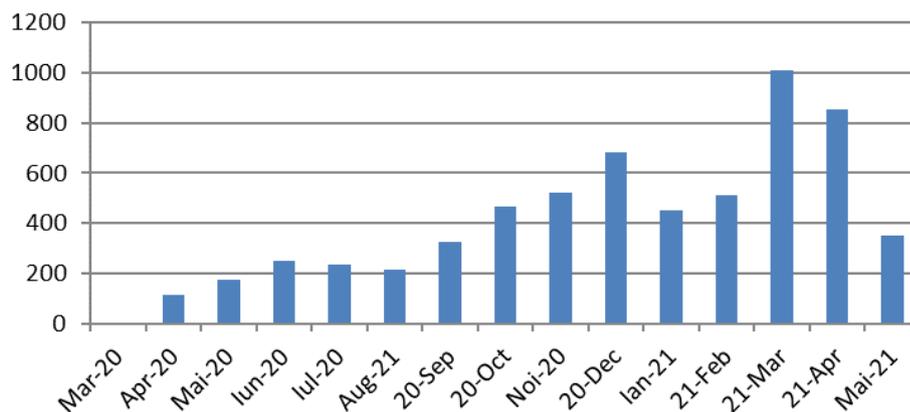
Before the July 11, 2021 date of the snap parliamentary elections was announced, there were fears that the COVID-19 infection can endanger the proper conduct of elections. Statistics of the infection rate and deaths due to the infection against the background of debates on the opportunity of organizing elections looked very discouraging. After a peak was reached in March 2021, in April the infection rate declined dramatically to a level lower than that of November 2020, when the presidential runoff was held.

**Table 1. Number of monthly cases of COVID-19**



In May 2021, when the campaign prior to the snap election started, the number of infections decreased even further, to the level witnessed a year ago, being comparable with the infection rate in May 2020. In general, it should be noted that the presidential elections of 2020 were organized amid the expanding COVID-19 pandemic. The preparations for the presidential elections started in August-September 2020, while the election campaign was held in October-November. In the period, the monthly infection rate rose from about 12,000 to 32,000. We can admit that the holding of the presidential elections had a negative impact on the spread of COVID-19, the peak being reached after the incubation period, in December – over 37,000 cases. On the other hand, it should be noted that the socialization of citizens during the traditional holidays is as intense or is even more intense than during the elections. The families usually reunite with friends and close people. However, despite the noisy holidays, no negative effect on the spread of the infection was witnessed. This way, taking into account the 14-day incubation period, after the celebration of Christmas according to the new style and of Christmas according to the old style, there was seen no explosion in the number of infections. On the contrary, in January the number of new cases declined over two times on December. The same phenomenon was witnessed after the recent Easter holidays of the start of May, after which the infection rate decreased about four times compared with April. It should be noted that the number of deaths from COVID-19 followed, with particular inertia, the trends set by the evolution of infections. Currently, the death rate is comparable with that before the presidential elections.

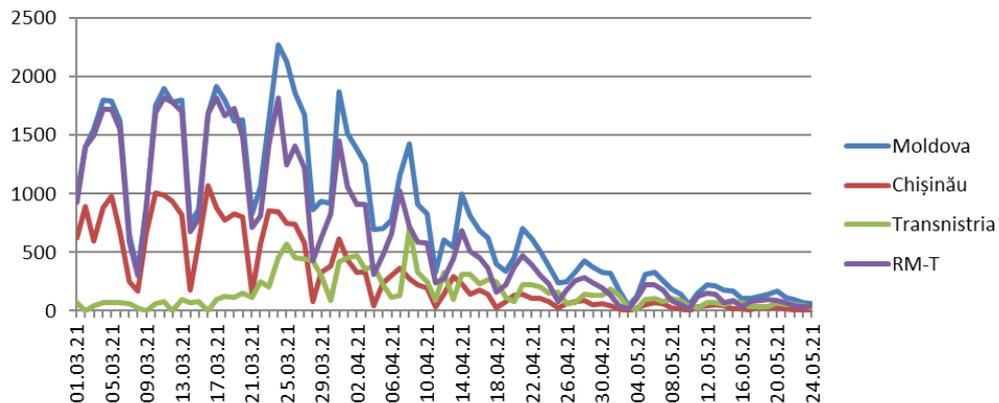
**Table 2. Monthly number of deaths from COVID-19**



So, the campaign prior to the snap parliamentary elections takes place amid a pronounced decline in the number of COVID-19 cases and associated deaths. Despite the positive developments in fighting COVID-19, there are yet worrisome phenomena with a possible impact on the organization of the snap elections of July 11, 2021 and on the post-electoral epidemiological situation. The Central Election Commission (CEC) very soon is to adopt decisions concerning the establishment of polling stations abroad and for the Moldovans living in Transnistria. This exercise of the CEC should take into account the epidemic situation in the

respective countries and in the Transnistrian region. At the end of March and throughout April, when the spread of COVID-19 on the right bank of the Nistru started to decline, the developments the Transnistrian region were inverse and the number of infections grew considerably.

**Table 3. Evolution of daily infections in R. Moldova in general, on the right bank of the Nistru, in Chisinau and in Transnistria**

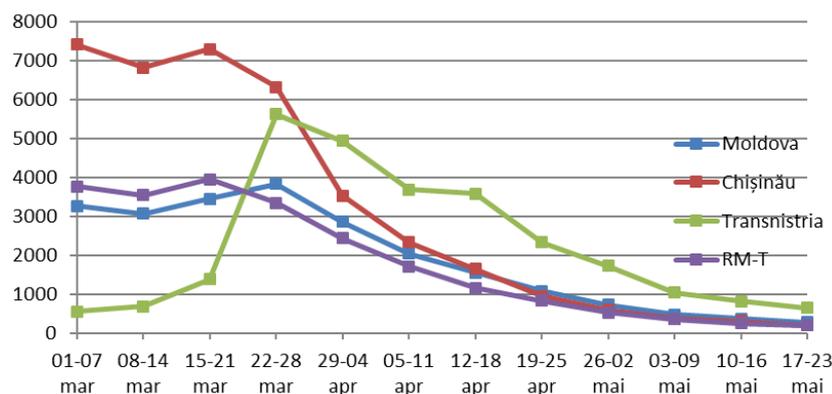


The above

table shows

that the number of daily infections in Transnistria during the past two months often exceeded the figures in Chisinau, where the number of inhabitants is almost twice higher, while sometimes it exceeded even the records for the whole right bank of the Nistru. To emphasize this, it is useful to show the infection rate per 1 million people.

**Table 4. Weekly infection rate per 1 million people in March-May 2021**



As the infection rate in Transnistria is about three times higher than on the right bank of the Nistru – 652 vs. 202 weekly cases per 1 million people – the authorities should take special measures to prevent a new outbreak of COVID-19 following the voting by citizens living in Transnistria at polling stations on the right bank of the Nistru.

[https://www.ipn.md/en/impact-of-covid-19-on-snap-parliamentary-elections-analysis-by-igor-botan-7978\\_1081975.html](https://www.ipn.md/en/impact-of-covid-19-on-snap-parliamentary-elections-analysis-by-igor-botan-7978_1081975.html)

### 7.7 Legal Resources Centre from Moldova: Radiography of attacks against non-governmental organizations of the Republic of Moldova in 2019

Attacks on CSOs in 2019 were fewer than in previous years. This may also be due to the major political changes in the Republic of Moldova in June 2019. Parliamentary elections took place in February 2019 and for three months the politicians were busy creating the parliamentary majority and the new government. However, during the election campaign there were attacks on the CSOs involved in the election monitoring process. The appointment of the Government took place only in the summer of 2019, so the legislative activity of the Parliament was reduced. Therefore, in 2019 there were fewer legislative initiatives, and those that did exist were in favour of the rule of law and there were fewer situations in which CSOs had to react

against undemocratic initiatives. This probably explains the fewer number of attacks in 2019 as compared to previous years.

