

**Final Monitoring Report on the Implementation  
of the Priority Reform Action Roadmap  
(5 July - 31 December 2017)**

**Developed by 'Expert-Grup' Think Tank, the Association for Participatory Democracy  
'ADEPT' and Legal Resource Centre from Moldova**

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## Abbreviations

AA	Republic of Moldova – European Union Association Agreement
PPA	Public Procurement Agency
NAAQER	National Agency for Assuring Quality in Education and Research
NRDA	National Research and Development Agency
NIA	National Integrity Agency
ANRE	National Energy Regulatory Agency
NCSA	National Complaint Settlement Agency
ARCA	Agency for the Recovery of Criminal Assets
ASM	Academy of Science of Moldova
EIB	European Investment Bank
EBRD	European Bank for Reconstruction and Development
NBM	National Bank of Moldova
CoA	Court of Accounts
PIFC	Public Internal Financial Control
NAC	National Anti-corruption Center
NHIC	National Health Insurance Company
NSIH	National Social Insurance House
NIC	National Integrity Commission
NCPDP	National Center for the Protection of Personal Data
NCFM	National Commission for Financial Markets
CPEDEE	Council on the Prevention and Elimination of Discrimination and Ensuring Equality
SCJ	Supreme Court of Justice
SCM	Superior Council of Magistracy
ECtHR	European Court of Human Rights
FATF	Financial Action Task Force
IMF	International Monetary Fund
ICOM	International Council of Museums
CST SOE	Center of Special Telecommunication SOE
MIA	Ministry of Internal Affairs
MFAEI	Ministry of Foreign Affairs and European Integration
ODIMM	Organisation for Small and Medium Enterprises Sector Development
AP NIAS	Action Plan to Implement the National Integrity and Anticorruption Strategy
NHRAP	National Human Rights Action Plan
NAPAA	National Action Plan implementing the RM-EU Association Agreement
OPFML	Office for Prevention and Fight against Money Laundering
EU	European Union

## Introduction

The deadline for implementation of the Priority Reform Action Roadmap for the second semester of 2017 expired at the end of 2017<sup>1</sup>. It was signed on 5 July 2017 by the Government and the Parliament of the Republic of Moldova. As stated by its authors, this document was designed to synchronize the efforts of both institutions to implement a series of urgent commitments under the EU-Moldova Association Agreement, as well as to boost some reforms in order to strengthen relations with the International Monetary Fund and other development partners. As a matter of fact, the Roadmap aims to increase the confidence of development partners and the citizens in the government by promoting a number of priority policies in two core areas: (i) development of good governance and rule of law, with a focus on the public administration reform, justice and anti-corruption; and fundamental rights and freedoms; and (ii) economic development and functioning market economy, with a focus on the governance of the financial and banking sector; investment and business climate; agriculture and food safety; education, culture, science; and social programs.

The Independent Think Tank 'Expert-Grup', the Association for Participatory Democracy 'ADEPT' and the Legal Resources Centre of Moldova, with the support of USAID, initiated the process of monitoring the implementation of the Roadmap in order to provide the general public with an independent opinion on the progress of priority reforms undertaken by the Government and the Parliament, and to enhance the accountability of the Government in this respect.

The Final Report on the Implementation of the Roadmap provides an independent evaluation of the implementation of Roadmap provisions for the entire period set in the document, 5 July – 31 December 2017. The document covers eight policy areas, with a summary of developments for each of the actions, comments on the main concerns and achievements, and a list of relevant policy recommendations.

The implementation of the Priority Reform Action Roadmap was evaluated on the basis of a methodology focused both on the assessment of timeline and quality of the implemented actions. Given that deadlines for a number of actions included in the Roadmap were rather tight, and therefore were often missed, the evaluation of progress was focused on the quality of acts adopted/measures taken and their potential impact (Annex).

This document represents the final assessment report on the Roadmap implementation, which is based on updating the interim assessment report published on 1 December 2017.

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<sup>1</sup><http://parlament.md/LinkClick.aspx?fileticket=gXrircWwNE%3D&tabid=203&language=ro-RO>

## General view on the Roadmap as a strategic planning tool

**Although this type of planning documents can facilitate the promotion of certain policies due to the induced elements of emergency and its countersigning by Government and Parliament, it involves a series of shortcomings.** Unlike classic strategic planning documents, the Roadmap does not contain performance indicators and does not provide for the allocation of financial resources for its implementation. In addition, the document foresees urgent actions, which need to be implemented in the short run without any reference to the development visions at sectoral level and without taking into account the already adopted strategies. It risks to undermine the implementation of already adopted strategies because of at least two reasons: (i) the policies stated in the Roadmap are, by definition, prioritised to the detriment of the existing strategies (the document is limited to a small set of actions that don't necessarily reflect exhaustively the urgent actions that are already envisioned by sectoral strategies); and (ii) many actions are not aligned with the previously adopted strategies or even contradict the existing strategic planning documents (for example, decreasing the pressures on the business environment by decriminalising a range of economic crimes due to the provisions concerning milder penalties for economic sanctions contradict the provisions of the EU Association Agreement). At the same time, inclusion in the Roadmap of some actions stated in the existing sectoral action plans, but with different deadlines, creates confusions for implementing institutions.

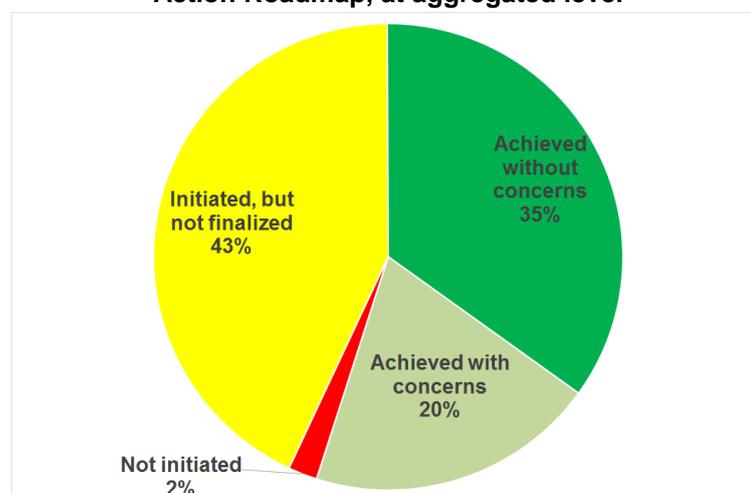
**Overall, the use of roadmaps – a phenomenon which is increasingly noticed lately, is a symptom of the shortcomings of the current framework for strategic planning,** which is abundant in strategies without financial coverage, without clear monitoring and evaluation indicators, and which often overlap or even contradict each other. Normally, such roadmaps would not be necessary if the strategic planning framework is functional and all short, medium or long-term actions would be envisioned and budgeted up ahead of time. Such documents could be justified only by stipulating certain urgent actions with explicit references to the existing strategies. At the same time, the frequent use of roadmaps aimed to boost the implementation of certain reforms reveals a deficient management in public institutions or a weak political will, which mobilizes only under the influence of certain external factors.

**Taking into account the above-mentioned shortcomings, the Government should focus on reforming the strategic planning framework** so that the strategies would reflect the development priorities on short, medium and long term, have appropriate financial coverage and provide clear actions with performance indicators at output and impact levels. To do so, it is necessary to optimize the number of strategies, adjust the existing ones to the National Development Strategy and to the Association Agreement and Sustainable Development Goals, review the framework for monitoring and evaluation of strategies, integrate those strategies into the Mid-Term Budgetary Framework and the sectoral budgetary programs and develop an integrated public reporting tool for the implementation of these documents. At the same time, the coordinated commitment of the Government and Parliament to implement certain urgent policies/reforms through roadmaps may be an efficient tool if, and only if, the provided actions feed into the existent strategies and facilitate, but not undermine their implementation.

## Executive Summary

**Only half of the actions covered by the Priority Reform Action Roadmap were implemented.** By the deadline for implementation of the Roadmap, its level of implementation was estimated to about 55% (Figure 1). Of the 51 planned actions, only 28 were achieved. Furthermore, 10 of these were rated as ‘achieved with concerns’, with reasons ranging from non-observance of the decision-making transparency to content-related issues requiring substantial improvements. At the same time, 22 actions, or 43% of the total, were initiated, but not finalized. Therefore, the risk highlighted in the interim assessment report published on 1 December 2017 regarding the delayed implementation of various actions, materialized. Like in the previous report, we state that the main reasons for breaking deadlines are too ambitious timeliness, as well as the effects of the public administration reform that temporarily affected the pace of reforms in general and the implementation of measures set out in the Roadmap in particular.

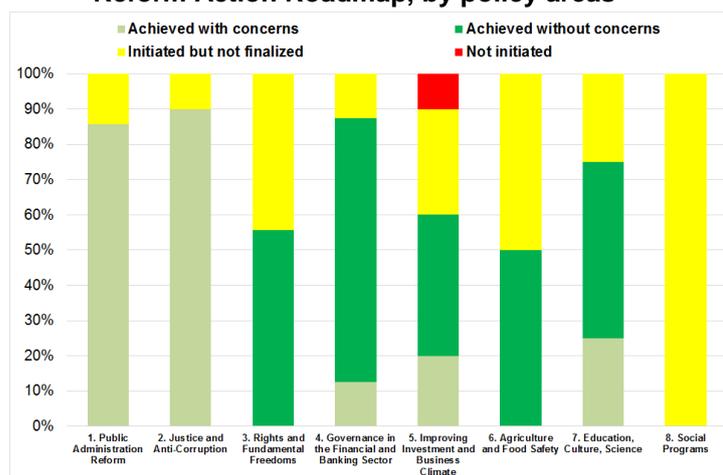
**Figure 1. The level of implementation of the Priority Reform Action Roadmap, at aggregated level**



Source: Authors' estimations

**The highest level of implementation was estimated in the field of ‘Governance in the financial and banking sector’, and the lowest level was registered in the area of ‘Justice and fighting corruption’.** Thus, of the 8 actions planned in the field of ‘Governance in the financial and banking sector’, 6 actions were achieved without concerns, 1 – with concerns and 1 – initiated but not finalized. The high level of implementation is the result of the pro-active orientation of the institutions from this sector (particularly the NBM), including in the context of the Memorandum with IMF. In contrast, the field ‘Justice and fight against corruption’ registered weak progresses – 9 of 10 planned actions were initiated but not finalized. The causes of such a negative performance are related to the poor institutional capacity, weak political will and too ambitious timeliness. We must also note the field of ‘Public administration reform’, where 5 of 6 planned actions were achieved with concerns. The main reason for this is that the reform, although implemented at a relatively high pace (such reforms are complicated, and usually are implemented slowly if are evidence-based and the aim is to improve the public administration activity), is not based on functional reviews and empirical evidences. Hence, it is perceived rather a political reform than one to improve public policies, and is not implemented in a transparent and predictable way.

**Figure 2. The level of implementation of the Priority Reform Action Roadmap, by policy areas**



Source: Authors' estimations

### **Public administration reform**

- Approval of the new Government structure was the most important action of public administration reform, as a result of which several ministries were merged, while the key innovation was the replacement of the position 'Deputy Minister' with that of the 'General State Secretary' and 'State Secretary' and approval of the list of ministries by the Parliament decision. However, the process raised a number of concerns, because it was not accompanied by a functional review that would reveal the analytical rationale and financial basis for this restructuring. This hints to the likelihood that the reform was driven rather by political considerations (reducing the number of ministries and of civil servants, and thus creating savings), rather than streamlining of processes. Most draft regulatory acts in this chapter were not subjects to public consultations according to legal provisions.
- In line with the commitments made under the EU-Moldova Association Agreement, the Government initiated the process of drafting new laws related to the activity of the Court of Accounts and the Customs Service. However, the legislative process had a number of shortcomings. For instance, the draft Law on the Organisation and Operation of the Court of Accounts has not passed through public consultations, while the draft law on Customs Service was voted by the Parliament more than a year after its registration. Also, the final version of the Law on the Organisation and Operation of the Court of Accounts, approved in the second reading, did not exclude the risk factors related to interference in the Court's activity, and the JSC "Moldova-Gaz" was not included expressly in the list of subjects amenable to external public audit. By the second reading, MPs failed to eliminate all the legal ambiguities in the draft Law on Customs Service in relation to the existing regulatory acts in force in the customs area. Hence, once approved the new law will require further adjustments.
- In the process of reforming the public procurement system, an indispensable component was the creation of the National Complaint Settlement Agency (NCSA). The establishment of this agency was delayed by more than a year, which increased the risks of corruption at that time and affected the confidence of business entities in the public procurement system. The fact that NCSA was ultimately set up is an important step forward in improving the public procurement system. However, it is important to strengthen further its institutional capacity, ensure its independence and functionality.

### **Justice and anti-corruption**

- The Parliament adopted on the first reading the draft Law on Amendments and Addenda to

the Code of Civil Procedures (No 349), proposing a number of amendments aimed at reducing the length of civil judiciary procedures. The MPs made a number of amendments after the draft law was registered. Until 10 January 2018, the MPs' amendments after the voting in first reading, and the newest version of the draft were not yet available on the Parliament's website for consultation.

