

Declaration of the 2nd joint meeting of the Republic of Moldova – European Union Domestic Advisory groups

October 17, 2016
Brussels (video conference)

Representatives of the two Domestic Advisory Groups (DAG) from the EU and Moldova, established under Chapter 13 on Trade and Sustainable Development (TSD) of the Deep and Comprehensive Free Trade Agreement between the Republic of Moldova and the European Union, held a joint meeting on 17 October 2016. The meeting was held in accordance to the provisions of the Chapter 13 on Trade and Sustainable Development of the Association Agreement between the Republic of Moldova and the European Union.

The participants discussed the issues related to the implementation of the recommendations of the 1st Joint Civil Society Dialogue Forum declaration, issued on July 7, 2015. Overall, despite some important progress achieved so far, most of constraints identified, and, hence, recommendations related to expanding trade and sustainable development remained valid until nowadays.

Among the main achievements related to the recommendations of the 1st Joint Civil Society Dialogue Forum, the following could be mentioned:

- Political stabilization and formation of a functional Government, which allowed the consolidation of the implementation of priority reforms. Thus, during March-July, 2016, the Government followed a Roadmap comprising 13 chapters of the most urgent priority reforms in the areas related to fighting corruption, justice, DCFTA, public administration, business climate, energy and financial sector. Nevertheless, the reform processes could be faster and more consistent. According to an independent¹ monitoring report, out of 69 planned actions that had to be implemented by the government (Government, Parliament, National Bank of Moldova etc.) in order to overcome the political and socio-economic crisis, only 38 actions (55%) were fully implemented, whereas 19 actions (28%) were realized with deficiencies (e.g. deviations from best international practices, poor enforcement etc.) and 12 actions (17%) were not realized at all. As a result, there remained many unsolved constraints related to fighting corruption, justice sector reform and modest results of bank frauds investigations.
- The reformation of the banking sector accelerated, especially by the adoption of several law packages that increased the independence of the National Bank of Moldova and the National Commission for Financial Markets, clarified the role of the Central depository of financial securities, improved the crisis resolution framework in the banking sector and enhanced the central bank's tools to increase the transparency in the banking sector. Nevertheless, the financial sector remains vulnerable, primarily due to weak governance inside many banking and non-banking financial institutions, as well as poor supervisory and regulatory framework (especially in the non-banking financial system).
- The participants welcomed the positive dynamics in the relations between the Government and development partners, especially the Staff-Level Agreement with IMF from July 2016 on an economic reform program to be supported by a three-year

¹ "Monitoring Report of the Implementation of the Priority Reforms Agenda", ADEPT, Expert-Grup, Legal Resources Center, 2016

Extended Credit Facility and Extended Fund Facility (ECF/EFF) arrangement. In this respect, the government proved its commitment to implement a list of prior actions that were necessary in order to reach a financing agreement with IMF (the final decision will be taken in October, by the IMF Executive Board).

- The participants welcome the launching of public consultations on updating the Action Plan for the implementation of the Association Agreement with EU, involving a large array of stakeholders: public institutions, private sector and CSO representatives.
- The participants welcome the elaboration and approval of the Roadmap for liberalization of the domestic energy market, which covers a large array of actions in the area of electric energy, natural gas, renewable energy and thermic energy. Ensuring a full transparency (e.g. public consultations) throughout the implementation process is a key precondition for an effective implementation of this Roadmap. The consultations' process should be also enforced through the involvement of the Energy Community Secretariat and development partners of Moldova.²
- The participants welcome the approval of the Law on electric energy and the Law on natural gas, which partially transpose the provisions of the 3rd Energy Package. The new laws lay the ground for the liberalization of the markets of electric energy and natural gas, investment attraction in this sectors, increasing the efficiency of the energy regulator, as well as stipulates the legal and technical conditions for facilitation of the interconnectivity with the EU energy market, via Romania. Both laws envisage larger competences for the National Agency for Energy Regulations (NAER), therefore urgent measures are necessary in order to ensure full independence and consolidate the institutional capacities of the Agency. The approval of both laws corresponds to Moldova's commitments as a member of the Energy Community, as well as under the Association Agreement (chapter dedicated to the energy sector). Still, these laws were adopted with a delay of more than 1 year, due to the electoral campaign of 2014 and the political instability that followed.³
- The participants welcome the intention of the Government to adopt some legislative changes that will allow the restoration of a stable and attractive environment for business and investments. The participants hope that these changes will lead to development and strengthening of small and medium sized enterprises, as well as their capacities to create decent jobs.