The attacks that took place in 2019 focused mainly on some events such as the parliamentary elections in February 2019, the judiciary reform announced by SANDU Government in the summer of 2019 or the selection of judges to the Constitutional Court. Several CSOs were the direct target of attacks in 2019, including Promo-LEX Association, Legal Resources Centre from Moldova (LRCM), Amnesty International Moldova (AIM) and Soros Foundation-Moldova (SFM). Promo-LEX has been attacked by several politicians and public authorities, which were disturbed by the alternative monitoring reports performed by PromoLEX in the parliamentary elections of February 2019, or by the monitoring activity and reporting on human rights in Transnistrian region. AIM was attacked after criticizing police inaction in cases of harassment and aggression in the pre-election campaign. The LRCM was attacked in the context of the judiciary reform announced by the Ministry of Justice. A judge of the Supreme Court of Justice declared that the LRCM must be liquidated. The president of the LRCM was attacked in connection with his participation as a member of the governmental commission for the selection of constitutional judges. In the case of the SFM, several portals with a dubious reputation spread false information that the SFM funds had been misused in political interests.

As in previous years, the authorities are trying to shrink the space for the civil society activity through legislative measures. The Program of Activity of CHICU Government as of 14 November 2019 included a single activity concerning civil society, and namely "Strengthening the watch-dog role of civil society organizations and not admitting their involvement in political activities". The member organizations of the National Platform of the Eastern Partnership Civil Society Forum stated that the restriction included in the Government Program on non-admission of the CSOs involvement in political activities contradicts international standards and denies the CSOs' right to be engaged in public policy activities and participate in debates on the topics of public interest. The Government Action Plan for 2020-2023 approved on 11 December 2019 no longer included the objective of limiting the political activities of the CSOs.

In this document we also analysed the situation of the CSOs in the Transnistrian region. In 2018, the legal framework was amended, introducing restriction for the CSOs receiving external funding for involvement in so-called "political activities", which are essentially public policy activities. The legislation provides for a complex reporting mechanism and drastic sanctions for both organizations and for the founders of the CSOs and even for the people who participate in the activities carried out by these organizations. The terminology used in this report regarding the situation of the CSOs in Transnistrian region cannot imply any political position of the authors and cannot be interpreted in these respects. The use in this analysis of terms such as "legislation", "Constitution", "President", "Ministry", "minister", "prosecutor", etc. does not imply their legitimation or de jure recognition of these normative acts, the administration or the institutions from Tiraspol. These terms are used exclusively for the convenience of the reader and to provide identification of the documents, administration and de facto institutions of the so-called Transnistrian Republic ("PMR") as accurate as possible.

In 2019, the UN Special Rapporteur on the situation of human rights defenders Michel FORST presented a report following his visit to Moldova in June 2018, in which he indicated that human rights defenders in the Republic of Moldova face several challenges, including the phenomenon of shrinking space for the activity of the civil society. Mr. Forst noted that public authorities have stigmatized and discredited human rights defenders and their work, including through politically affiliated mass media. Mr. Forst received information about intimidation actions and threats to the address of human rights defenders by the representatives of public officials, especially when they criticized decisions taken by the Government. CSOs promoting political rights have been accused of not being equidistant and of having a foreign agenda that is not in line with national interests.

In 2019, a journalistic investigation revealed that in the years of the ruling of the Democratic Party of Moldova, in 2016-2017, 51 representatives of civil society, journalists and opposition politicians were abusively wire-tapped within the framework of three criminal cases initiated based on social-media messages on Facebook or statements at press conferences. According to Mr. Chiril MOȚPAN, former chairperson of the Parliamentary Committee on National Security, Defence and Public Order,<sup>8</sup> among the representatives of civil society who were wire-tapped are Arcadie BARBĂROȘIE, Director of the Institute for Public Policy; Vladislav GRIBINCEA, Executive Director of the Legal Resources Centre from Moldova; Sergiu TOFILAT, member of the WatchDog.md Association; Lilia CARASCIUC, Executive Director of Transparency International Moldova; Sorin MEREACRE, President of the East Europe Foundation; Adrian LUPUȘOR, Executive Director of Expert-Grup; Cristina PERETEATCU, Executive Director of Amnesty International Moldova; Galina BOSTAN, President of the Centre for Analysis and Prevention of Corruption.

Among the journalists who were wire-tapped are Constantin CHEIANU, Val BUTNARU, Anatol DURBALĂ, Vasile NĂSTASE, Alina RADU, Natalia MORARI, Mariana RAȚĂ, Petru MACOVEI, Ion TERGUȚĂ, Valentina URȘU, Ion PREAȘCĂ, Cornelia COZONAC, etc. In September 2019, the Prosecutor General initiated a criminal investigation concerning the alleged abusive wire-tapping and submitted the case to the Anticorruption Prosecutor's Office for the purpose of the criminal prosecution. The Prosecution Office reported that during the criminal investigation, 4 investigating officers and 3 prosecutors were criminally charged.

Some of the media portals that published defamatory articles on CSOs or were replicating them from other portals with dubious reputation, became inactive or rebranded after the change of the Government in June 2019 (for example [www.actual.md](http://www.actual.md) or [www.today.md](http://www.today.md)). These web portals published materials in favour of the Government led by the Democratic Party of Moldova and to the detriment of the opposition and were engaged in campaigns to denigrate civil society (see details in the previous editions of the Radiography for 2016-2017 and 2018).

The "active" media portals in 2019 were: [www.telegraph.md](http://www.telegraph.md), [www.timpul.md](http://www.timpul.md), [www.noi.md](http://www.noi.md), [www.publika.md](http://www.publika.md), [www.basarabialiterara.md](http://www.basarabialiterara.md), [www.hotnews.md](http://www.hotnews.md), [www.24h.md](http://www.24h.md) or [www.blocknotmoldova.md](http://www.blocknotmoldova.md). Among the blogs that published biased and defamatory information about CSOs and/or their representatives, we can mention the blogs by Bogdan ȚÎRDEA, MP, member of the Party of Socialists of the Republic of Moldova (PSRM), Eugen LUCHIANIUC and Anatolie CHIRILOV, the latter two being vociferous supporters of the DPM initiatives. At the same time, new web pages of similar typology appeared in 2019, such as the web page [www.scheme.md](http://www.scheme.md), a web portal created on 30 July 2019. It is not known who owns this portal, and all the materials are published without mentioning the author. It has mainly published defamatory articles concerning some CSOs and their representatives, SANDU Government and right-wing parties. All these portals replicate the materials and use identical texts, changing only the headlines.

<https://crim.org/wp-content/uploads/2020/07/2020-05-04-Timeline-attacks-CSOs-EN.pdf>

## **7.8 IPRE: Alternative Voting Methods in the Republic of Moldova – Lessons Learned from the Experience of Romania and Estonia**

The last parliamentary and presidential elections in the Republic of Moldova brought back to the forefront the debates on the need to introduce alternative methods of voting. The stakes of these debates are twofold. On one hand, the main reference point for the organization of any elections is the assurance of the right to vote and of the optimal conditions for the exercise of this constitutional right by the citizens of the Republic of Moldova. Respectively, it is imperative to facilitate the voting process, regardless of the location of the voters. On the other hand, the objective is to find the most appropriate and effective tools to respond to the current challenges faced by electoral processes in our country, in order to achieve the priorities indicated above.

