

European Integration: One Step Forward and Two Steps Back?

PROGRESS REPORT REGARDING THE IMPLEMENTATION OF THE EU-MOLDOVA ACTION PLAN FOR 2005-2012

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Note:

The authors have drafted this report in good faith and with good intentions. The authors are solely responsible for the statements and conclusions expressed herein, which are not necessarily shared by the Soros Foundation Moldova, Government of the Republic of Moldova or other institutions mentioned in this report.

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■ Democracy and Rule of Law: Modest progress (2.3 points out of 5)

(1) Strengthening the stability and effectiveness of institutions guaranteeing democracy and the rule of law.

Democratic institutions

If Moldova's efforts on political dialogue have intensified during the end of the EUMAP implementation period, then the biggest progresses related to the democratic institutions were achieved by Chisinau during the period between March 2005 and March 2007, with a certain dose of approximation. After March 2007 the reforms in this area slowed down. In some segments the democratic transformations came to a dead end, and in others, such as freedom of the media, they even retrograded. The interruption occurred in the reform process was determined by the electoral campaign of 2007 for local governments. Then the revolt of 7 April 2009 followed - consequence of the degrading elections system, which manifested during the ordinary parliamentary elections, scheduled for 5 April 2009. Since the Alliance for European Integration (AEI) came to power the Republic of Moldova witnessed a long period of political instability, which undermined the country's European course, in spite of the implementation of a number of reforms stipulated in the documents signed with the EU.

Electoral process

The reforms of democratic institutions did not return to a satisfactory rate even after the completion of the 2007 local elections. The treatment of a number of opposition parties during the electoral campaign, the results of the local elections and the eroded informal "political partnership" between the Party of Communists of the Republic of Moldova (PCRM), the governing parties and the opposition parties were the main factors that impacted the reform process. The competition for the leadership positions after the 2007 local elections worsened even more the contradictions between the political factions, which affected the state of democratic institutions of the Republic of Moldova. Besides the electoral campaign, another important factor that affected the construction of "political partnership" was the insufficiently transparent direct negotiations between Chisinau and Moscow on the Transnistrian issue. The situation improved significantly when the Alliance for European Integration (AEI) came to power, but it worsened quickly because of the misunderstandings between the allied parties and the corruption-related scandals.

The ordinary Parliamentary elections of 5 April 2009 were marred by the pressures imposed by the governing party on the opposition. During the electoral campaign the national observers found many violations of the electoral legislation, such as: intimidation, pressures, aggression and differentiated treatment of some electoral competitors and their representatives by the law enforcement and control bodies, central and local authorities, supporters of the electoral competitors; abusive influence on voters; use of administrative resources during the electoral campaign; pressures on the civil society; biased media coverage of the electoral competitors¹. For the early elections of 29 July 2009 the Parliament decreased the electoral threshold for parties from 6 to 5%. The threshold for participation in the early elections was decreased from 1/2 to 1/3 of the number of voters on the electoral lists, and if the elections are declared non-valid because of low participation of voters, the participation (validation) threshold for the repeated elections shall be annulled². The Council of Europe and European Union welcomed these changes, but mentioned that the electoral legislation needed for the improved further.

In 2010 the Electoral Code was amended according to the recommendations of the Venice Commission³. After canceling the restrictions prohibiting citizens with double citizenships to run for the position of Member of Parliament⁴ and establishment of electoral blocks⁵, in June 2010 the Electoral Code was subject to some major amendments⁶. The main amendments refer to creating additional possibilities for overseas voting, decreasing the possibilities for multiple voting, limiting the possibilities to dismiss members of electoral bodies, regulating the written and electronic media, decreasing the restrictions limiting the detainees' right to

¹ LADOM reports on the monitoring of Parliamentary elections. Parliamentary elections 2009, www.ladom.org.md.

² Law no. 25-XVII of 15.06.2009.

³ <http://www.venice.coe.int>, Joint opinion No 484/2008 of the Venice Commission on the Electoral Code of Moldova as of 10 April 2008, dated 23.10.2008.

⁴ Law No 125 of 23.12.2009.

⁵ Law No 131-XVIII of 23.12.2009.

⁶ Law No 119 of 18.06.2010.

vote, limiting the possibilities to reject the registration of observers, etc.⁷ Though the amendments improved considerably the Electoral Code, decreasing a number of disparities and/or gaps, and were commended by the Venice Commission, the amended Electoral Code still contains some deficient legal regulations⁸.

Judicial system

In spite of a lengthy judiciary reform, there are still severe deficiencies in the judiciary system, which affect the different parties to lawsuits. That is why all opinion polls reveal a low trust of the population in justice (during the past two years only 20-30% respondents reported to have trust in the judiciary system). An assessment of the reforms in justice, implemented after EUMAP was signed and until 2011, when a new justice reform strategy was approved, revealed that most activities were fragmented due to the lack of a complex and well justified concept or strategy, which would define the overall principles, goals and outcomes of such a reform. The initial criteria and principles, stated by the Concept Paper on the Judiciary and Legal Reform⁹ were changed and re-adjusted to the objective or subjective needs, without approving a new Concept (Strategy) Paper.

Various programs and strategies adopted during 2005-2007 included distinct component of the judiciary reform¹⁰, but only in July 2007 the Parliament adopted the Strategy for Strengthening the Judiciary System and an Action Plan for its implementation¹¹. This document has several gaps: no specific deadlines; vague indicators; failure to allocate proper human, financial and technical resources; no provision on the appointment of a coordinating/monitoring body; no institutionalized mechanisms to monitor independently the implementation, etc. After the Alliance for European Integration (AEI) came to power, a series of reforms were initiated in the second half of 2009, as stipulated in the Governing Plan, which were reflected in the new Justice Sector Reform Strategy, adopted in 2011.

Strengthening Justice in Moldova under EUMAP

EUMAP states as a special priority „further reinforcing [...] judicial capacity” and includes as a basic task to „strengthen law enforcement by increasing the efficiency of judiciary and the law protection bodies”. Similarly to other EUMAP areas, visible developments were made in relation to *reviewing the existing legislation and adoption of new regulations*. For that laws in the following areas were reviewed: on the status of judges; judiciary organization; establishment and operation of the Superior Council of Magistracy (SCM); disciplinary college and disciplinary accountability of judges; Agent of the Republic of Moldova Government before the ECHR¹² etc. Though with significant delays in most cases, during the EUMAP implementation period (2005-2008) new important legal acts were developed and implemented (with certain exceptions:

- Enforcement Code (Law No 443-XV of 24.12.2004) and Law No 204-XVI of 06.07.2006 on the Foreclosure System;
- Law No 152-XVI of 08.06.2006 on the National Institute of Justice;
- Law No 333-XVI of 10.11.2006 on the Status of the Criminal Investigation Officer;
- Law No 59-XVI of 15.03.2007 on the Status and Organization of the Work of Court Clerks;
- Law No 198-XVI of 26.07.2007 on the State Guaranteed Legal Aid;
- Law No 371-XVI of 01.12.2006 on International Legal Aid for Criminal Cases;
- Law No 134-XVI of 14.06.2007 on Mediation, etc.

Approval of the legislation (Law No 152-XVI of 08.06.2006) and the organizational measures taken to start the work of the *National Institute of Justice* set the preconditions for the competition-based employment in justice and prosecution. NIJ provided ongoing training on the basis of approved programs and plans, offering

⁷ For more information see Gurin C and Botan I, “Recommendations of international institutions regarding the electoral law and procedures in the Republic of Moldova”, Chisinau, 2010, www.e-democracy.md.

⁸ <http://www.venice.coe.int>, Joint Opinion No 576 / 2010 of the Commission regarding the draft Law amending the Electoral Code of 7 June 2010. It refers to several provisions, including offering to the military staff in active service the right to vote at the local elections, ensuring the representation of national minorities in the elected institutions and the possibility to establish regional political parties, etc.

⁹ PD No 125-XIII of 21.06.1994.

¹⁰ National Action Plan on Human Rights (PD No 415-XV of 24.10.2003); National Anti-Corruption Strategy (PD No 421/2004); Individual Partnership Action Plan Moldova - NATO (GD No 774/2006, No 1506/2006); Action Plan under “Millennium Challenges” Program (GD No 32/11.01.2007); Action Plan to Implement the Joint Program of EC and CoE (GD No 959/22.08.2007); Action Plan to Ensure Observance of the Right to Petition, Information and Access to Justice (GD No 1013/12.09.2007) etc.

¹¹ PD No 174-XVI of 19.07.2007.

¹² Laws No 174-XVI of 22.07.2005, 247-XVI of 21.07.2006, 399-XVI of 14.12.2006 and 185-XVI of 26.07.2007; Law No 48-XVI of 09.03.2006.

ongoing training courses for judges and court staff in administrative management, efficient management of the court budget, performance standards for courts, judicial ethics, and others.

The *organizational-administrative aspects in judiciary* were settled by: establishing the Department for Judiciary Administration¹³; approving the standard structure for the office of courts of law and courts of appeals (MoJ Order No 275 of 16.07.2007); reviewing the possibilities to transfer some duties to the auxiliary court staff. Measures were taken to computerize the judiciary system and relevant concepts were approved for that¹⁴. Law No 15-XVI of 03.02.2009 adopted legislative amendments aimed at ensuring transparency of lawsuits, audio-video taping of court hearings and facilitation of parties' access to hearings meetings. Access to legal databases improved, electronic databases (Moldlex) were installed in courts of law, access by Internet to the national legislation and ECHR case law (www.justice.md); measures were taken to enhance the transparency and prevent corruption in the system¹⁵; special attention was paid to the problems hindering the enforcement of court judgments¹⁶.

A series of reforms were initiated once the Alliance for European Integration (AEI) came to power, as planned in the Government Program, but they mainly focused on emergency measures to prevent violations of human rights. Parliament Statement on the State of Justice in the Republic of Moldova (PD No 53/30.10.2009) urged courts of law to carry out appropriate measures to implement the Parliament Decision No.72/28.03.2008 regarding the hearings on the decisions of the European Court of Human Rights in relation to the Republic of Moldova¹⁷. Then a law was adopted to reform the Bar, the modus operandi and structure of the Prosecutor's Office was changed¹⁸; legal amendments were approved to streamline the court judgments enforcement (free access to state registers)¹⁹; Concept on the Financing of the Judiciary System (PD No 39 of 18.03.2010), supported by the Action Plan for the implementation of the Concept on the Financing of the Judiciary System (GD No 803/07.09.2010).

After the early elections of 28 November 2010 the AEI reinforced its positions, strengthening the efforts of legal framework enhancement. Law No 87 of 21.04.2011 was approved on repair by the state of the damage caused by the violation of the right to court proceedings within a reasonable period of time or the right to enforcement of court judgment within a reasonable period of time. Measures were carried out to ensure high level coordination of the reform and the work of the National Council for the Reform of Law Protection Bodies, established by the Decree of the President of the Republic of Moldova No 134-VI of 19.05.2011. Thus, efforts made in this area aimed at developing and approving some legislative acts for the implementation of the Government Program²⁰ and focused on the development and approval of some strategic papers²¹. In late 2011 the Justice Sector Reform Strategy for 2011-2016 was approved, which will be implemented via means of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011-2016²².

The main justice reform efforts focused on the development and enhancement of the legislative-regulatory framework, with the Parliament approving important laws:

- packages of laws for the civil and criminal procedural reform (separation of phases, detention period, review of the judgment on criminal cases after the ECHR decision)²³;
- on amendments and addenda to the legislative framework for the organization and modus operandi of the judiciary system (organization and management of courts of law, modus operandi of the SCM, status of judges, cancellation of immunity for crimes)²⁴;

¹³ GD Nos 670/2007 and 1202/2007.

¹⁴ GD No 776/2007 Approving the Concept of Judiciary Information System for 2007-2008.

¹⁵ Law amended (publish the minutes, court judgments); websites launched (SCM, SCJ); judges appointed as responsible for the relationship with media (www.justice.gov.md); rules approved on random distribution of files; Ethical Code for Judges developed; employment advertisement placed in the OG and on the website; special programs implemented (including with international support) etc.

¹⁶ Improved the existing regulations and adopted new relevant regulations; approved the Strategy for the Development of Enforcement System (GD No 1393 of 12.12.2007) and the Concept for the Automated Information System "Enforcement Procedures Register" (GD No 1520 of 29.12.2007).

¹⁷ Letter and Information Note of SCJ, No 5s-270/09 of 17.12.2009.

¹⁸ Law Nos 113 of 17.06.2010; 146 of 02.07.2010; PD Nos 78 of 04.05.2010, 77 of 04.05.2010.

¹⁹ Law No 103/17.12.2009.

²⁰ Law No. 163/22.07.2011 on Amendments and Addenda to some Legislative Acts (closure of specialized economic courts).

²¹ Approved the National Anti-Corruption Strategy (PD No 154 of 21.07.2011) and National Security Strategy (PD No 153 of 15.07.2011), which contain sections on justice and related areas; finalized and approved the draft Justice Sector Reform Strategy for 2011-2015 (GD No 706 of 20.09.2011).

²² Law No 231 of 25.11.2011. The Action Plan for the Implementation of the Justice Sector Reform Strategy was approved in February 2012.

²³ Law No 66 of 05.04.2012,

- on special investigation activity²⁵ (Law No 59 of 29.03.2012)
- on selection, performance appraisal and career of judges²⁶;
- on Police work and status of policeman;
- on the remuneration system of public officials, including the court staff²⁷;

A series of important laws were amended:

- on the repair of the damage caused by illegal actions of criminal investigation bodies, prosecutor's offices and courts of law²⁸;
- on state guaranteed legal aid (institutionalization of the relevant administrative authorities, etc.)²⁹;
- The Supreme Court of Justice was reorganized, the number of judges was diminished, the appeals examination procedure was reviewed according to the procedural changes.

Besides, a first complex assessment of all courts of law was finished³⁰ and currently the development of a package of legislative anti-corruption acts and of a new draft law on the disciplinary accountability of judges is underway.

The justice reform enjoyed significant foreign support. Thus, with the support of the Preliminary Country Program of the "Millennium Challenges Fund" for Good Governance the court of laws were computerized; training courses were organized for the court employees in charge of maintaining the court websites; and integrated file management software was developed³¹. With the foreign support technical equipment was delivered (computers, software) to publicize the proceedings³²; the justice institutions increased their presence on the Internet³³ and the IT programs used in this area were strengthened³⁴. As a consequence the courts' work became more transparent, by accessing foreign funds from the free aid package justice reforms implementation³⁵;

Besides the above-mentioned, the authorities failed to ensure a proper operation of an independent and efficient justice system because of some persistent phenomena:

- interference of political interests;
- low accountability of justice stakeholders;
- low integrity and trust of litigants due to the existing perceptions in the system;
- though the quality and efficiency of the justice administration had enhanced, the progress was not sufficient, leaving a number of unsolved problems³⁶;
- the self-administration institutions are not operating appropriately;
- the judiciary system is still funded and equipped poorly, in spite of the enhancement efforts;
- the planned reforms were not backed by proper financial, human, technical and other resources. In 2012 the state budget allocations for the "Justice" general area increase (insignificantly)³⁷ and only for 2013 the increase reached 50%, which is a positive but insufficient trend;
- there still exist phenomena that decrease the trust of justice stakeholders towards the political, executive and legislative institutions³⁸;
- some provisions of the Justice Reform Strategy were not supported by representatives of the judiciary power, whose recommendations were not taken into account when the Strategy and Action Plan was adopted³⁹.

²⁴ Law approved on 05.07.2012.

²⁵ Law in force since 08.01.2013.

²⁶ Law approved on 05.07.2012.

²⁷ Law approved on 05.07.2012

²⁸ Law No 96 of 03.05.2012.

²⁹ Law No 112 of 18.05.2012.

³⁰ "Evaluation Report of Moldovan Courts", USAID-ROLISP, 2012.

³¹ Interview with the SCM President, given to Info-Prim Neo Agency; activity of the Good Governance Program (MCC).

³² Implemented the Integrated File Management Software (IFMS) on servers in 50 courts of law, audio recorders with specialized software in 153 court rooms.

³³ Websites of: SCM www.csm.md, court of law on portal www.justice.gov.md, SCJ www.csj.md.

³⁴ "Online Prosecutor's Office" System, "Info PG" database;

³⁵ The Ministry of Justice signed an agreement on EU financial support for justice reform.

³⁶ See the Report on the activity of SCM and organization and modul operandi of law courts in the Republic of Moldova in 2010, SCM Decision No 143/11 of 29.03. 2011.

³⁷ The 2012 State Budget Law stipulated MDL 384 million, if compared with the MDL 368 thousand in 2011.

³⁸ Coordination of justice sector reforms generated political disputes between the Government and the Parliament, compromising the dialogue and efficient cooperation in this area.

- overloaded judges, with an average monthly caseload of over 65 cases;
- inappropriate court buildings and limited equipments;
- deficiencies of the procedural legislation and legislative instability;
- low transparency of the courts work (not enough space for public meetings, lack of press services, delayed and selective publishing of court judgments, failure to record the court hearings);

The above-mentioned factors revealed deficiencies in the preparation and implementation of reforms, lowering their size and complexity. It is worth mentioning that the Constitutional Court declared as non-constitutional the following: dismissal of the President of the Supreme Court of Justice⁴⁰; legal amendments regarding the review and enforcement of court judgments related to financial institutions (the so-called "anti-raider" law)⁴¹; closure of specialized courts⁴². However, the Law No 29 of 06.03.2012 stipulated that several specialized courts will be kept: the military and commercial ones, with limited competences, though statistical data reveal that they deal with very few cases.

(2) Review existing legislation, so as to ensure the independence and impartiality of the judiciary, including the impartiality and effectiveness of the prosecution, and to strengthen the capacity of the judiciary.

Superior Council of Magistracy (SCM)

According to the changes made by Law No 174-XVI of 22.07.2005, the Superior Council of Magistracy was established in a new formula, most of its members (7 judges) being appointed by the General Meeting of Judges. Besides, the law prohibits that the ex-officio members hold the SCM Presidency in an attempt to eliminate the political-administrative interferences. Law No 185-XVI of 26.07.2007 provided for the establishment of a Judicial Inspection in the SCM, which started its activity in 2008. At the same time, SCM started to review periodically the problems for which the RM was condemned by ECHR with the purpose of identifying drawbacks in the work of Moldovan courts⁴³.

The SCM approved a series of important regulations and decisions⁴⁴ on the following: organization and modus operandi of the SCM Office; organization and conduct of the competition for the employment of judges, court President or Deputy President, promotion in higher courts; random distribution of court cases; timetable of attestation of judges to confirm their qualification level. Regulations were introduced on disciplinary measures for judges, as well as on the widening of the range of violations that imply disciplinary accountability of magistrates. In addition, the SCM started reviewing the violations of the judges' ethics and responsibilities, applied disciplinary sanctions and recommended to dismiss some magistrates that failed to meet the requirements of their positions⁴⁵;

The SCM approved decisions in various areas: on the approval of the Regulation on the operation of the official SCM website (Decision No 264/12 of 17.09.2009); on the implementation of the Integrated File Management System and Audio Recording of Court Hearings (Decisions No. 259/12 of 17.09.2009). As a consequence, the transparency of SCM activity increased significantly. Subsequently, a number of disciplinary procedures were initiated against the guilty judges⁴⁶, whose number increased over time⁴⁷, but unlike the previous period the disciplinary procedures are submitted for consideration together with support materials⁴⁸. However, the review rate was low, with a quite low sanctioning rate (about 1/4 of the initiated procedures)⁴⁹. A significant number of disciplinary procedures is revoked without any sound arguments by

³⁹ The SCM criticized the intention to annul the judges immunity, lack of any clear and exhaustive provisions about the increase of salaries for judges and court staff, delays in the establishment of a court police and transfer of the Department for Judiciary Administration in the subordination of SCM, lack of proper work conditions for SCM. See the report of the SCM President, <http://csm.md/files/RAPOARTE/RAPORT%20CSM%202012.pdf>.

⁴⁰ CCD No 18 of 04.10.2011.

⁴¹ CCD No 28 of 22.12.2011.

⁴² CCD No 3 of 09.02.2012.

⁴³ At the SCM meeting of 07.08.2007 it was decided to review quarterly the cases considered by ECHR.

⁴⁴ At the SCM meeting of 07.08.2007 it was decided to review quarterly the cases considered by ECHR.

⁴⁵ SCM Decisions of 26.02.2009, 12.03.2009.

⁴⁶ 25 disciplinary procedures were initiated in 2009 against 27 judges, most of them ending up with disciplinary sanctions (82%), including dismissals.

⁴⁷ 65 disciplinary procedures were initiated in 2011 against 50 judges (if compared with 2010, when 52 procedures were initiated against 39 judges).

⁴⁸ Information Note on the activity of the SCM Disciplinary College in 2011, http://csm.md/files/CDisciplinar/Nota_inform_2011_CD.pdf.

⁴⁹ In 16 cases the Disciplinary College recommended dismissal, strong reprimand, reprimand or warning, and in 47 cases decisions to suspend or stop the disciplinary procedure were taken.

those who initiated them, invoking cases of intimidation or pressures on judges through the respective disciplinary procedures⁵⁰. The verification of magistrates' assets and income resulted in several sanctions and dismissals from the system⁵¹;

Prosecutor's Office

Based on some recommendations from the CoE experts, the Prosecutor's Office was supposed to embark on its reform itinerary and several draft laws were developed for this purpose: on the organization of the Prosecutor's Office, status of prosecutors, Prosecutors' Superior Council. On 25.12.2008 the Parliament approved Law No 294-XVI on the Prosecutor's Office. The current legislation regulating the work of the Prosecutor's Office was amended only with regards to the following:

- changed procedure of accessing the position of prosecutor via the NIJ, as well as from some public authorities [Member of Parliament, member of the Court of Accounts, SCM official], from the legal system [lawyer, judge, professor, criminal investigation officer, ombudsman, jurisconsult, executor] upon passing a qualification exam. The General Prosecutor's Office is cooperating with the NIJ in appointing prosecutors as trainers. The action plan on the organization of the preservice and inservice training at NIJ was approved;
- established a more clear hierarchy of prosecutors (Article 15(1¹) -(1⁴) of the Law on the Prosecutor's Office);
- clarified in the law some aspects regarding⁵²: second appeals against some administrative acts; Prosecutor's Ordinance; mandate of territorial prosecutors; initiation of criminal cases against prosecutors only by the General Prosecutor); mandatory professional enhancement, etc;
- established the Prosecutors' Superior Council, Disciplinary College and Prosecutor Qualification College.

Some progresses were made in the process of informing the public about the activity of the Prosecutor's Office : developed and published annual and thematic reports, periodical summaries; periodical dissemination of press releases; implemented a Concept on the Promotion of the Public Image of the Prosecutor's Office. The transparency of the Prosecutor's Office was also enhanced by the new version and permanent updating of the website: www.procuratura.md.

However, the reform of the Prosecutor's Office is still the "stumble stone" in the justice reform in the Republic of Moldova, especially because of the incapacity or lack of interest to ensure the independence of the Prosecutor's Office. The Ministry of Justice, SCM and General Prosecutor's Office have different visions of reform of the Prosecutor's Office. The Government Program envisages the status of magistrate for prosecutors, but for that it is necessary to change the RM Constitution and other legislative-institutional reforms, which are blocked. Currently the draft Strategic Development Program (SDP) of the Prosecutor's Office for 2012-2014 is being developed and discussed publicly⁵³.