- After a 9-month delay and an unpredictable and less transparent consultative process, Parliament adopted the draft Law on the Prevention of Money Laundering and Combating Terrorist Financing (No 22/2017) on December 22, 2017. Generally, the final version of the draft complies with the European Directive 2015/849 and with the FATF recommendations. The newness of the draft, introduced right before its adoption in final reading, is the detachment of Office for Prevention and Fight against Money Laundering (OPFML) out of the NAC control and its transformation into an independent public authority, which operates as a central specialized body, autonomous and independent. The delay in adopting the law hampered the development and adoption of secondary legislation, which was planned to be completed by the end of 2017.
- The Ministry of Justice developed the draft Law No 428 on Reforming the Justice Sector. It contains changes that are appropriate and necessary for the selection and promotion of judges. It however requires improvements in order to ensure an effective merit-based system, increase transparency of the Superior Council of Magistracy, and ensure functional independence of the Judicial Inspection. We recommend to promote the draft Law as soon as possible.
- The Ministry of Justice has neither initiated a draft law, nor included provisions in the draft Law No 428 to simplify and improve, respectively, the mechanism for the disciplinary liability of judges. Also, the draft No 307 adopted by the Parliament in final reading, proposes to limit the appeals against SCM decisions in disciplinary cases to procedural aspects only. This provision is against ECHR standards. We recommend the Parliament to amend the legislation and to institute a clear rule, on the basis of which the SCJ would examine the SCM decisions both on the merits, and procedure, in compliance with ECtHR standards.
- A major concern is the delay in ensuring the efficient operation of the Agency for the Recovery of Criminal Assets (ARCA). In line with the Roadmap, the Government and the Parliament were to ensure the effective functioning of ARCA by October 2017. As of the date of this report, the activity of the institution was still uncertain due to some legal initiatives to change some competences and duties of ARCA and due to the lack of an operational regulation of the institution. The autonomous character of ARCA is still discussed. We recommend that the Parliament and the Government provide all the necessary tools to ensure the autonomy of ARCA and to reject any initiatives that would delay its efficient operation.
- The National Centre for Personal Data Protection drafted a Law on the Regime of Video Equipment. The latest publicly available version of this draft raises concerns related to journalists' obligation to systematically request the consent of the data subject, as well as to the prohibition of the use of video materials via drones, aerostats or other technical and/or electronic devices within the built-up area of rural/urban localities.
- The Government and the National Integrity Agency (NIA) took all necessary measures to ensure the timely launch of the online platform of submission and verification of declarations of assets and interests (e-Integrity). Nonetheless, raises questions the exaggerate amount of MDL 9.8 million spend for issuing the electronic signatures with an one-year validity term and whether additional funds to extend their validity term will be needed.

- Due to the delayed appointment of NIA management, the preliminary draft methodology for controlling assets and interests and the compliance with the legal regime of conflicts of interest, incompatibilities and restrictions was not approved. For the same reasons, the Parliament is late to approve the staffing limit and organisational structure of NIA, while the ANI's budget for 2018 was maintained at the same level as the previous budgets of CNI.
- Although some progresses were registered, they failed to timely develop and adopt those 9 sectoral anti-corruption plans provided for the implementation of the 2017-2020 National Integrity and Anti-Corruption Strategy. Only 6 documents were consulted and none of them was approved by the end of 2017. At the same time, certain documents don't meet the standard structure approved by the Government. The delay in adopting the anti-corruption sectoral plans blocked the implementation of certain actions covered by the 2017-2020 National Integrity and Anti-Corruption Strategy.

### ***Fundamental rights and freedoms***

- The Parliament set up the Platform for parliamentary oversight over the implementation of the Law on Preventing and Combating Trafficking in Human Beings and the actions conducted in this area. The Permanent Secretariat of the National Committee on Combating Trafficking in Human Beings developed the draft 2018-2023 National Strategy for THB Prevention and Combating and the draft 2018-2020 Action Plan. The Government approved the 2017-2020 Action Plan Implementing the 2017-2027 Strategy for Strengthening Interethnic Relations in the Republic of Moldova.
- The new 2018-2020 Civil Society Development Strategy was developed and a group of MPs registered the draft in the Parliament on 22 December 2017. Most of the recommendations formulated by the working group consisting of civil society representatives are mirrored in the final content of the document, however, there is no budget support for a series of actions. The only budgetary coverage is the one forecast within the limits of available financial sources. We recommend to adopt the document as soon as possible and to ensure budget coverage for the actions planned in the Action Plan.
- The working group on improving the media legislation, established at the initiative of the Parliament, completed the development of the drafts of the new 2018-2025 Audiovisual Code and Concept of the National Media Development Policy, which comply with the most important EU documents in the field of mass media. National and international media experts, media services providers and MPs participated in the development process. The documents were presented during the meeting of the working group of 19 December 2017.
- The Government approved the draft National Human Rights Action Plan (NHRAP) and submitted it for approval to the Parliament. The document needs to be improved before adoption and budgetary sources for the implementation are to be identified.
- The Reform of the National Centre for Personal Data Protection (NCPDP), in the proposed version, assigns too broad competences to the authority in charge of personal data protection, without imposing any control over its activity. We recommend the Government and the NCPDP to ensure a wide consultation of the draft laws with the representatives of public authorities, the judiciary, civil society organisations and media representatives before initiating the registration of these draft laws with the Parliament.
- The promotion of the draft law improving the legal framework in the field of equality and non-discrimination is a matter of concern. The Council on the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDEE) published the draft law on its website and started its public consultation. The draft law contains positive provisions to streamline the

work of CPEDAE and improve the enforcement of equality and non-discrimination standards in the Republic of Moldova. By the end of the public consultation process on 22 November 2017, the Ministry of Justice published a similar draft law, which does not contain a number of important provisions for the field, initially included by CPEDAE. We recommend that the Ministry of Justice improves the draft law before submitting it to the Government for approval.

### ***Governance in the financial and banking sector***

- The reforms started in the financial and banking sector were quite active in 2017 and various actions set in the Memorandum of cooperation with IMF and in the EU Association Agreement were implemented. The timely adoption of a new banking law was one of the main objectives assumed by the Government in its relation with the foreign partners. In this regard, the development, consultation and adoption of the draft law fell within the limits established by the transparent law-making and decision-making processes. As a result of these actions, the Law on Banks' Activity<sup>2</sup> was adopted – a legislative act which substitutes almost all the provisions of the Law on Financial Institutions<sup>3</sup> and which make available to the regulator new tools that may be applied during the process of licensing, regulation and surveillance of commercial banks.
- Some legislative amendments and addenda were made in order to ensure the legal framework for a higher transparency of banks and insurers shareholders. Thus, both the banking legislation and the legislation on insurance and capital market were supplemented with a consistent procedure of annulment, issuance and selling of participations obtained in transgression of the requirement for the quality of shareholders. It expressly determines the criteria for setting the price of shares put up for sale, terms of selling and conditions for their extension, as well as the compensation procedure of the former shareholders. Nonetheless, the mechanism proposed in case of the banks also provides for state participation in the procurement process, which in the end raises concerns and uncertainties.
- The legal framework on the loans provided by non-banking financial organisations, especially micro-finance institutions and leasing companies, was strengthened. In this respect, the Law on Non-Bank Lending Organisations was adopted – a legislative act aimed to ensure an integrated legislative framework for the operation and surveillance of the financial markets, other than the banking one. The level of development achieved by the microfinance sector, the lack of the legal framework concerning the compulsory requirements and the interconnection with the banking sector, require a much more complex approach of the regulatory process and the involvement of the supervisory authority — National Commission for Financial Markets (NCFM). Thus, this Law aims to assign additional duties to the regulator in order to ensure financial stability, prevent excessive risks in the sector and protect consumers of non-banking financial products.<sup>4</sup>
- A new Accounting Law and a new Law on Audit of Financial Statements<sup>5</sup> were passed in order to adjust the national framework of financial reporting to the new and best international practices. These legislative acts ensure the transposition into the national legislation of certain European directives<sup>6</sup> assumed under the EU Association Agreement, and at the same time, it removes the existing gaps in this field in relation to the Community acquis.

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<sup>2</sup> Law on Banks' Activity No 202 of 6 October 2017

<sup>3</sup> Law on Financial Institutions No 550 of 21 July 1995

<sup>4</sup> Law on Accounting and Financial Reporting No 287 of 15 December 2017

<sup>5</sup> Law on Audit of Financial Statements No 271 of 15 December 2017

<sup>6</sup> Directive 2013/34/EU of 26 June 2013 of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings and the Directive 2006/43/EC of 17 May 2006 of the European Parliament and of the Council on statutory audits of annual accounts and consolidated accounts

- On the other side, the action providing for the control of the status of the investigation of banking fraud and of the recovery of defrauded assets, both at national and international level, advances much slower. Although formally, the cross-institutional platform empowered to efficiently manage the investigation of banking frauds was created, so far, there are no public information regarding its meetings, decisions and results. Moreover, after three years from the decapitalization of the banking sector, the defrauded assets are recovered only through liquidation of the three banks (C.B. Banca de Economii, C.B. Banca Sociala, C.B. Unibank), which denotes serious concerns regarding the actual desire of the authorities to recover the money and punish the persons involved.

#### ***Investment and business climate:***

- We note a number of actions aimed at facilitating the activity of business entities, including the implementation of amendments to the Labour Code, the reduction of the number of permits, as well as the timely approval of the new Energy Law.
- Some of the main amendments are about reducing the additional unpaid childcare leave from 6 to 4 years, the right of the employer to dismiss an employee even if the latter has committed only one severe violation of job obligations, as well as to dismiss the employees who reached retirement age, but with the possibility to re-hire them for a determined period of time. These amendments made to the Labour Code aim to improve the investment climate by liberalising the contractual relations between the employer and the employee.
- Also, measures have been taken to simplify the reporting procedure of business entities, although it is also necessary to align the regulatory framework with the new legal provisions. In addition, the Law on State-Owned and Municipal Enterprises was also approved, although the new transparency provisions are not sufficient. On the other side, actions involving sustained efforts, such as the implementation of the institutional reform in the field of State control, were not completed within the set deadline. Other actions are only at an inception stage. The development of amendments to the Law on Public Procurement and the Law on Public-Private Partnership at Institutional Level was initiated.
- A draft Law on Energy Efficiency was prepared. While positively revolutionizing energy efficiency measures, it raises some concerns about securing the interests of end users, identifying enough financial resources for residential sector renovation, or the risks arising from failure to implement the related legislation.
- A series of measures were taken to launch the construction of the Ungheni-Chisinau pipeline. Nonetheless, the company that is going to build the infrastructure had not been selected as of the end of December 2017. At the same time, the authorities should decide as soon as possible on the preferred option to build the Ungheni-Chisinau pipeline: 1) using the resources obtained from the privatization of 'Vestmoldtransgaz'; 2) immediate harnessing of the EBRD and EIB loan; or, 3) a combined option, which would allow keeping EUR 10 million of the grant that EU is willing to give if the EBRD and EIB loan is used. The lack of a clear approach in this regard could affect the proposed timetable for starting and finalizing the construction of the pipeline, on which depends the country's energy security after 2019.

#### ***Agriculture and food safety:***

- The Law on Animal By-Products not Intended for Human Consumption was made available for public consultations and the 2017-2022 Food Safety Strategy was approved by the Government. The goal of documents is to improve the quality of the infrastructure in the Republic of Moldova and these regulatory acts are beneficial for the consumers' safety. At the same time, those two documents were drafted and approved with significant delay from the deadline set in the Roadmap: the Draft Law on Animal By-products and Derived Products not

Intended for Human Consumption is still at public consultation stage, and Food Safety Strategy was approved at the end of 2017. This delay was determined by the gaps in inter- and intra-institutional communication and by the pauses caused by the changes in the Government structure.

### ***Education, culture and science***

- The draft Law on Museums, aiming to align the legal provisions to the regulations related to the protection of the cultural heritage, was adopted. The law regulates the classification and accreditation of museums, duties of level-one and level-two local public authorities in this area.
- Amendments and addenda were made to the Code on Science and Innovations and to the Code of Education in order for all scientific institutions be transferred from the Academy of Sciences of Moldova (ASM) into the subordination of the Ministry of Education. The aim is to provide a more efficient administration and funding of the research and innovation sector and ensure opportunities for the substantial increase of allocations to finance research projects. Representatives of the academia expressed their disagreement with the implementation of ASM reform, including with the failure to observe the legislation on the decision making.
- The Government failed to approve the decision on the establishment of agencies in charge of implementing the amendments to the Code on Science and Innovation within the deadlines established in the Roadmap. When set up, the National Research and Development Agency (NRDA) will be in charge of assessing the draft proposals submitted by researchers, on a competitive basis, regardless of the institution they belong to, and the National Agency for Assuring Quality in Education and Research (NAAQER) will perform the duties of the National Agency for Assuring Quality in Vocational Education, of the National School Inspectorate and the National Council for Accreditation and Attestation.
- The Government Decision on the National Qualification Framework of the Republic of Moldova was adopted, which aims at developing a single national system for the recognition and organisation of qualifications on the labour market, as requested by the commitments assumed by the Republic of Moldova when joining the Bologna process.

### **Social programs:**

- We note the launch of the 'Prima Casa' program, aimed at facilitating the access of individuals, especially for members of young families, to the purchase of a dwelling by contracting loans that are partly guaranteed by the state. An impediment to the implementation of the 'Prima Casa' program is the low income of the population. This will limit the coverage of the program, and as a result, a lot of young people will not be eligible for it. This problem becomes more acute because of relatively high interest rates applied in program for mortgage loan. The lack of cheap long-term resources in Moldovan lei and interest rates volatility determines high rates for credits.
- The implementation of the concept of meal vouchers aims at introducing an additional tool to distribute cash allowances for employees' meals. At the same time, the Law on Meal Vouchers contains provisions that could negatively affect the competitive environment. The meal vouchers were assigned a privileged role as compared to other tools for distribution of food allowances. Thus, according to the Law, the value of a meal voucher may vary from MDL 35 to 45, while other food allowances for employees may not exceed MDL 35. Another issue is that this law favours the application of anti-competitive practices. The law stipulate that issuers of meal vouchers shall have specialized equipment and premises for producing and storing vouchers. In fact, this provision represents an obstacle for small operators to enter the market and favours large companies.