Given these aspects, the subject of implementing alternative voting methods revealed an increased interest among different actors. As a matter of priority, political parties involved in electoral competition are directly targeted by this issue, which encourages them to approach it with vigilance and to build a public discourse on alternative voting methods. This position is often shaped by the dynamics of the popular vote and the electoral calculations of each political party, but also by the public pressure, requests and recommendations from civil society, think-tanks, initiative groups, and the citizens of the Republic of Moldova.

The post-election period after the presidential elections of November 2020 provides a favorable context to review the key findings related to the organization of the last presidential election and the potential changes to the electoral legislation, aimed at improving electoral practices in our country. More informed public debates on the need for implementing alternative voting methods in the Republic of Moldova are also important. This process must be transparent and inclusive, involving all stakeholders in society, both governmental and non-governmental.

This study aims to contribute to the current debates on the introduction of alternative methods of voting, launched at the end of last year on the platform of the Parliament of the Republic of Moldova. We aimed to review the opportunities and challenges posed by the implementation of internet and postal voting, starting from the specific cases of Estonia and Romania. We believe that the experience of Estonia and Romania in the field of alternative voting methods could serve a solid reference to address key issues faced by the electoral process in the Republic of Moldova.

<http://ipre.md/2021/02/24/studiul-metode-alternative-de-exprimare-a-votului-lectii-invatare-pentru-republica-moldova-din-experienta-romaniei-si-estoniei/?lang=en>

## 8 Public Declarations and Appeals

### **Civil society call to authorities on critical deterioration of transparency in public procurement by the Center for Centralized Public Procurement in Healthcare**

*April 12, 2020*

Civil society expresses its deep concern about the fact that the Center for Centralized Public Procurement in Healthcare (CAPCS) has decided to receive offers for tenders by e-mail. This applies to procurement in the field of healthcare, which has nothing to do with the fight against COVID-19. Prior to this, offers were accepted in sealed envelopes. The corresponding letter number Rg02-1416, April 7, 2020, was sent to suppliers by acting CAPCS Director Alina Russu.

Even though the submission of offers in envelopes has a high level of corruption risks and is clearly a relic of the Stone Age, this procedure still contained at least some minimal guarantees of transparency and impartiality: suppliers could attend the opening of envelopes and, thus, minimize the control of the procurement process.

When submitting offers by e-mail, the minimum guarantees of transparency of procurements and impartiality to suppliers are actually compromised. Email submissions actually blindfold the public, taking medical purchases into the shadows. As a result, the risks of inefficient use of public funds and deterioration of the protection of public health are increased: for more money – less supplies and medical equipment can be purchased. This is unacceptable in a modern democratic society, and particularly in a state of emergency caused by the spread of COVID-19.

Given the increased risk of corruption in the Republic of Moldova, [1] e-mail offers are easy to manipulate and abuse:

- the e-mail is easy to delete or it can get “accidentally” in the spam folder;
- important information from the offers can be reported to competitors;
- one can advise “privileged” suppliers to make changes and invisibly send an offer with updated data, etc.
- We are concerned that for more than a year now no decisions have been made to finalize the functionality of the electronic procurement system (today it is SIA RSAP MTender) for medical purchases. In this regard, in the current emergency situation, CAPCS does not use this transparent system.
- In connection with the foregoing, we urge that:
- CAPCS immediately refuses to the practice of accepting offers by e-mail;
- The Government and the Commission for Emergency Situations ensure a transparent use of public funds in the field of medical procurement, particularly by:
  - 1) Publishing detailed lists, specifications, the number of planned purchases and concluded contracts for the purchase of medicines, medical devices and medical equipment, specifying specifications, quantities and prices, data on supplies;
  - 2) Obliging the Ministry of Finance to urgently finalize the necessary functionality of the electronic procurement system (currently SIA RSAP MTender) for medical purchases.
  - 3) It is important to note that since the beginning of 2019, there has been a tendency in Moldova to reduce the transparency of the use of public funds in the health sector:
  - 4) On March 7, 2019, the Government of the Republic of Moldova adopted, on its own responsibility, Law No. 23 on amending Article 89 of Law No. 131/2015 on public procurement. These changes allow not using AIS “GRGZ” MTender [3] until January 1, 2021 – for public procurement of medicines and products, which in 2018 were estimated at about 1.74 billion Moldovan lei (these amounts include funds from CNAM and national medical programs).
  - 5) On March 17, 2020, by decision No. 55 of 03.17.2020, the Parliament approved the declaration of a state of emergency throughout the Republic of Moldova from March 17 to May 15, 2020. Thus, during this period, the Commission for Emergency Situations of the Republic of Moldova (Commission) issues orders to implement the necessary measures to prevent, reduce and eliminate the consequences of the coronavirus pandemic (COVID-19). [4] Particularly, the

procedures of public procurement of goods strictly necessary to prevent, reduce and eliminate the consequences of the coronavirus pandemic were temporarily changed: the Commission, derogating from the provisions of Law No. 131/2015 on public procurement, has made changes to allow purchases in a simplified form. The measures taken are intended to accelerate urgent purchases, but along with a positive effect, there is a significant decrease in the transparency of the use of public funds.

- 6) On April 7, 2020, by letter Rg02-1416, the Center for State Centralized Procurement in Healthcare (CAPCS) sent potential suppliers a request to submit offers by e-mail. The previously used mechanism for submitting offers in envelopes, despite the high level of corruption risks, is clearly outdated, but even so, it was possible for suppliers to attend the opening of envelopes.

The Coalition of public organizations for observing the principles of transparency and efficiency in the use of public money in a pandemic and the projected consequences of COVID-19 in the Republic of Moldova:

<http://www.transparency.md/2020/04/12/civil-society-call-to-authorities-on-critical-deterioration-of-transparency-in-public-procurement-by-the-center-for-centralized-public-procurement-in-healthcare/>

## **Transparency International – Moldova: The fight against corruption in light of the COVID-19 crisis and other global threats**

*June 12, 2020*

*The speech of the Executive Director of TI-Moldova, Lilia Carasciuc, at the meeting of WG1 of EaP CSF*

The COVID-19 pandemic tremendously affected the anti-corruption efforts in Eastern Partnership countries:

Corruption feeds off turmoil and tragedy. As governments respond to the outbreak of the coronavirus (COVID-19), the need to act quickly can often lead to bypassing rules and procedures that were put into place to curb corruption;

In some Eastern Partnership (EaP) countries, emergency funds are redirected to businesses affiliated with power holders. Economic recession and its effects on an already impoverished population opened wider the door for populist and corrupt politicians, affecting the democratic governing tools not only in the EaP, but also in EU countries;

Restrictions on public gatherings during the pandemic discouraged public protests as a way to defend human rights and oppose the attempts of governments to deviate from the European path. In authoritarian EaP countries, the turmoil caused by the pandemic is used to intensify the arrests and harass the civic activists;

Self-isolation during the pandemic and the focus of mass-media mainly on the health care system, created fertile soil for political and financial decision that lacked transparency, hidden transactions, and financial crimes, such as money laundering;

The worsening of access to public information and transparency in the decision-making process impeded the objective monitoring by CSOs and journalistic investigations;

The pandemic seriously affected the activity of law enforcement institutions: many local police offices were put on quarantine, multiple prosecutors were infected by the virus and suspended their investigations, and court hearings were postponed– all the above ensuring continuous impunity for the big corrupts;

To prevent the spread of the virus in the penitentiary system, some detainees were released. Among the first beneficiaries of this relief were people involved in resonant corruption crimes. In some countries, political detainees were the last ones to be considered for early or temporary release;

Although some EaP countries have effective e-procurement systems, considerable donations came from businesses and country partners, considerable budget money have been reallocated to combat COVID-19, leaving impossible to monitor which part of them did not reach the destination;

Consultations between CSOs and governments, if any, have shrunk to a minimum.