Alternative means of dispute settlement

Community work is the most frequently applied and implemented alternative means of dispute settlement. The institution of mediation (Law No 134-XVI of 14.06.2007) and probation (Law No 8-XVI of 14.02.2008) were institutionalized. Then, the first mediators were tested, approving the sample Register of Certificates for mediators⁵⁴, and the Guidelines on the Organizations of the Sentencing Probation in the Community⁵⁵ were approved. Some Community Justice Centers were established in rayons. Later some important regulations were approved:

- conditions for paying from the state budget for mediation services in criminal cases (GD No 303/21.04.2009);
- Regulation on the activity of the Commission Monitoring the Observance of the Human Rights in Institutions that Ensure Detention of Persons (GD No 286/13.04.2009);
- Program for the Preparation for Release and Social Reintegration of Persons Released from Detention for 2009-2010 (GD No 331/23.04.2009);

⁵⁰ See points 6.1-6.2 from the Information Note on the activity of the SCM Disciplinary College in 2011.

⁵¹ One judge from the SCJ was dismissed because of the gaps between the declared assets and income, PD No 326 of 27.12.2012.

⁵² Law No 70-XVI of 22.03.2007.

⁵³ The SDP goal is to evaluate and strengthen the efforts of reforming the Prosecutor's Office, <http://bit.ly/11OGdGx>.

⁵⁴ Order of the Ministry of Justice of 03.02.2009.

⁵⁵ DPI Order No 50 of 21.02. 2009.

Then the Criminal Code was amended (reviewed the sanctions for a number of crimes, established alternative sanctions, decreased the detention period for underaged persons, enlarged the legal framework for coercive educational measures, etc.).

Strengthen the administrative capacity

EUMAP established the need for „*further strengthening the stability and effectiveness of institutions guaranteeing democracy and the rule of law*”, „*continue administrative reform and strengthening of local self government in line with European standards...*”⁵⁶. Therefore, special attention is paid to continuation of strengthening the administrative capacities. Moreover, aspects related to administrative capacities and their strengthening can be found throughout the entire EUMAP, being the basis for the mechanism of strengthening the capacities of public institutions in the Republic of Moldova.

In the context of the efforts for Transnistrian dispute settlement, the legislative and constitutional reforms aligned to the European standards aimed at initiating some cardinal transformations in the Republic of Moldova, so that it becomes attractive for the inhabitants of the left bank of the Nistru river and, respectively able to promote initiatives of Transnistria democratization during the conflict settlement process.

But the Action Plan contained neither clear definitions and objectives regarding the administrative capacities, nor preset criteria. However, administrative capacity means the ability of public institutions to identify clear objectives, establish exact priorities and implement efficiently priority policies. As a matter of principles, the European integration process involves establishment and enhancement of the authorities' capacity to assimilate and implement the *acquis communautaire*, i.e. the capacity to react appropriately during crisis situations; carry out certain tasks with tight deadlines; the quality of the preparation and ongoing enhancement of public officials; optimal inter-government relationships; efficient interaction between the Central Government and local authorities and communities; relationships between the public (Government) and private sector (economic, social, cultural, civil and another environment); qualified and timely decisions taken quickly; less bureaucracy and corruption; implementation of advanced IT technologies, etc. Thus, the process of strengthening the administrative capacities aims at ensuring "good governance".

There aren't any universal legal documents to define the "good governance", but its components may be determined by summarizing the principles underlying the work of modern public administration⁵⁷: trust, predictability, legality; clear responsibilities; openness and transparency; political neutrality, separation of political functions from the administrative ones; efficiency and effectiveness; democratic mediation of interests; public communication and citizens' participation; technical and managerial competence; public justification of expenses; application of new IT solutions; adaptation to external developments, etc.

Central Public Administration (CPA) Reform

After the signing of EUMAP the Government of the Republic of Moldova adopted *reference acts* related to the Strategy of CPA Reform and the Initial Plan⁵⁸, as well as the Detailed Implementation Plan⁵⁹:

- *CPA reorganization*, with the following general objectives: institutional and operational enhancement of the central executive; separation of the policy development from policy implementation functions;
- *Streamlining the decision making*, with the following objectives: enhance the capacities of policy documents development, analysis and implementation; streamline the planning and reporting system; enhance the quality of adopted documents; introduce the consultancy mechanism among CPA authorities; introduce and use informational technologies (IT);
- *Improving human resources management*, with the objective to create a corps of professional, responsible, unbiased, honest, stable, efficient, and accessible-to-citizens public officials by: optimizing the management of public position and public officials; enhancing the human resources management; improving the system of motivating public officials;
- *Improving the public finance management*: annual reporting on the accomplishment of the sector program objectives and on the efficiency of financial resources use; improving the units' capacity of

⁵⁶ Section 2.1 (*Political dialogue and reform*) of the EUMAP.

⁵⁷ These principles are based on the political accession criteria and are accepted by the European Commission.

⁵⁸ GD No 1402 of 30.12.2005.

⁵⁹ GD No 54 of 18.01.2007.

strategic and budgetary planning for analysis of opinions and evaluation of impact and costs; performance appraisal in relation to the volume of resources.

As a result, the following actions were carried out:

- established a special Strategy Implementation Unit, transformed subsequently in the Division for the analysis of policy coordination in the Government's Central Office;
- conducted an operational analysis of the CPA bodies; established policy analysis, monitoring and evaluation unit in some ministries;
- reorganized the central institutions and their subordinated bodies, decreased the number of employees in central offices;
- established the National Law Harmonization Center⁶⁰ and approved the National Law Harmonization Plan for 2007 (GD No 883 of 06.08.2007);
- adopted and enforced two legal acts with a considerable impact on the delimitation of administrative-economic interferences: Law No 235/20.07.2006 on the Main Principles of Regulating the Entrepreneurial Activity and Law No 121/04.05.2007 on Property Administration and Privatization;
- adopted a Government Decision aimed at enhancing the PCA efficiency⁶¹;
- adopted some important acts for the informational development of CPA⁶² etc.
- implemented the new Law No 261-XVI of 05.12.2008 on the Court of Accounts (in force since 1 January 2009);
- implemented the Code of Conduct of Public Officials; approved the Regulation on Filling in the Vacant Public Position on a Competition Basis and the Regulation on the Trial Period for the Newly Employed Public Official (GD No 201/11.03.2009);
- approved the Regulations on Public Procurements of Work Design Services (GD No 352 of 05.05.2009).
- the Parliament ratified the Council of Europe Convention on Cybercrime⁶³.

The Progress Report of the European Commission for 2009 states the following progresses: enforcement of amendments to the Law on Budget System and Budget Process (accounting arrangements for public finance management, implementation of the internal audit system); training and professional development activities; - implementation of the Strategic Development Plan of the Court of Accounts; adoption of the Law on the Public Office and Status of Public Officials and Law on Transparency of the Decision Making Process; adoption of the Strategy for the Development ITC Sector for 2009-2011"; launching of the governmental portal to promote the online services; ensuring free access to Internet for public schools; the activity of the National Regulator for Electronic Communications and Information Technology (NRAECIT) to implement the law on electronic communication.

After the AEI came to power, the Program of the new Government had special sections dedicated to the CPA reform. As a consequence:

- the CPA structure was changed, based on the amendments to the Law on the Government (Law No 21-XVIII of 18.09.2009) and investment of the new Government, the Government structure was reorganized, the number of ministries was kept, the number of central administrative authorities was decreased (from 13 to 8)⁶⁴;
- The Government's Central Office was reorganized into the State Chancellery⁶⁵
- started the implementation of the CPA Reform Strategy and Law No 158-XVI of 04.07.2008 on the Public Position and Status of Public Official⁶⁶;
- the competences of some CPAs were reorganized and transferred (GD No 597 of 21.10.2009);

⁶⁰ GD No 190 of 21.02.2007.

⁶¹ GD Nos 710/2006, 1143/2006, 1230/2006, 31/2007, 33/2007 104/2007.

⁶² GD Nos 668/2006, 733/2006, 1004/2006, 1032/2006, 844/2007, 916/2007, 969/2007.

⁶³ Law No 6-XVI of 02.02.2009.

⁶⁴ Law No 21-XVIII of 18.09.2009.

⁶⁵ GD No 574 of 28.09.2009.

⁶⁶ approved the GD No 822 of 14.12.2009 on the preparation of the public official's written commitment to work work in public service after the graduation from professional development courses; developed the draft Regulation on the appraisal of the professional performances of public officials; developed methodological recommendations on "Filling in the Vacant Public Position on a Competition Basis", etc.

- The Memorandum concluded with FMI requires that public sector expenses be decreased, a new remuneration system be introduced on the basis of merits and performances for public officials, and the number of public employees be optimized;
- The necessary documents for the operation of the local units of the State Chancellery were approved (GD 845/18.12.2009);
- actions were taken to implement the CPA Reform Strategy and Law on the Public Position and Status of Public Official⁶⁷;
- Law No 80 of 07.05.2010 on the Status of the Staff from the Public Dignitaries Cabinet was approved;
- The Government decided to establish the eGovernment Center (GD No 392 of 19.05.2010).

Independent evaluations found a series of successes in the implementation of the CPA reform⁶⁸: implementation of some recommendations of the functional review; separation of the functions of policy development from implementation and service delivery, establishment of policy analysis, monitoring and evaluation units, introduction of regulatory impact assessment, modernization and development of IT in the APC, establishment of the institutional framework to implement program- and performance-based budgets.

After the parliamentary elections of 28 November 2010, the progresses accomplished as part of the *Central Public Administration Reform* (CPA) were related to the development and adoption of new laws and regulations⁶⁹, and the implementation of the previous regulations on public service and public position. The strategic planning and CPA officials training activities continued, the decisional transparency was ensured by placing the draft legislation on web pages, although shortcomings and formal approaches were and are still found in this process. At the end of 2011 the list of public authorities covered by the *Law on Public Office and Status of Public Officials*, *Law approving the Single Classifier of Public Positions*, and the *rules on the establishment of structural unit of public authorities*⁷⁰ was approved. According to the authorities' reports, the procedure of filling vacant public positions on the basis of merits became dominant in hiring public officials, accounting for 61% in 2011, including 40% on a competitive basis⁷¹. In 2012 the Laws No 98 of 04.05.2012 on the Specialized Central Public Administration and No 48 of 22.03.2012 on the Remuneration of Public Officials were adopted.

Overall, it appears that the CPA reform was implemented with delays, in a diffuse manner, being promoted on the basis of outdated documents⁷². Due to the reorganizations and reshuffles induced by political changes, the implementation in several areas was suspended. Under the vertical reorganizations, which reached as far as the representation at the local level, assignment of persons in management positions was delayed, being determined by political criteria. That is why, the efficiency of public institutions and Government structures was appraised in a critical manner, the administrative capacities were not adequate and were not applied properly to the current needs, and the politicization of public functions created severe deficiencies in the management of public affairs⁷³. The perception of a high level of corruption in the administration diminishes the trust in central institutions, with sociological surveys revealing a significant drop in the confidence in central public institutions (Parliament, Government, Presidency).

Local Public Administration (CPA) Reform

The LPA reforms were largely spontaneous and unplanned. However, after the signing of EUMAP, the resolutions and recommendations of the CoE, PACE, CPLRE, provisions of the national plans on their implementation (PD No 284-XVI of 11.11.2005) could be regarded as reference documents. International documents provide for: ensuring real autonomy for LPAs in accordance with the European Charter of Local Self-Government; compliance of the legislation on local finances; promotion of regional development and decentralization, solving the issue of numerous cases of LPA representatives prosecution; solving the issue related to the status of Chisinau municipality, etc.

⁶⁷ The following were approved: Law No 80 of 07.05.2010 on the Status of the Staff from the Public Dignitaries Cabinet; GD No 822 of 14.12.2009; GD No 168 of 09.03.2010 on the Public Policy Analysis, Monitoring and Evaluation Unit from central specialized public authorities.

⁶⁸ "Assessing the performances with the implementation of Central Public Administration Reform Strategy in the Republic of Moldova", study published at the initiative and with the support of Soros Foundation Epigra Publishing House, 2010.

⁶⁹ The following was adopted: Law No 155 of 21.07.2011 approving the Single Classifier of Public Positions; Strategic Program for the Technological Modernization of the Governance (e-Transformation), GD No 710 of 20.09.2011, Law No 161 of 22.07.2011 on One-Stop-Shop Implementation, Law No 133 of 08.07.2011 on Protection of Personal Data.

⁷⁰ GD No 1001 of 26.12.2011.

⁷¹ Monitoring and Evaluation Report of the Central Public Administration Reform in the Republic of Moldova, www.rapc.gov.md.

⁷² The Strategy for Central Public Administration Reform, approved by GD No 1402 of 30.12.2005

⁷³ Problems and deficiencies in the operation of the government office are noticed in Prime Minister's speech for the Moldovan citizens (12.07.2011).

After the signing of EURMAP, the following measures were included in public administration sections of Government programs: improving the LPA management system, actions for administrative and fiscal decentralization, organizing local public services and cross-border cooperation, defining the status of administrative-territorial units' property, dialogue between the Executive, LPA authorities and civil society; promoting regional development policy etc.

The package of laws on the local public administration, regional development in Moldova, and administrative decentralization was regarded as a significant progress in the LPA reform. A Ministry of LPA was created (dissolved after the IEA came to power), which was regarded as a progress, but the manner of its establishment and its very name were challenged from the very beginning, with plausible arguments⁷⁴. The work of this institution did not produce a noticeable impact, displaying a low efficiency and competences⁷⁵.

After the AEI came to power, the Program of the new Government had special sections dedicated to the CPA reform, decentralization and local autonomy, balanced local and regional development. Consequently, measures were taken to implement the administrative decentralization and regional development⁷⁶. The Parliament reestablished the Special Parliamentary Committee for amending and complementing the legal framework on decentralization and strengthening of local autonomy, whose task was to review the legislation on decentralization policies and propose its harmonization with the Constitution, the European Charter of Local Self-Government, as well as propose draft laws with the view to adjust to policies on decentralization and local autonomy strengthening.

As a consequence, adoption of the National Decentralization Strategy and Action Plan for the implementation of the National Decentralization Strategy for 2012-2015 (Law No 68 of 05.04.2012) can be regarded as the main progress in LPA area. The list of LPA competences was developed, which will underpin the fiscal and property decentralization, and the international guide inter-community cooperation was adapted to the current needs.

Though the decentralization strategy was adopted, the LPA reform is sluggish, the implementation activities being suspended at different stages due to the perpetuation of the political instability. The decentralization strategy is too general and theoretical, LPA representatives expressing their wish for more elements that could strengthen the local autonomy, avoiding the practice of transferring competencies without a proper coverage by revenue⁷⁷. In fact, the regional development is troublesome even at the theoretical level, the visions on the administrative-territorial reform were not stated clearly at the central, regional and local levels, with different visions among various local authorities, as well as among representatives of political forces at the central and local level. In these circumstances, the LPA are dealing with their challenges largely on their own, with insufficient (human, technical, financial) resources for high-level administrative capacities. The political conflicts affected the LPA representatives, elected on the basis of political affiliation, and the distribution of functions from the central to local levels generated continuous conflicts at local levels.

Ensure the effectiveness of the fight against corruption (modest progress - 2.1)

After the signing of EUMAP, fight against corruption was the focus of central authorities of different levels, but often this issue was addressed too narrowly, separated from the related issues: depoliticisation, transparency, probity. To combat corruption and implement related reforms, the Republic of Moldova gained considerable international support, both from Community institutions, and from funds managed by separate countries or institutions⁷⁸.

The main document, which EUMAP refers to expressly, was the National Strategy for Preventing and Combating Corruption and the Action Plan for Strategy implementation (adopted even before signing EUMAP by PD No 421 -XV of 16.12.2004). The implementation of this document had some positive results, but the perception of corruption in the society did not change for the better, with citizens and social groups maintaining almost the same attitude towards the phenomenon and the authorities' efforts to combat it. Even

⁷⁴ Stenography of the Parliament's sitting of 16.02.2006.

⁷⁵ The RM President convened several meetings regarding the work of the MLPA, demanding more efficient and enhanced activities.

⁷⁶ GD No 158 of 04.03.2010 approving the National Strategy for Regional Development, GD No 608 of 05.07.2010 implementing some provisions of the Law on Administrative Decentralization.

⁷⁷ See the comment of the Congress of Local Authorities of Moldova regarding the draft Decentralization Strategy, <http://calm.md/>

⁷⁸ The European Commission and SIDA decided to allocate EUR 3.5 million (MOLICO -Moldova project); the MCC Threshold Country Program envisages about USD 30 million for purposes of increasing transparency and combating corruption.

worse, some international and local ratings reveal an even higher level of corruption perception in central institutions and among high ranking officials, as well as lower effects of the authorities' efforts⁷⁹.

Besides the National Anti-Corruption Strategy, in 2007 the following were implemented: National Program implementing the Individual Partnership Action Plan (IPAP) Moldova - NATO for 2006-2009 (GD No 1506/29.12.2006); Action Program implementing the MCC Threshold Country Plan for Moldova (GD No 32/11.01.2007); Action Plan implementing the Joint Program of the European Commission and Council of Europe on increased independence, transparency and efficiency of justice in Moldova for 2006-2009 (GD No 959/22.08.2007); Action Plan to Ensure Observance of the Right to Petition, Information and Access to Justice (GD No 1013/12.09.2007); Strategy for Strengthening the Judiciary System and the Action Plan for its implementation (PD No 174/19.07.2007). All these programmatic documents contained activities and actions aimed at preventing and combating corruption, which were sometimes similar or even identical, which implies a series of dangers and shortcomings: overlapping efforts; parallelism, diffuse responsibility, inefficient waste of resources, difficulties to set indicators, monitor, analyze and assess the impact.

In practice, the Center for Combating Economic Crimes and Corruption (CCECC) launched and conducted several activities aimed at preventing and combating corruption: launched a hotline, which could be used to communicate illegalities, deeds of corruption, conflicts of interest, questionable business committed by CCECC staff; initiated the Civil Council for CCECC monitoring; implemented an Action Plan to mitigate corruption in the education system⁸⁰, launched a public awareness campaign, etc.

European Commission Progress Report on the Republic of Moldova for 2009 noted a number of progresses⁸¹: adoption and entry into force of important laws (on political parties, conflict of interest, prevention and combating of corruption, witnesses and participants protection, Code of Ethics for public officials; amendments to the Law on Income and Assets Declaration by Public Officials); GRECO concluded that significant progress was registered in implementing its recommendations in Moldova; establishment of the Coordinating Council on Crime Prevention and Combating.

Though a set of new laws was adopted, the law enforcement activity still has much room for improvement (laws enactment, institutional, organizational and administrative measures, adoption of enforcement regulations, permanent review, impact assessment). The overall conclusion was that there was not enough political will to implement the laws concerned.

After AEI came to power, corruption fighting experienced a revival. The following activities were carried out in this respect:

- announced, for the first time, the findings of the Central Control Commission (CCC) regarding the violations committed by public officials and dignitaries when declaring their income and property, and the information declared by top-ranking officials⁸² was placed for public access⁸³;
- adopted the National Anti-Corruption Strategy⁸⁴ (with the Action Plan for its implementation) and the National Security Strategy⁸⁵;
- enforced the Law on Conflicts of Interest⁸⁶;
- introduced changes designed to protect the people who denounce deeds of corruption⁸⁷;
- improved the legislation on "gifts and other benefits" that can be received by a public official⁸⁷;

⁷⁹ Moldova's rating decreased in 2007 CPI; "Molico IMAS 2007" survey reveals a worsening perception for several central institutions, high levels of perceived corruption among high-ranking officials; the periodical Public Opinion Barometer survey shows that people feel more concerned about the issue of corruption and less is satisfied with the Government's efforts in this area; the situation of Moldova in the Global Corruption Barometer (TI), Governance Quality Index (WB) didn't witness any significant developments;

⁸⁰ Plan launched by CCECC in tandem with MEY, which provides for: enhancement and extensive media coverage of the regulatory framework on the organization and conduct of enrollment in educational institutions; reducing corruption risks during the university and high school graduation exams; monitoring and ensuring fairness and transparency of exams and enrollment process; reporting and extensive media coverage of cases of corruption and abuses in educational institutions, as well as of the penalties imposed; enhanced transparency in the activity of educational institutions.

⁸¹ Progress Report Republic of Moldova, European Commission, Brussels SEC (2009).

⁸² Commission Report of 17.05.2010,

http://www.mf.gov.md/common/communication/ministrycomun/Declaratia_VEN_2008_completat_16.04.2009.pdf

⁸³ PD No 154 of 21.07.2011

⁸⁴ PD No 153 of 15.07.2011

⁸⁵ Law No 181 of 03.05.2012.

⁸⁶ Law No 277 of 27.12.2011.

⁸⁷ Law No 230 of 25.11.2011.

- improved the Criminal Code and anti-corruption legislation to define appropriately the terms of "person in position of accountability, public person and person in position of dignity person, foreign public person and international official", clarify the elements of crime, and introduce the crime of "corrupting voters"⁸⁸;
- implemented the Law on the National Integrity Commission⁸⁹, which took over the competences of the Central Control Commission (CCC);
- adopted Law no.120 of 25.05.2012 on amendments and addenda to some legislative acts governing the CCCEC reform: changing the name - National Anticorruption Center (NAC), transferring it under the Parliament's control, changing the competences (focusing on corruption and related crimes); depoliticization of management appointment (competition and stable position); conditioning the employment and subsequent activity (polygraph and integrity tests, lifestyle monitoring) etc.
- completed the establishment of the Border Police under the MIA⁹⁰, according to the new relevant regulations.
- adopted the Law on amendments and addenda to the Criminal Code⁹¹, which modifies the notion of "active and passive corruption" "taking and giving bribes" according to the GRECO recommendations.
- adopted legislative changes that restrict the judicial immunity in cases of corruption⁹²;
- the Ministry of Justice initiated the development of a package of legislative initiatives to combat corruption in the judiciary system⁹³. Innovative legal amendments are being developed on prevention and sanctioning of corruptive events and related phenomena⁹⁴;

Thus, the most recent progresses in the field of *combating corruption* were related to the enforcement of new strategic documents, in particular on NAC activity and strengthening⁹⁵, reforming of this area and promotion of some new legislative and normative regulations, aligned to the relevant international standard and recommendations. This was the aim of the NAC reform⁹⁶. In practice, in the mentioned context, cases of corruption were investigated involving high-ranking officials⁹⁷, as well as officials from local public authorities⁹⁸. Besides, some of former representatives of law enforcement bodies were sanctioned with imprisonment⁹⁹. Various levels of public authorities promoted activities of corruption prevention, and the anti-corruption activities aimed at ensuring quality and efficient investigation of cases.

Conclusions

- The amendments made to laws that regulate the judiciary system reform and the status of judges could affect the independence of judges, they establish facilities for supreme courts, to the disadvantage of first instance courts that deal with the highest work volume¹⁰⁰;
- Political and administrative influences, SCM has a low efficiency and influence in the reform process, the entire system is not mobilized and is not promoting the implementation of impact reforms¹⁰¹;

⁸⁸ Law No 245 of 02.12.2011.

⁸⁹ Law No 180 of 19.12.2011.