# 1. Public Administration Reform

## Summary of overall progress

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*Of the 6 monitored actions, 5 actions were achieved with concerns, and 1 action was initiated but not finalized.*

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The purpose of promoting and adopting the package of laws and Government decisions in this chapter is to implement objectives of central public administration reform committed by the Public Administration Reform Strategy for 2016-2018 and its Action Plan for 2016-2018, and other strategic documents. Nonetheless, the Roadmap comprises only a small part, around 10%, of all actions assumed by the Government to be implemented in 2017 according to the Action Plan for 2016-2018 implementing the Public Administration Reform Strategy for 2016-2020.

The draft laws only set an updated general framework for the operation of the Government and adapt the legal framework for a new structure of the Government. However, the actual reform actions that had to precede and to substantiate drafting of these acts (which are just instruments to implement the reform) were not carried out in a transparent and evidence-based manner. At the same time, no measures were taken to enhance the capacities of the authorities after reorganisation, particularly to ensure a professional, honest, meritocratic, motivated and politically neutral civil service, to develop the regulatory framework and to improve capacities in decision-making, strategic planning, public policy development, implementation and monitoring of their results.

During the monitored period, no regular, at least once in three months, meetings of the National Council for Public Administration Reform were organised, according to the Government Decision No 716 of 12 October 2015, during which priorities and options of the reform would have been discussed. Or, this Council represents the necessary platform for discussion, participation and substantiation of the actions taken under public administration reform. Moreover, most of the actions planned for 2017 in the Action Plan for 2016-2018 implementing the Public Administration Reform Strategy for 2016-2020, concerning properly public administration reform according to the EU understanding, that could give substance to the measures taken to reorganise the Government and would enhance transparency and accountability and would strengthen capacities necessary for public policy development were not implemented.

The Government made an effort to adjust the institutional and legal framework to its commitments under the EU–Moldova Association Agreement. According to these commitments, the process of drafting new laws related to the activity of the Court of Accounts and the Customs Service was initiated. However, the legislative process had several shortcomings. Thus, the draft Law on the Organisation and Operation of the Court of Accounts was not subject to public consultations, and the draft Law on Customs Service was kept by the Parliament for more than a year from registration before it was voted.

Also, the final version of the Law on the Organisation and Operation of the Court of Accounts, passed in the second reading, did not exclude the risk factors related to the interference in the Court's activity, and the JSC "Moldova-Gaz" was not included expressly in the list of subjects amenable to external public audit. By the second reading, in the draft Law on Customs Service remained some ambiguities in relation to other regulatory acts from the customs field, as well there were included certain provisions characterised by the risk to politicize the position of the Head of the Service.

Among main commitments assumed in the AA was the reform of the public procurement system, and an indispensable component of this reform was the establishment of an independent complaints resolution institution in this area. Such an institution has become the National

Complaint Settlement Agency (NCSA), which became operational in July. At the same time, the process of setting up NCSA was delayed for more than a year, since the entrance into force of new Public Procurement Law on 1<sup>st</sup> May 2016. This law provided that the Public Procurement Agency, which was responsible until then for the settlement of the complaints, was losing this competence and had to be replaced by NCSA. In order to successfully complete the reform and reduce many risks in this area, NCSA should have become operational on 1<sup>st</sup> May 2016.

The 2018-2020 Public Internal Financial Control (PIFC) Program should have been approved by the end of the year. This program aims to replace the previous one that expires this year and has not reached the overall goal of strengthening managerial accountability for an optimal resource management in public institutions. The new program aims to address the shortcomings of the previous stage, such as the low interest of top managers for PIFC, the lack of trained staff in this field, poor cooperation between different institutions etc. The implementation of the new program will be facilitated by the support of the EU and the Dutch Ministry of Finance, which will reduce the program's risks. Though the draft Government Decision was published on time for public consultations, it was not voted by the Government as of the end of the year.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<p><b>1.1. Parliament to adopt the legislative package targeting the reform of the central public administration:</b></p> <p><b>1.1.1. The new Law on Government</b></p> <p><b>1.1.2. Law on Amendments and Addenda to Certain Legislative Acts (related to the draft Law on Government)</b></p> <p><b>1.1.3. Parliament Decision approving the List and the New Structure of the Government</b></p> <p><b>1.1.4. Law on Amendments and Addenda to Certain Legislative Acts (names, competencies, duties of ministries and their subordinated authorities)</b></p> <p><b>1.1.5. Law on Amendments and Addenda to Certain Legislative Acts (Law No 146/1994 on State-Owned Enterprises, Law No 121/2007 on Management and Privatization of Public Assets and the Law No 98/2012 on Specialised Central Public Administration)</b></p>	<b>July</b>	<b>Achieved with concerns</b>

The Law on Government was adopted in final reading on 7 July 2017 (Law No 136). The purpose of drafting a new law is 'to establish well-structured regulations with unified and coherent terminology, with clear administrative procedures designed to eliminate the existing ambiguities and mismatches' in the previous Law on Government. Among the novelty elements of the law, according to the informative note to the draft, there are: (i) the replacement of the positions of 'Deputy Minister' with the positions of 'General State Secretary' and 'State Secretary', who will manage the ministries, and (ii) the exclusion of the need to approve the list of ministries by the law.

Even if there is an important emphasis on the introduction of the positions of 'General State Secretary' and 'State Secretary' (a position that actually existed before) in ministries in order to clearly delimit the political functions from the administrative ones, by transferring the latter in the

exclusive competence of State Secretaries, it is neither expressly mentioned in the informative note, nor in the Law, what these functions refer to. In particular, this remark is relevant in the light of Article 25 (4) 'the Minister, under the law, may delegate to the General State Secretary the management of the current activities of the ministry', from which it follows that (i) the management function is nevertheless attributed to the Minister, who may delegate it, (ii) the delegation of the management function remains at the discretion of the minister, (iii) the management function may only be delegated to the General State Secretary, not to the State Secretary.

Regarding the decision to have the list of ministries approved by Parliament Decision and not by law, we mention that this is not exactly an element of public administration reform, but an amendment of the procedure in order to simplify the approval of the list of the Government by the Parliament. Generally, the procedure to adapt the Government structure to its priorities is simplified. However, it should be noted that decisions of the Parliament, unlike laws, can be examined without being subjected to all preliminary procedures in Parliament's working bodies and are not subject to the promulgation procedure, which creates preconditions for a low transparency and reduced rationalities for efficiency in the process of modifying the Government structure.

The draft of the new Law on the Government was submitted for public consultations during 22 May - 5 June 2017, and was approved by the Government on 8 June 2017. The draft was submitted to the Parliament on 19 June 2017, being adopted in the final reading on 7 July 2017. Thus, the law was approved within a very short deadline for an organic law of major importance, but still respecting the minimum deadline for receiving the recommendations (10 days).

The draft Law on Amendments and Addenda to Certain Legislative Acts, drafted for the implementation of amendments to the legal framework for the implementation of the new Law on the Government, was adopted under No 153 on 14 July 2017. For the most part, this law is a 'technical' one, which introduces the terms 'General State Secretary' and 'State Secretary' in a series of legislative acts. The main element of the law is the amendment of Law No 98/2012 on Specialized Central Public Administration, which updates the duties of the 'General State Secretary' and those of the 'State Secretary'. As in the case of the Law on the Government, this law does not expressly mention the political duties of the minister and the duties of ministry management exercised by the General State Secretary and the State Secretary, and one of the competences of the latter, under Article 13 (3), is to 'perform the management of the current affairs of the ministry in the absence of the minister'.

The new structure of the Government was approved by the Parliament Decision No 189 of 21.07.2017 on the List of ministries. However, the analysis underpinning the new Government structure was not made public. Moreover, the draft regulatory act was not subject to transparency procedures, but the Parliament passed it the second day after the registration of the draft.

It should be noted that the reform of the Government's structure is not an end goal in itself, but a way of achieving the Government's objectives according to social and economic development priorities, as envisaged in the Public Administration Reform Strategy. For these reasons, the government reforms are usually carried out at the beginning of its mandate. However, in developing and promoting the current reform of the Government structure, a greater emphasis was placed on reducing the number of ministries and of civil servants in order to create thus savings.

Another important aspect of the Government reform, as mentioned in the Public Administration Reform Strategy, is the functional analysis of the entire Government that must precede and substantiate the decision-making process. Functional analysis is an analytical and diagnostic process that provides the basis for restructuring the public administration institutions to bring

them in the situation where they will collectively and individually perform all the necessary functions in the most efficient way. The main idea of the functional analysis is that the existence of a public administration is justified only in terms of its ability to perform the necessary functions. The structures, resources and actions of the authorities are justified only if there is no alternative method of organizing and structuring the performance of specific functions. In this respect, the functional analysis should investigate possible reorganisation options in order to inform strategic decisions about possible restructuring and reorganisation. At the same time, the functional analysis reviews the internal processes of the authorities, why they are not performed appropriately, where there are bottlenecks, the existing capacities and so on.

It is worth to be noted that under the 'Central Public Administration Reform' Project, implemented with the support of the development partners during 2005-2013, a range of institutional reorganisations took place following a functional analysis of the entire Government as described above, carried on in 2006 during 7 months, aiming at separating and enhancing the key functions of the ministries in policy development from those related to policy implementation which are performed by institutions subordinated to ministries, at aligning the activity of the ministries with the priorities of the Government according to the national strategic documents, and at redefining the mandate and the functions of the ministries according to this approach (amend ministries' regulations). In this context, it is even more important to present the vision and to justify the need and approach for the institutional reorganisation of the Government. But, even if it was conducted in a simplified way, taking into account short deadlines, such an analysis was not made public.

Law No 80 of 5 May 2017 on Amendments and Addenda to Certain Legal Acts was approved in the context of creation of the Agency for Public Services. It was promoted in the Parliament after setting up the Agency for Public Services at the end of April 2017, in order to provide a legal basis for its creation. The law was not subjected to public consultations.

The draft of the Law on State-Owned Enterprise and Municipal Enterprise was placed for public consultations on 29 June 2017, approved in the Government meeting of 10 July 2017 and passed in final reading during the Parliament meeting of 23 November 2017 (No 246). Previously, in 2016, the draft in question was rejected by the Parliament due to ambiguous provisions and negative opinions from the Ministry of Finance and the National Anti-corruption Centre. The current version of the draft is improved, but it also does not contain norms that would enhance the transparency of state-owned enterprises and their management, according to the SIGMA recommendations and provisions of the Action Plan for 2016-2018 implementing the Public Administration Reform Strategy.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<p><b>1.2. The Government shall approve the regulatory acts related to the central public administration reform:</b></p> <p><b>1.2.1. Decisions regulating the organisation and operation of ministries, and their subordinated authorities</b></p> <p><b>1.2.2. Decision on Amendments and Addenda to Certain Government Decisions (No 1714/2002; No 201/2009; No 168/2010; No 1211/2010; No 499/2012; No 433/2015)</b></p> <p><b>1.2.3. Decision on Establishment of Public Property Agency</b></p> <p><b>1.2.4. Decision Approving the Methodology for Calculating</b></p>	<p><b>September</b></p>	<p><b>Achieved with concerns</b></p>

<b>Tariffs for Services Provided by the Public Services Agency</b>		
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<b>1.2.5. Decision Approving the Nomenclature of Services provided by the Public Services Agency and their tariffs</b>		
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The decisions on the organisation and operation of ministries according to the new Government structure and the standard Regulation on the Organisation and Operation of the Ministry, approved by the Government Decision No 595 of 26.07.2017, were approved in August (No 690-698 of 30.08.2017), but not for all of them the minimum term for public consultations was observed (MFAEI Regulation was made available for consultations on 29.08.2017, and was approved on 30.08.2017; Regulation of the Ministry of Education, Culture and Research and that of the Ministry of Finance were made available on 21.08.2017, and were approved on 30.08.2017). At the same time, it is worth to mention that the regulations contain tasks and standard functions for ministries, which do not present an innovative element for public administration.

Regulatory acts on the organisation and operation were approved for only four authorities subordinated to the ministries (Agency for Technical Supervision, No 1088 of 18.12.2017; Consumer Protection and Market Surveillance Agency No 1089 of 18.12.2017; Public Property Agency, No 902 of 06.11.2017; National Public Health Agency approved in the Government meeting of 13 December 2017, which is still unpublished). However, there is no public information regarding the intention and vision to reorganise other authorities subordinated to the ministries and, respectively, to review their organisation and operation.

The six aforementioned GDs (No 1714/2002; No 201/2009; No 168/2010; No 1211/2010; No 499/2012; No 433/2015) were amended by GD No 655 of 16.08.2017 approving the Amendments and Addenda to some Government Decisions. These provide that the legal service, the human resources subdivision, the unit of analysis, monitoring and evaluation of public policies, the unit of information and communication with the media, the e-Transformation subdivision, the financial service from the central public authorities will no longer be autonomous and subordinated directly to the head of the authority, and if the authority has a fixed number of staff under 100 persons, the duties of these subdivisions will be fulfilled by the hierarchically higher authority. Although the informative note on the draft Government Decision invokes the need of these changes in the light of the European principles of administration, no references are made to these principles. However, it should be noted that there are no directives and standards on the structure of central public administration at the EU level. The fact that these subdivisions will not be directly subordinated to the head of the authority is sound, considering the introduction of the position of General State Secretary, but there are no sufficient evidence-based arguments for the threshold of 100 units of staff, which seems to be established arbitrarily.

