



## Executive Summary

### **Public procurement compliance audit: how are the recommendations of the Court of Accounts implemented?**

*The aim of the monitoring* is to analyse the implementation of the recommendations of the Court of Accounts (CCRM) issued following the audits of public procurements taken place in 2020-2021, to identify the problems and formulate recommendations for improvement.

*Methodological aspects.* The study includes the results of monitored the implementation of the recommendations from 6 decisions of the CCRM regarding the compliance of public procurements - about 60% of the total recommendations issued by the Court on the subject in question in 2020-2021. For this purpose, requests for information were sent to the audited entities, CNA, PG, ANI, CCRM and the State Chancellery (CS), the data from the website of the CCRM were analyzed, as well as the content of the web pages of the audited entities was examined. Also, a meeting was organized with the CCRM representatives, who provided a series of information about the implementation of the Court's recommendations. For each HCC monitored, a summary table was prepared that includes the brief findings of the audit mission, the recommendations addressed to the audited entities, the measures taken by the entities, the Court's comments regarding the implementation of the recommendations. Data collection period: June – September 2022.

### **Main findings of the study**

*Irregularities found by CCRM and recommendations issued:* in 2020-2021 CCRM carried out a series of public procurement compliance audits in ministries and subordinate entities, drawing attention to the imperfect regulatory framework, especially that related to low-value procurements, the reduced functionality of SIA MTender, as well as the systemic deviations admitted by entities at all stages of procurement (in this case, faulty procurement planning; failure to update annual procurement plans and their publication; failure to update internal documents regarding the activity of procurement working groups; restrictive drafting of award documentation; failure to ensure monitoring of procurement contracts; conclusion of additional agreements, with the increase in the volume of purchases; irregular payment of advance payments; failure to request the guarantee of good execution from the winning economic agents; division of public procurement contracts). To remedy the irregularities, the CCRM issued about 260 recommendations related to the improvement of the normative framework; improvement of SIA MTender; strengthening the planning, implementation and monitoring capacities of the procurement process in the audited entities.

*Actions taken to implement CCRM recommendations:* In order to find out what actions the audited entities took, TI-Moldova sent 13 requests for information to the Ministry of Health, MEI, MF, MEC, MC, MAEIE, MA, MDRI, AAP, CNAM, the Republican Hospital, the Mother and Child Institute, the

Oncologically, about 1/3 of requests remain unanswered (MAEIE, MC, MS, Mother and Child Institute). Some answers were superficial, without any supporting documents (MEC). Consistent information was provided by MDRI, MF, ME and CNAM.

The analysis of the data on the CCRM web page, the Audit/Audit reports section, shows that although the deadline for the implementation of the monitored HCC recommendations has expired, in about 1/2 of them no data is inserted about the measures taken by the entities (possibly the information was not sent to the Court's address). Among the entities that did not submit information to several recommendations are MC, MEC, MAEIE, the reorganization of MECC in 2021 could be a cause of procrastinating the answers. Some actions reported by the entities are promises to carry out the recommendations, e.g., "During the implementation of the recommendation, the compliant and correct documentation of the needs for each category of goods, works and services will be ensured" or "The identification and designation of those responsible for monitoring the terms of delivery of goods and services, as well as the calculation of penalties". Entities unevenly informed the CCRM about the implementation of some of the same recommendations: some presented only a plan/list of actions undertaken, others also provided copies of supporting documents (orders, internal procedures, regulations). It is worth noting that some information about the implementation of the recommendations by the audited entities is not placed on the CCRM web page, even if their answers provided to TI-Moldova certify that the information was sent to the Court.

***The level of implementation of the recommendations assessed by the CCRM:*** Although the deadlines for the implementation of the monitored HCC recommendations have expired, the level of their implementation is quite low: only about 1/3 of the recommendations have been implemented, over half (56%) - the others have not been implemented either (7% ) – partially implemented. In the profile of the monitored decisions, the best situation is attested to the implementation of the recommendations from HCC 57/2020 regarding the results of public procurement compliance audits at MSMPS, all of which are considered by CCRM as implemented. The worst situation is when implementing the recommendations from HCC 54/2021 and HCC 17/2021 regarding public procurement compliance in MECC and MEI (respectively 89% and 79% of the recommendations were considered not implemented), the reorganization of these ministries in 2021 could be a cause of the delay of this process.

***The presence of information about the results of CCRM audits on the web pages of the audited entities:*** The analysis of the content of the web pages of the audited ministries and subordinate entities shows that, in most cases, they do not contain any information about the results of the audits and the measures taken to implement the recommendations of the Court (MEC, MC, MA, ME, MDRI, MAEIE). HCC 57/2020, the Court's respective report and the letter of the Ministry of Health regarding the implementation of the Court's recommendations are placed on the website of the MoH (without any confirmatory documents referred to in the letter). The website of the Ministry of Finance, under the heading *Controls carried out within the Ministry of Finance*, contains a list of the audit reports of the CCRM from 2018-2021, with redirection to the website of the CCRM, where part of the information presented by the ministry in confirming the implementation of these decisions.