⁹⁰ The GD No 434 of 19.06.2012 approved the Regulations of the Border Police Department, organizational chart, list of subdivisions subordinated to the Department and other regulations necessary for border police operation.

⁹¹ Law No 78 of 12.04.2012.

⁹² Amendments introduced by Law No. 153 of 05.07.12.

⁹³ It is planned to amend the legal and regulatory framework with the view to punish more severely deeds of corruption, regulate the process of testing the professional integrity, request to prove, on a compulsory basis, that the assets owned by judges and other public officials were acquired legally, etc.

⁹⁴ The Law on Professional Integrity Testing was developed, along with a package of amendments regarding combating and prevention of corruption in the judiciary system (polygraph testing, prohibition of non-compliant communication, extended confiscation

⁹⁵ GD No 633 of 24.08.2012.

⁹⁶ The following was adopted: PD No 230 of 25.10.2012 approving the Structure and Staffing Limits of the National Anti-Corruption Center, PD No 232 of 25.10.2012 approving the Strategy for Institutional Strengthening of the National Anti-Corruption Center, PD No 227 of 25.10.2012 on appointment in the position of director of the National Anti-Corruption Center;

⁹⁷ Financial-Economic Investigation Section of General Prosecutor's Office initiated criminal investigation of the actions committed by public officials from the Ministry of Education, resulting in severe consequences for the educational process and the state budget, <http://procuratura.md/md/news/1211/1/4988>.

⁹⁸ Criminal cases against the former mayors of Drochia town and Cotul Morii village;

⁹⁹ A former prosecutor was sentenced to 7 years of imprisonment for passive corruption.

¹⁰⁰ Subtle amendments allowing disciplinary measure for unclear reasons, insignificant reduction of the number of judges at the SCJ and the high number of assistants for SCJ judges. See in this respect the call of some NGOs and the request not to promulgate the law, <http://crim.org/news/view/223>.

- Insufficient remuneration / social security of magistrates, prosecutors and other employees from the system, insufficient equipment of courts, huge caseloads in some courts, failure to use modern technologies to a full extent etc.
- Involvement and participation in continuing education is not adequate¹⁰².
- External evaluations reveal government interference, corruption and low efficiency of courts as obstacles to a quality civil and criminal justice¹⁰³;
- Independent evaluations reveal multiple problems related to the operation courts¹⁰⁴: *poor infrastructure*, insufficient automation of the auxiliary processes, lack of effective human resources policies and specialists resources, limited access to information, permanent budget cuts, etc.
- High caseloads, insufficient technical equipment, support staff fluctuation, inadequate state of courts rooms;
- The Prosecutor's Office and National Anti-Corruption Center are accused of persecuting some lawyers¹⁰⁵;
- Opinion polls show that the level of trust in justice declined, reaching its lowest in 10 years¹⁰⁶, the justice system remaining corrupt and with a low confidence level¹⁰⁷;
- External pressures on the Prosecutor's Office by political authorities are invoked, the principle of separation of and cooperation of powers is violated¹⁰⁸;
- Some judges of the Supreme Court of Justice were transferred by procedures that induced assumptions related to a lack of objective criteria and performance assessments¹⁰⁹;
- Alternative dispute resolution mechanisms are practically not used (mediation) or have a limited applicability (arbitration)¹¹⁰;
- Prosecutor's Office reform is very slow and hinders the overall justice reform;
- The remuneration and social security of the main players from the justice sector stayed at the same level, without any actual growths¹¹¹;
- Many actions envisaged by the Action Plan implementing the Justice Sector Reform Strategy were either not implemented or implemented partially¹¹²;
- The overall implementation of the justice reform remains poorly coordinated/correlated, the National Council for the Reform of Law Protection Bodies started its work with delays and in a formalistic manner¹¹³.

Strategic Recommendations

In order to reform and ensure the independence and efficiency of the justice sector it is necessary to focus the efforts, prove a general political will and administrative capacity on several dimensions:

- Adjusting the legislation related to the Election Code in order to eliminate the existing contradictions;
- Increasing the transparency of electoral campaigns and political parties financing by introducing clear provisions on records keeping and control, sanctions for the failure to submit financial statements on

¹⁰¹ The Republic of Moldova President promulgated the legislative amendments requiring ex-officio lifting of the judges' immunity in cases of corruption, but the Supreme Court of Justice challenged in the Constitutional Court the legislative provisions on **lifting the judges' immunity in cases of corruption**.

¹⁰² See also SCM Decision No 573/28 of 18.09.2012 on judges' attendance of training courses.

¹⁰³ Rule of Law Index, <http://worldjusticeproject.org/country/moldova>.

¹⁰⁴ Conclusions of the "Evaluation Report of Moldovan Courts", USAID-ROLISP, 2012.

¹⁰⁵ Press conference of representatives of Lawyer's Union, <http://www.privesc.eu/Arhiva/12758/Conferinta-de-presa-cu-tema-Reactie-dura-a-Uniunii-Avocatilor-impotriva-presiunilor-si-persecutarii-avocatilor-care-participa-la-examinarea-dosarelor>

¹⁰⁶ BOP survey (November 2012) registered the lowest confidence level in justice (14.8%) over the past 10 years, if compared with May 2012 the trust in the judiciary system decreased almost two-fold.

¹⁰⁷ Interview <http://www.allmoldova.com/ro/int/interview/vitalie-nagacevski-151012.html>

¹⁰⁸ Release of the Prosecutor's Office on the publication of **inquiries and questions**, <http://procuratura.md/md/news/1211/1/4883/>.

¹⁰⁹ The former SCJ President regards the transfer of 6 judges by SCM from the SCJ to the Chisinau Court of Appeal as arbitrary and unconstitutional, <http://tv7.md/ro/news/muruianu-csm-l-a-holarari-arbitrare-i-neconstitu-ionale-18138.html>

¹¹⁰ A draft law on mediation is being developed; there aren't any information regarding the implementation of the existing law.

¹¹¹ Statements regarding the substantial increase of judges' salaries were made throughout the year 2012, but only at the end of the year a draft law was recorded, which was not reviewed by the Parliament and does not have a clear financial coverage.

¹¹² See the table with an analysis of the outstanding commitments in Q4, 2012.

¹¹³ The Council's Regulation limits its activity to hearing and monitoring activities, without any possibilities to intervene and boost the reforms; during its only meeting of 2012 the Council only heard general information, without setting priorities and important actions.

time and in the prescribed format, recording of the donated funds at the moment when individuals pay their taxes;

- Monitoring the application of the provisions related to criminal and contraventional liability for breaching the electoral law by various actions or omissions¹¹⁴
- Apolitical and disinterested approach to the justice reform;
- Combating and preventing corruption in the justice sector;
- Focus on timely and full implementation of the actions set out in the reform strategy and its implementation plan;
- Allocation of the necessary resources for strategy implementation and ensure their efficient use;
- Active and deep involvement of justice sector representatives in the reform implementation processes;
- Focus on simplification and streamlining of the judiciary procedures and on the automation of certain processes;
- Continuous cooperation with Community and international institutions providing assistance for the justice reform, sound use of the external resources.

.....
¹¹⁴ Regarding the discrepancy between the sanctions and the electoral code rules, the findings of the analytical study "Consistency of the Moldovan legislation with the provisions of the Electoral Code and the need to amend the related legislation", drafted with the support of the OSCE Mission to Moldova in 2010, are relevant.

■ Human rights and fundamental freedoms: moderate progress (2.6 points out of 5)

(4) Ensure respect of human rights and fundamental freedoms, including the rights of persons belonging to national minorities, in line with international and European standards. (Modest progress - 2.4)

During February 2005 - January 2008, a number of achievements were registered in the human rights area, such as the following: adopted the Law amending Article of the Constitution of the Republic of Moldova which abolishing death penalty in all circumstances; ratified Protocols 13 and 14 to the European Convention on Human Rights and the Optional Protocol on Civil and Political Rights, approved the Regulation on Human Rights coordinator, adopted the Action Plan for Support to Roma Population in the Republic of Moldova for 2007-2010, approved the Law on Protection of Personal Data. The UN Convention on the Rights of Persons with Disabilities follows in the same line. This document obliges Moldova to respect the rights of physically disadvantaged individuals and to remove the barriers to their participation in the social life¹¹⁵. In relation to the same social group, the Government approved the National Program for Rehabilitation and Social Integration of Persons with Disabilities for 2007-2009.

In February 2005 - January 2008 the Law on amendments and addenda to the Law on Rehabilitation of Victims of Political Repressions was adopted. It establishes the mechanism for returning the goods confiscated from persons subject to repression and subsequently rehabilitated, and for offering fair compensations for goods that cannot be returned. In connection with this law, the Regulation on returning the value of goods by paying compensations to victims of political repressions and payment of compensations in case of death due to repressions was approved in February 2007.

The following was adopted in relation to employee rights: Law ratifying the ILO Labor Administration Convention No 150, Law amending the Law on the Salary System in the Public Sector. This document provides for increasing the salaries in three stages¹¹⁶. The Labor Inspection found annually thousands of violations of labor protection regulations and workers' rights. The most frequent violations of the labor laws consisted in improper organization of work places, lack of employment contracts, salaries below the required threshold, overtime work, salary arrears and unjustified dismissal. A related issue was the lack of a law on the subsistence minimum, adjusted to the minimum consumption basket. Only in 2012 the Law No 152 of 05.07.2012 on Minimum Subsistence was approved.

The registration of Islam cult and adoption NHRAP can be regarded as the main progresses made by Moldova in 2011-2012 in the human rights area. To implement the above-mentioned measures, they were incorporated in several policy documents and national action plans, including the National Human Rights Action Plan for 2011-2014¹¹⁷ (NHRAP). The Parliament adopted an anti-discrimination law, officially known as the Law on Ensuring Equality¹¹⁸, which entered into force on 1 January 2013. The new name was proposed to reduce the resistance of those opposing the law. According to the final version of the law, prohibiting discrimination based on sexual orientation shall be applied only in the employment area. These amendments narrow the scope of the law and could have further impact on the implementation of the law. However, the overall progress in securing the commitments of the Republic of Moldova to ensure human rights and freedoms is rather slow.

Cooperation with CoE and enforcement of ECHR decisions

Authorities expressed openness and receptivity during the discussions with CoE and other bodies interested in the proper operation of democratic institutions in Moldova. In the context of cooperation with the CoE, the Parliament adopted the Decision approving its Work Schedule in accordance with the Resolution and Recommendations of the Commission in order to comply with the obligations and commitments of the CoE Member States. Under this program, the Law on National Institute of Justice, opened in November 2007, the

¹¹⁵ The Convention was also signed by the EU, thus becoming part of the community law.

¹¹⁶ Several members of the opposition regarded these increases as populist measures, carried out with the purpose of influencing the voters' opinion on the eve of local elections, they criticized the proposed implementation mechanisms and the lack of clear criteria for the argumentation of the salaries for different categories of employees.

¹¹⁷ PD No 90 of 12.05.2011.

¹¹⁸ Law No 121 of 25.05.2012.

Law on Religious Cults and their Component Parts and other laws were approved¹¹⁹.

The Moldovan authorities ensured enforcement of ECHR decisions, paying the damages¹²⁰. Besides, the Parliament adopted the Law amending the Law on the Government Agent, which establishes new provisions relating to the mechanism of the right of recourse against the persons whose intentional activity constituted a basis for the conviction of Moldova by ECHR.

Some of the recommendations of the Council of Europe Resolution 1666 (2009) were implemented, in particular those regarding the amendment of the Electoral Code (reducing the electoral threshold, suspension of the prohibition for persons with double citizenship to exercise public functions) and establishment of the Commission to investigate the events after 7 April.

Although the Work Schedule approved with the view to honor its obligations to the CoE provided for the adoption of a series of measures by July 2006, many of them were implemented with delays or were not implemented at all. The following was not adopted: Code of education laws and Law on the status of Chisinau municipality. Besides, the principle underlying the dismissal of the Comrat mayor by the Gagauzia People's Assembly was not condemned and the reasons for criminal investigation of the national and local opposition leaders were not investigated. Moreover, there are situations where national regulations are adopted without prior expert review by CoE experts and cases when the CoE recommendations are ignored¹²¹.

The Moldovan authorities, though paying the compensations established by ECHR, delayed taking some general, legislative and regulatory actions, which explains the repeated condemnations of Moldova for the same reasons: torture, violation of freedom of expression, illegal arrest, existence of the glass wall in the CCCEC that separates detained people from their lawyers etc.

Though the adoption of the 2006 Law amending the Law on the Government Agent was motivated by the need to institute recourse actions against individuals whose activity constituted a basis for Moldova's conviction by ECHR, such actions were not initiated.

(5) Develop and implement an appropriate legal framework for the prevention of, and the fight against, the trafficking in human beings, and for addressing the problems faced by victims of trafficking (Modest progress - 2.2)

The Parliament adopted Law No 241 - XVI of 21.11.05 on Preventing and Combating Trafficking in Human Beings. The Regulation on the procedure for trafficked victims repatriation was adopted. Consequently, procedures and indicators were developed to identify victims of human trafficking by the consular services of the Republic of Moldova abroad, foreign law enforcement agencies and the IOM Mission. Subsequently, the Parliament adopted on 31.01.2006 a number of amendments to the Criminal Code. Articles 21(3), 165 and 206 of the Criminal Code on establishing criminal liability for legal entities and persons in accountable positions involved in human trafficking and illegal migration-related actions were complemented. Article 206 of the CP on child adoption was reviewed, criminal liability was introduced for legal entities involved in trafficking of human beings and children; the Criminal Code was supplemented with a new Article 362/1 "Organization of illegal migration". The National Referral System (NRS) for Assistance and Protection to victims and potential victims of human trafficking was set up. A national coordination center for the general coordination of the NRS work was set up as a unit of the Directorate for Equal Opportunities and Family Policies in the MSPFC. Then the Law on Protection of Witnesses and Other Participants in Criminal Proceedings No 105-XVI of 16.05.2008 was adopted.

(6) Eradication of ill-treatment and torture (Modest progress - 2.1)

The Law amending the Criminal Code supplemented it with a new article (Article 309), entitled "Torture", which establishes sanctions for the application of torture. During the first three years of EUMAP implementation, the detention conditions in prisons were improved to some extent (e.g. women's prison in Rusca) and more cases of convicting representatives of law enforcement bodies for exceeding their work duties, accompanied by acts of torture, were registered. Since February 2006 the Complaints Committee,

¹¹⁹ The phrase "Orthodox Church of Moldova" from the Law on Religious Cults and their Component Parts is regarded as restrictive and discriminatory.

¹²⁰ The ECHR decisions on the cases of Sarban, Modirca, Becciev, Musuc, Palade indicate that the hypothesis that criminal cases were initiated against them is justified.

¹²¹ This was declared during a press conference on 16 March by Vladimir Ristovski, Special Representative of the CoE Secretary General to Moldova.

established to review the detainees' complaints, started its work. Following the entry into force on 24 July 2006 of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Parliament empowered the Center for Human Rights in Moldova as responsible for prevention of torture at the national level¹²².

The Parliament adopted additions to the Criminal Code, introducing mandatory forced chemical castration for persons convicted of rape committed against a minor under 15 years of age¹²³. Although President of the Republic of Moldova refused to promulgate the law because it violates the constitutional human rights and freedoms, castration being an act of torture, Parliament decided to revoke the law¹²⁴. The new provision was condemned by local and international NGOs on human rights as a human rights violation that contradicts the international human rights documents that RM is a party to¹²⁵.

The lack of judges' independence, too much freedom of action for prosecutors, shortage of professional and independent lawyers, threats from the police and prison authorities' inaction led to poor functioning of protective mechanisms against torture in Moldova. This was one of the conclusions of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, drawn from the visit to Moldova after the events of 7 April 2009.

(7) Ensure respect of children's rights (Modest progress - 2.6)

Moderate developments were recorded in the area of children's rights protection. Among these the following may be mentioned: adoption of the Law ratifying the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; increase with effect from 1 January 2007 of the one-off child birth benefit; increase of the benefits for some categories of children in need; reducing the maximum penalty of imprisonment for minors from 15 to 12.5 years and expanding the number of crimes for which educational coercive measures can be applied. In the same train of thoughts, the National Strategy and Action Plan for the reform of the residential child care system for 2007-2012 were approved. These documents provide for decreasing the number of children in residential institutions by 50 percent by developing alternative institutions and services. Besides, the Government adopted the Decision approving the National Strategy on Community action to support children in need for 2007-2009 and the Decision approving the Minimum Quality Standards for care, education and socialization of children in residential institutions. Thanks to the reform of residential child care system, the number of family-type children's homes increased almost twice in 2007, and the number of newly institutionalized children dropped.

The most frequently violated children's rights are the right to a decent life, to family and to education. Despite the efforts to reduce the number of children in residential institutions, it remained high¹²⁶. This was also determined by the small child birth benefits and allowances for children in need, as well as the low level of attention that the authorities have paid to children whose parents are working abroad.

Though the enhancement of the legal framework for observance and protection of human rights continued, this effort was not followed by strengthening of human rights protection mechanisms. Many of the activities listed in the action plans were either implemented partially or not implemented at all for financial reasons. The justice system remains inefficient with respect to the prosecution of human rights violations. The most common human rights violations documented by MHRC included: ignoring the legislation on petitions, failure to enforce the court judgments, application of torture and inhuman treatment by MIA and other law enforcement agencies, problems in the penitentiary system. From February 2005 - January 2008, a number of organizations and parties invoked restriction of the right to organize meetings and demonstrations. The existence of human rights violations was confirmed by the ECHR decisions condemning the Republic of Moldova. The main reason for Moldova's condemnation by ECHR was the failure to enforce court judgments. Most of the times Moldova was convicted for violation of the rights to fair proceedings, property protection, privacy, effective remedy, freedom of expression, illegal detention of plaintiffs, inappropriate conditions of detention, the excessive duration of judicial proceedings, and application of torture. The Committee for Prevention of Torture (CPT) of the Council of Europe found that the phenomenon of violence is maintained in the police custody in Moldova and submitted to authorities a number of recommendations to reduce this

¹²² Amnesty International-Moldova CREDO, Promo-Lex, the OSCE Mission to Moldova, etc.. have criticized the authorities' decision to enable only CHRM as responsible for prevention of torture at the national level, insisting on the need for a more representative mechanism for monitoring torture. Authorities did not follow the recommendations made by these organizations.

¹²³ Law No 34 of 24.05.2012.

¹²⁴ The law was passed at the insistence of the LP faction, which conditioned thus its support for the Law on Ensuring Equality.

¹²⁵ Declaration of Amnesty International Moldova on 6 March 2012, <http://bit.ly/RB0sSR>.

¹²⁶ About 85% of children from residential institutions have one or both biological parents alive.

phenomenon¹²⁷.

(8) Ensure equal treatment (Modest progress - 3.0)

Regarding ensuring equal opportunities, the Law on the Accession of the Republic of Moldova to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Law on Equal Opportunities for Women and Men were adopted. The latter instituted regulatory norms, administrative and organizational measures to ensure the equal promotion of women and men and exclusion of discrimination. Then the Government Commission for Equality between Women and Men was set up, the Regulations of this Commission were approved, as well as the Promotion of Gender Equality in Society National Plan for 2006-2009. Also, the Law on Preventing and Combating Domestic Violence was passed and MIA approved an action plan to combat this phenomenon. Following the local elections of June 2007, the number of women elected as mayors increased slightly up to 18% compared to 16% after the 2003 local elections. The trend continued after the 2011 local elections. In spite of the many gender equality achievements, women continued to be underrepresented in the public authorities at different levels and discriminated in terms of employment and remuneration. Very seldom women were encouraged to apply for positions of accountability. Besides, domestic violence, including against women, remained a wide spread phenomenon¹²⁸.

(9) Ensure respect for the freedom of expression. (Modest progress - 2.4)

The main media-related developments include: adoption of the Broadcasting Code (BC) approval of the Regulation on Implementation and Compliance with the BC, development by the Broadcasting Coordinating Council (BCC) of the recommendations on the entry into legality of broadcasters founded and funded by public local authorities, adoption by the BCC of the Strategy on National Coverage with Broadcasting Services (2007-2010), ensuring a wider BCC openness to facilitate public access to information about its activity¹²⁹.

The Parliamentary opposition¹³⁰ and media organizations¹³¹ disagreed with the manner of reviewing and approving the Broadcasting Code, claiming that it was adopted without plenary public debates¹³². Subsequently, a number of organizations, including diplomatic missions accredited in Moldova, expressed their concerns regarding the implementation of the Broadcasting Code¹³³.

A number of violations were found during the reorganization of "Antena C" and "Euro TV Chisinau" municipal stations, as well as in relation to the further developments around them, including: violation of the public interest, failure to consult the opinion of the municipal community, violation of employees' rights, violation of the public right to information¹³⁴, clear limitation of the space for free flow of information¹³⁵. The developments around the municipal stations were opposite to the recommendations made in December 2006 by the OSCE Mission and ten diplomatic missions in a joint statement on the their situation¹³⁶.

From February 2005 to January 2008, a number of cases of restricting the freedom of the press (e.g. "Ziarul de Gardă", "PRO TV Chisinau", "DTV" "SP" newspaper), intimidation of mass media representatives ("PRO TV Chisinau", "Euro TV Chisinau") were registered. These could be complemented by the disproportionate deprivation, accompanied by the violation of public interest, of some media outlets from their broadcasting license ("FM-103.5" radio station of Balti, "TVR 1").

¹²⁷ Report to the Government of the Republic of Moldova on the visit of the European Committee for the Prevention of Torture and Degrading Treatment or Punishment (CPT) of 27 to 31 July 2009, published on 14 December 2009, <http://www.cpt.coe.int/documents/mda/2009-37-inf-eng.pdf>.

¹²⁸ This is the conclusion of a study conducted by the Forum of Womens' Organizations in the Republic of Moldova (FOFRM).

¹²⁹ APEL et al. (2007), "Monitoring the Implementation of the Broadcasting Code" Project, Press release, http://www.apel.md/comunic/COMUNICAT_DE_PRESA_191207.pdf.

¹³⁰ Stenography of the Parliament's sitting of 27.07.2006, <http://www.parlament.md/news/plenaryrecords/27.07.2006>.

¹³¹ Joint Statement of several specialized organizations, www.ijc.md.

¹³² ADEPT and EXPERT-GRUP (2006), *Euromonitor*, No. 3, July, p. 13.

¹³³ *Joint Statement*, 15.12.2006.

¹³⁴ APEL et al. (2007), *Monitoring the Implementation of the Broadcasting Code*, Info-Prim Neo, 7 February, www.info-prim.md.

¹³⁵ *Joint statement: Concerns regarding the freedom of press*, 14 March 2007, <http://www.azi.md/print/43594/Ro>.

¹³⁶ OSCE Mission in Moldova (2007), *Moldova's broadcasting reforms cause for concern*, OSCE Mission Head says, 19 February, <http://www.osce.org/item/23339.html>.

Besides, the Moldovan authorities failed to meet fully objective (9) of EUMAP, which, inter alia, provides for State financial assistance for media to abide by strict and objective criteria equally applicable to all media.

Access to information was relatively limited. Among the underlying causes are: low transparency of public institutions, neglecting the Law on Access to Information, formalist attitude or sometimes public officials' incompetence, excessive secrecy of information of public interest. The rate of complete responses offered by central government institutions was higher than that for local public authorities¹³⁷.