Draft Government Decision on the Organization and Operation of the Public Property Agency was placed for public consultations on 25.09.2017 and approved in the Government meeting of 11.10.2017 (GD No 902 of 06.11.2017). The draft provides for the transfer of state-owned enterprises, currently subordinated to ministries, into the subordination of the Public Property Agency, which will report to the Government. The Government Decision contains provisions neither on transparency of state-owned enterprises' activity nor on ensuring the integrity and professionalism of the enterprises' manager, as requested by the Action Plan for 2016-2018 implementing the Public Administration Reform Strategy.

The classification of services and the methodology for calculating tariffs for services provided by the Public Services Agency is in the process of being drafted in a manner that is not transparent as per Law No 239 of 13.11.2008 on Transparency in the Decision Making, referring to the necessity to announce the public, no later than within 15 working days, on the official website,

about the initiation of the decision making.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>1.3. Parliament to adopt the Law on Court of Accounts</b>	<b>July</b>	<b>Achieved with concerns</b>

Draft Law on the Organisation and Operation of the Court of Accounts was drawn up by a group of MPs and registered with the Parliament on 01.02.2017.<sup>7</sup>The draft law will replace the current Law on the Court of Accounts (No 261 of 05.12.2008).<sup>8</sup>

A new Law on the Court of Accounts was developed due to the need of alignment of the existing legal framework with the standards and good practices that exist in this field. Thus, the draft law has been drawn up in compliance with the International Standards on External Public-Sector Auditing, adopted by the International Organisation of Supreme Audit Institutions. The existing specialised terminology was brought in compliance with these standards as well (audit, external public-sector auditing; performance auditing, etc.). Certain new provisions were included as well (compliance auditing; quality control, etc.). The draft law also redefines audit types and procedures, the status of staff with the public-sector auditing duties, etc. Apart from changes in terminology, the draft also defines more clearly the interaction framework of the Court of Accounts with the Parliament, with the entities subject to public-sector auditing, as well as international cooperation relations.

A drawback was found during preparation of this draft law — it was *not subject to public consultations*, being submitted for legal opinions only to the relevant public institutions. Indeed, the draft law was published on the web page of the Parliament in accordance to art. 48, paragraph (2) of the Law no. 797 from 02.04.1996 to adopt Parliament Regulation.<sup>9</sup> However, taking into consideration the importance of this draft law for entire system of public finance, it should have been essential that standing parliamentary commission responsible for this act would organize public consultations in accordance to art. 49<sup>1</sup> of the Parliament Regulation, which was not done.<sup>10</sup>

Also, in order to facilitate the public consultation process of the parliamentarians' legislative initiatives, it is required that these draft projects be published in the section "Transparency in the decision process", and not in the section "Legislative process" with all other registered legislative projects. Nowadays, all the legislative projects of the parliamentarians are published solely in the section "Legislative process", without any indication that these very projects are open for public consultations, who is responsible to receive recommendation from the public and what is the period of consultations. This drawback stems from the mere fact that provisions of the Parliament Regulation concerning transparency in the decision process were not adjusted to those of the Law no. 239 from 13.11.2008 on transparency in the decision process.<sup>11</sup> In the absence of good-functioning transparency decision tool at the level of the Parliament, the necessity to organize public consultations is becoming even more necessary for draft laws of systemic importance (e.g. law on the organization and operation of the Court of Accounts).

<sup>7</sup><http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3585/language/ro-RO/Default.aspx>

<sup>8</sup><http://lex.justice.md/md/330168/>

<sup>9</sup><http://lex.justice.md/md/322831/>

<sup>10</sup><http://parlament.md/TRANSPAREN%C8%9AADECIZIONAL%C4%82/Audieripublice/Audieri/tabid/231/language/ro-RO/Default.aspx>

<sup>11</sup><http://lex.justice.md/md/329849/>

Draft Law on the organisation and operation of the Court of Accounts was passed in the second reading on 07.12.2017 and published in the Official Gazette (No 1–6 of 05.01.2018). The amendments proposed in the second reading to the draft Law on the Organisation and Operation of the Court of Accounts did not exclude the risk factors related to interference in the Court's activity. Thus, the Parliament will be entitled, by a decision, to request additional audit missions besides those planned by the Court of Accounts. Since the decisions will be adopted in plenary and open meetings, this provision reduces the risk of political interference in Court's activity if compared with the initial proposals to assign such a right to the Standing Bureau of the Parliament. Nominally, the decision to permit Parliament to solicit from the Court of Accounts of additional audits is in conformity with international standards of the audit, e.g. ISSAI 1 (chapter III. Relationship to Parliament, government and the administration).<sup>12</sup> However, in the same standards is stipulated that "the relationship between the Supreme Audit Institution and Parliament shall be laid down in the Constitution according to the conditions and requirements of each country (underlined by the author)", but the art. 133 of the Constitution of the Republic of Moldova concerning the Court of Accounts is vague to interinstitutional relationships and is making reference to the organic law (paragraph 5).<sup>13</sup> Also, the realities of the Republic of Moldova are characterized by a politicizing process of the public institutions, thus it is a necessity to reduce the interference risks in the activity of the Court of Accounts, including from the part of the Parliament. Moreover, from current wording of the art. 6, paragraph (5) of the Law on the organisation and operation of the Court of Accounts that "*Parliament has the right to solicit, by a decision, from the Court of Accounts some missions of external public audit*", results that Parliament can solicit an unlimited number of audit missions, since the term "some" is ambiguous and interpretable. Thus, there is a possibility that Parliament would solicit more missions from the Court of Accounts, which would give rise to a significant adjustment of already approved plans of audit.

Another concern is the amendment of the Court of Accounts' audit scope. Amendments proposed to the second reading stipulate that the Court would be able to conduct financial audit only for state-owned, municipal and commercial enterprises, the entire share capital of which (or at least half of it) belong to the state or to the administrative territorial units. The proposal of the Economy, Budget and Finance Parliamentary Committee to expressly stipulate that JSC 'Moldova - Gaz' should be subject to external public audit, was not included in this wording. The decision of the parliamentarians to exclude the exception made for JSC "Moldova-Gaz" could be caused by two factors concerning the rationale of the external public audit at a commercial entity. The first factor is linked to a possible inefficiency of public audit at a commercial entity, at which the state has no controlling holding of shares, because such entity could easily ignore the results of the audit. The second factor is linked to interpretation of the international standards, especially of point 1, section 23, chapter VII of the ISSAI 1, which stipulates "*The expansion of the economic activities of government frequently results in the establishment of enterprises under private law. These enterprises shall also be subject to audit by the Supreme Audit Institution if the government has a substantial participation in them--particularly where this is majority participation--or exercises a dominating influence (underlined by the author)". Both these factors of parliamentarians' rationale do not take into account the realities of the Republic of Moldova and are erroneous. Namely, it should be taken into account that JSC "Moldova-Gaz" is not a simple commercial entity, but one of systemic importance for national economy and security. Contrariwise, the current composition of shareholders makes it imperative for public authorities to know the real financial situation of the company, even if the commercial entity would ignore the recommendations of the Court of Accounts. Also, through these realities should be interpreted*

<sup>12</sup> [http://www.issai.org/en\\_us/site-issai/issai-framework/](http://www.issai.org/en_us/site-issai/issai-framework/)

<sup>13</sup> [http://lex.justice.md/document\\_rom.php?id=44B9F30E:7AC17731](http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731)

the international standards, which do not exclude the extension of the public audit over the commercial entities with "*substantial participation*" of the state, and this is the case of JSC "Moldova-Gaz". Finally, the would-be argument of the parliamentarians that commercial entity would not take into account the results of the audit is not relevant, because there are problems with implementations of the Court of Accounts' recommendations even in the public administration.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>1.4. Parliament to adopt the Law on Customs Service</b>	<b>December</b>	<b>Achieved with concerns</b>

The new Law on Customs Service will replace the current Law on Service in Customs Bodies (No 1150 of 20.07.2000). The draft Law on Customs Service regulates key functions, duties and structure of the institution, establishing a new vision of the organisation and operation of the Customs Service. The draft regulates the rights and powers, status and obligations, legal and social protection of a customs officer. It also regulates the aspects of labour relations of a customs officer, performance appraisal and particularities of awarding special ranks.

The draft Law on Customs Service was transmitted and registered in the Parliament in March 2016, but was passed in the first reading only on 19<sup>th</sup> October 2017.<sup>14</sup> Thus, this draft stayed in the Parliament for more than a year since its registration, despite the fact that all the legal opinions of other commissions and ministries were received even in 2016.

Another drawback of the process of drafting the Law on Customs Service is that other similar legal initiatives, which practically repeat a part of the content of this draft, were not taken into account. Thus, Law No 288 of 15.12.2017 introduced Article 9<sup>1</sup> in the Customs Code, which is detailing the general principles of organising the Customs Service, and these very provisions can be found among those included in the draft Law on Customs Service.<sup>15</sup> Moreover, the Section No 2 (Organization of the Customs Activity) of the Customs Code, which now includes Article 9<sup>1</sup>, should be repealed or significantly changed, since the majority of its provisions overlap with those of the draft Law on Customs Service. Since the approved Law on Customs Service contains provisions on the organisation and operation of this institution, it would be irrelevant to keep the same provisions in another regulatory act.

The draft Law on Customs Service was passed in the second reading on 21.12.2017, but has not been published in the Official Gazette yet. For the second reading the lawmakers proposed several amendments which significantly improved the initial draft. However, some of the proposed amendments have incomplete provisions in relation to other legislative acts in the customs field. Thus, Article 8 (Main Duties) of the draft Law on Customs Service does not contain an exhaustive list of Service's duties, unlike Article 11 (Duties of the Customs Authority) of the Customs Code. Due to this confusing situation the duties in these two acts differ, and if Section No 2 of the Customs Code (which contains Article 1) is annulled or amended, certain important duties of the Service (e.g. coordinates application of the Combined Nomenclature of Goods (Article 11(f<sup>1</sup>) of the Customs Code)) will disappear from the legal framework in force.

The lawmakers did not substantiate sufficiently certain amendments proposed in the second

<sup>14</sup><http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3123/language/ro-RO/Default.aspx>

<sup>15</sup><http://lex.justice.md/md/373510/>

reading. Letter c) of Article 6 (Customs Service Management) was amended this way, stating that the Minister of Finance may dismiss the Head of the Customs Service before the end of the 5-year period 'upon expiry of at least 6 months from the date of appointment of the new Minister of Finance'. This provision is evidently beneficial for a new minister, who brings a new team to the ministry and subordinated institutions, but at the same time increases the risks of politicisation of the function of the Head of Customs Service. Political instability at the Government level would give rise to a replacement of the Heads of Customs Service, regardless of the professional level of that who already hold this position.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>1.5. Parliament and Government to ensure the functionality of the Complaint Settlement Agency</b>	<b>September</b>	<b>Achieved with concerns</b>

National Complaint Settlement Agency (NCSA) became operational once the Parliament voted on 21<sup>st</sup> July 2017 its management and counsellors.<sup>16</sup> Despite the fact that NCSA became operational by September, implementation of this action was delayed by more than one year. NCSA should have become operational on 1<sup>st</sup> May 2016, when the new Law on Public Procurements (No 131 of 03.07.2015) came into force. According to this law, the Public Procurement Agency (PPA) lost the right to resolve the appeals and had to be replaced by NCSA. In reality, however, the process of setting up NCSA started only at the end of 2016 and lasted until July 2017. Thus, for more than a year, the public procurement system in the Republic of Moldova lacked a complaint settlement institution, the only option for the business entities being the judiciary system. This situation increased the risks of corruption in the system and negatively influenced the image of the future NCSA.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>1.6. Government to approve the Strategy on Public Internal Financial Control</b>	<b>November</b>	<b>Initiated but not finalized</b>

The draft Government Decision (GD) approving the 2018–2020 Public Internal Financial Control (PIFC) Development Program was submitted for public consultations.<sup>17</sup> This Program aims to replace the previous document which expires at the end of 2017. The previous program that was implemented between 2013 and 2017 created the institutional and regulatory framework for PIFC, but failed to meet all the proposed objectives. The main shortcomings in PIFC that remain unresolved are: (i) strengthening managerial accountability for optimal resource management; (ii) attracting and training qualified staff in this field; (iii) mainstreaming the financial management and internal control system into all operational, financial and economic and support processes; (iv) developing operational plans and objectives with a financial dimension and a link to the resources needed to use them. As a result, activities to overcome these deficiencies have been transposed into the new 2018–2020 Program as a priority. A facilitating factor for the new program will be EU assistance through a Twinning project, as well as support from the Dutch

<sup>16</sup><http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3801/language/ro-RO/Default.aspx>

<sup>17</sup><http://particip.gov.md/proiectview.php?l=ro&idd=4573>

Ministry of Finance. At the same time, without a closer coordination between all the stakeholders involved in PIFC implementation, the perpetuation of the low interest in PIFC of the top managers, as well as the misunderstanding of internal audit at all levels of public administration, there are risks that the objectives of the Program will not be fully reached.