EU and EaP countries should address COVID-19 in a systemic way. Climate changes will intensify pandemics, weather disasters and other force majeure situations around the globe, requiring a restructured

approach of EU and EaP to tackle corruption, using new on-line technologies and E-Governance tools as core elements in ensuring transparency and good governance in the long run.

To curb the spread of corruption even further, we require that:

- EU and EaP power-holding institutions intensify on-line consultations with civil society;
- Continue and encourage the collaboration between CSOs and mass-media;
- Further digitize and secure democratic electoral mechanisms, public referenda, as well the decision-making process in all three branches of state power. Transparency and security of information matters now more than ever before;
- Consolidate and support the newly-created European Public Prosecutor's Office;
- Condition any macroeconomic support from the EU with progress in the field of anti-corruption and justice reform;
- Strengthen the international exchange of information and collaboration in the prevention of money laundering and other financial crimes;
- Elaborate and adopt the legal framework on the circulation of crypto-currencies, as a measure to consolidate regional financial and banking security;
- Ensure the transparency of Golden Visa programs, particularly vis-à-vis the current and former power holders from EaP countries;
- Digitalize and ensure access to information on assets and incomes of high-level decision makers, particularly their assets on the territory of the EU;
- Adopt and apply laws similar to the Magnitsky Human Rights Accountability Act, which allows the U.S. Government to sanction foreign government officials involved in human rights abuses anywhere in the world;
- Involve the EU and EaP CSOs in the process of monitoring the implementation of these actions.

<http://www.transparency.md/2020/06/12/transparency-international-moldova-the-fight-against-corruption-in-light-of-the-covid-19-crisis-and-other-global-threats/>

## **Statement by the National Platform of the Eastern Partnership Civil Society Forum and Amnesty International Regarding the Presidential Elections of 9 August 2020 and Political Situation in Belarus**

*August 13, 2020*

The Moldovan National Platform of the Eastern Partnership Civil Society Forum and Amnesty International express their solidarity with the Belarusian National Platform regarding the Presidential elections of 9 August 2020 and political situation in Belarus. We are also sharing the concerns expressed by the European Union, U.S. Department of State, OSCE/ODIHR, Venice Commission and some countries. We are deeply concerned on the multiple incidents of excessive use of force and violence of the law-enforcement bodies against Belarusians protesters, including on women and minors and condemn the reprisals and arbitrary detention of political opposition and peaceful protesters. We urge the Belarusian government to stop all acts of violence and the persecution of protesters, to respect the right to freedom of peaceful assembly, freedom of expression and of the press and to release all unfairly detained and all political prisoners. We also would like to remind the Belarusian authorities its international obligations under the main human rights treaties such as UN Convention Against Torture, International Covenant on Civil and Political Rights, International Covenant on the Economic, Social and Cultural Rights and UN Convention on the Rights of the Child.

According to the Belarusian National Platform, Presidential Elections in Belarus on 9 August 2020 have been accompanied by massive violations of human rights and can by no means be regarded as free, transparent and democratic. During the whole electoral process, the state government has been deliberately hindering the free expression of will by citizens which included prosecution against alternative candidates and their team members; (cyber)bullying and repressions towards bloggers, journalists, activists and ordinary citizens; massive manipulations and fraud during the voting process. According to the Belarusian NGOs, the electoral process at all of its stages did not comply with a number of basic international standards for democratic and fair elections and was accompanied by numerous violations of these principles and requirements of national legislation.

The Central Election Commission of Belarus claims that more than 80% of voices were given for Aleksandr LUKASHENKO which has provoked fair outrage from citizens. On the evening of 9 August 2020 thousands

of people went out on the streets of their cities. The Belarusian authorities deployed disproportionate and unacceptable violence against peaceful protesters. This inadequate and violent reaction of the security and police agencies is therefore the cause for the escalation of the violence. According to the Belarusian National Platform, about thousands of arrested, dozens of injured and few death cases among protesters have been registered.

We strongly condemn the statement made by the President of the Republic of Moldova, on behalf of the Moldovan people. On 10 August 2020, Mr. Igor DODON, congratulated Mr. Aleksandr LUKASHENKO of being elected as President of Belarus. The Moldovan President rushed to express his congratulations ignoring severe concerns about compliance with electoral standards and repressions of the peaceful protests. We consider this statement represents neither the majority of the Moldovans nor of the signatories of this statement. The people of the Republic of Moldova, in solidarity with the Belarusians, respect the highest standards and fairness of the electoral process and the right to peaceful protest.

According to the Independent Journalism Center from Moldova, the media affiliated to the president's Dodon Socialist Party, did not reflect accurately the violence and police disproportionate interventions against protesters in Belarus.

The Moldovan National Platform of the Eastern Partnership Civil Society Forum and Amnesty International express their solidarity with the Belarusian National Platform and Belarusian people and in accordance with the principles of democracy, rule of law and peaceful assembly urging the authorities of Belarus to:

- immediately stop the escalation of violence on the streets;
- immediately stop the excessive use of force and violence against protesters;
- release immediately and unconditionally all arrested protesters and all political prisoners;
- acknowledge the Presidential elections not eligible due to massive law violations;
- start negotiations with the teams of alternative candidates, opposition parties and civil society organisations about new Presidential elections being controlled by Belarusian society and international organisations;
- ensure fundamental legal safeguards for those apprehended and arrested, including access to medical care and lawyer from the very outset of the deprivation of liberty;
- to create an independent public commission based on the international good practices to continue investigations into the events followed after the presidential elections to conduct a thorough and independent investigation into all committed incidents and bring all those responsible to justice and provide redress and rehabilitation to the victims.

<https://www.eap-csf.md/en/statement-of-the-national-platform-regarding-the-political-situation-in-belarus/>

## **PUBLIC ALERT: STOP ATTACKS ON CIVIL SOCIETY IN THE REPUBLIC OF MOLDOVA!**

*October 23, 2020*

The civil society represented by the National Platform of the Eastern Partnership Civil Society Forum and other organizations is concerned about the unprecedented attacks on non-governmental organizations, development partners and democracy launched by MP Bogdan Țîrdea.

On 21 October 2020, Socialist MP Bogdan Țîrdea unleashed the toughest, most thorough and deliberate frontal attack ever made by a Moldovan politician against the Constitution of the Republic of Moldova, the fundamental rights and freedoms of the citizens of this country, and the modernization of our state in line with the European standards.

The attack employs faking and defamatory accusations to discredit civil society on the whole and targeting the organizations working in the field of human rights protection, justice reform, anticorruption, freedom of the press, pro-European reforms, and social and healthcare reforms.

**The attack borrows techniques specific to totalitarian regimes that consist in disinformation and discrediting the adversary before acting to eliminate him/her:**

1. **Depicting the adversary as the enemy of the people and the Republic of Moldova:** Bogdan Țîrdea falsely and slanderously claims that civil society acts as “an army financed from outside” that “engages in information warfare” and “works for certain donors against national interests,” all while “stating” that it fights for “democratization, monitoring, human rights”.