Unexplained delay by the Court of Appeal in the examination of the file of NIT TV station against the Broadcasting Coordinating Council (BCC) has raised questions about the quality and impartiality of the justice done by the Court of Appeal panel of judges. Nearly one year long examination of the NIT file is inconsistent with the commitments of the Republic of Moldova on compliance with the European Convention on Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights adopted on 16 December 1989 in New York, which enshrines the right to a fair trial, conducted within a reasonable time. In the same context, the repeated refusal of the Broadcasting Coordinating Council to issue a broadcasting license to the opposition-supporting Moldnews cable TV raises concerns.

***(10) Ensure respect for the freedom of association and foster the development of civil society
(Moderate progress - 3.5)***

On 29 December 2005, the Concept of Cooperation between the Republic of Moldova Parliament and the civil society was approved. It aimed at establishing the principles of interaction between the Parliament and civil society representatives, as well as ongoing consultation between the parties. Following the concept requirements, draft legislative texts were placed on the official website of the Parliament for public discussions. The cooperation between the Parliament and NGOs specialized in the development of draft laws for central public administration reform, amending the electoral law, transparency in decision making, amending and supplementing the Law on civil associations follows in the same train of thought.

The Parliament's example was taken over by the Government, which proposed some draft documents for public debates, such as those related to the public service and status of public officials, Information and Communication Strategy for the European integration of the Republic of Moldova.

Other achievements include the signing of the Memorandum on Cooperation in the European integration process between MFAEI of the RM and civil society organizations and the Memorandum of Cooperation between the Ministry of Social Protection, Family and Child (MSPFC) and the Network of Social NGOs. The Memorandum concluded between MFAEI and 23 non-governmental organizations, alliances, networks and forums, remained open to all public organizations interested in supporting and assisting authorities in the process of fulfilling the European integration objective. Here we can add the inclusion of civil society representatives in the membership of several structures and the committees established with the view to develop the national security and foreign policy concepts of the Republic of Moldova. Besides, several ministries organized periodical thematic consultative meetings with NGOs representatives. In June 2008 the National Participation Council (NPC) was established as part of the Government's initiative for consulting with the civil society.

After coming to power, the Alliance for European Integration relaunched the National Participation Council initiative to consult the civil society, business environment and academia in the development, implementation, and monitoring of the country's strategic planning documents¹³⁸, with intensified dialogue between some ministries and the civil society: NGO representatives were elected in ministries' college (Ministry of Finance), several round table discussions were held on public policies with representatives of the civil society (Ministry of Economy) etc.

Though draft legislative documents on the ratification of international documents were placed on the websites of public institutions, they failed to publish the texts of those treaties and often the information notes, opinions, expert reviews and references to the Community or national acts, serving as a basis for the development of the respective drafts. A similar situation was noticed in the case of Government. Besides, cases were found when drafts were reviewed by the Parliament in a hurry, failing to comply with the 15-day period envisaged by the Regulation of Parliament, Law on Transparency in Decision Making and the implementation mechanism of the Concept of Cooperation with the civil society.

¹³⁷ „Acces-info” Center (2007), *Implementation of the Law on Access to Information. Monitoring report*, www.acces-info.org.md.

¹³⁸ 30 civil society representatives were selected, on a competition basis, as members of the National Participation Council.

As regards development and promotion of several legal acts, specialized NGOs have found that they have not undergone sufficient public debate and many proposals of NGOs were not taken into account. This indicates that some public authorities had a formalist or ignorant attitude towards the NGO involvement in public policies development and implementation.

The authorities' level of transparency and openness to NGOs remained insufficient. It decreased even more with the suspension of the live broadcasting of the Parliament sittings. On the other hand, the NGOs' human and institutional, expertise and assistance capacities were limited. In areas where these abilities are at a satisfactory level, the views of NGOs were often neglected.

Conclusions

- Moldova continued to advance, albeit slowly, in harmonizing the national human rights legislation with the EU one.
- The process of improving the legal framework for the human rights protection remains driven from outside. As a consequence, adoption of the legislation framework is not always followed by the development of effective mechanisms for human rights protection, while strengthening the existing mechanisms is not perceived as a priority. This approach of "half measures" does not allow an effective protection of human rights. However, the problematic observance of human rights is also determined by the quality of justice in the Republic Moldova.
- Though the media situation has improved in recent years, in 2012 some problems were noticed with ensuring media freedom and freedom expression, especially in the case of local and the opposition media. The adoption of the legislation regulating the transparency of media ownership, advertising market and media market de-monopolizing was further delayed. Although enough time has passed since the adoption of the Law on Freedom of Expression, its impact remains low due to the lack of awareness about its existence among judges and journalists¹³⁹.

Strategic Recommendations

- Improve the BCC monitoring of broadcasters' behavior and prompt application of appropriate sanctions for obvious abuses;
- Regulating the procedures of court examination of appeals filed on or after the election day: emergency examination; correlated procedural rules, avoidance of delays; clear enforceable judgments.
- Comply with the legislation on decision-making transparency in the process of amending the electoral framework.
- To prevent the spread of impunity for acts of torture among police, it is necessary to exclude the overlaps between Articles 309/1 and 328 (2) c) of the Criminal Code and eliminate the prescription for torture-related crimes
- To improve the decision-making transparency it is necessary to eliminate the existing inconsistencies between Law No 239-XVI of 13.11.2008 and the Regulations approved by Government Decision No 96 of 16.02.2010, which generate confusions
- Set up the Committee for the implementation of the National Human Rights Action Plan and place information about the Commission membership on the websites of the Ministry of Justice and State Chancellery.
- The line ministries and State Chancellery must ensure transparency in the implementation of the action plans adopted in 2011 aimed at protecting the human rights in general and some categories of people in particular, by the participation of civil society representatives in the advisory council in charge of monitoring/implementing the action plans and by publishing the annual progress reports in due time;
- Include a human rights protection component in the sector policy priorities, set out in the 2013-2015 Medium Term Budget Framework, which is under development.

¹³⁹ Conclusions of "The Impact of the Law on Freedom of Expression" Study, developed by the Centre for Independent Journalism <http://bit.ly/Xn52Ue>.

■ Settlement of the Transnistrian Conflict: Minor progress (1.5 points out of 5)

(16) Sustained efforts towards a settlement of the Transnistria conflict, respecting the sovereignty and territorial integrity of the Republic of Moldova within its internationally recognised borders, and guaranteeing respect for democracy, the rule of law and human rights.

Settlement of the Transnistrian conflict is a priority on the EU-Moldova agenda. The unsolved conflict poses a series of risks for the regional security. These risks come from the non-constitutional regime in the region, proliferation of illegal activities and deployment of a large amount of Russian troops and munitions left since the USSR time, without acceptance or supervision of the Republic of Moldova, as well as against the international commitments of the Russian Federation. The mentioned risks have become more obvious ever since Romania joined the European Union on 1 January 2007, which brought the conflict area to a even closer distance from the EU border. Moreover, the existence of the "frozen" conflict and the lack of actual control by the Republic of Moldova over the territories on the Eastern bank of Nistru river are a major obstacle for the political and social-economic development of the Republic of Moldova and thus for the objectives of the European Neighborhood Policy related to Moldova.

The preamble of the EUMAP provides explicitly for "shared responsibility" in the settlement and prevention of conflicts and the Action Plan itself foresaw a series of actions targeted at the strengthening of EU contribution to the settlement efforts, while the mentioned provisions are one of EUMAP innovations compared to the Partnership and Cooperation Agreement (PCA) on the background of strengthening the political and security dialog between the EU and RM. The measures proposed in the EUMAP aimed, on the one hand, at a more active involvement of the EU in the political negotiation on the Transnistrian dispute and, on the other hand, at changing the context of the conflict and creating a more favorable environment for the achievement and implementation of a potential political solution. The innovative approach refers to the Europeanization of the efforts made to regulate the Transnistrian issue, which can actually contribute to the conflict settlement¹⁴⁰.

The participation of Moldova in the political negotiation process under the aegis of OSCE

During the actual implementation of the EUMAP, the political negotiations on the Transnistria dispute were blocked to a large extent, except for a couple of negotiation rounds which happened in October 2005 - March 2006. The mediators and observers in Transnistrian conflict conducted several rounds of consultations and repeatedly urged the parties to resume the negotiation process. This had no results because of intransigent attitude of the Transnistrian party, invoking "the economic blockade set by the Republic of Moldova and Ukraine" and because it set conditions that are unacceptable for the Moldovan party, which were often also supported by the Russian Federation.

The lack of any progress in the withdrawal of Russian troops and ammunition from Transnistria was one of the reasons why they did not manage to adopt final declarations at the annual ministerial meetings of OSCE during 9 years in a row, since 2003 until 2011. As the negotiations in 5+2 format¹⁴¹ had been blocked for six years, the Moldovan authorities undertook a number of efforts to break the deadlock and find alternative solutions. Three main initiatives taken by Chisinau for this purpose can be outlined:

- The Parliament of the Republic of Moldova adopted on 10 June 2005 the Declaration on the initiatives of the President of Ukraine and two calls regarding the democratization criteria, principles and conditions for the demilitarization of the Transnistrian region of the Republic of Moldova and passed on 22 July 2005 the Law on the Main Provisions of the Special Legal Status of the Eastern Rayons of the Republic of Moldova (Transnistria);

¹⁴⁰ "Europeanization" of the regulation of secessionist conflicts reveals a "process that is activated and encouraged by European institutions, primarily the European Union, by linking the final outcome of the conflict to a certain degree of integration of the parties involved in it into European structures" (See Europeanization and Secessionist Conflicts, G. Noutcheva, N. Tocci, B. Coppieters, T. Kovziridze, M. Emerson, M. Huysseune, 2004).

¹⁴¹ The first round of negotiations on the Transnistrian issue during the implementation of EUMAP hold on 27-28 October with the participation of the Moldovan and Transnistrian parties, mediators representing OSCE, Russia, and Ukraine, as well as US and EU as observers.

- the dialog held by the Moldovan authorities with the Russian Federation in August 2006 regarding a Moldovan "set of suggestions", aimed at regulating the ownership rights in the Transnistrian region;
- the initiatives of enhancing the confidence and security, launched by President Vladimir Putin in the autumn of 2007, which introduced a new approach based on enhanced "confidence measures".

Only on 22 September 2011, during the consultations in Moscow, there was agreed to resume the negotiations in 5+2 format. In late November, the first official meeting in 5+2 format took place in Vilnius. During the OSCE Ministerial Council meeting of 6-7 December 2011, the delegation of the Republic of Moldova highlighted the progress, but also stated the need:

- to find a final and viable solution to the conflict based on the respect of sovereignty and territorial integrity of the Republic of Moldova;
- to develop a comprehensive agenda in 5+2 format that will include the status of the Transnistrian region;
- to enhance the confidence building measures;
- to observe human rights in the Transnistrian region;
- to consider the security aspects, expressing the concerns related to the negative trends in the Security Zone;
- to start discussions on the transformation of the current peacekeeping operation into a civilian arrangement under a relevant international mandate;
- to finalize the withdrawal of the Russian forces from the territory of the Republic of Moldova, which would help us advance in the dialog on the future of the conventional arms control regime in Europe.

There followed a series of 5+2 format consultations, which ended with the negotiations round in Vienna, on 17-18 April, where the parties:

- agreed on the text of the document that will serve as an organizational basis for the negotiation format and set the main principles underlying the official negotiations;
- specified the aspects related to the development of the agenda of the rounds, frequency of the meetings, role of working groups, confidence building measures, way to formalize the negotiation results;
- agreed that the negotiations should include the social-economic, humanitarian, security, political settlement of the conflict, human rights aspects in the region.

Generally, it was agreed for the agenda items to be grouped under several categories:

- social-economic aspects - setting important directions such as the freedom of population movement; customs procedures; banking area; health care; education;
- general law and humanitarian aspects and human rights;
- wide political settlement, including institutional, policy and security matters.

During the XIX meeting of OSCE Ministerial Council, held on 6-7 December 2012 in Dublin, for the first time in ten years a ministerial declaration was adopted with respect to the negotiations and the settlement of the Transnistrian conflict in 5+2 format. The ministerial statement, adopted unanimously in Dublin, envisaged:

- support of the participating OSCE countries for a comprehensive, fair and viable resolution of the Transnistrian conflict based on the sovereignty and territorial integrity of the Republic of Moldova;
- support for the development of a special status for Transnistria that fully guarantees the human, political, economic and social rights of its population;
- progress of the Permanent Conference on Political Issues in the Framework of the Negotiation Process for the Transnistrian Settlement in 5+2 format following the decision to resume official negotiations taken in Moscow in the 5+2 format on 22 September 2011, and the first such meeting held in Vilnius during the period between 30 November and 1 December 2011;
- usefulness of the adoption of "Principles and Procedures for the Conduct of Negotiations" and of a comprehensive agenda for the negotiating process, and look forward to advancement of the negotiations on all three baskets of the agreed agenda: socio-economic issues, humanitarian issues and human rights; and a comprehensive settlement, including institutional, political and security issues;

- progress in the reactivation of the work of the expert working groups and of direct contacts between the sides, which have led to concrete achievements of benefit to the local population such as resumption of rail freight traffic through the Transnistrian region;
- complementary role of the civil society and media from the parties involved in conflict settlement;
- need to increase efforts to agree and implement confidence building measures, including by removing obstacles to the free movement of people, goods and services.
- call on the mediators and observers of the negotiating process to intensify their coordinated efforts and to make full use of their potential to promote progress in resolution of the conflict.

During the same closing session of the Ministerial Council, the delegation of the Republic of Moldova restated that:

- the Transnistrian conflict is being regulated in a political context marked by the failure to fulfill the commitments related to the withdrawal of military forces of the Russian Federation from the territory of Moldova;
- it is necessary to transform the current peacekeeping mechanism into a multinational civilian and compact mission under a relevant international mandate;
- the agenda of the security dialog among the relevant stakeholders within OSCE should consider the settlement of the mentioned problems according to the OSCE norms, principles and commitments.

Political Dialog and EU-RM Cooperation

The signing of the EUMAP on 22 February 2005 had immediate effects - appointment of EU Special Representative for the Republic of Moldova and EU adherence as an observer in the negotiations. On 16 March 2005 the Council of the European Union appointed an EU Special Representative (EUSR) in the Republic of Moldova, whose mandate referred particularly to the EU contribution to the peaceful settlement of the Transnistrian conflict, but also covered other areas, such as contribution to the strengthening of democratic institutions; rule of law and observing of fundamental rights and freedoms; promotion of good relationships between the EU and the Republic of Moldova based on joint values and interests; combating trafficking in human beings.

Having the EU and US adhered to the political negotiation format as observers in September 2005 strengthened significantly the EUSR role. Although the negotiation were blocked between March 2006 and November 2011, and EU had only an observer role within them, the formal presence of the EU in the negotiation format enhanced significantly the presence and visibility of the EU in the regulation efforts. Becoming a direct participant in the negotiations, the EU became much more interested in the identification of a solution and their direct participation in this process gave EU access to internal information from the inside.

As a result, the Transnistrian problem has been constantly on the agenda of EU-RM cooperation institutions. Particular attention was paid to the Transnistrian problem during the meeting of EU-RM Cooperation Council on 19 June 2007, where the object of intense Moldovan-Russian consultation - Moldovan "set of suggestions" on the Transnistrian problem - was widely discussed by the European officials and Moldovan delegation. On this occasion, the high officials of the EU encouraged the Moldovan party to ensure that any final solution of the Transnistrian problem is adopted in "5+2" format, which continues to be the single mechanism for the discussion of the identified solutions. The dialog about the Transnistrian problem during the work of EU-Moldova Parliamentary Cooperation Committee contributed to the approval of a series of resolutions by the European Parliament regarding the Transnistrian conflict¹⁴². Though ENP has a limited role in the development and implementation of EU foreign policy, its resolutions had an important role in raising the awareness of the Member States on the situation in the Transnistrian region and its importance for the achievement of ENP goals related to the Republic of Moldova.

Diplomatic and Political Support in the Regulation of the Transnistrian Dispute

Besides the constant EU-RM dialog on the Transnistrian issue, EU provided diplomatic and political support in the Transnistrian regulation efforts under the political and security dialog of the EU with third parties (Russia, Ukraine), at pan-European and international forums (OSCE, Council of Europe, NATO, UN), as well

¹⁴² European Parliament resolution of 12 July 2007 on human rights violations in the Republic of Moldova; European Parliament resolution of 26 October 2006 on the situation in the Republic of Moldova (Transnistria); European Parliament resolution of 16 March 2006 on human rights in Moldova, and in Transnistria in particular, www.europarl.europa.eu.

as by means of statements and positions of various EU institutions towards the developments in Transnistrian regulation. The dialog of EU with Ukraine had the highest impact in terms of political and diplomatic support, which resulted in the EU Border Assistance Mission to the Republic of Moldova and Ukraine and observance of unified customs regime by Ukrainian authorities at Moldovan-Ukrainian border in line with the Joint Declaration of 30 December 2005 - two key developments achieved during the reference period, which most likely had the largest impact on the context of the Transnistrian conflict.

EU also had a constant dialog with Russia regarding the Transnistrian conflict, along with other "frozen" conflicts from the former soviet area, which formed the object of EU-Russia joint security area. The EU continued to reiterate the need to identify, as fast as possible and unconditionally, a viable solution for the Transnistrian conflict observing the territorial integrity and sovereignty of the RM during the ministerial councils of OSCE, meetings of OSCE Permanent Council, meetings of CoE Council of Ministers, as well as within other pan-European and international forums.

On 7 June 2010, during the meeting of the German Chancellor and Russian President at Meersburg, it was announced that the Transnistrian problem could be included on the agenda of the Russia-EU Committee on foreign policy and security at the level of Ministers of Foreign Affairs. For this purpose, a joint statement of the two officials was made, as follows: "The Committee could be a forum for the exchange of opinions on current problems related to the international politics and security, could develop the main principles for the conduct of joint civil and military operations of Russia and EU aimed at overcoming the crisis; exchange opinions and recommendations on specific matters of cooperation, including various conflicts and crisis situations, in whose resolution Russia and the European Union are participating, within the appropriate international formats". In the same train of thoughts, the Russian President mentioned that: "by joining the efforts we could solve the Transnistrian conflict, which should be achieved by resuming the "5+2" negotiation format, by involving all parties and attracting additional possibilities, including a possible EU-Russia security forum". The Moldovan authorities responded positively to the initiative of the Russian and German leaders on "institutionalization of the Russian-EU dialog on matters of foreign policy and security, including on cooperation in the management of conflicts and crisis situations; conduct of joint civil and military operations for this purpose; as well as in order to achieve significant progress in the identification, within 5+2 format, of a viable solution for the Transnistrian conflict".

Commitments Russia assumed in Istanbul

The need for Russia to fulfill completely and immediately the commitments assumed during the OSCE Ministerial Summit in Istanbul, 1999, has been constantly expressed in the positions of the representatives of various EU institutions. Both the countries holding EU Presidency and the individual Member States joined this position, supporting the arguments of the Republic of Moldova. As well, the Moldovan party repeatedly expressed its concern about the inefficiency of the current peacekeeping mechanism and pleaded for its transformation into a multinational mission of civil observers. EU did not issue an official position regarding the transformation of the current peacekeeping mechanism in the Transnistrian region or a potential participation of EU countries in it; several EU officials stated that such discussions can be held only when it is clear what mandate such a mission would have and at what stage of the regulation process it would take place (conflict, post-conflict, etc.).

The inconsistency of Moldovan authorities undermined the EU advocacy for Moldova. On 18 March 2009, during the meeting of the Presidents of Russia and Republic of Moldova a Declaration was signed, being aimed at "strengthening the efforts for the regulation of the Transnistria issue". *Inter alia*, the Declaration envisaged that:

- the parties (Chisinau and Tiraspol) admit the stabilizing role of the current peacekeeping mission in the region and consider that it is justified to transform it into a peace guaranteeing mission under the aegis of OSCE, once the Transnistrian dispute is solved;
- the parties express their gratitude to the Russian Federation for mediating the efforts aimed at a complete resolution of the Transnistrian issue.

The signing of the aforementioned Declaration generated criticism towards the Moldovan Government. International experts mentioned that the signing of this Declaration was interpreted by the Western diplomats as:

- Moldovan authorities giving up the documents signed by Russia at Istanbul OSCE Summit and coming back into the vicious circle - Russia does not withdraw its troops because there is no political solution to the conflict and the conflict will not be solved because the withdrawal of the troops is not wanted. In fact the Declaration undermined the positions of EU and US in the issue of withdrawing the Russian military presence in this region;
- undermining the position of Moldova from the perspective of FASE Treaty and Istanbul agreements of 1999, according to which foreign army cannot be located on the territory of a country without its acceptance. Moreover, in the case of Moldova, Istanbul requirements envisage full and unconditioned withdrawal of the Russian military presence.

After the Alliance for European Integration (AEI) came to power in the Republic of Moldova, at the 64th session of the United Nations General Assembly in September 2009, during the general political discussions, the representative of the Republic of Moldova mentioned that Moldova would continue demanding withdrawal of foreign military troops from its territory and replacement of the current peacekeeping mission with international peacekeeping forces.

Border Security

Important progress has been achieved in this area, but the involvement and support of the EU brought the most significant results, which changed substantially the current *status quo*. The EU Border Assistance Mission (EUBAM) on the Transnistrian segment of the Moldovan-Ukrainian border was seen as a model of EU intervention in conflict situations, but also as a way of efficient cooperation among various EU institutions in the settlement of crises, an efficient joining of Foreign Affairs and Security Policy (FASP).

The Mission was launched as a response to the a joint letter from the Presidents of Moldova and Ukraine, of 2 June 2005, where they asked for EU support for enhancing border management capacity and establishing "international customs control" on the Moldovan-Ukrainian border. After the signing of a Memorandum of Understanding between the EU, Ukraine and the Republic of Moldova on 7 October 2005, the EU Border Assistance Mission started its activity on 30 November 2005.

Initially the Mission was established for two years with a budget of about EUR 20 million and a staffing of about 50 European experts in customs and border police issues. As a result of the successful activity of the Mission, its mandate was extended repeatedly, being still operational. The Mission was also involved in the management of BOMMOLUK (Improvement of Border Controls at the Moldovan-Ukrainian State Border) Project of the European Commission, focused on procurement of equipment, strengthening of risk analysis skills and training the staff on the cross-border points under joint control.

As a result of the Mission activity, the smuggling flows decreased significantly at the Moldovan-Ukrainian border; the risk assessment and border security capacity increased significantly; the cooperation of the relevant authorities from Moldova and Ukraine strengthened, as well as the cooperation between them and the competent European bodies.