Draft HG on the approval of PIFC was not approved by the Government within the time limits set in the Roadmap. Thus, this action was not carried out, despite the fact that the draft HG was published for public consultations in time.

### **Recommendations:**

- Ensure the operation of the National Council for Public Administration Reform in line with regulatory provisions, which is an important platform for discussion and for making informed and participatory decisions, and for monitoring the public administration reform implementation process, .
- Undertake all actions foreseen for 2017 in the Action Plan for 2016–2018 implementing the Public Administration Reform Strategy for 2016–2020, especially those related to the creation of a body of competent civil servants and capacity building for evidence-based public policies development. At the same time, the currently promoted reform of the public administration is limited to the development and approval of regulatory acts, without analysing options of the reform, according to the actions included in the Action Plan, the fact which could seriously erode the impact of the public administration reform.
- Ensure greater transparency in the decision-making process regarding the public administration reform, since many drafts of the regulatory acts promoted so far have omitted transparency procedures required by law.
- Boosting the public service reform actions (transparency in hiring, assessment and promotion) that would exclude politicization of the civil service positions and would ensure that the civil servants employed in the public administration are honest and professional, especially in the context of reemployment according to the new structures of the authorities.
- Introduce innovations in the Government's decision-making process, especially in strategic planning and in evidence-based public policies development.
- Develop and introduce in a plenary manner a system to monitor the performance of public authorities, to implement and to ensure achievement of expected results in the implementation of public policies.
- NCSA creation is an important and indispensable step in modernizing and reforming the public procurement system in the Republic of Moldova. However, additional efforts must be made to implement the new electronic procurement system that will make public procurement more transparent and facilitate competition in this area. Without an electronic procurement system, progress in this area will be mediocre, even with the institutional framework reform;
- The drawbacks concerning the transparency in the decision process depicted at the draft law on organisation and operation of the Court of Accounts have underscored the necessity to amend existing mechanisms of the Parliament in this field. Especially, it is required to adjust the Regulation of the Parliament to the provisions of the Law no. 239 from 13.11.2008 on transparency in the decision process.
- Adjust the current legal framework in the customs field, with due regard to the legal gaps that remained in the new Law on Customs Service. In particular, it is necessary to transpose the provisions and coordinate definitions from the Customs Code with those of the Law on Customs Service. It is also recommended to exclude from the new law the provisions related to dismissal of the Head of the Customs Service on the initiative of the Minister of Finance in just 6 months after the latter is appointed.

## 2. Justice and Anti-Corruption

### Summary of overall progress

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*Of the 10 monitored actions, 1 was achieved with concerns and 9 were initiated but not finalized.*

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In the field of justice the Parliament adopted in the first reading the draft Law on Amendments and Addenda to the Code of Civil Procedures (No 349), proposing a number of amendments aimed at raising the efficiency of civil judiciary procedures. The MPs made a number of amendments after the draft law was registered. Until 10 January 2018, the MPs' amendments after the voting in first reading, and the newest version of the draft were not available on the Parliament's website for consultation. The Ministry of Justice developed the draft Law No 428 on Reforming the Justice Sector. It contains changes that are appropriate and necessary for the selection and promotion of judges. It however requires improvements in order to ensure an effective merit-based system, increase transparency of the Superior Council of Magistracy, and ensure functional independence of the Judicial Inspection.

The Ministry of Justice has neither initiated a draft law, nor included provisions in the draft Law No 428 to simplify and improve, respectively, the mechanism for the disciplinary liability of judges. The National Centre for Personal Data Protection drafted a Law on the Regime of Video Equipment. The latest publicly available version of this draft raises concerns related to journalists' obligation to systematically request the consent of the data subject, as well as to the prohibition of the use of video materials via drones, aerostats or other technical and/or electronic devices within the built-up area of rural/urban localities.

In the field of anti-corruption, 6 out of 9 sectorial anti-corruption plans planned to be adopted by December 2017, were subjected to public consultations. The Parliament adopted the Law on Preventing and Combating Money Laundering and Terrorist Financing in the final reading with considerable delay. In December 2017 the e-Integrity system for submitting and online verification of the declarations of assets and interests was launched, and electronic signatures were started to be distributed to the declaring subjects.

An efficient operation of the Agency for the Recovery of Criminal Assets (ARCA) is not ensured yet. The staffing list of the National Integrity Authority (NIA) was not yet approved by the Parliament. Due to the delay in electing the NIA management, the methodology for controlling assets and interests and the compliance with the legal regime of conflicts of interest, incompatibilities and restrictions was not approved yet as well. The fact that the new management of NIA announced that it will limit the accessibility of methodology for the general public raises certain concerns. The process of development and adoption of the legal and regulatory framework (secondary legislation) for the enforcement of Law on Preventing and Combating Money Laundering and Terrorist Financing lacks progress due to delayed adoption of the law by the Parliament.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.1. Parliament to adopt the Law on Amendments and Addenda to Certain Legislative Acts (aimed at strengthening the functional capacities of the Superior Council of Magistracy and</b>	<b>November</b>	<b>Initiated but not finalized</b>

<b><i>the Judicial Inspection and aligning the legislation on the disciplinary liability of judges with the recommendations of the Venice Commission)</i></b>		
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The Ministry of Justice completed the process of coordination and approval of the draft Law No 428<sup>18</sup> on Reforming the Judiciary. Currently, the draft law is still being finalized. According to Ministry of Justice, the draft was improved following the proposals of the authorities and civil society. Nonetheless, the current version of the draft is not available, therefore, it is hard to assess its quality.

The latest publicly available version of this draft provided for the appropriate and necessary changes related to selection and promotion of judges. The draft however requires improvements, in order to ensure an effective merit-based system of selection and promotion. The draft also had to be improved in terms of the increase of SCM transparency by limiting the examination of cases from the agenda in deliberation (secret), and indicating the number of votes for/against in the SCM judgments. In order to increase the independence of judges, the possibility of dismissing judges based on vague reasons (failure to comply with the provisions on incompatibilities under Article 8 of Law on the Status of the Judge) must be excluded. In its latest version, the draft did not provide for sufficient guarantees to increase the autonomy and functionality of the Judicial Inspection.

The authorities' effort to draw up an ambitious draft for reforming the judiciary (No 428) is worth appraising. We encourage the authorities to adopt the respective draft in due time, with the improvements necessary in accordance with the recommendations of the Venice Commission and following the real needs of the judicial system. Given that the Ministry of Justice is still finalising the draft No 428, which was not adopted by the Parliament in accordance with the timeline indicated in the Roadmap, the Action 2.1. is rated as 'Initiated but not finalized'.

<b><i>Action</i></b>	<b><i>Deadline</i></b>	<b><i>Stage</i></b>
<b><i>2.2. Parliament to adopt the Law on Amendments and Addenda to the Code of Civil Procedures (aimed at reducing the length of trials by simplifying the procedures)</i></b>	<b><i>December</i></b>	<b><i>Initiated but not finalized</i></b>

The Draft Law on Amendments and Addenda to the Code of Civil Procedures (No 349) proposes a number of amendments aimed at raising the efficiency of civil judiciary procedures. The draft mainly proposes to reduce the length of trials, limit the grounds for suspending the trial by the participants, and introduce a new simplified procedure (made only through written comments) of addressing certain categories of cases amounting to up to 10 average salaries per economy (about MDL 50 000). In addition, the draft proposes to detail the procedure of preparing the case for examination in the courts (merits and appeal), tighten the rules for submitting evidence and summoning the participants, and introduce the possibility of filing procedural documents in electronic format (e-case system). Other provisions included in the draft along the way refer also to the amendment of the Family Code, aimed at allowing (inter alia) an out-of-court dissolution of marriage in certain cases.<sup>19</sup>

<sup>18</sup> Available at: [http://justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2017/august/PL30082017.pdf](http://justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2017/august/PL30082017.pdf)

<sup>19</sup> See in particular Articles I-II of the draft, available at: <http://www.parlament.md/LegislationDocument.aspx?Id=77abd958-4622-42ff-a621-bff7789b77e4>

Several provisions included in the draft law along the way, however, seem not to fit in the objectives originally set by the authors. This refers in particular to the possibilities of limiting the use of technical means for recording the court hearings<sup>20</sup> (audio and video recording of the court proceedings), as well as to certain procedural actions of judges carried out during preparation of a case for judicial debates (need for mandatory preliminary hearing in the course of preparation of a case for judicial debates).<sup>21</sup> These suggestions were not originally envisaged in the draft law concept.

The draft went through all the stages of obtaining legal opinions within the Government from January till November 2017. The MPs expressed opposing views regarding the draft during the Parliamentary debates. While some of them welcomed the draft, emphasising the need to adopt it as quickly as possible, others had the need to clarify certain provisions included in the draft or to suggest new amendments.<sup>22</sup>

It is unclear at this stage whether other amendments were sent to the specialised Committees as well, and whether the final version of the draft law will contain them. Until 10 January 2018 both MPs' amendments after the voting in first reading, and the newest version of the draft were not available on the Parliament's website for consultation.

The draft law, despite its large volume, is mainly needed to fight delays in examining cases in courts and to eliminate the unjustified postponements of court hearings. While certain provisions of the version of the draft submitted to the Parliament raise questions, the draft in whole is a necessary and appropriate one. Its drawbacks can still be removed until the final passing in the second reading. In view of the above and due to the fact that the draft in its final version has not been approved before the Roadmap completion, the Action 2.2 is rated as 'Initiated but not finalized'.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.3. Parliament to adopt amendments to the Law No 178/2014 on the Disciplinary Liability of Judges</b>	<b>December</b>	<b>Initiated but not finalized</b>

The draft Law No 428 on Reforming the Judiciary includes amendments to Law No 178. Currently, the draft law is still being finalized. According to Ministry of Justice, the draft was improved following the proposals of the authorities and civil society. Nonetheless, the current version of the draft is not available, therefore, it is impossible to assess its quality. In particular, it is unclear, to what extent the necessary amendments to Law No 178 were included in the draft Law No 428.

The latest publicly available version of the draft provided for a number of amendments to the disciplinary offences from the Law No 178, which mostly complied with the recommendations of the Venice Commission. This draft, however, did not envisage a simpler disciplinary mechanism, which, according to the legal community and even judges, is a cumbersome one<sup>23</sup>. Currently, a disciplinary procedure can contain 5 stages (at 5 different bodies). It can be simplified by

<sup>20</sup>See point 8 of the draft law, cited above.

<sup>21</sup>See point 52 of the draft law, cited above.

<sup>22</sup> For more details see the advocacy speech of the Member of Parliament Sergiu Sarbu in support of the draft, available at: <https://www.privesc.eu/arhiva/79237/Sedinta-Parlamentului-Republicii-Moldova-din-7-decembrie-2017> (from 4:42:20) and questions of the Member of Parliament Tudor Deliu (from 4:20:10).

<sup>23</sup> LRCM, 'Perception of Judges, Prosecutors and Lawyers on Justice Reform and Fight Against Corruption' Survey of December 2015, pages 42–43, available at: <http://crjm.org/wp-content/uploads/2016/05/SurveyJustice-ENG-Revazut-VI-WEB-9Mb.pdf>

strengthening the Judicial Inspection's role in the examination of disciplinary complaints, excluding the admissibility stage, and introducing the direct appeal of the Disciplinary Board's rulings to the SCJ, on merits and procedure<sup>24</sup>.

On 1 December 2017, the Parliament passed in the second reading the draft No 307<sup>25</sup>, providing for the amendment of Law No 178, by introducing the appeals against the decisions of the Superior Council of Magistracy at SCJ only in regard to 'issuing/adoption procedure'. In the disciplinary procedures, limiting the appeals against SCM decisions to procedural aspects only, could be contrary to the ECHR standards<sup>26</sup>. Thus, adoption of this draft is a setback, rather than a progress.

We encourage the authorities to eliminate the aforementioned deficiencies. Besides, Action 2.3. was formulated vaguely and seems to repeat Action 2.1. We never received an answer from the Ministry of Justice about the difference between two actions till completion of the monitoring. Given that the authorities are still working on the completion of draft No 428 which provides for the majority of amendments to Law No 178, while draft No 307, despite being approved, does not represent a progress, the Action 2.3. is rated as 'Initiated but not finalized'.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.4. Parliament to adopt the Law on Video Surveillance</b>	<b>December</b>	<b>Initiated but not finalized</b>

National Centre for Personal Data Protection (NCPDP) is the institution in charge of drafting the draft Law on Video Surveillance. According to the information provided on 23 October 2017 by representatives of NCPDP, this institution requested for the Ministry of Justice, Ministry of Internal Affairs (MoIA) and National Anti-Corruption Centre (NAC) to delegate persons to be part of the working group developing the aforementioned draft law.

On 27 November 2017 the NCPDP initiated public consultations of the respective draft<sup>27</sup> (later named the draft Law on the Regime of Video Equipment). NCPDP gave only 7 days for submitting opinions on the draft law (till 4 December 2017), which is a violation of Law No 239 of 13.11.2008 on Transparency in the Decision-Making Process.

According to a responsible person from NCPDP, on 11 January 2018 the draft was still in the process of finalising, following the legal opinions received from the interested institutions.

The latest publicly available version of this draft raises certain concerns, such as: complication of journalistic activity by obliging journalists to constantly/systematically request the consent of the data subject. Since the journalistic activity is largely based on the use and capture of video materials, including in the public space, the condition to request consent for this activity is detrimental to the access to information.