2. **Cultivating fears, distrust, and resentments aimed at the public enemy identified as civil society.** Bogdan Țirdea falsely and manipulatively says that civil society controls the Moldovan state.
3. **Cultivating hatred towards civil society and dividing the society, unscrupulously making use of the poverty the Republic of Moldova is confronting with:** The entire public rhetoric spouted by Bogdan Țirdea is directed to attain this result, still, his preferred methods are manipulation of financial data and erroneous and ill-intended comparisons with the budgets of public entities.
4. **Discrediting civil society and its opinion leaders by transfer of image attributes and scandals that have discredited the political class over onto them:** corruption, oligarchy, the one-billion-euro theft, where justice failed to shed light so far, thus allowing politicians to make public statements with whatever “indictments” they saw fit against their adversaries.
5. **Discrediting development partners—both countries that support the democratization of the Republic of Moldova and the European Union,** with whom our country has an [Association Agreement](#) that explicitly provides for the development of civil society and cooperation between the state and the nonprofit sector as integral elements of the development and strengthening of a rule-of-law state.
6. **Pretending that his defamatory statements are in fact the result of scientific research, which is a cover-up to prevent the legitimate denunciation of disinformation, data manipulation, and reinterpretation of reality in a false vein.** Beyond false numbers and statements about the NGOs attacked to support his theses and although he claims that he has carried out a study on the civil society of the Republic of Moldova, MP Bogdan Țirdea has never spoken about so-called “charity foundations” established by politicians and used in their election campaigns. Even the spouse of President Igor Dodon has such a foundation, and it is hardly believable that a serious scientific research could have overlooked it.
7. **Promising that this was not an isolated fit and that he will continue attacks, which is indicative of a complex and orchestrated campaign likely aimed at weakening and even destroying civil society.**
8. **Releasing a so-called book in a press conference in the full swing of the election campaign, just days before the presidential election, which serves as a diversion** to distract public attention from the recently published journalistic [investigations](#) about President Igor Dodon and to drag civil society into political strife against its will.

We, the signatories of this public alert, draw the attention of the citizens of the Republic of Moldova and foreign partners of our country that the **attack launched by MP Bogdan Țirdea is not merely an rhetorical exercise of totalitarian inspiration but an assault on the Constitution of the Republic of Moldova, the Moldovan legal framework, the rule of law, and the fundamental rights and freedoms of Moldovan citizens**, because:

1. Civil society organizations are based on citizen’s fundamental rights to opinion, freedom of expression, and association guaranteed under the [Constitution of the Republic of Moldova](#). Any citizen has the right to get involved in any cause he/she cares about. Any citizen has the right to act, to criticize, and to keep the state under scrutiny. The state is not above citizens, and citizens have the right to organize themselves into organizations to be able to act professionally and efficiently.
2. Civil society organizations must abide by a legal framework, and if they deviate from it, state institutions are empowered and must act to ensure the observance of the law. Under the law, liability is individual rather than collective.
3. Civil society organizations are meant to complement the work and expertise of the state in the fields where they are needed to ensure better services for its citizens.
4. Civil society organizations have played a key role in defending human rights, reforming the justice sector, and democratizing the Republic of Moldova to bring it closer to the European Union in accordance with the will of the majority of people of this country. If democratic reforms did not move as fast as Moldovan citizens would like them to, to get rid of poverty and the uncertainty of tomorrow, it is because of the stubbornness with which the political class has dragged them out.

5. Civil society organizations receive foreign funding to promote democracy and human rights as long as these areas are insufficiently functional in the Republic of Moldova. Once the Republic of Moldova becomes a functional democracy, foreign donors will reduce funds for these areas, as was the case of other countries that made transition from totalitarianism to democracy. It is therefore the politicians who oppose the democratization of the Republic of Moldova who send the donors the message that there is still need to support this process and civil society.
6. Civil society is a prerequisite for democracy everywhere in the world. If citizens cannot organize themselves in associations and fight for their causes, then there is no democracy in that country.
7. In fact, the money civil society attracted from donors has filled the financing gaps that the public budget of the Republic of Moldova, being sparse as it is, could never have covered, thus enabling our country to access the expertise, services, and projects that otherwise would have been impossible. Moreover, part of donor's money for NGOs went into the state budget as NGOs pay taxes and create new jobs.
8. The [Association Agreement between the Republic of Moldova and the European Union](#) explicitly provides for the strengthening of civil society. The [Eastern Partnership](#), to which the Republic of Moldova is a party, also provides for mechanisms meant to develop civil society in the region. Therefore, the state has taken on international obligations to respect and allow the development of civil society.

**Given the above, the signatories of this public alert:**

- **Call on the Parliament, the Government, the President of the Republic of Moldova, Igor Dodon, PSRM and other politicians to distance themselves from and to refute the manipulative statements made by PSRM MP Bogdan Țirdea and not to encourage or pick them up. Considering his role in the state, the stand President Igor Dodon chooses to take is essential to show publicly that he respects the Constitution and the laws of the Republic of Moldova. His stand on this subject is even more important considering that he has promoted the release of Bogdan Țirdea's so-called book.**
- **Call on the political class to stop the attacks and defamation against civil society. It is not NGOs but those who oppose democratization, justice reform, anticorruption efforts, and individual rights and freedoms who keep the Republic of Moldova in poverty and underdevelopment!**
- **Call on PSRM MP Bogdan Țirdea to stop this defamation campaign, as it uses and spreads false information, defamation, and manipulation. Call on PSRM MP Bogdan Țirdea to refute the false statements he made at the press conference of 21 October 2020.**
- **Call on the media outlets to carefully verify politicians' statements that strike at civil society, as campaign drives in full swing and the fight seems to have shifted onto the territory of fundamental freedoms. If politicians succeed in limiting freedom of association on the pretext of defending national interests and the state, all other freedoms, including freedom of expression, will be at risk.**

<https://www.eap-csf.md/en/public-alert-stop-attacks-on-civil-society-in-the-republic-of-moldova/>

**Public Statement regarding the slippages in the democratic process from December 3, 2020, committed by the new parliamentary majority PSRM, Șor Party and "Pentru Moldova" group**

*December 7, 2020*

The National Platform of the Eastern Partnership Civil Society Forum strongly condemns abuses committed by failure to comply with legal procedures of promotion of draft laws, committed by the parliamentary majority, composed of the Socialist Party of the Republic of Moldova, Șor Party, and "Pentru Moldova" group, during the plenary session of the Parliament on the December 3, 2020, namely, adoption, with flagrant violation of the legislative procedures, of draft laws of major importance to the economic, social and information security of the country. The course of events at the plenary session took the characteristics of agreements made between clans with obscure interests in power, jeopardizing the foreign relations with the strategic partners of the USA, the EU and Romania, hiding corruption schemes in the draft budget law and undermining state

security through draft laws that fuel separation on ethnic criteria, stimulates separatism and federalization of the Republic of Moldova.

Moreover, none of the draft laws were subjected to anti-corruption expertise nor consulted publicly. Likewise, the draft laws lacked the opinion of the profile parliamentary commissions and the opinion of the Government. The draft laws were voted on as a matter of urgency, although, with one exception, they do not cover urgent topics. We note that most of the decisions adopted on December 3, 2020 have the aim of undermining the role of the new President elect of the Republic of Moldova. We urge members of the Parliament to strictly respect the law, the will of the people, and to refrain from promoting initiatives which undermine the rule of law, the independence of public institutions, democracy and the country's external relations, as well as encourage the promotion of obscure schemes to the detriment of national interests and objectives. We also urge the Parliament to fully exercise its parliamentary control function, comply with the principles of decision transparency, not to accept for approval documents which have not complied with the legal procedures for consultation with the public. At the same time, state institutions must not change their subordination according to who comes to the Presidency.