Noteworthy, the Mission contributed to the implementation and operation of the single customs regime set by Moldova and Ukraine at the Moldovan-Ukrainian border since 3 March 2006. It was established after the signing of the Joint Declaration by the Moldovan and Ukrainian prime ministers on 30 December 2005 on unifying customs procedures applied on Moldovan-Ukrainian border, including on the Transnistrian border. According to unified customs regime, only the goods accompanied by official customs documents of the Republic of Moldova can cross the Moldovan-Ukrainian border, which made it necessary for the Transnistrian business entities to register with the relevant Moldovan authorities. The Moldovan authorities introduced simplified procedures for the temporary registration of Transnistrian economic operators with the State Chamber of Registration of the RM and return of customs charges to them. The Mission contributed to legalizing the commercial activities of the Transnistrian business entities, providing them with neutral consultancy and support for the compliance with the requirements of the Moldovan authorities with respect to registration and obtaining access to European commercial preferences. According to the data of the Bureau (Ministry) of Reintegration, the number of Transnistrian business entities with permanent or temporary registration with the relevant bodies of the Republic of Moldova, who obtained access to the European commercial preferences granted to Moldova, increased, which is a good example of making EU more attractive in the Transnistrian region. When Moldova and EU initiated the negotiation on the Deep and

Comprehensive Free Trade Agreement (DCFTA), the Transnistrian authorities preferred to have only observers in this process, thus making the future of the business entities from that region uncertain.

Civil Society and Democracy Promotion

Democratization of the Transnistrian society and implementation of confidence building activities by civil society organizations are two premises for the identification and implementation of a democratic solution to the Transnistrian conflict. "Settlement by democratization" was the topic under which the initiatives of the Ukrainian President were presented in April 2005 and further developed in the Call of the RM Parliament of 10 June 2005 regarding the criteria for the democratization of the Transnistrian region. Actually, the democratization of the Transnistrian region proved to be a desire much more difficult to achieve, since declarations prevail over specific actions that are or can be taken. At the level of statements, the EU supported the activities of civil society development in Transnistria and cooperation of civil society organizations from the two banks of the Nistru river. The initiative was taken over by several EU Member States, who implemented and are still implementing projects of keeping peace by democratization, as part of the bilateral assistance provided to RM. Such initiatives, as well as the plenty of workshops, conferences, and round tables organized by the civil society obtained a series of successes and achievements, proving the confidence building potential of these activities.

The RM authorities and, particularly, the Ministry of Reintegration had a permanent dialog with civil society representatives on various aspects of the Transnistrian conflict, as well as their openness to participate in various activities organized by the civil society. The civil society experts, representing the nongovernmental organizations Promo-Lex, Association for Foreign Policy, Public Policy Institute and the Institute for Development and Social Initiatives (IDIS) "Viitorul" presented on 12 December 2012 a Memorandum on the Settlement of the Transnistrian Conflict. The Memorandum envisaged the settlement of the Transnistrian conflict exclusively by peaceful methods and negotiations and its implementation meant the development of a legal status of Transnistria with a high degree of autonomy and representation in the central public authorities; ensuring neutrality and demilitarization of the Republic of Moldova; withdrawal of foreign troops, weapons and munitions from the territory of the country and liquidation of the Security Zone. The administrative boundaries of Transnistria are supposed to be regulated by an organic law; but probably they will be changed by the Parliament of the Republic of Moldova after consultation between the central Moldovan and Transnistrian authorities.

Conclusions

- Some strategic elements in the settlement of the Transnistrian issue appeared 2005 with the establishment of 5+2 negotiation format, EUBAM mission and EU convincing Ukraine to accept the new approaches set in the EU-Moldova Action Plan, as well as in EU-Ukraine Action Plan. By this approach, the Republic of Moldova should become attractive for Transnistria by promoting the reforms envisaged by EUMAP, through modernization and Europeanization. Further, via means of confidence building measures, Transnistria was supposed to be attracted in an intense process of building social and economic networks, in order to create preconditions for the negotiations on political matters, specifically the establishment of the legal status of the region. The scandals and the political instability in the Republic of Moldova undermined the reintegration of the country.
- The settlement of the Transnistrian dispute is still a sinuous process. After a series of positive events related to resumption of official negotiations in 5+2 format in February, a period of trials and uncertainties followed related to the negotiation agenda. Due to the categorical refusal of Transnistria to put on the agenda such important issues as the legal status of the region, the complex settlement approach was broken down into stages. The decision to tackle the Transnistria dispute with OSCE instruments - phased negotiations - focused on the social-economic, humanitarian and political problems allowed unblocking the negotiations by postponing the discussion of political problems. During the second half of 2012 the relationship between Chisinau and Tiraspol worsened significantly, proving that the "small steps" strategy became outdated.
- In the meanwhile there are no preconditions for "unfreezing" the conflict and moving to a more dynamic stage of settlement. Most likely the conflict will stay "frozen" for the nearest future. In 5+2 negotiation format, the Transnistrian party will insist on prioritizing the issues from the "social-economic" package, focusing the joint expert groups' attention on them. As well, Tiraspol insists on the following priorities - legal assurance and recognition of the Transnistrian education certificates;
- Though the Moldovan authorities deem mandatory the withdrawal of the Russian military troops and munitions from Transnistria, as well as the modification of the peacekeeping format in the Security

Zone, they agree that the format of the peacekeeping operation cannot be discussed during the 5+2 negotiation since the peacemakers had been deployed in the Security Zone on the basis of the 1992 Agreement, signed between Chisinau and Moscow, so that only these parties can discuss on this matter.

- The potential of the "confidence building measures"-based approach depleted. The reason is the exclusive focus of the Transnistrian authorities on the humanitarian and social-economic matters, avoiding any discussion on issues related to the legal status of the region, withdrawal of the Russian military presence and modification of the peacemaking mission. Using this approach the problems included currently on the working groups' agenda can and must be solved, but it won't give any solutions for a sustainable settlement of the Transnistrian issue, as stated in the Government Program;
- The Moldovan authorities do not yet have an alternative or complementary approach to convince the Transnistrian leaders to accept the discussion on substantive matters for a sustainable settlement of the conflict. From this perspective, the conflict resolution goes back to the status of "frozen conflict". The positive developments achieved over the past few years consist in the fact that the intensity of the dissension decreased, but it is still exists, particularly expressed in the Security Zone, approval of military doctrines and foreign policy of the break-away Transnistrian regime, which are contradicting the duties and efforts of the Moldovan authorities;
- The new tensions, emerged in the relations between Chisinau and Tiraspol also resulted in the establishment of special customs fees for the entry of Moldovan goods subject to excise taxes into the Eastern rayons, as well as in periodical provocations of various nature. The invoked reason - the need for "measures to protect local manufacturers of goods subject to excise taxes" - does not reveal all nuances, which are probably related to the discontent of the Transnistrian representatives with the obstacles the banking system of the region faces in the relations with the banks from US and EU;
- The massive financial and political support of the Russian Federation for the break-away regime will keep motivating their lack of interest towards approaching the substantive matters of Transnistrian problem settlement.
- The problems related to the operation of the banking, telecommunications, and other systems revealed the fragility of the settlement process. Another series of challenges, related to: demarcation of Transnistrian segment of the Moldovan-Ukrainian border; attempts of the Russian Federation to open a general consulate in Tiraspol and upgrade the military infrastructure of the region without the consent of Moldovan authorities highlighted the influence of guarantees and mediators in the settlement process.

Strategic Recommendations

- Coordinate all actions and inform fully and timely the European partners about all actions taken.
- Strengthen the capacities of developing, implementing and evaluating the policies on Transnistrian dispute settlement; develop a risk assessment and feasibility analysis system for the suggested measures before actually implementing them.
- Develop and implement an efficient communication strategy related to the Transnistrian issue, which would be targeted at the population on the right bank and, particularly, the population on the left bank of the Nistru river. Information must be provided timely and in a language acceptable for both parties.
- Given the discussions about the need to raise the attractiveness of the Republic of Moldova for Transnistrians, to democratize the Transnistrian region, additional effort is needed to eliminate the deficiencies in this area on the right bank of the Nistru river, otherwise we risk to promote double standards. These efforts would fall under the wider efforts the RM shall make in order to raise the attractiveness of the right bank for the inhabitants from the left bank.
- Maintain the EU interest in discussing with Russia the Transnistrian issue. Russia is still the player with the heaviest weight in the settlement process and though the chances for Russia to make concessions are low, the EU must keep the Transnistrian problem on the agenda on its relations with Russia, using all foreign affairs and security policy tools available, including insisting on immediate withdrawal of Russian troops and munitions from the territory of the RM.
- Keep conditioning the progress in the relations with Ukraine on its cooperation in the process of regulating the Transnistrian issue. Continue the implementation of practical actions aimed at ensuring border security and have Ukraine join the travel interdiction for the Transnistrian leaders, etc.

- Maintain the EU interest in discussing the transformation of the peacekeeping mechanism in Transnistria.
- Greater involvement of the EU in the Transnistrian region. So far most of the Eastern Partnership activities under the European Neighborhood Policy were implemented mainly on the right bank of the Nistru river. Since the left bank of the Nistru river is still under the influence of Russia, the differences between the right bank, declared to be pro-European, and the left bank, declared to be pro-Eurasian, are worsening the existing division.
- Besides the specific actions EU could undertake in Transnistria, a separate activity is needed, namely an information campaign for the citizens on the left bank regarding the benefits they could have if the Republic of Moldova signs the Association Agreement, liberalized visa regime, Free Trade Agreement, etc.
- Representatives of Moldovan authorities should coordinate the actions and messages regarding the settlement of the Transnistrian issue. The contradictory messages of the Head of the State, Prime Minister, as well as of the Minister of Defense with respect to the resolution of the Transnistrian dispute can confuse both the public opinion in the Republic of Moldova and the attitudes of the guarantors and mediators in the process of the settlement.

■ **Improve Welfare: Moderate progress (3.1 points out of 5)**

(17) Take significant steps to address poverty, notably by improving targeting and effectiveness of social assistance

Moderate progress (3.5 points out of 5)

During the past years, the poverty issue has been addressed in several strategic planning papers developed and implemented by the Government. Thus, the Economic Growth and Poverty Reduction Strategy (EGPRS) was implemented during 2004-2006, followed by the National Development Strategy (NDS) during 2008-2010 and "Moldova 2020" Strategy was approved in 2012 for the years 2012-2020. Although, starting with 2004 the rate of absolute and extreme poverty decreased significantly, the economic growth was mainly focused in the big towns, where absolute poverty has always been lowest and decreased the most: from 20.6% in 2006 to 4.2% in 2011. At the same time, the net impact of these programs is still slow because it is impossible to delimit the influence of remittance inflow on the Moldovan economy. As well, the problem of slow collection and late and incomplete publication of statistical data still persists, accompanied by the lack of standards and uniform procedures for intra- and inter-ministerial reporting.

(18) Redirect public expenditure to significantly address child poverty and to increase primary school enrollment

Moderate progress (2.7 points out of 5)

The most important actions in the reporting period encompass the approval of the National Strategy and Action Plan for the reform of the residential child care system for 2007-2012; testing and completion of the monitoring and evaluation mechanism for the Committees for the Protection of Child in Difficulty; and implementation of the Social Aid mechanism based on the means testing principle. However, the transition from the nominal to the means-tested compensation is very slow, taking into account that 27% of the nominal compensations reached the poorest quintile of population (in 2010, according to a World Bank survey). Other issues relate to the bureaucratic and lengthy procedures of applying for social aid, low involvement of LPA and decreasing rates of primary school coverage in the rural area.

Strategic Recommendations:

- The poverty issue in the Republic of Moldova should be addressed mainly by means of economic mechanisms and not by distributing budgetary resources. Thus, the most efficient strategy for poverty reduction is creation and harnessing the economic opportunities, which appear as a result of improved business environment, lower corruption and bureaucracy, more efficient judiciary, road repairs, and other essential elements of public infrastructure.
- The social protection system must have a well-defined role, namely financial support for the people in need, who for objective reasons, are not able to earn the minimum needed for subsistence. For this purpose, the Government must facilitate the transition, as quickly as possible, from the nominal compensations principle, which is an extremely inefficient and costly system, to the means-tested

Social Aid. At the same time, it is necessary to simplify the procedure of applying for Social Aid and extend the coverage of this relatively new social protection element for our country.

- The Government must pay more attention to the food security issue, which is extremely low nowadays, particularly in rural settlements. This actually is the most important arrear in the respective section of the EUMAP.

■ **Microeconomic and macrofinancial Policies:** Moderate progress (3.6 points out of 5)

(19) Strengthen economic growth and make it sustainable over the medium term

Government cooperation with international financial structures, streamlining of budgetary processes and of public spending planning, rationalization of social contributions and NBM passing to inflation targeting regime were the main reasons which contributed to the strengthening of medium term economic growth. This particularly refers to Government relations with the IMF under the Memorandum signed with the IMF on Economic and Financial Policies for the years 2006-2008 and of a new 3-year memorandum approved in 2010, as well as with the World Bank, European Commission and other representatives of the international donor community. This allowed opening a generous budgetary, macroeconomic and macrofinancial support; determined a series of reforms, some of which were not popular, but necessary to ensure the medium term sustainability of the economic growth. Thus they started the transition from nominal compensation system to the means-tested one, extension of the taxation basis and elimination of several fiscal facilities. Other important actions relate to the approval of the new Law on the Court of Accounts in 2008; implementation of the Medium Term Expenditure Framework and its correlation with the strategic planning papers (e.g. "Moldova 2020" NDS); raising the transparency of the budgetary process and use of public money; and restructuring of the external public debt. As a result, they managed to stabilize the fiscal position after the economic crisis of 2009 (reducing the share of budget deficit in GDP from 6.3% in 2009 to about 2% in 2012); to stabilize the increase of prices (diminishing the annual CPI at the end of the year from 10.1% in 2005 down to 4.1% in 2012); to raise the level of official reserve assets from 2.2 months of consecutive imports in 2005 up to 3,7 in 2012; and to decrease the share of public debt in GDP from 34.8% in 2008 down to 22.4% in 2012.

Nevertheless, the disbursement of the last installment under the memorandum approved in 2010 was delayed because of slowing down the procedures of enhancing the transparency of the structure of stock holding in the financial institutions and approval of other legal acts meant to facilitate the restructuring of the debts; since 2010 the share of budget deficit in GDP is about twice higher than the targeted level; the foreign grants keep playing an important role in the formation of the state budget; most benefits paid under the social protection system still take the form of nominal compensations, allocated based on category of population, not based on people's income; the fiscal legislation still contains many facilities provided to some enterprises, particularly to FEZ residents and farmers; most of Court of Accounts recommendations are not implemented by the auditees; and the MTBF for 2013-2015 has not been totally synchronized with "Moldova 2020" NDS.

Strategic Recommendations

- A tighter correlation between the provisions of "Moldova 2020" NDS and the Medium Term Budgetary Framework is needed, particularly with respect to rationalization and streamlining of social contributions and increase of expenses related to the economic activity. At the same time, the Government must facilitate an as active as possible involvement of the civil society in the development of the MTBF and for the consultations not to be just a formality. In order to improve the accuracy of the forecasts underlying this paper, there is a need for a more intensive consultation with the National Bank of Moldova, IMF country office, as well as other relevant local institutions.
- Generally speaking, the Government must keep a counter-cyclical character of its economic and fiscal policies. Thus, at the same time with the economic relaunching there is necessary to eliminate fiscal facilities, extend the taxation base, diminish the indebtedness level (particularly of the internal public debt share in the total public debt), and rationalize the social benefits. At the same time, the Government must strengthen the sustainability of the public finance system by substituting foreign grants with other sustainable funding sources.

■ **Functional Market Economy:** Moderate progress (3.1 points out of 5)

(20) Improve functioning market economy and business climate through appropriate structural reforms aimed also at achieving transparency and predictability of business conditions.

High progress (3.7 points out of 5)

The most important developments took place in the area of developing and implementing several important legal acts in line with the main European directives. These mainly relate to the Accounting Law, Law on Audit Activity, Law on Currency Regulation, a new Law on Telecommunications, and the Law on Industrial Parks, which were passed in 2008. Other 3 important laws were approved in 2012, which overall are in line with the European norms: Law on Competition, Law on Insolvency, Law on State Aid. Positive developments were also noticed in the area of decision-making transparency since the Law on Transparency was passed in 2008 and involvement of civil society and business community representatives in the consultative process on various draft legal acts. Some success was obtained with respect to the regulatory reform and simplifying the administrative requirements towards companies. As a result, according to the Doing Business index calculated for 2005-2013, the number of procedures needed to initiate a business decreased from 10 to 7, the time needed to get the documents decreased from 30 to 9 days and the cost decreased from 18.6% to 5.7% of the per capita income.

However, the progress was affected by the fact that the regulatory agencies (NAER, ANRCETI, and NRTA) remained dependent on the Government, which undermines the efficiency of their activity; obtaining of construction permits is still very difficult and bureaucratic, the number of procedures not having changed in the analyzed period and being much higher than in the Eastern Europe and Central Asia countries (26 compared to 19); the consultation process is purely a formality and most of suggestions of the business community and other involved stakeholders are not taken into consideration, while the small businesses have almost no participation in these consultations. Although the new Law on Competition is much better than the previous one and generally complies with the European requirements, the terms "dominant position" and "unfair competition" got a less accurate definition which, respectively, gives more room for interpretation as compared to the old law.

(21) Implementation of privatisation programme, covering in particular outstanding large-scale privatisation as a priority and the energy sector.

Moderate progress (3 points out of 5)

The main actions consist in the adoption of the Law on Public Procurement and the Law on Public Property Management and Privatization in 2007 and the Law on Public-Private Partnership in 2008. However, the public procurement system contains a number of flaws that reveal the weaknesses of the Moldovan investment climate and create major problems in the relationships with funding entities. Although the Law on Public-Private Partnership removes the barriers for PPP establishment, its enforcement is complicated due to the failure of the Government to approve the necessary by-laws. In particular, the failure to harmonize the respective law with the Law on Concessions, which is outdated, poses a number of financial and economic risks related to the implementation of PPP projects. At the same time, while the Energy Strategy of the Republic of Moldova until 2020 provides that state-owned distribution networks shall be privatized, they are still part of the list of goods not subject to privatization.

Strategic Recommendations

- It is necessary to develop regulatory and methodological documents on the implementation of Public-Private Partnerships and minimize the financial and ownership risks at all PPP implementation stages. In particular, authorities should adopt a new law on concessions in order to harmonize it with the Law on Public-Private Partnerships. The Ministry of Finance should also play a more active role at all stages of PPP implementation, by taking over the PPP Division from the Public Property Agency. It is important that the legal and institutional framework facilitates a healthy competition between public institutions by developing PPP projects.
- It is necessary to review the list of items not subject to privatization, in particular by removing the distribution networks and announcing their privatization according to the Energy Strategy of the Republic of Moldova. Those procedures must be carried out in compliance with all the rules of transparency and non-discriminating treatment of potential investors.
- With the view to enhance the efficiency of regulatory institutions, they must become independent from the Government, being responsible only to the legislative power. This involves removing any possibility of Government's interference in the appointment / dismissal of persons in managerial positions, budgeting, tariff setting and the overall operational activity of NAER, ANRCETI, and NRTA.

■ **Regional and rural development: Modest progress (2.5 points out of 5)**

(22) Promote balanced regional development; reduce economic and social disparities across the country

Broadly, there is a moderate progress in building the institutional infrastructure to support regional development (establishment of Development Regions, Regional Development Agencies, National Fund for Regional Development) and several rounds of regional projects funding were conducted. But the impact of these measures is imperceptible, with the gap between regions widening instead of decreasing for some important aspects. The regional and rural development has not yet become an overarching pillar of all policies, and rural development in general is not promoted actively by any political authority. Decentralization reform progresses extremely slowly, because the Government is not ready to assume fully the inherent risks of this reform. This also affects the local development, Moldova being unable to harness the external funding opportunities that are offered by the European Union programs. In terms of SMEs promotion in regions and rural settlements, since 2006 three strategic documents were adopted, whose impact has not been evaluated adequately. The first two did not target specifically SME development in regions and rural settlements; only the one adopted in 2012 assumed a specific priority in this regard and formulated implementation tools. However, consistency of support policies is also affected by the fact that potential beneficiaries have limited knowledge of the the state programs of SMEs support, the regional and local business support infrastructure is virtually absent and the administrative barriers remain high, generating corruption and anti-competitive arrangements.

Strategic Recommendations:

- In financing the regional development projects, it is necessary to prioritize the projects that have the potential to generate, attract and encourage private investments and to separate more clearly the types of projects funded by the National Fund for Regional Development from those that are more suitable for financing from the National Ecological Fund. The decentralization reform must be revitalized, because the lack of resources and competences of regional and local authorities undermines the efforts of regional and local development. It is also necessary to review the salary system in local public administration to ensure that qualified specialists are employed for public service, able to produce a quality change in the performance of local public authorities. A more rational territorial administrative structures would save sufficient means to ensure higher remuneration of administrative staff.
- SMEs are a proposing resource for the modernization and economic diversification of rural areas and regions. However, their development is affected not so much by the lack of active state support programs, but by the persistence of administrative barriers to doing business (generating corruption and informal arrangements) and by some structural economic factors (low income of the population, low skilled labor and even lack thereof). Therefore, policies should emphasize the development of innovative export-oriented businesses, which would harness the agricultural resources and not require high skilled labor. At the same time, it is necessary that some decision-making authority addresses actively the rural development as part of its institutional mandate.

■ **Employment and social policy: Moderate progress (3 points out of 5)**

(23) Strengthen dialogue and co-operation on social matters. Ensure a closer approximation of the country to EU standards and practices in the area of employment and social policy

During the analyzed period the legal framework was developed for the organization and conduct of consultations and collective bargaining between the social partners at branch and regional levels focused on employment policies, rights of employees and employers and other labor market issues. In order to eliminate gender-based discrimination in employment opportunities the Law on Equal Opportunities for Women and Men was adopted in 2006, followed by "Promotion of Gender Equality in Society" National Plan for 2006-2009. Other important actions encompass the National Employment Strategy of Moldova for 2007-2015, approved in 2007, the Law on Occupational Safety and Health, adopted in 2008, and implementation of the Strategy for National Employment Agency Modernization for 2009-2015.

In spite of the authorities' efforts, the occupational indicators decreased continuously and the gap between the employment rates of men and women increased. At the same time, the number of occupational accidents is increasing, many of which result in deaths. Other problems are related to insufficient financial resources allocated for the implementation of employment and non-discrimination strategies, which undermines their

effectiveness and impact. Besides, the dialogue between private companies and authorities governing the labor relations is deficient.

Strategic Recommendations

- It is necessary to strengthen the institutional framework to enhance the efficiency of monitoring and control of working conditions at enterprises subject to high risks of occupational accidents (e.g. works at height or in vicinity of sharp tools, etc.). At the same time, the legislation must balance effectively between the objective of protecting workers, by ensuring proper working conditions, and protecting the employers' rights by establishing clear requirements regarding working conditions and avoiding possible abuses by the inspectors or employees.
- The best employment policy must improve the business climate and ensure macroeconomic and political certainty. As long as the Government cannot these conditions, the impact of vertical measures aimed at stimulating job creation will be limited.

■ Trade Relations: Moderate progress (3.3 points out of 5)

(25) Promote Moldova's exports capacity and diversification of export products

The Republic of Moldova fulfilled all the requirements for ensuring and efficient control of the origin of goods and perfected the relevant institutional framework through the implementation of " SICOM " and " SPECIMEN" information systems, that are integrated in " ACYCUDA World" information system and transfer of competences for the issue of movement certificates EUR.1 and CT -1 to the Customs Service of the Chamber of Commerce and Industry. At the same time , Moldova fulfilled only partially its WTO obligations. The Action Plan on the elimination of non tariff barriers to trade and a law intended to fulfill the commitments regarding customs tariffs were approved and a National Program for Technical Regulations Development was initiated. Besides, the number of types and sub-types of activities, licensed by the Licensing Chamber, was reduced from 37 to 32.