The provision prohibiting the use of video materials via drones, aerostats or other technical

<sup>24</sup>Details about the need for these reforms can be found in the 'Analysis of the Legislation and Practice Concerning Disciplinary Liability of Judges 2015–2016' Policy Paper of November 2016, available at: <http://www.crjm.org/wp-content/uploads/2017/01/2016-11-Analiza-Disc-CRJM-final-ENG.pdf> and 'Assessment of Needs to Improve the Legal Framework on the Disciplinary Liability of Judges' Policy Paper of February 2016, available at: <http://crjm.org/wp-content/uploads/2016/04/CRJM-Politici-8-Disciplinar-ENG.pdf>.

<sup>25</sup> Available at: <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3928/language/ro-RO/Default.aspx>.

<sup>26</sup> See the CRJM's opinion on an identical draft law registered with the Ministry of Justice, available at: [http://crjm.org/wp-content/uploads/2017/11/2017-04-20-Opinie-CRJM-Proiect-MJ-nr.-390\\_web.pdf](http://crjm.org/wp-content/uploads/2017/11/2017-04-20-Opinie-CRJM-Proiect-MJ-nr.-390_web.pdf)

<sup>27</sup> Available at: <http://www.datepersonale.md/md/news/1211/1/15068/>

and/or electronic devices within the built-up area of rural/urban localities causes problems as well. The legal status of the use of drones or other aerial technical devices is not regulated in the EU yet and it is still not clear how the use of these devices would affect the privacy and personal data. In this context we consider the excessive limitation of the use of drones or other aerial technical devices in the Republic of Moldova to be premature.

We encourage the authorities to remove the aforementioned deficiencies in order to achieve a balance between protection of private life and public interest.

Given that the NCPDP is currently finalising the draft law, which has not been adopted by the Parliament yet, the Action 2.4. is rated as 'Initiated but not finalized'.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.5. Parliament to adopt the Law on Preventing and Combating Money Laundering and Terrorist Financing</b>	<b>December</b>	<b>Achieved with concerns</b>

According to the 2017–2019 National Implementation Plan of the EU-Moldova Association Agreement (NIPAA), the new Law on Preventing and Combating Money Laundering and Terrorist Financing was to enter into force in the first quarter of 2017. The draft law, developed in a participatory way, was approved by the Government on 30 December 2016 and registered with the Parliament on 3 February 2017 (draft Law No 22). The new law aims to harmonize the national standards in the field with the European and international ones, by transposing into national law the provisions of EU Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as well as the 40 recommendations of the Financial Action Task Force (FATF) revised in 2012. An independent evaluation of the draft law<sup>28</sup> identified several gaps and deficiencies, with the risk of dysfunctions in the real sector of the economy and of undermining the mechanism for combating money laundering. One of the main recommendations suggested by the author was to create a mixed team of economic and financial experts, representatives of market regulators, business and professional associations to assess the content of the draft law from the perspective of the risks specific to the Republic of Moldova, the effects of the law and the identified deficiencies.

On 22 December 2017 the draft law was passed in the final reading after a delay of about 9 months from the first reading on 30 March 2017<sup>29</sup>. During the same period, on 13 June 2017 the Parliament organised one public hearing attended by MPs, representatives of public authorities, civil society, financial-banking institutions and development partners<sup>30</sup>. At the same time, internal consultations on the draft continued till December. The MPs submitted last substantial amendments on separation of the Office for Prevention and Fight against Money Laundering from the NAC, and transforming it into an autonomous public institution, on 17 December 2017. The results of the hearings, summary table, as well as the final version of the draft law were published on the Parliament website only on the day the draft law was passed in the final reading. As of 15 January 2018 the law has not been published in the Official Gazette yet. Nonetheless, the majority of recommendations set forth in the NAC anti-corruption expertise were considered in

<sup>28</sup> Sergiu Gaibu, 'Draft Law on Anti-Money Laundering and Countering Financing of Terrorism – Source of Economic Stability or Instability?', May 2017, [https://expert-grup.org/media/k2/attachments/Proiectul\\_de\\_lege\\_cu\\_privire\\_la\\_prevenirea\\_si\\_combaterea\\_spalarii\\_banilor\\_EN.pdf](https://expert-grup.org/media/k2/attachments/Proiectul_de_lege_cu_privire_la_prevenirea_si_combaterea_spalarii_banilor_EN.pdf).

<sup>29</sup> <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3592/language/ro-RO/Default.aspx>.

<sup>30</sup> <http://www.parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/3148/Page/56/language/ro-RO/Default.aspx>.

the latest publicly available version of the draft<sup>31</sup>, while its provisions in general comply with the Directive (EU) 2015/849 and FATF Recommendations. The draft, however, contains general terms, giving no details about the range of aspects related to the application of certain important provisions (e.g. identification and verification of a client and beneficial owner, definition of violations, procedure and means of application of fines specified in the draft, etc.). Therefore, the efficient application of the law will primarily depend on the quality of secondary legislation, which is yet to be developed and adopted. Nonetheless, the Action 2.6 was rated as ‘achieved with concerns due to unpredictable, hardly transparent and formal consultation process with the Parliament and delays in the adoption of the law, which hindered its implementation and of the action 2.6.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.6. National Anticorruption Centre to ensure the transposition of the EU Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing into domestic legislation</b>	<b>December</b>	<b>Initiated but not finalized</b>

Since the new Law on Preventing and Combating Money Laundering and Terrorist Financing aimed at transposing the EU Directive 2015/849 into domestic legislation was adopted only on 22 December 2017, the NAC did not manage to approve the legal and regulatory framework (secondary legislation) for enforcement of the law. At the same time, as of 15 January 2018 the law has not been published in the Official Gazette yet. Nonetheless, NAC carried out some preparatory measures. On 25 August, OPFML initiated the adjustment of the Guidelines on Suspicious Activities and Transactions in order to align it with the EU Directive 2015/840 and the FTAF standards, reviewed in 2012. It organised the first meeting with representatives of the World Bank, financial institutions and Moldovan Banks Association.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.7. Parliament and Government to ensure the efficient operation of the Agency for the Recovery of Criminal Assets</b>	<b>October</b>	<b>Initiated but not finalized</b>

On 30 March 2017, the Parliament passed in the second reading the Law on the Agency for the Recovery of Criminal Assets (ARCA). The scope of the new Agency is to develop the capacities and tools required for the recovery of criminal assets obtained by corruption and money laundering. The Law on the ARCA entered into force on 19 May 2017. It has been set up as an autonomous subdivision within the NAC. The Head of the Agency (Otilia NICOLAI) was appointed in June 2017.

On 9 October 2017 a group of MPs proposed to change some of ARCA’s powers and duties.<sup>32</sup> These included, inter alia, institutional and functional reconfiguration of the institution, by moving the Agency subordinated to the NAC under the subordination of the State Tax Service. The

<sup>31</sup> [https://www.cna.md/public/files/raport\\_expertiza/rea\\_mj\\_spcsb\\_pr.nou\\_.pdf](https://www.cna.md/public/files/raport_expertiza/rea_mj_spcsb_pr.nou_.pdf).

<sup>32</sup> See the draft Law No 305 registered with the Parliament on 9 October 2017, available at: <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3926/language/ro-RO/Default.aspx>.

changes were proposed in less than 5 months from the moment the ARCA Law came into force, thus jeopardising the creation of ARCA<sup>33</sup>. The amendments were passed in the first reading on 2 November 2017.

While the MPs later gave up the amendments related to ARCA subordination<sup>34</sup>, the draft ARCA Regulation on Assessment, Management and Use of Criminal Assets, submitted for public consultations on 27 December 2017, still provides for at least a close coordination between the ARCA and State Tax Service in the process of using criminal assets.<sup>35</sup> This aspect seems not to comply with the initial concept provided for in Law on the ARCA activity, which stipulates the autonomy of ARCA activity as the NAC unit, without any provisions for the duties of State Tax Service (except when it comes to ARCA budget formation).<sup>36</sup>

Due to the aforementioned changes and in the absence of ARCA's activity regulation and key employees, no conditions for efficient operation of the ARCA were created before the Roadmap expiry. That is why the Action 2.7. is rated as 'Initiated but not finalized'.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.8. Parliament and Government to ensure the operation of the National Integrity Authority</b>	<b>November</b>	<b>Initiated but not finalized</b>

Within 6 months from the entry into force of the integrity laws package<sup>37</sup> (1 August 2016, except for some provisions – in force since 1 January 2018), the Government was to undertake several actions to ensure the operation of the National Integrity Authority (NIA) and the implementation of the new legislative framework, including: 1) submit to the Parliament proposals for alignment of the legislation in force with the provisions of the new laws and the alignment of its regulatory acts; 2) ensure the interoperability of data from the on-line E-integrity declaration system and state and private registries; 3) establish the type of electronic signature and how it is assigned to the subjects of the declaration. The Parliament, in its turn, was to approve the staffing and organisational structure of NIA.

The Government adopted Decision No 673 (in force as of 06.09.2017)<sup>38</sup> only on 28 August 2017. It establishes the advanced electronic signature designed for the signing of electronic declarations of assets and interests and the way of distributing the electronic signatures to civil servants who need to declare their assets and interests. According to this decision, electronic signatures will be issued in a centralised way by the State Enterprise Center of Special Telecommunication (CST SOE) for the amount of MDL 125 per signature, the total cost for providing all subjects of declaration with the electronic signatures with a one-year validity period amounting to MDL 8.76 million. This amount substantially exceeds the cumulative budget

<sup>33</sup> On 18 October 2017, Cristina TARNA resigned from the position of NAC Deputy Chair, stating that one of the reasons was the MPs' intention to destabilise the ARCA activity, see details: <http://www.jurnal.md/ro/social/2017/10/18/doc-vice-directorul-centrului-anticoruptie-cristina-tarna-isi-da-demisia-cna-se-va-transforma-in-avocatul-businessmanilor/>.

<sup>34</sup> See the Parliament sitting of 2 November 2017, available at: <https://www.privesc.eu/arhiva/78663/Sedinta-Parlamentului-Republicii-Moldova-din-2-noiembrie-2017>.

<sup>35</sup> The draft ARCA Regulation submitted for consultations on 27 December 2017 is available here: <https://www.cna.md/libview.php?l=ro&idc=5&id=1795&t=/Serviciul-relatii-publice/Comunicate-de-presa/Regulamentul-privind-evaluarea-administrarea-si-valorificarea-bunurilor-infracationale-supus-consulatarilor-publice>.

<sup>36</sup> For more details see Article 4(1)-(2) of Law No 48 on the Agency for the Recovery of Criminal Assets, Official Gazette of the Republic of Moldova No 155–161, Article 251 of 19 May 2017.

<sup>37</sup> The so-called integrity package consists of Law No 132/2016 on the National Integrity Authority, Law No 133/2016 on the Declaration of Assets and Personal Interests and Law No 134/2016 on Amendments and Addenda to Certain Legislative Acts.

<sup>38</sup> GD No 673 of 28.08.2017, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=371288>. The document was subjected to public consultation, see <http://www.particip.gov.md/proiectview.php?l=ro&idd=4152>.

expenditures of MDL 2 891 596<sup>39</sup> incurred for the services of digitization and processing of the declarations during the entire NIC/NIA activity (2013–2017). The informative note to GD does not clear up why the Government opted for a qualified one-year advanced electronic signature issued by the CST SOE and did not consider other types of signatures, such as mobile ones, which are certified by CST SOE as well.

According to GD No 673, the NIA drew up the list of persons from the human resources units of country’s public institutions responsible for collecting the declarations of assets and interests and transmitted it to the CST SOE. NIA also approved the plan on their training on how to fill in the Electronic Register of persons required to submit declarations of assets and interests. Following the Government’s proposal to amend the 2017 budget (draft Law No 316/2017), the State Chancellery was allocated MDL 9.8 million to issue electronic signatures, valid for one year, to 70 thousand civil servants. As of 13 January 2018, CST had processed 27 thousand applications for electronic signatures. At the same time, contrary to the Law No 132/2016 on the National Integrity Authority, the Parliament has not approved the staffing limit and organisational structure of NIA yet, while the ANI’s budget for 2018 was maintained at the same level as the previous budgets of NIC. Problems in the functioning of NIA could also be generated by the confusing provisions regarding the remuneration of integrity inspectors contained in the current legal framework on remuneration in the public sector. At the moment, two different laws regulate how wages are set for integrity inspectors. This is Law No 48 of March 22, 2012 on civil service pay system<sup>40</sup>, which contains provisions regulating the remuneration of civil servants with special status within NIA (Article 3), such as integrity inspectors (see Article 17, paragraph 2 of Law 132 / 2016). The other law No 355-XVI of 23.12.2005 on salary system in the budgetary sector<sup>41</sup> expressly stipulates the salary of integrity inspectors (Article 8/2). Allocating insufficient financial resources for the employment of integrity inspectors could create risks for the efficient control of the declarations of assets and interests by NIA.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>2.9. National Integrity Authority to approve the regulation that will clarify the methodology for verifying income and conflicts of interest statements, and will ensure the online functioning of the declaration and verification system by making submission of electronic statements of income and interests accessible and ensuring public access to the statements</b></i>	<i><b>December</b></i>	<i><b>Initiated but not finalized</b></i>

NIA drew up a preliminary draft methodology for controlling assets and personal interests and observing the legal status of conflicts of interest, incompatibilities and restrictions (hereinafter – Methodology), but it was not approved due to the delays in the selection of NIA management. It is currently being subjected to an internal approval process and is to be approved by the newly-appointed NIA president. In the context of the latest statements made by NIA management about the process of adopting the Methodology<sup>42</sup>, the fact that NIA management decided not to publish the Methodology once it is approved, raises concerns. Since it is an official document, it falls

<sup>39</sup> The annual cost of services of digitization and processing of declarations of income, assets and interests was: MDL 284 994 in 2014, MDL 798 600 in 2015, MDL 886 401.16 in 2016 and MDL 921 600 in 2017, Source: the database of the Public Procurement Agency, <http://tender.gov.md/ro/contracte-atribuite>.