At the meeting on 3 December 2020, the Parliament adopted the following main acts:

- In two readings on the same day – [the law on the transfer of SIS to the Parliament's subordination](#). The draft law was registered in Parliament by the Socialist deputies on December 1, 2020, and voted after 2 days, without the opinions of the parliamentary committees and the existence of the anti-corruption expert report, which are mandatory according to the law. The draft law was not even discussed in the Parliamentary Committee on Security and Public Order, which had to present the report in Parliament's plenary. According to the disposition of the President of the Parliament, the draft law was transferred for examination to the Legal Committee, controlled by the parliamentary majority. The haste with which this legislative initiative was adopted can only be explained by the desire of the Socialist Party of the Republic of Moldova to politically control the SIS after the loss of the presidential elections by Igor DODON. In fact, the transfer of the SIS under presidential control was also carried out at the request of the Socialist Party of the Republic of Moldova, in 2019, when the country's President was the informal leader of the party.
- In two readings during the same day – [the annulment of the 2018 act on the sale of land on which the republican stadium was located for the construction of the Embassy of USA to the Republic of Moldova](#), after it was registered in Parliament by the Socialist deputies on December 1, 2020. The draft law was also not discussed in all parliamentary committees and was not subjected to anti-corruption expertise. The project was voted without the opinion of the Government, which is mandatory for projects that may affect public revenues. The Government's opinion was also imperiously needed given that the adoption of this project could lead to a deterioration of bilateral relations with the United States. We mention that, on December 2, 2020, the Șor Party registered [in the parliament a draft law for the concession of this land](#), and after the adoption on December 3 of the law, the leader of this party, Ilan Șor, announced on social media networks his intentions to build an amusement park on this land.
- In first reading – [the amendment of the legislation on the functioning of spoken languages on the territory of the Republic of Moldova](#). This draft law, registered by the Socialist deputies on December 1, 2020, was adopted without prior discussion, in the absence of the opinion of all parliamentary commissions and anti-corruption expertise. Given that the subject of languages spoken in the Republic of Moldova is a particularly sensitive one for the society, the illegal adoption of this draft law intentionally aggravates tensions in society, apparently, with the aim to withdraw the public opinion from the real problems of the country (the pandemic crisis that is worsening, the increasing rate of poverty, corruption, etc.)
- In the first reading – [the amendment of the audiovisual legislation](#), for reduction of the mandatory volume of own broadcasted material and to exclude the interdiction to broadcast propagandistic materials from abroad. This draft law was registered by the Socialist deputies on November 23, 2020, 10 days before the approval in the first reading. This draft law was also not discussed in the profile committee (education and mass-media) and has been allocated by the President of the Parliament to be presented to the Legal Commission, controlled by the parliamentary majority.
- In the first reading – the adoption of the fiscal and budget policy, of the state budgets and of the social insurance for the year 2021. The draft laws, with a volume of several hundred pages, were published by the Government for public consultation on November 30, 2020, adopted by the Government on the same day and registered in parliament on the evening of 1 December 2020. Similar to the already established bad practice, the draft laws were not discussed in all parliamentary commissions. Deputies were given

less than 24 hours to study them. Given the importance of these draft laws, their hasty examination, even during the first lecture, when conceptual matters of the laws are discussed, has no justification.

It is also a matter of concern that, in the last period of time, deputies of the parliamentary majority have registered several draft laws in parliament aimed at reducing parliamentary democracy. Also during the plenary session on December 3, 2020, the composition of the permanent bureau of the Parliament was modified- the body that establishes the parliamentary agenda. The number of representatives of the Democratic Party of Moldova, which is now in opposition, has been reduced to ensure control of the parliamentary majority over the permanent bureau. This behavior is irresponsible and can only further degrade confidence in Parliament. [The Venice Commission](#) spoke out against reducing democracy to a simple majority: "Democracy cannot be reduced to the rule of the majority; majority rule is limited by the Constitution and by law, primarily in order to safeguard the interests of minorities. Of course, the majority steers the country during a legislative period but it must not subdue the minority; it has an obligation to respect those who lost the last elections."

<https://www.eap-csf.md/en/public-statement-regarding-the-slippages-in-the-democratic-process-from-december-3-2020-committed-by-the-new-parliamentary-majority-psrm-sor-party-and-pentru-moldova-group/>

## **PUBLIC DECLARATION on the degradation of the legislative process and the governing act in the Republic of Moldova**

*December 21, 2020*

The National Platform of the Eastern Partnership Civil Society Forum condemns the unprecedented degradation of the governing act as a result of the parliamentary majority, consisting of the Socialists Party of the Republic of Moldova, the „Sor” Political Party and the „pentru Moldova” parliamentary group, disrespect the legal procedures on promoting a series of draft legal acts. During the parliamentary plenary sessions from 3 and 16 December, grossly infringing the legislative procedures, the above mentioned political parties have adopted a list of laws that compromise the fight against corruption, undermine the public budget, endanger the relationship with the development partners and risk to destabilise the macro financial situation of the country.

Respectively, additionally to the concerns expressed in the public declaration from December 7, 2020, we would like to draw the attention of the society, the national authorities and the international community to the following toxic decisions that generate imminent risks in what concerns the financial, political, economic and social stability and security in the Republic of Moldova.

Repealing „The law on the billion theft”

- 56 members of the parliament from PSRM, the „Sor” Party and the parliamentary group „pentru Moldova” have adopted a draft law repealing the Law no.235/2016. With this vote, the mechanism through which the Ministry of Finance reimburses the National Bank of Moldova the emergency loans the National Bank lent to the three bankrupt banks (BC Banca de Economii, BC Banca Sociala and BC Unibank) throughout 2014/2015. The vote was cast through infringing all requirements related to transparency and consultations in the decision making process of the relevant authorities. Moreover, repealing the Law no.235/2016 creates imminent risks on the public finances, the macroeconomic balances in the national economy and undermines the trust of the external partners and of the international financial institutions in the state Republic of Moldova.
- Cancelling the debt of the Ministry of Finance to the National Bank of Moldova will lead to the undercapitalisation of the BNM, making it incapable to exercise its legally foreseen attributes: ensuring price stability and the trust in the national currency. This will quickly aggravate the financial position of the firms and the citizens, as well as the stability of the public finances in the context in which the Government will be forced to contract new debts in order to not allow this social crisis to escalate. Moreover, this will undermine the trust of foreign investors in our country, which will in turn make the credits and investments attractions, particularly external ones, more complicated.
- Repealing the Law no.235/2016 risks to provoke chaos in the economy and the society, but it seems this is exactly what the members of parliament had in mind in order to accomplish their narrow group interests, including saving the ones responsible for the banking fraud.