However, the number of licensed types of activities is still high, and the licensing principles for certain activities are unclear. Another problem consists in the application of customs tariffs and safeguarding measures with some deviations from the WTO Agreement on Safeguards, oftentimes tax exemption are applied beyond those commitments and WTO was not notified about all relevant decisions taken by authorities. Despite the more intense consultative processes between authorities and stakeholders interested in certain draft decisions, most documents are not consulted, and many regulatory decisions are not published. Although MIEPO must play an important role in the process of attracting investment and promoting exports, it has very limited institutional capacity, which hinders the achievement of its objectives. Besides, MIEPO mainly focuses on the organization of exhibitions, presentations or forums, paying little attention to the facilitation of communication with the business environment, promotion of legislative changes, etc.

Strategic Recommendations

- Ensuring a transparent and efficient framework for the verification of rules of origin in the Transnistrian region is a key issue that the Moldovan authorities will have to address as a priority in the near future to be able to take advantages of the Deep and Comprehensive Free Trade Area. For that, the Moldovan negotiators must persuade the EU that the political reluctance of Tiraspol administration to cooperate with the Chisinau authorities will be mitigated gradually after DCFTA establishment, when the economic benefits offered by an increased access to the Community market will prevail over the political ones.
- One of the most important political and economic actions that the Government will have to undertake during the preparation for the DCFTA is to eliminate most forms of direct and indirect protection to domestic producers. This includes the cancellation of a number of safeguarding taxes, guaranteeing free access of local and foreign companies to the service market and equal and transparent treatment in the public procurement and state aid process. In this regard, the Government will have to overcome the pressure of many lobby groups, which will ask for some privileges to be maintained, and adopt the same rules of the game for all business entities, regardless of their origin.

■ Customs: Moderate progress (3.1 points out of 5)

(26) Implementation of customs legislation aligned with international and EU standards

Moderate progress (3.3 points out of 5)

During the analyzed period some amendments were made to the Customs Code, in particular by introducing the notion of "counterfeit goods" and establishing measures to control the flow of counterfeit goods and pirated works, "cases of detention of goods suspected of being counterfeit / pirated" was introduced as an indicator in the performance indicators system of the Customs Service, the baseline level (year 2011) was determined and targets were set for 2012-2014; the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property was ratified in 2007. The greatest progress consists in adoption and full adjustment to the existing automated system, with the view to adopt the Combined Nomenclature. Thus, the Moldovan Goods Nomenclature was reviewed in accordance with the Harmonized Commodity Description and Coding System, and a draft law approving the Combined Nomenclature of Goods in the Republic of Moldova was developed in 2012. As a result, currently the foreign trade statistics is fully consistent to the EU standards. Modest progress was achieved regarding the implementation of risk-based customs control principle and development of the necessary institutional framework. The main problems consist in the outdated Concept of the Risk Management System, underdeveloped desk review mechanisms of the Customs Service, weak cooperation with other state authorities for effective management of customs risk, and totally inappropriate physical infrastructure for an efficient implementation of the risk-based control principle.

(27) Improve functioning of customs service; simplify and modernise customs procedures at borders and inland

Moderate progress (3 points out of 5)

During the analyzed period the competence of the Customs Service were extended by taking over duties for issuing certificates of origin from the Chamber of Commerce and Industry, as well as some functions that were held previously by specialist services of the Ministry of Transport, Ministry of Environment, phytosanitary and sanitary-veterinary authorities. Other major actions in this area related to the implementation of ASYCUDA World, provisions of the Customs Service with modern equipment for customs fraud detection, simplification of customs procedures and approval of the Code of Conduct of customs officer. It is important to note that with the ATP granting, the Customs Service expanded its activity to include the Transnistrian companies exporting to EU. During 2006-2012 the number of identified smuggling cases decreased from 577 in 2006 to 201 in 2012. At the same time, the border crossing procedure was simplified significantly. Despite these achievements, customs valuation remains a controversial topic, which generates complaints from companies involved in international trade regarding arbitrary determination of the customs value, and the IT endowment has not improved significantly, remaining one of the main causes that diminish the administrative capacities. However, smuggling remains a serious problem, and customs control procedures are still rather complicated, involving a large number of printed documents required for customs clearance.

Strategic Recommendations:

- The main actions related to the customs activity should follow two main objectives: (i) elimination of all legal and institutional weaknesses that foster corruption, and (ii) simplification of customs control procedures. In order to reduce corruption in this system it is necessary to decrease the customs officers' discretion area and enhance the transparency of customs activity. In this regard, the procedures for determining the customs value shall be clearly stipulated by law, a better IT equipment of customs stations is necessary, ensuring the functionality of the Advisory Committee, established recently under the Customs Service, as well as enhanced cooperation with other similar institutions, both domestic and foreign. In order to simplify the customs procedures, it is necessary to diminish the number of documents required for customs clearance and to implement electronic options for obtaining the necessary documents.
- In general, the Customs Service should switch from a police-like approach to the role of a trade facilitator. This transition cannot be achieved without a substantial improvement in the quality of staff employed by the Customs Service. For that it is necessary to invest in the continuous training of the existing staff and attract new skilled workers.

■ Standards, technical regulations and conformity assessment procedures (EU harmonised areas):

Moderate progress (3.2 points out of 5)

(28) Move toward EU and international legislative and administrative practices for standards, technical regulations and conformity assessment

During the analyzed period a series of measures were carried out with the view to approximate the quality infrastructure to the EU standards, particularly by approving the Concept of Quality Infrastructure in the Republic of Moldova, which was accompanied by an action plan, adjusting the Law on Standardization that removed some mandatory elements, adopting the National Strategy for Consumer Protection in the Republic of Moldova. A number of important actions have been implemented recently. Thus, the Sector Expenditure Strategy on Infrastructure Quality and Consumer Protection for 2013-2015 was approved in 2012, which provides for actions and costs for quality infrastructure reform in five areas: national standardization system, metrology, accreditation, consumer protection and industrial safety. However, for 2013 it is planned to create a National Accreditation Agency with the status of public institution, which is expected to be independent and impartial in conducting internationally recognized assessments. But the impact of these actions is limited. An important cause relates to insufficient funds for and efficient reform of the quality system. As a result, market surveillance laboratories are not equipped properly with technologies, and the institutions responsible for implementing the standards do not have the needed capacities for and efficient and rapid implementation of the European and international standards. This leads to a low participation in the work of relevant international organizations. As a result, currently most of the national standards (about 75% of all standards) are not harmonized with European and international ones, being inherited from the Soviet times. This is the main non-tariff barrier that impedes the access of Moldovan goods to the community market.

Strategic Recommendations:

- Full adjustment of the quality infrastructure to the EU rules should be a strategic priority in the policy agenda of the Government in the context of European integration. Therefore, the adoption of European standards and laboratory system modernization and development should have strong budgetary support. At the same time, this goal must be integrated in the sectoral laws and regulations, as well as strategic planning documents, with the hypothesis that a sector cannot develop in a sustainable manner unless European standards are adopted and the quality infrastructure is reformed.

■ **Elimination of restrictions and streamlined administration (EU non-harmonised areas):** Moderate progress (2.7 points out of 5)

(29) Facilitate the movement of goods and improve administrative co-operation

The main actions implemented by the Government consists in the organization of regular consultations with stakeholders on various draft laws, establishment in 2012 of WTO Notification and Information Centers in ministries and other central administrative authorities, with the Ministry of Economy appointed as the coordinator of these centers. At the same time, the Government also developed the Study on Non-Tariff Measures applicable to trade in the Republic of Moldova, which were identified as the main barriers to the Moldovan trade in goods and services. However, most draft decisions remain outside the consultative processes, companies are notified post-factum, most consultations are formalistic and small businesses are virtually absent from this process, while and the activity information and consultation centers, and the communication among them is anemic.

Strategic Recommendations:

- It is necessary to strengthen the institutional capacities of the line ministries and other central public authorities on the communication with WTO and its notification about any changes in the commercial law. It is regrettable that such centers were established 11 years after Moldova's accession to WTO, but it would be unacceptable for them to be weak, especially in the context of negotiating the DCFTA establishment.

■ **Sanitary and phytosanitary issues:** Modest progress (2.5 points out of 5)

(30) Increase food safety for Moldovan consumers and facilitate trade through reforms and modernization of the sanitary and phytosanitary sectors

During the monitoring period several actions were undertaken to increase food safety and to reform and modernize the sanitary and phytosanitary sectors. To this effect, the Law on the Sanitary-Veterinary Activity

was adopted in 2008, which provides for establishment of the Sanitary Veterinary Agency for Safety of Products of Animal Origin; in 2011, the phytosanitary and veterinary services were transferred at the border-crossing points, and in 2012 the Law on Establishing the General Principles of the Legislation on Food Safety was passed. At the beginning of 2013, the Regulation on Organization and Operation of the National Agency for Food Safety was passed, as an institution responsible for the implementation of the government policy on food safety regulation and control and in the sanitary-veterinary, livestock, plant protection and phytosanitary quarantine, seed control, quality of primary products, food products and feed. At the same time, the Food Safety Strategy for 2011-2015 was adopted. Another important event is the launch of the animal identification and traceability system. In this sense, in 2007 the Regulation on the procedures and documents related to the Animal Identification and Traceability System (SITA) was passed. In 2012, a new formulation of the document in accordance with the EU norms and directives was adopted. At the beginning of 2013, SITA migrated on the electronic platform MCloud, which allowed increasing its efficiency, flexibility and reducing the costs for maintenance of the equipment.

However, the progress in this area remains modest. The process of fulfilling the EU requirements is very slow. This is due, among others, to the lack of financial and human resources for the adoption of these norms. Another important reason is the poor development level of laboratories in the sanitary and phytosanitary sectors and the poor equipment thereof. In general, the investments in the system of laboratories have been insufficient for efficiently modernizing the quality infrastructure. Another issue is the lack of consolidation and coordination of the testing and laboratory system in the area of food safety. At the same time, the General Plan 2011-2013 on Amendment and Adoption of SITA in view of implementation of new systems for the management of sanitary-veterinary oversight is overambitious and has no sufficient budgetary coverage. The control over the safety of animal and vegetal products also remains a major issue; this is often duplicated due to overlap of food feed controls. Financial constraints undermine the process of standard adoption and participation of the line institutions in the works of the international specialized organizations. Moreover, the process of legislative approximation to the community and international principles is affected by the lack of a clear vision within the line ministries regarding the acts to be amended and the corresponding procedure. This is worsened by the high staff turnover, which causes periodical disruptions of the approximation process.

Strategic Recommendations:

- It is necessary to provide sufficient budgetary and institutional support, including by involvement of the technical assistance projects in order to stimulate the adjustment of sanitary and phytosanitary standards to the EU norms and the modernization of the laboratory system. At the same time, the line authorities should develop a clear harmonization plan to include the specific documents to be amended and the process of amendment. To this effect, it is very necessary to have a stronger cooperation between the institutions responsible for the implementation of the sanitary and phytosanitary standards.
- Although a number of actions have been undertaken to increase food safety, consolidated efforts are required to implement efficiently the proposed actions. This is particularly valid for the process of amendment and adjustment of the animal identification and traceability system with a view to implementing new systems for the management of sanitary-veterinary oversight and for strengthening the capacities of the Sanitary and Phytosanitary Control Service.

■ Right of establishment and Company Law: High progress (3.8 points out of 5)

(31) Full implementation of PCA commitments in title IV, Chapter II (Conditions affecting establishment and operation of companies)

During the monitoring period, the Government has implemented a series of actions to optimize the procedures by which the State regulates the entrepreneurial activity at several reform stages: Guillotine 1, Guillotine 2, Guillotine 2 plus and Guillotine 3. As a result, the number of procedures required for the establishment of a company, the time and the cost needed to perform such procedures has reduced; this was proved by the fact that Moldova's rating in „Doing Business” increased. At the same time, a working group on regulation of entrepreneurial activity was created, which meets weekly within the Ministry of Economy. The one-stop-shop principle was implemented for enterprise registration, through integration and consolidation of several public services. The Government has made a number of legal amendments to secure equal conditions for the local companies and foreign investors. However, the foreign companies may not be awarded title over agricultural land and over forest land and a number of measures to protect local manufacturers are maintained through safeguarding taxes, the public procurement system, governmental

aid, etc. In general, the reform of the entrepreneurial activity moves very slowly and some procedures related to the activity of Moldovan enterprises remain highly bureaucratic (ex: obtaining construction permits, export procedures). At the same time, the number of activities subject to licensing stays quite high.

Strategic recommendations

- The reform of the regulatory framework on the entrepreneurial activity should be propelled, with a big focus on the efficient implementation of ICT solutions for the procedures of obtaining various permits and other documents necessary for the activity of the enterprise. It is necessary to reduce the number of types of business activities subject to licensing, facilitating data exchange between the institutions with which agents interact most intensely: State Registration Chamber, Customs Service, Fiscal Service and National Bureau of Statistics.
- The total elimination of all forms of discrimination through application of equal activity conditions for local companies and foreign investors is essential for the local business climate and an immediate priority of the Government.

■ Services: Moderate progress (3.3 points out of 5)

(32) Gradual abolition of restrictions to progressively allow the supply of services between the EU and Moldova in certain sectors, in line with WTO and PCA commitments in Title IV, Chapter III (Cross-border supply of services)

The main actions implemented in this regard relate to the adoption of some important laws regarding the non-discriminatory principle in various areas of activity of the service providing enterprises (ex: Law on Public Procurement, Law on Domestic Trade). In addition, the Ministry of Economy developed a comprehensive study where it identified the main non-tariff barriers to trade with goods and services. But the most important development in this area relates to the financial services, where progress is quantified at 3.7 points, being appraised as moderate to high. The main actions relating to financial services may be divided in 2 categories: (i) those which contributed to a better institutionalization of the sector, by establishment of the National Commission for Financial Market, the Credit Bureau, the Commission for Financial Stability, as well as strengthening the oversight and control function of the National Bank of Moldova; and (ii) actions which allowed expanding the legislative base of the financial sector and a better regulation of certain areas. The latter category includes a series of laws without which a financial sector could not operate (e.g. Law on Insurances or Law on Savings and Credit Associations), some of which replace older laws that became non-operational (e.g. Law on Capital Market or Law on Private Pension Funds).

At the same time, the legislative framework contains a series of protectionist provisions that benefit local producers, which conflicts with the EU norms. Though the Law on Procurement stipulates the non-discrimination principle, the Regulation on Procurement of Goods and Services through Request for Financial Proposals (p. 13) benefits local producers. At the same time, the Civil Aviation Development Strategy for 2007-2012 sets out that the market share of local companies is set to 75%, which is obviously protective of the state enterprise "Air Moldova" from competition with foreign operators. Some discriminatory or potentially discriminatory principles may be found in title 3 of the Tax Code, Article 104, letters "f" and "g". In the first case, the services delivered within and provided by Free Economic Zones in relation to the rest of the customs territory of Moldova and abroad are subject to zero VAT rate. In the second case, the Ministry of Economy approves a list of light industry enterprises providing services that benefit from zero VAT rate. Other issues in the area of financial services are the insufficient transparency regarding the shareholders and final beneficiaries of financial institutions, troublesome development of Credit History Bureaus, the limited confidentiality in the insurance sector and, in general the slow development of the non-banking sector.

Strategic recommendations

- The Government should give up the principle of protecting local producers at the cost of disadvantaging the foreign ones and isolating some main areas from foreign capital participation. In this sense, it is necessary to liberalize the market of passenger air transport services by ensuring equal treatment from authorities to all enterprises that operate on or intend to penetrate the Moldovan market, regardless of their ownership type. This approach should also be adopted within the public procurement process by eliminating provisions which benefit local companies in relation to foreign companies, in a certain form.

- A series of provisions that distort market mechanisms and the competition environment should be eliminated from the tax law. In this regard, it is necessary to revise the incentives provided to certain service-providing enterprises by imposing a zero VAT tax on them and rendering the conditions for provision of such incentives and for selecting the beneficiaries more transparent. On a long term, such incentives should disappear from the Tax Code, with a view to securing a fair treatment to all economic entities.
- In the recent years, the gap between the financial-banking system and the non-banking system has increased in terms of the quality and diversity of services provided and the legislative and institutional framework. In this regard, it is necessary to strengthen the capacities of regulation, control and oversight of the National Commission for Financial Markets and facilitate its communication and coordination both with financial companies and other line institutions (NBM, Ministry of Finance, Committee for Financial Stability). The development of the optional private pension sector was hindered by the fact that the Tax Code fails to ensure an equal treatment to contributions to the public pension fund and those to the private one. Therefore, it is necessary to ensure total tax deductibility of contributions to the private pension funds under the same conditions as those of the contributions to the public pension fund.

■ **Movement of capital and current payments: Moderate progress (3 points out of 5)**

(33) Ensure full application of PCA commitments under Title V (Current Payments and capital)

In general, in Moldova there are no restrictions for the movement of capital from direct investments. The main restriction to foreign direct investments is the ban on purchasing agricultural land by non-residents. The Law on Investments in Entrepreneurial Activity approved in 2004 guarantees equal rights and the same guarantees to local and foreign investors. As a result of such provisions and the domestic and foreign economic conjunction which is highly favorable, the amount of new foreign direct investments in the national economy increased significantly from USD 190.7 million in 2005 to the record level of USD 711.5 million. Subsequently, the inflows diminished substantially against the background of the economic crisis and political uncertainty. In 2012 the volume of new direct foreign investments was USD 159.2 million (-43.3% as compared to 2011).

Strategic Recommendations

- In spite of the equal treatment of foreign investors and local investors granted by legal acts, foreign investors will be reluctant to come to Moldova as long as the judiciary system lacks efficiency, transparency and independence. As a result, the qualitative reform of the judiciary system should be the foundation for any strategy to attract foreign investment in the country and protect the existing ones.

■ **Movement of persons, including movement of workers and co-ordination of social security: Moderate progress (3.5 points out of 5)**

(34) Full implementation of commitments under Article 23 of PCA (Labor conditions)

Moderate progress: 3 points out of 5

In this area, Moldova has registered important progress in the implementation of the actions set out. However, much of such progress comes with big delay. Thus, consistent efforts for conclusion of bilateral agreements with the EU Member States in the area of social security started to be made as late as in 2008; to date 8 such agreements have been concluded and other 4 are at the stage of negotiation. Taking into account the limited resources of the Ministry of Labor, Social Protection and Family, the conclusion of the agreements with almost half of the EU Member States may be evaluated as a great progress. Since 2008 there has been a more visible progress in eliminating discriminatory measures based on nationality, which affect migrant workers in terms of labor conditions, remuneration and dismissal. A series of laws and regulations were approved, which simplify the procedure for getting visas, labor permits and residence permits for migrant workers. The social and economic rights of foreigners, including labor migrants, in the territory of Moldova are more clearly stipulated. However, there are still some discriminatory provisions towards migrant workers, particularly with regard to the fact that employers must give priority to the employment of local workers and the fact that immigrants may only have one job.

(35) Full implementation of commitments under Article 24 of PCA (Coordination of Social Security)

High progress: 4 points out of 5

The progress is great in this regard, since bilateral agreements in the area of social security have been concluded over the past years with 8 member states: Belgium (2012), Czech Republic, Austria, Estonia and Portugal (all in 2011), Romania and Luxembourg (2010) and Bulgaria (2008). Similar agreements are currently (April 2013) negotiated with Italy, Poland, Hungary and Lithuania. The major problem is the limited human resources, which the relevant authorities of the Republic of Moldova (Ministry of Labor, Social Protection and Family) have at disposal to negotiate agreements with all EU Member States.

Strategic Recommendations:

- Taking into account the increasing severe constraints in the labor market, the labor force shortage caused by the phenomenon of migration, it is necessary to make a strategic assessment of the current policy in the immigration area, in order to facilitate the integration of foreign workers in the labor market.
- At the same time, the human resources of the Ministry of Labor, Social Protection and Family need to be supplemented, in order to expedite the process of negotiating and concluding bilateral agreements in the area of social protection with all EU Member States. One should not disregard the fact that Moldova needs such agreements in the eastern direction as well, Russia being the main country of destination for the Moldovan migrants.

■ Taxation: Moderate progress (2.9 points out of 5)

(36) Development and implementation of a tax system and its institutions based on international and European standards

The main actions relate to the modernization of the tax reporting procedures by implementing the electronic and mobile signatures, introduction of indirect estimation methods of the taxable income, simplification of the VAT taxation procedures and reintroduction of the 12% income tax for legal entities in 2012. However, the slow VAT refunding, bureaucratic tax administration and maintaining some tax protectionist measures continue to be the main scourges of the local business environment. For example, according to the Global Competitiveness Report, if for 2010-2011 Moldova ranked 55th with regard to the tax legislation, for 2012-2013 it went down and ranked 88th out of 144 countries. At the same time, some protectionist obstacles are maintained for the import of many agri-foodstuffs, which distort the competition environment and the way the production factors of economy are allocated. In addition, there are many backlogs regarding the implementation of the one-stop-shop of tax statements reception and providing services to the taxpayers, and development of the Code of Conduct for Business Taxation in compliance with the EU principles. The legislation does not provide for specific methods, which would be applied by the tax authority when indirectly determining the taxable income. This creates a broad space of discretion for the public authority, which may allow it to misuse the new competencies in certain cases.

Strategic recommendations

- The Government shall review its fundamental approach towards the taxation activities and particularly by the implementation of the principles of economic intelligence during the tax collection by the Tax Office and Customs Service. The main objective of these institutions, in particular, and of the Ministry of Finance, in general, should not be limited to the achievement of the planned level of budget revenues, but it should be focused, first of all, on the expanding of the taxable base by motivating business entities to give up tax evasion. Consequently, it is necessary to carry out a quick transition from the mechanical principle of taxation and sanction to that of communication, interaction and consultation with taxpayers. This implies the change of the “police” role of the Tax Office and especially of the Customs Service to that of facilitator of business and commercial exchanges.
- The main efforts of the Ministry of Finance should be oriented towards 3 major priorities: (i) increase the effectiveness of tax administration (e.g. reduce the number of tax reporting documents, implement the one-stop-shop, simplify the procedures VAT refunding, intensify the communication and consultation with the business environment, etc.), (ii) eliminate the discriminatory principles for the imported goods (e.g. gradually canceling the safeguard taxes, apply the ecological tax for use of plastic packaging and for the goods manufactured on the territory of the country, etc.), and (iii) make the decision-making process relating to the tax collection and use of budget resources more transparent.

■ **Competition policy: Moderate progress (3.3 points out of 5)**

(37) Implement commitments on State Aid under Article 48/2.2 of the Partnership and Co-operation Agreement, by developing full transparency in the field of state aid.

Moderate progress: 3.5 points out of 5

The progress registered by Moldova in this area was very mixed. An important progress was the approval of the Law on State Aid establishing a definition of the State aid, which is fully compatible with that of the EU. However, because of the huge delay in approval of the Law on State Aid (approved in 2012, effective from 15 June 2013), the common list of authorities granting such aid has not yet been drawn up, and the definition of State aid providers is too ambiguous.

(38) Partnership and Co-operation Agreement by ensuring adequacy and compatibility with the EU of the domestic anti-trust legislation and control regime.