Nevertheless, most of the recommendations (about 2/3) of the Declaration of the 1st Joint Civil Society Dialogue Forum remained as relevant as one year ago, or even more acute. The following problems need priority treatment by the government:

- The competitiveness issue of the Republic of Moldova got worse, which is going to be in the following years the main constraint for exploring the opportunities of the deep and comprehensive trade with EU. Thus, according to the Global Competitiveness Report 2016/2017, Moldova got the 100th place (out of 138 countries), losing 16 positions (84th place out of 140 countries in the previous edition of the report). It explains the country's modest performance in foreign trade. After two years of DCFTA implementation⁴, total

² Ibid

³ Ibid

⁴ Comparison of the periods September, 2014 – August, 2016 with September 2012 – august 2014.

exports of goods from Moldova to EU grew by only 5%, whereas the exports to other countries (except CIS) declined by 16% and to CIS plummeted by 45% (the exports' dynamics to CIS was undermined by the tariff and non-tariff barriers imposed by Russia to imports from Moldova). Therefore, we stress the crucial importance of concentrating the policy efforts on enhancing Moldova's competitiveness, primarily by fostering the most fundamental institutions. It mainly implies a better protection of property rights, labour rights, intensification of actions for preventing and fighting corruption and justice sector reform⁵ - the reforms with the strongest spillover effects on the rest of the sectors.

- An additional key factor influencing the competitiveness of Moldovan exports on the foreign markets is related to the process of adoption and, especially, implementation of EU quality standards, as well as the elimination of conflicting and old fashioned GOST standards. In order to accelerate this process, it is necessary to enrich the technical basis of the testing and certification authorities, as well as to provide support, including through fiscal tools, for the companies that invest in the implementation of EU quality standards.
- Despite many efforts to improve the institutional framework for coordination of the implementation of the association agenda, the entire process remains vague and largely inefficient. Thus, despite the creation of the Parliamentary Council for European Integration, there is a lack of clarity about how this institution should interact with the Government in order to ensure the necessary institutional synergy. Also, there is no instrument that would ensure the conformity of laws to the commitments within the Association Agreement, throughout the entire process of law elaboration (from the stage of law drafting by the Government to the stage of law adoption by the Parliament). Although, the Parliament and Government organize periodically common coordination sessions of the association agenda, there is still a low clarity about the institutional interactions on this topic⁶. In this regard, it is necessary to intensify the efforts of public authorities in order to enhance the intra- and inter-institutional coordination for the implementation of the Association Agreement, with the inclusion of the Parliament and Government (especially, the Ministry of Economy, Ministry of Foreign Affairs and European Integration, and the State Chancellery).
- There is a low level of accountability of public authorities in the area of the implementation of the association agenda. It is explained by the lack of a clear monitoring and evaluation framework (e.g. the Action Plan for the implementation of the Association Agreement contains many vague formulations, which leave too much room for interpretation and complicate the process of external monitoring), as well as by the low capacities of the Moldovan civil society. Hence, it is necessary to develop a transparent instrument for monitoring and evaluation of the Association Agreement implementation, as well as to build capacities inside the civil society in order to stimulate its more active and consistent participation in this process, and in this way to increase the accountability of the government. The EU and the Republic of Moldova should facilitate the operation of the Domestic Advisory Groups established by the trade and sustainable development chapter by providing financial means enabling their participation in joint

⁵ Based on the most important gaps identified by the Global Competitiveness Report 2016/2017

⁶ "Monitoring Report of the Implementation of the Priority Reforms Agenda", ADEPT, Expert-Grup, Legal Resources Center, 2016

annual meetings. The Parties should also involve members of those Groups into a regular dialogue and monitoring related to DCFTA implementation.