Coming back to the retirement age thresholds at 57 for women and 62 for men

- The Parliament adopted in second reading the draft Law on amending the Law no. 156/1998 on the public pension system (art.41, 42). The essence of this law is to reduce the retirement age to the same levels as in 2016, when the process of gradual increase of the retirement age was initiated (57 years old for women and 62 for men).
- Although the draft law concerns an issue with a massive social and budgetary impact, it was promoted under circumstances of total lack of transparency, in the absence of any kind of public consultations and without obtaining all the mandatory endorsements from the institutions involved, particularly referring to the Government. The timeline from the registration of the draft Law in the Parliament to its adoption constituted a mere 6 days. The superficiality of the briefing note on the draft Law particularly stands out, as it provides ZERO calculations on the budgetary impact of this draft Law, although the implementation of this measure could lead to the collapse of the public pensions system.
- Even the simplest and most conservative calculations show that only for the year 2020, an additional 1,4 – 1,5 billion MDL would be additionally necessary, and for the following years, the pressure on the budget will increase several times, provided the increase in the number of persons that will reach the decreased retirement age.
- In other words, the conjunction parliamentary majority PSRM-„Sor” Party has votes for the decrease of the retirement age without communicating to the society the costs implied by this reform, which can be dramatically reflected in the following: i) increase of the tax burden on firms and employees through a substantial enhancement of the social contributions, ii) ceasing any potential increases in the pensions and even their forced reduction, in order to maintain the capacity to actually pay them, iii) a maximum level of limitations in investments from the state budget in order to compensate, through transfers, the deficit of the pensions’ fund.
- Although the pension system reform from 2016 was not a perfect one, it allowed the recalculations/updating/valorisation of the pensions for more categories of retired persons. This led to an increase in the average pension from 1275 to 2050 MDL during a period of 4 years, and in the lack of this reform, the average pension today would be 500 MDL lower. If in December 2016, the monthly expenditures of the pension fund were at 881 million MDL, in September 2020, their volume was 61% larger (1,4 billion MDL). The authors of the draft law presented examples on the retirement age from states that are situated in other geographical zones or with a demographic situation radically different than in the Republic of Moldova, for example – Sri Lanka, but they forgot to mention that in the majority of the states in the region, the ageing population phenomenon led to implementing the reform on the increase of the retirement age, even including in the Russian Federation, used often by PSRM as a point of reference, where currently there is an ongoing reform to increase the retirement age from 55 to 60 for women and from 60 to 65, for men.
- In conclusion, by adopting this populist draft Law, which is also not covered by budgetary means, the PASRM-„Sor” Party MPs provided the population with the false illusion that they would retire earlier, but they keep quiet about how this will condemn the retired persons to miserable pensions and an uncertain and insecure old age.
- Moreover, cancelling the pension reform jeopardises the potential of the Government of the Republic of Moldova to access external funds from the International Monetary Fund, the European Union and other development partners.

Adoption of the fiscal and customs Policy (and the Law on the 2021 State Budget) by the Parliament

- The most important annual decision of the Parliament – adopting the fiscal/customs policy (Law no.476 from 1 December 2020) and the Law on the state budget – took place this year in the complete absence of the minimum mandatory procedures on transparency, lack of consultations and also included provisions that promote narrow political interests. During the period of the State Budget adoption (October-December 2020), the Parliament is obliged to ensure a sufficient level of informing, consulting and participation, in order to ensure that this document responds to existent priorities, but particularly, to ensure parliamentary oversight on how the public money is spent.
- The draft fiscal/customs Policy and the 2021 State Budget law were submitted to the Parliament by the government on December 1, 2020 and on these legal acts there were no genuine parliamentary

discussions organised, the act openly promoting political clientelism. All this also took place under circumstances when there is a lack of expenditures coverage, with gross violations of the Law on public finances, the budgetary-fiscal responsibility and the Parliament Regulation. One of the most eloquent examples is the distribution, foreseen at Annex 7 of the State Budget Law, of over 350 million MDL, under a dangerous political discrimination discretion.

- Aside from the fact that this is a bad example of deliberative power abuse of the state, the Parliament gave an extremely dangerous signal on the rule of law principles, when the abuse of the majority is legalised, reducing all good governance and proper budgetary resources management efforts made since 2009 forward to zero. More serious is the fact that provided the pandemic situation and the crises associated with it, the amendments operated in the Parliament do not provide any solutions to the current issues of the country: increase of the unemployment rate, the severe difficulties of the health system, education, the real sector of the economy.
- The issue regarding the capping of local taxes remains a controversial topic, in the lack of a genuine dialogue and a platform that would analyse the limitations set by these caps for the local authorities, as well as a profound misunderstanding of what the local public authorities' autonomy stands for. Ignoring the common interest of the local authorities by the members of the parliament, makes us believe that they seem to have forgotten that being elected in a constituency means they should represent their constituents needs and interests in the legislative body.

#### Amending the Law no.278/2007 on tobacco control

- The amendments operated to the Law no.278/2007 on tobacco control and the amendments operated to this article in the budgetary-fiscal policy does not represent something other than a special mechanism to tax cigarettes. There is no reason explaining why for this new type of cigarettes – „cigarillos” – the excise duty paid should be at least twice less than the excise duty on the cheapest cigarettes from the national market. This product is as harmful as any other tobacco product, with the same toxicity level and can cause addiction, it is not a „social product” and the explanation that this amendment corresponds to the European acquis is false.

#### Amending the operational framework of the National Integrity Authority

- The Parliament adopted, in two reading, on the same day, a draft law that amends the legal framework for operation of the National Integrity Authority. The draft law was initiated on December 4, 2020, less than two weeks prior to its adoption, by a group of socialist MPs. Additional problematic provisions have been inserted in the bill in the very day of its adoption.
- The draft Law reduced the time-limit for carrying out controls on assets and personal interests from 3 years to 1 year from the end of the mandate of the public employee; brings confusion as to the time-limit for challenging the acts of the National Integrity Authority and conditions the disciplinary liability for not declaring assets and wealth by the existence of a final act issued by the National Integrity Authority; makes it impossible to dismiss a public servant for the failure to declare assets, for incompatibility or conflict of interests after more than one year from the misconduct and heavily complicates the criminal procedures into the same deeds.
- In essence, the draft reduces the possibility of ANI to verify civil servants and introduces an even greater chaos in the procedure on investigating the assets and sanctioning the public servants and makes their dismissal for the breach of the integrity legislation almost impossible. This is per se an act difficult to accept, in a state that openly declares the fight against corruption as an absolute priority. Although this draft Law is not referring to a burning issue, it was adopted in a great rush. The voting on the bill was carried out with infringements on legal procedures (the lack of the Government opinion and of the anti-corruption expertise) and without conducting public consultations. The rush in which such a sensitive draft act was voted reveal the existence of hidden interests.

#### Amendments in the pharmaceutical field

- The legal amendments operated on December 16 by the PSRM-„Sor” Party in the medicine and pharmaceutical fields, adopted in the absence of a consensus and without carrying out consultations with the pharmaceutical community from the country and which have, de facto, removed from the normal rigorous control the pharmaceutical activity will undermine this sector and will directly affect people's health.

- Liberalising the prices for medication obtained without a doctor's prescription can inevitably lead to the increase of prices on the market, which even currently is far from being a transparent one, operating under proper competition environment, while imitating the commercial excess for compensated medication to up to 12% will lead to the gradual disappearance from the drug stores of these types of medication, provided the lack of certain economic interest in activating in such circumstances, particularly for small pharmacies, without scale savings.
- The distracting changes introduced for this sector, however, do not stop here. The amendment that will allow the sale in the Republic of Moldova of medication unauthorised in their country of origin, that did not complete the conformity and harmless tests, as well as introducing the possibility to sell medication outside pharmacies creates all necessary premises that the population start to largely purchase dubious products that could have potential serious consequences on their health. Additionally, the possibility to sell medication in the so-called mobile pharmacies was added, and it is obvious that the optimum conditions for storing medication will not be ensured. Moreover, these medications will be sold by persons who do not hold special preparation in this regard, and the impossibility to effectively monitor these units of transportation widely available for the public also opens the door to the possibility to freely sale fake and counterfeited medication.
- In conclusion, we can say that guided by populist electoral promises and narrow business interests, the parliamentary majority formed of PSRM – „Sor” Party MPs exposes to great risks without any hesitation even people's health in order to accomplish their own interests.

In the context of the above-mentioned:

- **We qualify** these and other concerted actions of the members of parliament representing the parliamentary majority PSRM, the „Sor” Party and the „pentru Moldova” group as institutional sabotage aiming to destabilise the macroeconomic, economic and social situation in the Republic of Moldova, in an irrecoverable way with negative effects on many years to come ahead.
- **We require** the Members of Parliament to notify the Constitutional Court in what concerns the constitutionality of the acts adopted by the Parliament of the Republic of Moldova, taking into account the infringements and the serious procedural errors admitted in the process. The respective legal acts were hastily adopted, without carrying out public consultation, most of them lacking the mandatory endorsements from the competent institutions.
- **We require** insistently that the Members of the Parliament strictly respect the law, the people's will and abstain from promoting initiatives that undermine the rule of law, the independence of public institutions, democracy and the country's external relations, as well as encourage the promotion of obscure schemes in the detriment of national interests and objectives.
- **We urge** the Parliament of the Republic of Moldova to fully exercise its parliamentary oversight function, to respect the principles of transparency in the decision making process, to not accept for analysis and adoption legal acts that were drafted without any consideration for the respect of legal procedures on consulting the public.