Moderate progress: 3.3 points out of 5

The progress in this area has been determined by the assessment of the effectiveness of the legislative framework, grant of the adequate powers to the national competition authority and the adoption of the new competition law in compliance with the European standards. However, because of huge delays in improving the legislative framework, these improvements do not have yet a tangible impact. In addition, while the legislative and regulatory frameworks have been amended for better, the institutional one is still very weak.

Strategic Recommendations:

- Fair competition and prevention of monopolistic practices are two key principles of the market economy. Failure to implement them one cannot expect a qualitative change in the Moldovan model of economic growth. The Competition Council should receive priority funding, in order to be able to ensure an attractive remuneration to the employees, in particular to the legal experts who defend the decisions taken by the Council before the court.
- During the first two years after the enforcement of the Law on State Aid it would be reasonably to assess its impact, in particular in the light of the too ambiguous definition of the State aid providers and of testing the developed mechanism for centralization of the information on the State aid.

■ **Intellectual and industrial property rights: Modest progress (2.8 points out of 5)**

(39) Ensure a level of protection similar to that in the EU, including effective means of enforcement, in line with provisions in Articles 49 & 50 of the PCA

The intellectual and industrial property rights area shows one of the most powerful contrasts between the huge efforts made for harmonization of the national legislation with the EU standards and the practical effect of enforcement of the legislation. Moldova has ratified all international conventions, which the Action Plan and the Partnership and Cooperation Agreement make reference to. AGEPI has transformed into a reliable and competent institution. Some improvements can be observed in the activity of the Customs Service in this area. At the same time, AGEPI cannot compensate through its own activity the lack of progress in staff training and allocation of financial resources for enforcement activities in the judiciary and law protection bodies. The training of judges is inconsistent and superficial. The co-operation with the international holders of intellectual and industrial property rights is very low, they not being interested in the economic potential or because of the dangers that the Moldovan market presents for their property rights. From strategic perspective, a lack of strategic coordination of the activities of various competent institutions in the area of intellectual property rights was noticed.

Strategic recommendations:

- In view of effective implementation of the intellectual property rights it is necessary to improve essentially the coordination among various line institutions, both at strategic planning level and operational activity. In particular, the overlaps of the areas of competence of many authorities should be eliminated, and qualified staff in the field of intellectual property rights should be trained and hired in the Customs Service, Prosecutor's Office, Ministry of Internal Affairs, Ministry of Information Technology and Communications, Ministry of Agriculture and Food Industry, Ministry of Health and Ministry of Culture.

- A fundamental problem requiring priority settlement is insufficient qualification of judges in the field of intellectual property rights. In this respect, it is necessary to set up a comprehensive training program for judges with the participation of international consultants and study visits in other countries for the purpose of taking over the best practices in this area.

■ **Public procurement: Moderate progress (3.5 points out of 5)**

(40) Develop conditions for open and competitive award of contracts between the parties, in particular through calls for tenders, in line with Article 54 of the PCA

During the analyzed period, the public procurement system has passed through a series of structural and qualitative changes. Thus, the Law on Public Procurement was passed in 2007, on the grounds of which the Agency for Public Procurement is in charge of ensuring the advertising of conducting public tenders through the publication of the invitations to tenders on the webpage and in the Public Procurement Bulletin. An Action Plan on Public Procurement Development for 2011-2013 was drafted. Since October 2012 the Automated Information System "State Register of Public Procurement" (AIS SRPP) was launched. The Best Practice Guidelines in public procurement was drafted in 2012, in view of facilitating the enforcement of the legislation on assigning public procurement contracts in line with the best practices in this field and being based on the case law of the European Court of Justice. However, the integrity and transparency remain major problems, which undermine the public procurement system. At the same time, there are some problems of institutional organization: there is a discrepancy between the provisions of the Law on Public Procurement and Regulation of the Agency for Public Procurement. Another problem relates to the fact that the territorial subdivisions of the Agency for Public Procurement do not have sufficient institutional capacities, which makes difficult the effective implementation of the provisions of the Law on Public Procurement.

Strategic recommendations:

- Despite the amendments made over the past years, the public procurement system requires further essential improvements. In particular, it is necessary to eliminate the legislative discrepancies related to the duties of the Agency for Public Procurement in order to ensure its proper institutional functioning. It is necessary to increase the transparency of the public procurement organization, in particular by displaying the procurement plans in integral format on the Agency's webpage and development of the public procurement statistics.

■ **Statistics: High progress (3.7 points out of 5)**

(41) Adoption of statistical methods fully compatible with European standards in relevant statistical areas and advance the institution building of the Department for Statistics and Sociology of the Republic of Moldova (DSSMR)

The National Bureau of Statistics (NBS), as the main institution in charge of implementing the actions in this area, carried out the Population Census in 2004. The consolidated system of databases was transposed in statistical reports containing the census results executed in Romanian, Russian and English. At the same time, in 2012 the Law on Population and Housing Censuses of the Republic of Moldova for 2014 was passed and an action plan was drafted in this regard. During the analyzed period, NBS has followed the National Statistics Development Strategy for 2008-2011, as well as the Institutional Development Plan for 2009-2011. The Program on Strategic Development of NBS for 2012-2014 was approved in 2012, which serves as basic document of strategic planning of future activities of the institutions. However, the main constraint for effective implementation of this program relates to the financial constraints of the institution. Thus, the external sources and the Medium-Term Budgetary Framework (MTBF) are indicated as financing source for most actions of the program, since the institution's budget is insufficient. Another problem that is partially caused by the shortage of financial resources is the vague specification of the deadline to carry out the actions of the program. Thus, a quite large term of implementation (2012-2014 or 2013-2014) was mentioned for all actions.

Strategic Recommendations

- The largest backlog in this area is ensuring the compatibility of the legislation on official statistics with the fundamental UN principles. This should be the main priority of the authorities, which should find sufficient budgetary and institutional support for carrying out this desideratum stipulated also in the Strategic Development Program of NBS for 2012-2014.

■ Financial control and related matters: Moderate progress (3.3 points out of 5)

(42) Sound management and control of public finances

Great progress was recorded during the analyzed period in terms of strengthening the institutional framework for the audit of public resources and property, particularly by strengthening the Court of Accounts (CoA) as the main institution in this area. Thus, a new Law on the Court of Accounts was adopted in 2008, which stipulates that the CoA is the only state public authority that controls the formation, management and use of public financial resources and management of public property by conducting the external audit within the public sector as the supreme audit institution. Furthermore, in 2010 the CoA approved the Training and Professional Development Strategy and Internal Communication Strategy. As a result, since the adoption of the new CoA Law, during 2008-2012 the Court conducted 216 audit missions, 35 of which were conducted in 369 entities in 2012, the total volume of detected irregularities amounting to about MDL 7.7 billion. Other important actions in this field include the approval of the Law on Public Internal Financial Control in 2010, as well as the approval and development of the Strategy for the Development of Public Internal Financial Control.

The main problems consist in the too low enforcement rate of the CoA recommendations, the Integrated Financial Management Information System has not been implemented so far, which is why the new methodology for the budget development and implementation was not applied yet. In general, the "Public Finance Management" Project has not brought the expected results and there are high risks for it to be compromised. Furthermore, the implementation of the Public Internal Financial Control in central public authorities (CPAs) is very slow, with some CPAs failing to develop strategic internal audit plans and identify policy instruments to be used in achieving the objectives.

Strategic Recommendations

- It is necessary to speed up the public finance management reform, in particular by implementing the Integrated Financial Management Information System and the Public Internal Financial Control in central public authorities.
- To facilitate the implementation of the Court of Accounts' recommendations, the higher authorities should get involved more actively in the implementation of the recommendations of the audit commissions in the institutions under their authority. A more active involvement of the Government, Parliament and investigation bodies is also necessary, as well as the application of some sanctions for the failure to implement the Court of Accounts' recommendations.

■ Industrial Policy: Moderate progress (2.5 points out of 5)

(43) Develop a dialogue on industrial policy aiming at the improvement of the administrative and regulatory environment for companies, at promoting industrial co-operation and tackling the impact of industrial restructuring, and develop the legislative and administrative framework for SME promotion - in line with Articles 52, 69 and 70 of the PCA

The highest progress was achieved in development of the legal framework and proper infrastructure for SME promotion. In this respect, the Law on Support to SME Sector was adopted in 2006 and in 2007 the Organization for the Development of the SME Sector was created. Later on, the framework for strategic planning in this field was developed. Thus, the Strategy on Supporting Small and Medium-Sized Enterprises Development for 2006-2008 was worked out. It was followed by the State Program on Supporting Small and Medium-Sized Enterprises Development for 2009-2011 and subsequently by the Strategy on Small and Medium-Sized Enterprises Sector Development for 2012-2020. Furthermore, to boost the competitiveness of the SME sector, several programs were launched to facilitate the access of SMEs to financial resources and training (National Program of Economic Support for Youth PNAET, Pilot Program on stimulation of investment in economy of remittances transferred by migrants PARE 1+1, and others). They contain components on entrepreneurs' information and training. A Loan Guarantee Fund was created, which allowed a broader access to bank loans under favorable conditions for SMEs that do not have sufficient collateral. The main backlog relates to the non-adoption of the European Charter for Small Enterprises. This desideratum is also missing in the Strategy for Small and Medium-Sized Enterprises Sector Development for 2012-2020. Though a legal framework suitable for SME sector promotion was put in place, it is still weak because of the deficiencies of the local business environment. The main problems consist in the bureaucratic procedures for obtaining various business permits, inefficient fiscal management and limited access to loans.

Strategic Recommendations:

- The SME sector development, in addition to the implemented vertical measures, also requires horizontal measures aimed at improving the business climate, developing the financial and banking market, increasing the effectiveness of the judicial system and fiscal management and decreasing the bureaucracy and corruption in public institutions. In this respect, the Strategy for Small and Medium-Sized Enterprise Sector Development for 2012-2020 should benefit from a maximum support of other institutions responsible for the areas that influence the SMEs activity (National Bank of Moldova, National Commission for Financial Markets, Ministry of Justice, Ministry of Economy, Ministry of Finance, and others), as well as from the necessary budgetary support for the implementation of the action plan.
- A priority direction for facilitating the SMEs development should be the broad implementation of IT solutions to ease the interaction between business entities and public authorities. This would allow to reduce the corruption and improve the effectiveness of the procedures for obtaining various permits and documents necessary for the operational activity of SMEs.

■ Transport: Modest progress (2.4 points out of 5)

(57) Elaborate and start implementing a national transport strategy, including transport infrastructure development

Modest progress (2.4 points out of 5)

Most strategic planning documents (EGPRS, NDP, "Moldovan Village" NP and "Moldova 2020" NDS) drawn up over the past few years have included components on the transport infrastructure development. Furthermore, a series of strategic plans focused only on the transport area have been adopted: Land Transport Infrastructure Strategy for 2008-2017, the Reform of the Public Roads Maintenance System adopted in 2012, the Civil Aviation Development Strategy for 2007-2012, and the Transport and Logistics Strategy 2013-2022 was developed recently and it to be approved. The priorities for road infrastructure rehabilitation were set out in the Program on Performing Road Rehabilitation Works from Internal and External Funds for 2011-2014. Since 2010 the Road Fund has substantially risen following the increase of excise taxes in 2010 coupled with the increase of the share thereof, which are directed to the Road Fund from 50% in 2010 to 80% in 2012. In parallel with the increase of external financing, in particular from EIB and EBRD, this allowed to increase significantly the financing of the road infrastructure: from 0.7% of GDP in 2009 to 2.5% in 2012.

In spite of these developments, the progress was modest in this area. The biggest problems consist in non-transparent procedures for road rehabilitation tenders and the lack of an effective system of technical audit in line with the international standards. Consequently, despite the increase of the financial resources for road rehabilitation, the mechanisms of resources distribution and, particularly, the process of quality control were not improved. At the same time, there is no proper infrastructure policy, which makes it more difficult to ensure project complementarity and to coordinate the international aspects related to the implementation and operation thereof, remaining with a weak integration of Moldova into the European transport networks because of the poor quality of roads.

(58) Implement selected measures and reforms in the road transport sector

Moderate progress (3 points out of 5)

The National Road Transport Agency was established in 2008 under the authority of the Ministry of Transport and Road Administration and is responsible for the monitoring and implementation of laws, regulations and international acts on road transport, which the Republic of Moldova is party to. According to MTRI a series of new technologies have been implemented with the view to enhance the safety of road traffic and ensure environmentally-friendly transportation, such as: technical testing of motor vehicles and trailers, refitting and certifying thereof, training and retraining of staff in road transport, use of devices to control the driving time and rest periods in accordance with the AETR Agreement and assessment of the conformity of goods and services from the road transport area. In order to ensure the road safety the National Road Safety Strategy was adopted in 2010 followed by an Action Plan for the implementation thereof adopted in 2011. A major problem is the financial coverage of the actions set out in the road safety plan, and the road security cannot be effective without qualitative roads and road infrastructure, which is currently missing in most territory of the country.

(59) Implement selected measures and reforms in the railway transport sector

Modest progress (2 points out of 5)

The "Action Plan to improve the situation at "The Railway of Moldova" SOE during the crisis period and to ensure its restructuring" was adopted in 2010 and shall be implemented over a period of 5 years. In 2012 "The Railway of Moldova" SOE became an associated member of the Community of European Railway and Infrastructure Companies. In order to improve the safety, speed and efficiency (interoperability) of the rail transport services, the railway project: „Implementation of 2000 SUW Technology of automatic converting from the gauge of 1520 mm to the European gauge of 1435 mm at the Moldovan – Romanian border (Ungheni station)" was initiated. The implementation of actions in this area has been affected by insufficient financial resources, in particular regarding the conversion to the European gauge and extending the railway network. Another problem relates to the slow process of restructuring of the Public Enterprise "The Railway of Moldova".

(60) Implement selected measures and reforms in the aviation sector

Modest progress (2.4 points out of 5)

The national aviation policy was promoted through the Law on Aviation Security adopted in 2007, the Civil Aviation Development Strategy for 2007-2012 and the Law on Airspace Control. The Regulation on the Organization and Operation of the Civil Aviation Authority was approved in 2012, which replaced the State Administration of Civil Aviation ("SACA") and is responsible for the certification, control and supervision in the field of civil aviation. Also, in 2012 Moldova joined the Single European Airspace, which removes the restrictions of foreign companies to operate flights to Moldova. Regarding cooperation in the aviation security, the Law on Aviation Security was adopted in 2007, the National Program of Quality Control in the Aviation Security was approved in 2006 and the security system of the "Chisinau International Airport" SOE was evaluated in order to develop the draft Security Plan.

However, many actions stipulated in the strategic planning documents were implemented with delays or were not implemented at all. For example, the Civil Aviation Development Strategy for 2007-2012 was carried out to an extent of 70% only. Moreover, according to the Ministry of Economy, the general objective established by the Strategy was achieved only in proportion of 40%. At the same time, more than half of the objectives of the Law on Aviation Security have been accomplished. Generally, a major impediment to the implementation of the legal provisions is the shortage of staff qualified in aviation security within the MTRI. The Amendment to the Law on Aviation Security of 2009 was totally uninspired as it appointed MTRI as the central administrative authority for the aviation security, while the ministry does not have sufficient human resources to take over these responsibilities. In whole, the aviation services market is still non-liberalized. Although other companies may formally operate flights to Moldova, they have to pay relatively high airport fees, which reduces the price competitiveness of these services.

(61) Implement specific measures and reforms in the inland shipping transport and inland waterway sectors

Modest progress (2.3 points out of 5)

The most important actions in this field consist in the establishment in 2006 of the "Giurgiulesti Port Authority" Public Institution, which is responsible for the supervision and control on the part of the "port state" and "flag state" and "Shipping Register" State-Owned Enterprise, responsible for the supervision of the technical condition of river ships. In 2012 the Government approved the draft law on inland shipping transport of the Republic of Moldova, and the draft Inland Shipping Transport Code shall be approved by the Parliament. MTRI has also participated in the meetings of the Danube Commission (working group on technical problems), where the position of the Republic of Moldova concerning various technical problems related to the navigation on the Danube river was presented. However, the situation in the field of waterborne transport remains critical: most of the vessels are outdated, and Dniester and Prut rivers can be operated only on some segments because of the sludging and inability to maintain the needed depths for safe navigation. Another major problem is that several important ports and vessels are not under the control of the constitutional authorities from Chisinau, being under the jurisdiction of the Tiraspol administration. Besides, the vessels maintenance and repair units are also under the jurisdiction of the Tiraspol authorities, which makes it difficult to repair the vessels under the control of the Chisinau authorities.

Strategic Recommendations

- The higher appropriations for road infrastructure rehabilitation and maintenance of the same funds distribution mechanisms create preconditions for inefficient use of these funds. A fundamental change of the Road Fund governance and management is necessary by depoliticizing it and increasing the transparency of the decision-making process related to money allocation. Furthermore, the Government shall ensure a broader participation of road users and public in the management and planning of roads.
- A particular emphasis shall be placed on facilitating the access of private business entities to the tenders for road rehabilitation works. A higher competition on this market would save public money and enhance the quality of the performed works. Consequently, it is necessary to simplify the eligibility requirements for participation in tenders, to announce the tenders well before the deadline in order to allow the companies to prepare themselves properly and to increase the transparency of contractors selection.
- The Ministry of Transport and Road Infrastructure shall improve its expertise in aviation security in order to deal more effectively with the new responsibilities, which arose after the reorganization of SACA. In this respect, it is necessary to attract new professionals and organize regular training workshops in this field. In general, the Ministry needs to invest more in the quality of human resources, taking into account the broad range of areas which it is responsible for.
- It is necessary to boost the restructuring process of the "The Railway of Moldova" SOE and liberalise the tariffs for passengers. This will decrease the losses incurred by the enterprise for this service and will increase its competitiveness for cargo transport services, which currently are used to cover the losses generated by the passenger transport. A pure economic approach and non-interference of any political factors will ensure long-term sustainability of the enterprise and will release additional funds for the modernization of its technical and material base.
- A key priority shall be the liberalization of the air services for passenger transport and facilitation of the competition in this sector. For this purpose it is necessary to review the airport fees and ensure an equal treatment by public authorities for all business entities. This would allow to increase the number of flights, which would compensate in the medium and long run the short-term losses caused by the lower airport fees.

■ Energy

62) Preparation of an updated energy policy converging towards EU energy policy objectives

Moderate progress - 2.9 points out of 5

To meet the commitments assumed by the Republic of Moldova as a signatory party of the Treaty establishing the Energy Community, draft laws on amendments and addenda to the Law on Natural Gas No 123/23.12.2009 and the Law on Electricity No 124/23.12.2009 were completed.

The National Development Strategy "Moldova 2020" approved by the Law No 166 of 11 July 2012 focuses on 7 development priorities, one of which is to reduce the energy consumption by increasing the energy efficiency and use of renewable sources of energy. It also declares the intention of the Government of the Republic of Moldova to create by 2020 " a competitive and efficient energy sector that will provide consumers with quality energy resources, on affordable and reliable terms.

The Energy Strategy of the Republic of Moldova until 2030 was approved in February 2013, which is less superficial than that until 2020, contains the vision and identifies the strategic opportunities of the country in the regional energy context. It was necessary to review the Energy Strategy because of the reconsideration of the positions and objectives in the energy field by most European countries, the document was drawn up jointly with the international experts, as part of a project funded by the Swedish Government.

Moreover, the Government adopted the National Program on Energy Efficiency 2011-2020, and the Agency for Energy Efficiency in cooperation with the central and local public authorities developed the National Action Plan on Energy Efficiency for 2013-2015 (NAPEE), which forms the regulatory framework and proposes instruments to increase the efficiency of energy consumption in all sectors of national economy and reduce the greenhouse gas emissions. In total, EUR 240 million were identified for the implementation of the action plan.

A draft law on thermal energy was developed and presented with the view to establish a legal framework for effective operation and regulation of the thermal energy market and the principles for implementing specific activities in the thermal energy sector.

Strategic Recommendations

- Work out a single methodology for collection and analysis of statistical data on energy efficiency and security, the state of affairs in the energy sector, which will contribute subsequently to the improvement of the investment climate, facilitate the trade and contribute to the development of energy policies, monitoring and forecasting of developments in the energy sector.
- Adjust the Law on Energy Efficiency No 142 of 02.07.2010 to the system and current legal framework of the local administration: local public administration levels, duties, relationships with other public authorities, the right to benefit from loans and guarantees, etc.
- Strengthen the institutional and operational capacity.

63) Gradual convergence towards the principles of the EU internal electricity and gas markets.

Slow progress - 1.5 points out of 5

In October 2011 the Government of the Republic of Moldova committed to implement the Third Energy Package in order to ensure the gradual alignment to the European energy system. However, so far these commitments created more problems than before. Representatives of the Ministry of Economy have recognized that the negotiations with Gazprom are complicated, one of its concerns being the fate of the ownership they have in Moldova. When the unbundling principle, required by the Third Energy Package, is applied, the Republic of Moldova will be obliged to redeem some of Gazprom investments.

During the meeting of the Ministerial Council of the Energy Community which was held on October 6, 2011 in the Republic of Moldova, the Government of the Republic of Moldova signed Decision No D/2011/O2/MC-EnG, which provides for separation of the supply and distribution companies into different entities. The implementation of the agreement will be achieved by 2015. The main goal of this agreement is to ensure the country's energy security through diversification of energy sources and to providing a lower price for end users. However, this agreement also creates disagreements with Gazprom company, which believes that it will be disadvantaged regarding its economic rights and commercial interests.

To implement the actions envisaged by Government's policy documents in the energy sector, the budget support program "Support of the Energy Sector Reform" was launched, which is funded through the European Commission's mechanism of the National Action Plan for 2011. On 26 September 2012 the first meeting of the Program's Supervisory Committee was held, whose mission consists in the effective supervision and monitoring of the program implementation, as well as monitoring of the results of implementation of the Program Policy Matrix.

According to the objectives set out in the Policy Matrix, energy policies and legislative framework on energy efficiency and renewable energy sources were adopted. In this regard, the New Energy Strategy of the Republic of Moldova until 2030 was completed and approved, the National Energy Efficiency Program (NEEP) 2011-2020 and the National Action Plan for Energy Efficiency 2012-2014 were adopted by Government Decision. The draft Law on the Energy Performance of Buildings was developed and submitted to the authorized institutions for approval. The Regulation on minimum requirements of energy performance shall be further adjusted in compliance with the provisions of the Law on the Energy Performance of Buildings.

According to the Government Action Plan 2011-2014, the program on modernization of the electricity record keeping system by "Moldelectrica" SOE was drafted and approved. The supplier of electricity record keeping equipment is currently selected on contest basis. The implementation of the Electricity Metering, Dispatching, Telecommunications and Transport Systems Rehabilitation and Modernization Project entered the final completion stage. The project was launched under the Third Energy Package, aiming to establish appropriate conditions for continuing the liberalization of the electricity market.

The accession of the Republic of Moldova to the European Network of Transmission System Operators for Electricity (ENTSO-E) is a priority for Moldova, which is also mentioned in the Government Program. The application to integrate the two systems was filed by the Republic of Moldova and Ukraine to ENTSO-E as far back as in April 2006 (the Joint Operational Program Romania-Ukraine-Republic of Moldova 2007-2013 has a total funding of EUR 126.72 million for the period 2007-2013 through the European Neighborhood and Partnership Instrument).