<sup>40</sup> <http://lex.justice.md/index.php?action=view&view=doc&id=342642>.

<sup>41</sup> <http://lex.justice.md/md/315367/>

<sup>42</sup> <https://www.facebook.com/CPRMoldova/photos/a.603355459853261.1073741828.581144555407685/740259936162812/?type=3&heater>

within the provisions of Law on Access to Information, and thus has to be made public. At the same time, to repair the image and credibility undermined by the delay in the reorganisation process and by transfer of the negative image from the old institution, NIA must demonstrate a high level of transparency in its activity and openness in communication with the civil society and media.

The on-line system for filing and verifying the declarations of assets and interests (E-integrity) was launched on 1 January 2018, through which the first declarations of assets and interests were submitted for 2017. In order to launch the system by the set deadline, NIA (with the support of the World Bank) has developed the package of documents required for its registration in the Register of Personal Data Operators, including the Regulation of E-integrity Information System. During November–December 2017 NIA also trained the collectors of declarations of assets and interests from the public institutions, which are to fill in the Electronic Register of Persons Required to Submit Declarations (the Register), and later will distribute the electronic signatures and help the declaring subjects to fill in the online declarations. NIA also drew up and made public on its website two guidelines: one for collectors on how to fill in the Register and the other one for declaring subjects on how to file the electronic declarations of assets and interests. The first declarations submitted in accordance with the new procedures are already made public on [www.declaratii.ani.md](http://www.declaratii.ani.md).

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.10. State institutions to approve the Sectorial Anti-corruption Plans in line with the 2017–2020 National Integrity and Anti-corruption Strategy</b>	<b>November</b>	<b>Initiated but not finalized</b>

The Action Plan for the implementation of the National Integrity and Anti-corruption Strategy for 2017–2020 (AP NIAS)<sup>43</sup> provides for the adoption of 9 sectorial anti-corruption plans by the CPA subordinated to the Government responsible for the following areas: customs, tax, public procurement, administration and denationalization of public property, health protection and health insurance, education, agrifood, public order, environmental protection. The deadline for approving the sectorial plans set up by AP NIAS is the fourth quarter of 2017. This term is longer than that foreseen in the Roadmap. By GD No 676 of 29.08.2017 (in force since 01.09.2017)<sup>44</sup>, the Government approved the mechanism for the development and coordination of sectorial and local anti-corruption plans for 2018–2020. In particular, the authorities responsible for participatory and inclusive development of sectorial anti-corruption plans, as well as for their subsequent implementation, were appointed. Templates and instructions for drawing up sectorial and local anti-corruption plans and quarterly reports on monitoring of their implementation by the responsible authorities were approved as well. According to GD No 676/2017, the sectorial and local anti-corruption plans were to be submitted to the Government for approval by 30 September 2017, and subsequently published on the website of the respective authorities and NAC. By the end of 2017, only 6 sectorial anti-corruption plans of the 9 planned were subject to public consultations: in public order and security<sup>45</sup>, in environmental protection<sup>46</sup>, in tax<sup>47</sup> and customs areas<sup>48</sup>, in public procurements<sup>49</sup>, and in the area of administration and denationalization of public

<sup>43</sup> PD No 56 of 30.03.2017 (in force since 30.06.2017), <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=370789>

<sup>44</sup> <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=371169>.

<sup>45</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4623>.

<sup>46</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4691>.

<sup>47</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4734>.

<sup>48</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4735>.

property<sup>50</sup>. From the sectorial anti-corruption plans subjected to public consultation, the plan in the customs field does not comply with the model structure approved for the drawing up of sectorial anti-corruption plans. It lacks such important components as: problem description, monitoring and reporting of the progress in implementation of activities. The plan in the area of environment does not contain the monitoring and reporting component as well. As of 15 January 2018, none of the sectorial anti-corruption plans has been approved by the Government.

### **Recommendations:**

#### *For the Parliament:*

- Adopt in final reading the Law on Amendments and Addenda to the Code of Civil Procedure and remove the provisions that do not comply with the objective of the draft on streamlining civil judicial procedures;
- Amend the legislation in order to institute a clear rule, on the basis of which the SCJ would examine the SCM decisions in disciplinary procedures both on the merits, and per procedure, in compliance with ECtHR standards;
- Urgently adopt the limit staff and the organisational structure of NIA.

#### *For the Government and the Parliament:*

- Ensure proper financial means for the NIA's operation (by supplementing the NIA's budget for 2018), including for the improvement of technical work conditions;
- Remove from the legal framework the confusing provisions on remuneration of integrity inspectors;
- Ensure that ARCA starts the activity and renounce on any amendments that would endanger the efficient operation of ARCA.

#### *For the Government:*

- Adopt the sectorial anti-corruption plans which are already subjected to public consultations and comply with the requirements related to the standard structure and content of the documents;
- Ensure the operation of the Office for Prevention and Combating Money Laundering (OPFML) and put forward proposals to adjust the national legislation to the new Law on Preventing and Combating Money Laundering and Terrorist Financing.

#### *The Ministries and Independent Institutions:*

- The Ministry of Justice – improve the draft Law No 428 on Judicial System to ensure the effective selection and promotion of judges on the basis of their merits, ensure SCM transparency by indicating the number of votes in its decisions and by regulating clearly the cases of organising secret meetings, as well as complete the draft with provisions to ensure the operational independence of the Judicial Inspection;
- Ministry of Justice – improve the draft Law No 428 or develop a new draft law amending the Law No 178 (disciplinary liability of judges) by simplifying and improving the mechanism for the disciplinary liability of judges, respectively;
- NCPDP – improve the draft Law on the Regime of Video Equipment, especially by removing

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<sup>49</sup><http://particip.gov.md/proiectview.php?l=ro&idd=4843>. Public consultations on the sectorial anti-corruption plan in the field of public procurement were launched on 22.12.2017, while on 17.01.2018 these were extended till 31 January 2018.

<sup>50</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4792>.

the provisions related to journalists' obligation to systematically request the consent of the data subject, as well as prohibition the use of video materials via drones, aerostats or other technical and/or electronic devices within the built-up area of rural/urban localities;

- NAC – launch activities of the 3 groups monitoring the 2017-2020 National Integrity and Anti-Corruption Strategy;
- NIA – 1) send to the Parliament without delay the proposal on the NIA staff limit and approve the organisational structure of NIA; 2) adopt the methodology for the control of assets and personal interests and the observance of the legal status of conflicts of interest, incompatibilities and restrictions; 3) launch and conduct a qualitative selection process for integrity inspectors; 4) ensure the functionality of the electronic system for random distribution of notices to integrity inspectors.
- OPFML – ensure a transparent consultation when drafting the secondary regulatory framework applying the new Law on Preventing and Combating Money Laundering and Terrorist Financing, as well as the new National Strategy on Preventing and Combating Money Laundering and Terrorist Financing;
- The Ministry of Education, Culture and Research, Ministry of Health, Labour and Social Protection and Ministry of Agriculture, Regional Development and Environment – accelerate the drafting and public consulting of sectoral anti-corruption plans in education, health care and insurance, and agri-food sectors.

### 3. Rights and Fundamental Freedoms

#### Summary of overall progress

*Of the 9 monitored actions, 5 were achieved without concerns and 4 were initiated but not finalized.*

The Parliament set up the Platform for parliamentary oversight over the implementation of the Law on Preventing and Combating Trafficking in Human Beings and the actions conducted in this area. The Permanent Secretariat of the National Committee on Combating Trafficking in Human Beings developed the draft 2018-2023 National Strategy for Preventing and Combating Trafficking in Human Beings and the draft 2018-2020 Action Plan. The Government approved the 2017-2020 Action Plan Implementing the 2017-2027 Strategy for Strengthening Interethnic Relations in the Republic of Moldova.

The new 2018-2020 Civil Society Development Strategy was developed and a group of MPs registered the draft in the Parliament on 22 December 2017. The recommendations formulated by the working group consisting of civil society representatives are largely mirrored in the final content of the document; however, there is no budget support for a series of actions. The only budget is the one forecast within the limits of available financial sources. We recommend them to adopt the document as soon as possible and to ensure budget support for the actions planned in the Action Plan. The working group on improving the media legislation, set up by the Parliament completed the development of the drafts of the new 2018-2025 Audiovisual Code and Concept of the National Media Development Policy of Moldova. Documents will be out for public consultation and will be adopted by the Parliament.

*Some actions are a matter of significant concern.* The Reform of the National Centre for Personal Data Protection (NCPDP), in the proposed version, assigns too broad competences to the authority in charge of personal data protection, without imposing any control over its activity. The way in which the Ministry of Justice promotes the draft law improving the legal framework in the field of equality and non-discrimination is a matter of concern. The draft lacks a number of important provisions, initially included by the Council on the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDEE). The Government approved the draft National Human Rights Action Plan (NHRAP) and submitted it for approval to the Parliament. The document needs to be improved before adoption.

#### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.1. Parliament to adopt the Law Amending and Supplementing Certain Legislative Acts (strengthening the regulatory framework regulating the activity and competencies of the Council on the Prevention and Elimination of Discrimination and Ensuring Equality)</b>	<b>December</b>	<b>Initiated but not finalized</b>

The CPEDEE developed the draft amending the legal framework on ensuring the principle of

equality and non-discrimination.<sup>51</sup> It covered a number of important provisions aimed at streamlining the CPEDEE activity and ensuring equality and non-discrimination, including, extending the list of protected criteria, including a number of key definitions in this area, introducing CPEDEE competence to notify the Constitutional Court and at applying directly contravention sanctions for discrimination acts, as well as a number of technical provisions aimed at improving the Council's activity. The draft was developed based on a number of assessments of the legal and practical framework ensuring equality and non-discrimination in the Republic of Moldova, including assessments of the Council of Europe.

Although the draft was still undergoing public consultations at CPEDEE, on 22 November 2017 the Ministry of Justice published a reviewed version of this draft (No 450) for review.<sup>52</sup> Compared with the CPEDEE's version, the draft law published by the Ministry of Justice does not contain important provisions that improved the CPEDEE work, in particular the competence to notify the Constitutional Court and apply directly contravention sanctions for discrimination. Besides, the sexual orientation was removed from the list of generally protected criteria, and a series of important definitions were also removed.

We note with concern the unclear procedure of promoting the draft Law, developed and forwarded for public consultations by CPEDEE in a better version than the one published subsequently by the Ministry of Justice. Considering the experience of adopting the Law No 121, back in 2012, it is crucial for the draft law to be of the highest quality before it is submitted to the Parliament

Given that the draft No 450 is still being developed by the Ministry of Justice, and the Parliament did not adopt it yet, the Action 3.1. is rated as 'Initiated but not finalized'.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.2. Parliament to ensure the drafting of the new Audiovisual Code</b>	<b>December</b>	<b>Achieved without concerns</b>

The approval of the new Audiovisual Code is one of the outstanding actions from the Priority Reform Action Roadmap for March-July 2016. Since the new Audiovisual Code (draft Law No 53 of 15 March 2015)<sup>53</sup> was passed in the first reading in July 2016, together with other 3 draft Laws (No 125 of 2 February 2015; No 218 of 22 May 2015 and No 231 of 28 May 2015) amending and supplementing the current Audiovisual Code<sup>54</sup>, it was decided to merge all the drafts and to finalise the new Audiovisual Code for the second reading, but only after the endorsement of the Council of Europe, OSCE and other competent international institutions. This decision was abandoned when it turned out that the draft Audiovisual Code (developed in 2011) was outdated and did not comply with the realities of the audiovisual sector. The working group on improving the mass-media legislation was created and its operation regulation was adopted by an Order of the Speaker of the Parliament on 13 June 2017<sup>55</sup>. The working group, made up of MPs, media experts, representatives of national broadcasters and of the civil society, was provided logistical

<sup>51</sup> Available at: <http://egalitate.md/news-and-information/anunt-public/>.

<sup>52</sup> Available at: [http://justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2017/octombrie/PL\\_PD\\_221117.pdf](http://justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2017/octombrie/PL_PD_221117.pdf).