<https://www.eap-csf.md/en/ro-declaratia-publica-a-platfomei-nationale-privind-degradarea-procesului-legislativ-si-actului-de-guvernare-in-republica-moldova/>

## **PUBLIC STATEMENT: The attacks against the EU Ambassador Peter Michalko are a diversion!**

*February 26, 2021*

The National Platform of the Eastern Partnership Civil Society Forum expresses its solidarity with the EU Ambassador Peter MICHALKO and demands the political parties to refrain from turning European diplomats into political targets, focusing instead on finding democratic solutions to the political crisis, in accordance with the interests of the citizens.

The ȘOR Party, in the person of the fugitive MP Ilan ȘOR, and the Party of Socialists of the Republic of Moldova (PSRM), have recently launched attacks on the EU Ambassador to the Republic of Moldova, Peter MICHALKO, in order to divert the attention from their undemocratic and unconstitutional maneuvers to retain the power after the loss of the presidential elections by Igor DODON.

The two parties blame the European diplomat for the various opinions he had and allege a so-called violation of the country's "sovereignty". In reality, it is a diversion: both the ȘOR party and PSRM seem rather concerned with securing a sovereign power in order to control state institutions, despite the fact that they have lost the support of the electorate.

Ambassador Peter MICHALKO spoke from the position of the partnership and collaboration relationship between the European Union and the Republic of Moldova. In addition to the Association Agreement with the EU, signed by the Republic of Moldova in 2014, which includes a series of obligations on both sides, the EU is in a position of partnership in many other respects:

- Since 2009, the EU is the largest donor and development partner of the Republic of Moldova, contributing through Official External Assistance with about 1.12 billion euros, resources that went directly to the state budget;
- In addition, technical assistance projects have been implemented for central and local public authorities, civil society, and businesses. These investments resulted in 700 kilometers of roads, modern trolleybuses for Chisinau and Balti, access to drinking water for 16,000 people; thousands of jobs;
- The EU is the main trading partner of the Republic of Moldova, with 67% of exports in 2020.

Cooperation with the EU and respect for European standards and values actually strengthens the sovereignty of the Republic of Moldova and its economic, social and democratic development.

<https://www.eap-csf.md/en/public-statement-the-attacks-against-the-eu-ambassador-peter-michalko-are-a-diversion/>

## **PUBLIC APPEAL of the National Platform of the Eastern Partnership Civil Society Forum on the attempt of abuse of state power by a group of MPs in the Parliament of the Republic of Moldova**

*April 23, 2021*

The Constitution of the Republic of Moldova is the Supreme Law of the state. No law and no other legal act contrary to the provisions of the Constitution has legal force;

*We urge* the Parliament of the Republic of Moldova and other political actors to refrain from unfounded attacks on the Constitutional Court and judges, as they promote a culture incompatible with the values of the rule of law. The Constitution of the Republic of Moldova is the supreme law of the society and the state, the observance of which is an axiom, and the decisions of the Constitutional Court, including the above-mentioned opinion, are final and cannot be challenged.

*We find* that the actions taken by the parliamentary majority by approving the Parliament Decision on withdrawing the vote of confidence to Ms. Domnica Manole, President and Judge of the Constitutional Court are contrary to the Constitution, the Law on the Constitutional Court, Constitutional Court Decision no. 8/2013 and constitutes the elements of the abuse of state power. At the same time, the approval on the same day, one hour after the decision of the Parliament, appointing another judge to the Constitutional Court, knowing the requirements on how the mandate of a judge in the Constitutional Court is revoked, demonstrates the intention of the parliamentary majority to abuse the state power.

*We support* the decision of the President of the Republic of Moldova to convene the Supreme Security Council in order to discuss and take immediate action by the competent authorities that are required to stop illegal actions against the Constitution and state power.

*We urge* the Prosecutor General to take the necessary action to ensure compliance with the law and the immediate stop of illegal actions of the Parliament majority. We consider that the actions of the Parliament and of the parliamentary majority constitute the elements of the crime of abuse of state power provided by article 339 of the Criminal Code.

*We call* on development partners and diplomatic missions accredited to the Republic of Moldova, the Council of Europe and Delegation of the European Union to the Republic of Moldova to react promptly to these actions of abuse of state power and blatant violation of the Constitution of the Republic of Moldova, including the independence of the Constitutional Court.

<https://eap-csf.eu/project/public-appeal-of-the-moldovan-np-the-attempt-of-abuse-of-state-power-by-a-group-of-mps/>

## **Public Call to the Broadcasting Council: We call on the public authority to fulfill in good faith its obligation of ensuring the public interest in the audiovisual area**

*July 6, 2021*

In the context of the poor administrative practices of the Broadcasting Council, developed during the exercise of its functional tasks during the election period for the early parliamentary elections of 11 July 2021, The Civic Coalition for Free and Fair Elections, National Platform of the Eastern Partnership Civil Society Forum and media NGOs, signatories to this appeal:

- Underline the primordial role of the Broadcasting Council (BC) in promoting and protecting **the public interest** for ensuring a pluralistic and objective information of the population — an interest that is higher than the political, economic, commercial, ideological or other interests.
- Recall that, according to the legal provisions, BC is the **warrantor of the public interest** in the audiovisual area;
- Note that the current legislation offers the BC public authority extensive legal mechanisms to exercise duties of supervision and control of audiovisual media service providers' compliance with the law;
- Denote the unacceptability of tolerating the conduct of providers who **blatantly disregard** the provisions of the Audiovisual Media Services Code, Audiovisual Media Content Regulation and Regulation on the coverage of election campaign for early parliamentary elections of 11 July 2021;
- Underline the prejudicial nature of certain audiovisual media service providers' actions and note that they severely violate the constitutional right to provide correct information to all citizens, as guaranteed by law;
- Regard as regrettable the practice of BC's unjustified invocation of freedom of expression as a pretext for protecting certain providers from sanctions. As a human value, freedom of speech has limits to remain a value;
- Deeply regret the arbitrary BC's denials to monitor the behavior of providers during the whole election period and the reluctance to review the complaints filed by individuals and civil society members that report serious violations;
- Express bewilderment regarding the unjustified and unexplainable authority's tolerance towards the providers who covered the election campaign during the early parliamentary elections, evidently and certainly flouting the provisions of the law in force;

### **We call on the Broadcasting Council, by the virtue of its duties envisioned by law:**

- To carry out its supervision and control tasks with maximum diligence and in good faith;
- To order monitoring of the conduct of audiovisual media services providers throughout the election period;
- To react promptly and effectively to detected cases of derogation from the audiovisual media legislation;
- Not to allow disregarding the efforts of its own Monitoring Department by neglecting serious deviations committed by some providers, reflected in Broadcasting Council's own monitoring reports;
- To prioritize the public interest for ensuring correct and objective information of the population and to address the harmful administrative practice developed during the election period for the early parliamentary elections of 11 July 2021.

<http://www.media-azi.md/en/stiri/public-call-broadcasting-council-we-call-public-authority-fulfill-good-faith-its-obligation>

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<sup>i</sup> <https://stiri.md/article/politica/raspunsul-oficial-al-turciei-la-cererea-de-extradare-a-lui-plahotniuc>