The Republic of Moldova and Romania are currently in the process of negotiations between the system operators CN "Transelectrica SA", Romania and "Moldelectrica", the Republic of Moldova in view of entering into a memorandum of understanding on the operation and maintenance of the Vulcanesti-Isaccea LEA 400 kV line crossing the Danube river. At the same time, the converting plant Vulcanesti 400 kV is being currently renovated.

A stringent problem of the heating sector of the Republic of Moldova is the high level of thermal energy losses, which constituted 21% in 2009 and had a general growth trend over the past 10 years by about 6 percentage points. This trend undoubtedly affects the country's energy efficiency and identifies the overriding need to restructure the heating sector. The residential sector is the largest waster of energy in the Republic of Moldova. Since our country is an importer of energy resources and the energy intensity exceeds a lot the European average, it is very important to increase the efficiency of energy consumption. In this context the Ministry of Regional Development and Construction has drafted a Roadmap for the energy efficiency of buildings.

In January 2013 the Ministry of Economy proposed the draft Law on Thermal Energy for public consultation. The new draft law proposes to clarify the responsibilities of the homeowners associations, consumers, suppliers and sets the delimitation line of the responsibilities thereof; to introduce a binomial rate; not to allow the individual and autonomous heating in the areas with high density of population, where centralized heat supply is primarily recommended; to encourage the energy production in cogeneration mode, etc. The cogeneration is encouraged in the EU countries, being considered one of the most efficient and effective methods of achieving the three objectives which the EU has proposed for 2020: reducing the greenhouse emissions by 20%; reaching the level of 20% of renewables in overall fuel mix; achieving 20% energy savings.

The draft Law on the Energy Performance of Buildings has been developed by the Ministry of Regional Development and Construction in order to establish the requirements for general framework for the methodology on calculation of the overall energy performance of buildings and their units; application of minimum requirements of energy performance for buildings and their technical systems; energy performance certification of buildings and building units, etc.

In March 2013 the MRDC completed the draft *Law on Housing*, the main goal and underlying conditions of the draft law consist in the fact that the current Housing Code No 2718-X, which was adopted as far back as on June 3, 1983 reflects and regulates the social and economic relationships of that period. The draft law was submitted to the Government for approval.

In March 2013 the National Agency for Energy Regulation announced about the extension of the consultations regarding the draft Regulation on the separation of accounting records in the regulated enterprises from the electricity, thermal energy and gas sectors. Thus, the obligation to keep separate accounting in the enterprises from electricity, thermal energy and gas sectors would allow monitoring the compliance with the obligation of non-discrimination of consumers by the regulated enterprises. A subdivision responsible for monitoring of existing programs and strategies was established in NAER, which also monitors the implementation of the respective document.

Strategic Recommendations

- The entry of new producers would require sound investments in the transport, supply and distribution network. It is practically impossible to estimate now how those investments will impact the costs because no technical standards were developed on the connection of such producers, as well as because of the lack of any real cases of production and supply from them;
- Introduce smart meters in accordance with the provisions of the Directives on the Third Energy Package;
- Create proper conditions on the electricity and gas markets to improve the supply security through the entry of new producers and suppliers;
- Implement efficient energy generation technologies with low environmental impact and attract investments in new methods of electricity generation and cogeneration, as well as in the centralized heat supply system;
- Attract other energy companies in the Moldovan market (which is extremely difficult as long as the gas supplied to Moldova comes 100% from Russia) and at the same time implement gradually the Third Energy Package.

64) Progress regarding electrical networks

Slow progress - 2 points out of 5

None of the electrical lines, which would connect the Romanian and Moldovan systems has been completed yet. The construction and installation of the electrical interconnection line with Romania LEA 110 kV Falcu-Gotesti were completed at the end of 2011, a commissioning order being also issued by the Ministry of Economy on 27 December 2011. The investment of over MDL 17 million was made by "Moldelectrica" SOE and it meant the construction of 25.2 km of high-voltage electrical line. It should be noted that the completion of construction of the electrical interconnection line with Romania LEA 110 kV Falcu-Gotesti in the territory of the Republic of Moldova is also set out in the Government Action Plan 2011-2014. According to the Action Plan the construction had to be completed in the fourth quarter of 2011, but only the Moldovan segment was put into service and that from Romania is still in the design phase. However, the works were only officially completed, and because of the flooding of the connecting point on the Prut river in 2010, it is necessary to make a route diversion, of about 2.5 km on the Romanian side, which involves additional costs of about EUR 800,000. The deviation in the territory of the Republic of Moldova will exceed 10 km and the estimated costs amount to about EUR 4.1 million.

In 2011 the Memorandum of Understanding was signed between Moldelectrica and Transelectrica (Romania) on the construction of the electrical interconnection line LEA 400 kV Balti-Suceava¹⁴³, with a length of 115 km. With the view to implement the infrastructure project, a feasibility study was conducted in 2010, and according to the preliminary data the total budget was estimated at about EUR 57 million. The contribution of the Republic of Moldova is EUR 29 million (the cost of 52 km, which will pass along the territory of the country). The construction was funded by the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB). The preparatory phase of the project of construction of the electrical interconnection line LEA 400 kV Balti-Suceava of 115 km is carried out very slowly. This is also a component of the project on interconnection of electricity systems of Ukraine and the Republic of Moldova to ENTSO-E system. Thus, the itinerary was established, the design procedures were started and the approximate amount of investments was calculated, which amounts to about EUR 61 million. The Romanian experts found that while the Romanian company Transelectrica started the second phase of design of LEA 400 kV Suceava-Balti, a blockage from the Republic of Moldova arose; Moldelectrica informed the Romanian partners that it does not have funds for the implementation of the second phase of design. The competent Ministry from Romania has proposed to include the feasibility study, which is necessary for this project in the list of investments that will receive funding on the basis of the Agreement on non-refundable financial aid in the amount of EUR 100 million.

Strategic Recommendations

- Continue the completion of the regulatory, technical and legislative base on energy efficiency of buildings in order to increase the effectiveness of energy consumption;
- Complete the process of extension of the interconnections both with Romania and Ukraine to strengthen the role of the Republic of Moldova of a transit corridor for electricity; only the compliance with these conditions would result in taking full advantage of the generation capacity of MGRES and stimulating the competition in the market;
- Diversify the renewable energy sources by using them for electricity production;

65) Improve transparency, reliability and safety of the gas transit network.

Moderate progress (3 points out of 5)

The most important joint project for the Republic of Moldova and Romania is the Iasi-Ungheni Gas Pipeline, which can represent a declaration of energy independence of the Republic of Moldova. The Memorandum of Understanding on preparation of the conditions for construction of high pressure gas pipeline was signed in 2011. The feasibility study of Iasi-Ungheni gas pipeline project was also completed, and the next stage in its development will be the draft of the technical plan, which should include the land section of the pipeline and undercrossings of Prut river.

¹⁴³ Phase I stage 2, Feasibility Study Part 1: Environmental and social impact assessment. Project on electric interconnection between Balti (Moldova) and Suceava (Romania)

Although the public tender for selection of the executor for gas pipeline construction was announced for the period of November-December 2012, it seems that in the end both the National Agency for Mineral Resources from Romania launched tenders on 25 April, and the Republic of Moldova in May 2013. The tender was to be announced in March 2013, but the delay was connected with the political changes in Bucharest and the transfer of the authority responsible for the project in Romania.

The statements of the officials from both countries remain optimistic, but there are still delays in the process, which have not yet been solved. An example in this regard is the refusal of about 40 landowners on the territory of Romania to give their consent to the gas pipeline passing through their land. The sources from the National Agency for Mineral Resources of Romania have stated that although the consent from almost all owners has been obtained, including from the Forest Administration and private forest owners, it is not yet sure how exactly this problem would be solved. Another delay could be caused by the political problems from Chisinau, as the Government of the Republic of Moldova was dismissed.

According to the estimates, the works in the territory of the Republic of Moldova could be launched in August 2013, upon completion of the procurement procedures. It follows that in the forthcoming period the second stage would be reached that is aimed at obtaining funding for the feasibility study, design and construction of a Compression Plant and Ungheni-Chisinau gas pipeline, which would allow providing services to more consumers. The total value of the gas pipeline construction project is EUR 20 million, of which EUR 9 million will be granted to the Republic of Moldova, and EUR 11 million to Romania. The financial support was provided by the European Commission. The length of the gas pipeline will be 43.2 km, 32.8 km of which will be on the territory of Romania. The Iasi-Ungheni gas pipeline, which will interconnect the gas networks of Romania and Moldova, will be able to transport 1.5 billion cubic meters of gas yearly.

According to the feasibility study of Romgaz, the project on the construction of a gas storage in Roman-Margineni is not currently feasible. In fact, any new storage depends on the projects that would increase the gas volume: Nabucco, AGRI, South Stream, interconnection pipelines Ungheni-Iati and Giurgiu-Ruse, etc. The storage from Margineni depends mostly on the interconnection with the Republic of Moldova through Ungheni-Iasi, a project discussed for a long time and postponed from year to year. So far the Republic of Moldova has shown much more interest in the construction of this gas pipeline, than Romania. Through this gas pipeline Moldova wishes to replace 15% to 30% of the Russian imports by gas from an alternative sources. Thus the dependence on the Russian gas can be reduced. In addition, Moldova would be able to store strategic gas reserves in Margineni. However, a storage as Margineni depends largely on the renegotiation of the Convention between the Government of Romania and the Government of the Russian Federation on the extension of the capacities of transit gas pipelines on the Romanian territory, in order to increase the gas supplies from the Russian Federation to third countries and Romania. The discussions with Gazprom on gas storages started several years ago, and in June 2009 a memorandum of cooperation was signed.

For the purpose of regulation of the legal relationships between the transport network operator, distribution network operators, suppliers and end users, the Administration Council of the National Agency for Energy Regulation approved the new version of the Regulation for gas supply and use No 415 of 25 May 2011. According to the Regulation, the supplier must supply gas to the end consumers on a contract basis only, at the quality and odoration parameters stipulated by the national standard "Natural gas for industrial and domestic use" GOST 5542 and construction norms NCMG. 05.01-2006.

Strategic Recommendations

- Rehabilitate and modernize further the gas network to diversify the gas sources and interconnect with EU infrastructure;
- It is recommended to update the Law on Energy Sector in accordance with the commitments assumed by the Republic of Moldova upon accession to the Energy Community Treaty and to adjust some notions and rules to the special legislation.

66) Progress on energy efficiency and the use of renewable energy sources.

Great progress - 4 points out of 5

The problem of high energy intensity, dependence on fuel increasing prices and full membership of the Republic of Moldova to the Energy Community Treaty have determined the country to harmonize the legislative and regulatory framework to the European standards.

A first step was the transposition of Directive 32/2006/EC of the European Parliament and of the Council of 5 April 2006 on energy end-use efficiency and energy services in the Law on Energy Efficiency No 142 of 2 July 2010, as well as laying down the basic activities in the National Energy Efficiency Program 2011-2020, approved by the Government Decision No 833 of 10 November 2011, aimed at achieving the intermediate objective of improving the energy efficiency by 9% by 2016 and the objective of 20% by 2020, accordingly.

The Regulation on the organization and operation of the Energy Efficiency Agency of June 2012, at the level of central public authorities, aims at ensuring and supporting the implementation of the objectives of the National Energy Efficiency Program, by providing the necessary assistance in the development of programs and local plans for energy efficiency and monitoring the implementation thereof. According to the Report on monitoring the implementation of the Law on Energy Efficiency, for a successful enforcement of the said law financial resources are needed to create the EEA - annual budget of MDL 800,000, implementation of the EE-budget Plan - MDL 1209 million, establishing the EE Fund - budget - EUR 4 million (grants).

The Regulation of the Energy Efficiency Fund was approved by the RM Government Decision No 401 of 12 June 2012. The Fund will finance measures of increasing the energy effectiveness and use of renewable energy sources. The Fund can also be an effective instrument in the energy efficiency policies.

During 2013, NAER jointly with the Ministry of Economy will complete the new version of the draft Law on Renewable Energy, in order to create the necessary framework for transposition of the Directive 2009/28/EC of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC. The draft law amending the Law on Renewable Energy No 160-XVI of 12 July 2007, by adjusting it to the European requirements, has not yet been developed. Some amendments were only made concerning the change of name of the competent Ministries.

In view of strengthening the procedures of energy labeling, harmonization of legislation (preparation of the draft law on energy labeling) and creation of new information mechanisms (energy labeling) [the draft Law on energy labeling](#) was prepared.

The basic scenario for the Republic of Moldova, upon condition of non-involvement of the state, was shaped with the aid of the energy planning instrument MARKAL. According to MARKAL forecast, by 2020 the cumulative consumption of household appliances concerned will increase from 2.72 up to 6.36 PJ. This is primarily due to the increase in household appliances and the increase of electricity price by 3% annually according to the World Energy Outlook Study 2009. Accordingly, if the price per 1 kWh is 1.66 lei in 2010, in 2020 it will be 2.23 lei. The use of more effective appliances is as more important as the energy prices go up. Over the past 5 years, the electricity tariff rose from 84 bani to 171 bani per kWh for the RED Nord and RED Nord-Vest consumers and from 94 to 160 bani per kWh for Union Fenosa consumers.¹⁴⁴

However, if the Republic of Moldova takes certain measures (transposition of the relevant directives; conducting awareness campaigns for end consumers; appointing an agency responsible for checks, testing, inspections; opening or contracting a country which has special laboratories for testing the household appliances. The testing means also adapting the testing standards EN 153, EN 60456, EN 60423 (IEC 61 121), EN 50242, EN 50285, EN 14511, EN 50304, etc. A problem in implementing the directives would be imposed by the European standards (EN testing) as basis for calculation of energy consumption. These testing standards are being applied in the member states. The countries that are not EU members shall adopt these standards as national testing standards.

Another important action set out in this option is the compliance verification, which aims at ascertaining whether the supplier or seller meets the requirements of the regulations resulting from the framework directive and the implementation ones. If irregularities are detected (the label is not applied in a visible place; the accompanying documents do not contain the necessary information on the efficiency class; the energy product does not correspond to the declared class, etc.), the manufacturers will be warned and sanctioned subsequently.

The implementation of the projects on energy efficiency promotion and use of renewable energy resources in the public institutions, giving priority to schools, kindergartens, hospitals and other social buildings, is ensured by the "Energy and Biomass" Project (2011-2014). The project objectives are the following: more than 130 kindergartens, schools, healthcare centers, other public institutions from rural area and over 500 households will be provided with heat energy locally produced from biomass, mainly from wheat straw and

¹⁴⁴ Preliminary analysis of the regulation impact of the draft Law on energy labeling of 18 January 2013

other crop waste. The technical assistance is financially provided by the European Union (EUR 14 million) and UNDP (EUR 0.56 million); in 2013 the funding of EUR 4.5 million is planned.

For 2012 Gas Natural Fenosa has planned activities related to the implementation of some energy efficiency services and techniques aimed at stimulating the consumers to use energy efficiently and in a responsible manner. Energy management products are needed for the customers with large electricity consumption, since inappropriate management of energy resources leads to an inefficient consumption and, consequently, wears the electrical installations. Energy audit represents the in-depth analysis of the overall electricity consumption over a given period for a building, a group of buildings or an industrial installation and the implementation of some cost-efficient strategies for energy saving and environmental protection.

Since the project's launch, Gas Natural Fenosa has actively cooperated over the past years with the Republican Center for Children and Youth "Gutta Club" and Technical University of Moldova in view of the development and promotion of the "Energy Efficiency" project. Over 3500 children from 75 schools of the Center and South of the country have been trained.

Strategic Recommendations:

- Develop and distribute new energy technologies that are essential for ensuring the energy supply security, sustainable development and industrial competitiveness;
- Prepare an Action Plan for improving energy efficiency, enhancing the use of renewable energy sources and reinforcing the relevant institutions, accompanied by a financing plan, quantitative targets and timetables for implementation;
- In addition to ensuring the energy labeling of household appliances it is necessary to draft the Energy Performance Certificate of the Building, which shall be drawn up for the entire building or its units, as a set of component elements that are decisive for energy consumption and energy performance;
- For a broader information of the general public and potential beneficiaries it would be necessary to create an information database on energy efficiency and renewable energy sources;
- Prepare the Action Plan for the use of renewable energy sources and the Action Plan for producing solid fuel for heating in rural areas;
- Launch information campaigns under the aegis of the Ministry of Economy for informing the citizens about the methods of energy saving and for more active promotion of the energy management for non-household customers;
- In order to harness the energy saving potential in certain market segments where the energy audits are not generally provided on a commercial basis, programs should be developed to encourage the SMEs to undergo energy audits. The energy audits should be binding for and conducted periodically in large enterprises, as the energy savings can be significant;
- A list of products used in construction with environmental impact, for which it is necessary to apply the ecodesign requirements, shall be determined. The main criteria for entering the product on the list can be the significant volume of sales and use of the product concerned and the significant environmental impact of the product;
- The development of a concept paper on the application of ecodesign requirements in the construction sector by the MRDC would allow avoiding the situation when it is necessary to adapt the system of technical regulation in constructions to the requirements developed without the participation of MRDC;
- It is necessary to supplement the system of Technical Regulation ("TR") (including the usage guidelines), in order to facilitate the involvement of renewable energy sources as alternatives for ensuring the energy demand in the buildings. It is necessary to reflect in the TR the requirements and possible technical solutions to ensure the near-zero energy consumption for certain categories of buildings.

■ Information society: Modest progress (2.4 points out of 5)

(67) Accelerate progress in electronic communications policy and regulation

Progress from modest to moderate (2.6 points out of 5)

During the analyzed period the authorities have developed several strategic planning documents for the development of the ICT sector in the Republic of Moldova. In 2005 the National Strategy on Building the Information Society - "Electronic Moldova", accompanied by an action plan, was adopted. In 2010 the

Program for Development of the Broadband Internet Access for 2010-2013 was developed and in 2011 the Strategic Program for the Technological Modernization of the Governance (e-Transformation) was adopted. An important development of the regulatory framework in this sector was determined by the adoption in 2008 of the Law on Electronic Communications that was based on EU directives and included new conditions to facilitate the access of new operators to the electronic communications market. The institutional framework was strengthened significantly by the establishment in 2008 of the National Regulatory Agency for Electronic Communications and Information Technology (NRAECIT), through the reorganization of the National Regulator for Telecommunications and Informatics (NRATI). However, the progress in this field is qualified from modest to moderate. The reason consists in the fact that despite the improvement of the regulatory framework and liberalization of the access of operators in the ICT market, the competition is still low, because of the influence of the public operator "Moldtelecom" which has a monopoly on the infrastructure of access. Furthermore, NRAECIT is not independent from the Government, which affects its effectiveness. The political dependence of the regulator has led to the delay of implementing the tariff rebalancing by Moldtelecom. Generally, most of the planned actions have been implemented with significant delay and some of them have not been implemented at all.

(68) Accelerate progress in the development of Information Society services and in the integration of Moldova into the IST research program.

Modest progress (2.3 points out of 5)

During the implementation of the National Strategy on Building the Information Society "Electronic Moldova", the computer penetration rate has increased from 3 to 37 computers per 100 inhabitants during 2004-2010, and during 2007-2011 the level of mobile telephone penetration has increased from 52.6 items to 104.3 items per 100 inhabitants. An important evolution is the establishment of the Electronic Government Center (E-Government) in 2010, which launched a series of initiatives simplifying the procedures for obtaining some documents and for benefiting from some public services for citizens (e.g.: e-criminal record, open data platform, common platform of public services) and business (e.g.: electronic declaration, quick declaration, e-licensing). However, the major problem that undermines the effectiveness of these efforts, in particular in the case of local public administration, is the lack of financial and human resources, which are required to implement the ICT solutions. Another major problem that limits the development of the sector relates to the monopoly of the public company "Moldtelecom" in rendering primary connection services.

Strategic recommendations:

- In the situation when the market is dominated by an important state-owned company, with obvious advantages over its competitors, the appropriate competitive environment for the sector development can be maintained by 2 methods: (i) privatization of the state-owned company and/or its restructuring in smaller businesses, which would compete among each other; (ii) ensuring a robust institutional framework that would check and prevent any possible practices of abuse of the dominant position in the market and other anticompetitive practices. The Republic of Moldova has limited progresses in both areas. Consequently, in order to facilitate the sector development it is necessary to strengthen the NRAECIT capacities and minimize its dependence on the Government, as well as to privatize or at least restructure the "Moldtelecom" SOE. Without these measures, further efforts for the development of the ICT sector in the Republic of Moldova will not have the desired effects.
- It is necessary to strengthen the administrative capacities of the public institutions for the implementation of the new technologies in their routine work and, in particular, in the interaction with the business and civil society. In particular, this is related to the local public authorities, which are short of the necessary financial and human resources, necessary for achieving a visible progress in this area.

■ Public Health: Moderate progress (3.1 points out of 5)

(80) Increase the level of health security and epidemiological safety in Moldova in line with EU legislation and in cooperation and with the support of the WHO. Relate the information system of Moldova to the health indicators process underway in the EU.

The reform actions in this context have achieved a moderate progress in public health, service provision, financing and generation of resources for the health system. The Republic of Moldova has established a system for monitoring and reporting data on communicable diseases, in accordance with the European

Union requirements, as well as a system for assessing the health system performance, but the analysis, assessment in health and approach of the health determinants, in fact, are not used fully in the decision-making process. The primary health care has not become so effective as to provide quality services for the entire population and to interact effectively with the family, community and specialized medical care. The latter faces excessive capacities and duplication of services, which affects the allocative and technical efficiency in health. The public healthcare institutions do not have real autonomy, which would enhance the performance of the institution, quality of service, transparency of incomes and expenditures. Universal coverage of the population with mandatory health insurance was not yet reached. There is still a gap between the professional training of the health staff and health system needs.

Strategic Recommendations

- It is necessary to exclude the fragmentation of information flows in the health sector in order to ensure the health information system capacity to connect the health general determinants, health state, provided services and results in order to offer to decision-makers relevant analysis for decision making. It is required to provide an effective legal framework for the control measures of the main risk factors (tobacco, alcohol, nutrition and physical activity) and to ensure a favorable environment for choosing a healthy lifestyle. The outcomes in the health sector can be maximized if the Ministry of Health manages to promote provisions relating to the health matters in all policies and to support their implementation within the sectors.
- In order to ensure a successful health reform, it is necessary to involve the stakeholders in the development and implementation of the reform policy. The factors making the decision on the reform should be aware that the improvement of the level of public health security and protection of individual health protection contributes to sustainable development and economic growth.
- The reform of the public health infrastructure, primary, emergency and hospital healthcare must move forward to ensure the access, quality and efficiency of health services, including to meet the challenges related to the demographic developments, limited resources and deepening of the social and economic gaps, the increasing needs of the population in the health services, as well as the modernization of medical technologies.
- The funds of mandatory health insurance should be directed towards cost-effective interventions for providing quality services, meeting the needs of services conditioned by the demographic ageing and influence of the environmental factors, ensuring the increasing needs of modern and advanced diagnostic and rehabilitation technologies. The National Health Insurance Company should procure services from the healthcare institutions on the basis of the performance achieved by them.
- It is necessary to diversify the education offer in the medical and pharmaceutical field and to adapt it to the needs of the healthcare system, as well as the effective implementation of the curricular reform in line with the national, European and international standards.