***CCRM communication/collaboration with public authorities, the State Chancellery and the Parliament:*** CCRM undertook a series of measures to improve communication with public authorities, including launching a new tool for managing the process of implementing

recommendations (SIA "CCRM Audit"). *There is a positive dynamic in communication and cooperation with the State Chancellery, about 15% of the measures provided for in the Government's Action Plan for 2022 being introduced at the Court's proposal. CCRM representatives plead for a improvement of communication between CCRM, SC and the audited entities, which would streamline the flow of information and boost the implementation of the Court's recommendations.*

*Communication and cooperation with the Parliament became more active with the creation of the Public Finance Control Commission (CCFP). The content of the Commission's reports placed on the Parliament's web page basically repeats the findings of the Court of Accounts following the audit missions, the decision-making part being limited, as a rule, only to taking an attitude towards the Court's findings and the recommendation addressed to the Court to monitor and evaluate the level of execution of its decisions. Such an approach seems quite formal, since the CCRM will anyway monitor the implementation of the recommendations based on Law 260/2017, carrying out this process based on an internal regulation. The CCFP could confer added value to the process of examining the Court's reports, including coming up with measures to hold accountable the leaders of public entities that do not implement the Court's recommendations and supporting the changes in the legal framework. Considering the specific nature of the CCFP activity, it would be desirable to delegate, especially, persons with economic and legal studies to its composition. The appointment as a member of the Commission of Ilan Şor, the fugitive deputy sentenced by the first instance to seven years and six months in prison for fraud and money laundering, is more than a defiance of common sense.*

*Even if an important part of the HCC was discussed at the CCFP meetings in 2021-2022, the annual activity report of the CCRM and the report on the administration and use of public financial resources and public patrimony were not heard in the plenary session of the Parliament.*

***The reaction of the legal authorities to the CCRM documents sent for examination and notification.***  
*In the period 2020 - the first semester of 2022, PG, CNA, ANI received from CCRM about 40 audit reports for examination and self-notification. Based on these materials, PG initiated 21 criminal cases, CNA – 1, and ANI initiated a control regarding compliance with the legal regime of conflicts of interest. The criminal cases referred to crimes such as abuse of power or abuse of office, embezzlement of foreign property, excess of power or exceeding the duties of office, money laundering, etc. and targeted public persons from public authorities, state and municipal enterprises. In 2021, only one criminal case was sent to the court.*

*Although the Interdepartmental Cooperation Council between the CCRM and law enforcement bodies was created back in 2014, little is known about its activity, the information on the CCRM web page being brief. From 2019 until now, only one meeting of the Council has taken place, even if the Court has carried out multiple audits, the results of which have raised many suspicions and questions in society regarding the possible fraud of money and public patrimony. A year ago, being summoned to assess the efficiency of the Council's activity, the anti-corruption authorities/experts noted that this body is useful, but not very efficient, its capacities not being used to their fair value. Previously, the problems of the functioning of the Council were noticed by the experts, as solutions to make the activity more efficient, the accountability of the members of the Council being invoked, including by checking the efficiency of their activity and by periodic change.*

## Recommendations

Based on the findings of this study, it is appropriate to take the following measures:

- Improvement of the communication process between the CCRM, the State Chancellery and the audited entities;
- More active training of the State Chancellery in observing the implementation of CCRM recommendations, in this case: preventing formal/superficial responses of the audited entities to the Court; insisting on the presentation of conclusive supporting documents; the promotion of good practices for the implementation of CCRM recommendations among the entities in the field of competence;
- Dissemination by the ministries of good practices/experiences in the development and application of internal rules/procedures related to public procurement in subordinate public entities;
- Analysis of the situation regarding the implementation of the CCRM recommendations related to public procurement at the meeting of the Parliamentary Commission for the Control of Public Finances in order to take a stand on the problems that have not been remedied for a long time and make responsible the decision-makers in the audited entities;
- Further transparency of the HCC implementation process, including the development of the Audit Mission Statistics module/implementation of the recommendations submitted to the authorities on the CCRM web page, ensuring civil society and mass media access to the "CCRM Audit" SIA;
- Uploading on the web pages of the ministries information about the results of CCRM audits, the measures taken to implement its recommendations, with possible redirection to the web page of the Court;
- Increasing the contribution of the Public Finance Control Commission in the process of examining the CCRM reports, including the accountability of the decision-makers of the audited entities, supporting legal initiatives;
- The hearing, in the plenary session of the Parliament, of the annual activity report of the CCRM, as well as the report on the administration and use of public financial resources and public patrimony;
- Updating the Regulation of the Court of Accounts regarding the procedures applied in case of identification/determination by the auditors of the risk of fraud/corruption in order to comply with the legal framework in force;
- Revising the activity concept of the CCRM Cooperation Council with law enforcement bodies with a view to better communication between members and an effective contribution to the identification, reporting and sanctioning of fraud and corruption;
- Ensuring transparency on the activity of the CCRM Cooperation Council with legal bodies (placing on the CCRM web page the operating regulations and its composition; inclusion of information about its operation in the annual activity report of the CCRM).

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