- After two years of DCFTA implementation, the private sector communicates, through employers' associations, many messages of concern about the way how the government is treating the businesses as public policy partners. Worse than that, the political crises significantly undermined the process of implementation of DCFTA provisions, a large share of costs being passed on to the private sector. Thus, after adopting the EU quality standards, the firm-specific standards were cancelled, while the technical regulations were not updated accordingly. As a result, the legal framework became inconsistent, vague and, in some circumstances, conducive to corruption. Moreover, after the creation of the National Agency for Food Safety, the institution entitled to regulate and control the food safety, as well as the sanitary-veterinary and phyto-sanitary safety, there appeared many overlapping with another institution – National Center for Public Health, subordinated to the Ministry of Health. As a result, companies, very often, are forced to certify their products twice, bearing higher costs and facing the risk of rejection of their products as a result of discretionary interpretation of the regulatory framework. In order to eliminate these barriers, the private sector is willing to cooperate with the government by means of the public-private dialogue, within a coordinated process of DCFTA implementation, and is expressing its hope that this process will transform from a declarative into a practical one.
- The participants note that the gas pipeline that interconnects the Republic of Moldova and the European Union, between the cities of Iasi and Chisinau, could contribute significantly to the energy security of the country, but especially to strengthening the competitive environment in the market of gas distributors, with beneficial effects for industrial consumers and households. Hence, the members of both DAGs ask to follow through with the activities to extend this infrastructure from Ungheni to Chisinau as scheduled.
- According to the decision of the Council of Association European Union – Republic of Moldova of December 18, 2015, Moldova undertook the responsibility to implement the fifth title of the Association Agreement on the entire territory of the country, including in the Transnistrian region. The implementation of this provision in accordance to the interests of as many stakeholders as possible will require the identification of a broad compromise between the parties from both banks of Nistru. In this regard, the participants salute the decision of EU to introduce a temporary preferential free trade regime for the Transnistrian region for 2016-2018, which replaced the Autonomous Trade Preferences that expired in January 2016. Also, the participants emphasize on the need to speed up the technical dialogue aimed at facilitation of the DCFTA implementation over the entire territory of the Republic of Moldova, taking into account as much as possible the interests of all parties involved in this process.

Renewable energy sector

Members of the DAGs devoted a special attention to the situation in the renewable energy sector in the Republic of Moldova. They welcomed the adoption of the Law on Promotion of Energy from Renewable Sources in February 2016, which constitutes a major step towards the creation of a clear framework for the development of renewable energy projects. However, numerous legal, administrative and technical barriers still exist, preventing active promotion of the

renewable energy sector. The following proposals were made with regard to further developing the renewable energy sector in the Republic in Moldova:

- Streamline the procedures of receiving the necessary legal permissions to construct additional generation capacities and connect them to the existing electricity and heating networks, in order to increase the energy independence of Moldova;
- Promote the establishment of enterprises oriented at constructing and installing equipment for renewable energy, thus creating additional jobs;
- Promote the expansion of medium-scale (up to 20 MW) cogeneration plants operating on biofuel and waste;
- Promote wider usage of solar thermal instalments to produce hot water in healthcare institutions, kindergartens and households;
- Create the conditions for increasing the urban energy efficiency by introducing the Energy Service Companies (ESCO) model, which is popular in the EU countries;
- Create favourable conditions for the development of small-scale energy infrastructure, stimulate the emergence of producing consumers by widely applying the EU-like promotion instruments as net-metering, establishment cooperatives of small-scale consumers etc.;
- Attract the civil society and business community more actively in terms of monitoring the spending of the public and external funds on renewable projects, so as to make this process more transparent and easily accessible;
- At the same time a “just transition” is needed – investment in jobs, guarantee of social protection and human rights, social dialogue with all relevant parties, collective bargaining with workers and their unions, resource productivity and skills development with the monitoring of agreements which are public and legally enforceable;
- Duly recommend the education institutions to actively develop renewable energy study programmes, organize training courses and seminars on the topic of renewable energy for the municipality employees dealing with renewable energy in order to better understand the newest technological developments and opportunities;
- Create the necessary regulatory framework introducing sustainability criteria. The significant agricultural potential of the country should be tapped into to develop domestic biofuel production rather than relying on imports of biofuels to reach the 10% target in 2020.

The representatives of the Domestic Advisory groups remain committed to monitor the Moldovan government’s efforts to reap the benefits of DCFTA, implement its commitments in this area and stimulate trade expansion and sustainable development of the Republic of Moldova.

This Joint declaration will be sent by the DAG chairs to the relevant authorities.