<sup>53</sup>The draft Law No 53 of 15 March 2016 was passed in the first reading on 1 July 2016,

<http://parlament.md/LinkClick.aspx?fileticket=Q%2bsWLfvsLxU%3d&tabid=128&mid=506&language=ro-RO>

<sup>54</sup>The three drafts supplementing and amending the Audiovisual Code were passed in the first reading on 7 July 2016, <http://parlament.md/SesiuniParlamentare/%C5%9Eedin%C5%A3eplenare/tabid/128/SittingId/2332/language/ro-RO/Default.aspx>

<sup>55</sup><http://www.parliament.md/Actualitate/%C3%8Embun%C4%83t%C4%83%C8%9Birealegisla%C8%9Bieimassmedia/tabid/255/language/ro-RO/Default.aspx>.

support by the Council of Europe, EU and US Embassy. The working group was divided into eight thematic subgroups, among which subgroup 1 focused on 'Developing a new Audiovisual Code'. The new draft Audiovisual Code (with the working title – Audiovisual Media Services Code of the Republic of Moldova) was handed in on 19 December 2017 during the meeting of the extended working group. The document aims at transposing the Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 and at responding to realities in the audiovisual services<sup>56</sup>. The draft Code was made public on the Parliament's web site, but without being accompanied by a notice about the launch of public debates<sup>57</sup>. The document will be submitted to Venice Commission for opinion and will be subjected to public debates. Given the negative experience with the delayed approval of the previous draft Audiovisual Code, it is very important for the Parliament not to admit the dragging on of the legal process related to the approval of this draft.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.3. Parliament to adopt the new Law on the National Centre for Personal Data Protection and revise the related legislation in order to achieve the duties and strengthen institutional capacities</b>	<b>October</b>	<b>Initiated but not finalized</b>

The National Centre for Personal Data Protection (NCPDP) developed the draft laws on NCPDP and on the related legislation and made them a subject of public consultations in October 2017.<sup>58</sup> According to its authors, the purpose of the draft is to strengthen the institutional and operational capacity of the NCPDP. The related legislation, annexed to the draft, transposes in fact the Law No 133/2011 on Personal Data Protection in a new version. According to the authors of the initiative, the aim of the new Law is to transpose the new Directive of the European Union on Personal Data Protection (GDPR) that will enter in force in May 2018 and will be binding for all the EU Member States.<sup>59</sup>

The NCPDP reform is ambitious. At the same time, it is a matter of great concern, because it assigns too broad competences to the authority in charge of personal data protection, without imposing any control over its activity (checks and balances). In contradiction to provisions of the nEU Directive, which will no longer require the individuals to register themselves as personal data operators in exchange for the latter to implement the required technical and organisational means to protect data in line with the Directive<sup>60</sup>, NCPDP keeps this duty in the draft.<sup>61</sup> Moreover, the timeliness of amendments to some of the NCPDP's competences is at least questionable. The draft Law provides NCPDP the possibility to get involved in the activity of public authorities and business entities without the need for a reasonable suspicion or a judicial control procedure for verifying the legality of the investigation of potential violations. The amendments to the draft impose norms beyond the objective set by the authors in the briefing note, since they propose also to change the competences of some judicial authorities (SCJ and SCM) in the part related to anonymisation/depersonalisation of court judgments. All these amendments require careful

<sup>56</sup>The meeting the working group on improving the legislation on mass-media held on 19 December 2017, <https://www.youtube.com/watch?v=OBUDKtCF40U>.

<sup>57</sup><http://parlament.md/Actualitate/%C3%8Embun%C4%83t%C4%83%C8%9Birealegisla%C8%9Bieimassmedia/tabid/255/language/ro-RO/Default.aspx>.

<sup>58</sup>See the draft laws posted on the official web site of NCPDP: [http://datepersonale.md/md/transp\\_consult/](http://datepersonale.md/md/transp_consult/).

<sup>59</sup>Directive No 2016/679 is available here: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679>.

<sup>60</sup> See point 22 and Article 22(1) of the Directive 2016/679.

<sup>61</sup>See in particular the amendments suggested to the point 2 of the draft Law, which are available here: <http://datepersonale.md/file/Proiecte%20legi/2017/Modificarea%20actelor%2028.09.17%2014.00.pdf>.

attention and analysis.

In October 2017, the NCPDP initiatives received negative legal opinions from SCM because of the Center's lack of competence to formulate legal initiatives. During the same period, the draft Law was reviewed by a Council of Europe expert who also formulated a series of recommendations for improving the project. The expert noted *inter alia* that some of the definitions used in the draft are inconsistent with the Acquis communautaire; the draft puts forward the removal of the following phrase from the Law 'personal data processing in spying and counterintelligence activities'. The expert also added that the procedure of complaints' receipt and settlement, provided for in the draft, is quite questionable in terms of its effectiveness.<sup>62</sup>

It is imperative that the draft laws referring to the reform in the personal data protection be widely consulted in 2018 before the Parliament registers them and removes the deficiencies it identifies.

Because of the issues related to the draft content and the failure to approve it before the roadmap expires, the Action 3.3. is rated as "Initiated but not finalized".

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.4. Parliament to ensure the drafting of the Media Development Strategy</b>	<b>December</b>	<b>Achieved without concerns</b>

The subgroup 4 – which is part of the working group on improving the mass-media legislation, created on 13 June 2017 by the Order of the Speaker of the Parliament – is in charge of drawing up the Mass-Media Development Strategy. In the absence of previous similar documents, the process of drafting the Strategy was slower. As a part of their activity, the subgroup 4 agreed on the need to substitute the Strategy with a Concept of the National Media Development Policy of Moldova (2018-2025), which lays down the vision about the way in which mass-media should develop and serve as a benchmark for the development, approval and implementation of some coherent public policies in this area. According to the authors of the Concept, it complies with important European documents in this area.

The Concept aims at focusing on 3 directions: 1) develop an adequate and effective legal framework to regulate the mass-media activity, based on democratic principles; 2) develop an adequate and effective judicious-economic framework to strengthen the mass-media sustainability and editorial independence, including by ensuring a fair competition and a favorable economic environment; 3) keep on making the mass-media activity more professional. The Concept will be implemented in 2 stages: first stage – by 2020; the second stage – by 2025.

The draft Concept was handed in on 19 December 2017 during the meeting of the extended working group and was made public on the Parliament's web site, without being accompanied by a notice about the launch of public debates<sup>63</sup>. Next, it is important to have the Concept be subjected to public consultations and approved as soon as possible. This will allow the adoption of public policies that would improve the current precarious situation of Moldovan mass-media, which is found as such not only by national<sup>64</sup> and international monitoring reports<sup>65</sup>, but also by

<sup>62</sup>The specialist opinion on the compliance of the laws referring to the protection of personal data from the Republic of Moldova with the CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) and other European standards, of the Maria Michaelidou and Nevena Ruzić – experts of the Council of Europe.

<sup>63</sup><http://parlament.md/Actualitate/%C3%8Embun%C4%83t%C4%83%C8%9Birealegisla%C8%9Bieimassmedia/tabid/255/language/ro-RO/Default.aspx>.

<sup>64</sup>Media Situation Index in the Republic of Moldova for 2016, <http://media-azi.md/en/media-situation-index-msi-republic-moldova-2016>

<sup>65</sup>Freedom of the Press 2017: Moldova, Freedom House report, <https://freedomhouse.org/report/freedom-press/2017/moldova>.

development partners. The financial support for the Concept is another matter of primary importance.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.5. Parliament to ensure the drafting of the Civil Society Development Strategy</b>	<b>December</b>	<b>Achieved without concerns</b>

The new Civil Society Development Strategy was developed during 2016-2017. The priorities of the new strategic document continue the efforts started in the implementation of the previous strategies of civil society development, and reflect organically the three directions of development: the participation of the civil society in decision-making, financial sustainability of the sector and the development of active civic spirit and volunteering. The draft of the new Strategy was developed in a participatory way by an inter-sectoral working group (divided into three working subgroups according to the general objectives of the Strategy), with the support and the involvement of civil society organisations, development partners, the Government and the Parliament. In this part, the process of drafting the document has been an example of good practice of getting the civil society involved in the decision-making process.

The Parliament organised a final working meeting on 30 November 2017 to finalise the draft Strategy. The members of all the subgroups met in working meetings to come up with final comments. Given the time limit for Strategy implementation, its implementation was postponed for the period of 2018-2020. On 14 December 2017, the expert who facilitated the organisation of working subgroups sent the final comments to representatives of the Parliament, and the draft was registered in the Parliament on 22 December by a group of MPs.<sup>66</sup>

The recommendations formulated by the working group consisting of civil society representatives are largely mirrored in the final content of the document, however, there is no budget support for a series of actions. The only budget is the one forecast within the limits of available financial sources. This may be a risk for the implementation of the planned actions that need financial coverage.

Given the content of the Strategy upon the registration of the draft in the Parliament, as well as the way in which this Action was worded – to ensure the drawing up of the Strategy – without indicating on its approval, the Action 3.5. is rated as ‘Achieved without concerns’. We encourage the Parliament to adopt as soon as possible the Strategy in the registered version.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.6. Parliament to adopt its decision on the approval of the National Human Rights Action Plan (NHRAP) for 2017-2021</b>	<b>December</b>	<b>Initiated but not finalized</b>

Under the Order of the Minister of Justice No 1056 of 18 November 2016, the working group for the drafting of the NHRAP was created. Given the complex development process, the working group was divided into 5 thematic subgroups, established by areas of intervention and based on

<sup>66</sup><http://www.parlament.md/ProcesulLegislativ/Proiectedeacteleislative/tabid/61/LegislativId/4044/language/ro-RO/Default.aspx>

the character of the recommendations formulated by the international mechanisms for monitoring human rights. By letter No 07/6550 of 20 June 2017, the Ministry of Justice submitted this draft for public review/public consultations<sup>67</sup>, and provided only 7 days for sending back the reviews/opinions related to the draft. Then, as a result the institutional reshuffling that took place in the context of the central public administration reform, the Ministry of Justice requested by the letter No 07/11482 of 16 October 2017 the re-expertise of NHRAP draft by public institutions, according to the new institutional competencies and duties, without submitting the draft to other stakeholders from civil society and without publishing the summary of recommendations made by civil society and public institutions to the NHRAP version of June 2017.

The Government passed the NHRAP draft on 7 November 2017. Given the delayed development of the draft, the NHRAP implementation deadlines were reviewed.

The document covers actions for 2018-2022 and aims at facilitating the access to justice, ensuring the freedom of expression, promoting equality, protecting the rights of people with disabilities, of people from Transnistrian region and of the ones belonging to national, ethnic, religious and linguistic minorities. In addition, the key NHRAP directions aim at harmonising the legal framework with the international standards, protecting against discrimination, combating domestic violence, facilitating the access to quality health care and education services, increasing continuously the level of employments by providing job opportunities, etc. However, the document neither provides for an effective mechanism for institution planning and coordination, nor provides it for the implementation expenses, the most of the actions being planned ‘within the limits of approved budgetary allocations’.

A group of representatives of civil society launched, on 10 November 2017, a Public Appeal on ensuring the transparency and on including the process of approval of 2018-2022 NHRAP by the Parliament of the Republic of Moldova. The signatory organisations believe that following the systematization of results of working subgroups, the draft submitted by the Ministry of Justice failed to include key areas for the national human rights policy, such as: prevention and combat of torture and ill treatments in psychiatric institutions; control and prevention of non-transmittable diseases; existing disparities in economic, social and cultural rights enjoyment, including in the right to education and health among the disadvantaged and marginalised groups of people from rural area. The signatories requested the profile Parliamentary Committee to hold some authentic and transparent public consultations on the NHRAP draft.

It is welcome that the Ministry of Justice submitted the draft Government Decision on the National Council for Human Rights and the Permanent Secretary for Human Rights on 1 December 2017 for public consultations<sup>68</sup>, in order to set up the appropriate mechanism for monitoring the implementation of actions planned for the next five years by NHRAP. Given the way in which this action is worded in the Roadmap as a document approved by the Parliament, as well as the need to adjust the document, the Action 3.6. is rated as ‘Initiated but not finalized’.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
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<sup>67</sup> Available at: <http://www.justice.gov.md/pageview.php?l=ro&idc=192> (No 410)

<sup>68</sup> Available at: [http://www.justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2017/decembrie/Proiect\\_Consiliul\\_pt\\_Drepturile\\_Omului\\_i\\_Secretariatul\\_Permanent.pdf](http://www.justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2017/decembrie/Proiect_Consiliul_pt_Drepturile_Omului_i_Secretariatul_Permanent.pdf)

<b>3.7. Parliament to create a special commission to control and monitor the progress in the fight against trafficking in human beings</b>	<b>October</b>	<b>Achieved without concerns</b>
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According to the information provided by the Parliament, the topic of preventing and combating trafficking in human beings (THB) was discussed on 18 October 2017 on the platform for parliamentary oversight of the implementation of the legislation on prevention and combating trafficking in human beings. The meeting aimed at initiating the parliamentary oversight over the implementation of the legislation of THB preventing and combating. It was chaired by the Speaker of the Parliament with the participation of MPs from the specialised Committees, President, Deputy Presidents and other members of the National Committee against THB and development partners. During the meeting, they presented the achievements and challenges, both in the investigation and criminal prosecution of THB cases, and in THB prevention, assistance and protection to THB victims, potential victims and witnesses, which require special attention.

The Platform for parliamentary oversight over the implementation of the Law on Preventing and Combating of Trafficking in Human Rights and the actions conducted in this area was set up under the Order of the Parliament Speaker DDP/C-1 No 6 of 1 November 2017<sup>69</sup>. The Platform consists of the following members: the Speaker of the Parliament and chairpersons of four specialised parliamentary committees: Legal Committee for Appointments and Immunities, Committee for Human Rights and Interethnic Relations, Committee for External Policy and European Integration, Committee for National Security, Defense and Public Order. Depending on the agenda, the Platform meetings will be attended by representatives of the National Committee against THB, non-government organisations and international organisations that have representative offices in the Republic of Moldova.

Action 3.7. is rated as 'Achieved without concerns', as such a committee/platform was established and convened in a first working meeting before the Roadmap expires. At the same time, note that this action has a technical and simple nature, and it is not clear why it was included in such a document, as long as it was formulated and is interpreted by authorities strictly as establishment of the committee, without any specific impact.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.8. Government to approve the Decision on the approval of the 2017-2022 National Strategy for Preventing and Combating Trafficking in Human Beings and the 2017-2022 Action Plan</b>	<b>December</b>	<b>Initiated but not finalized</b>

The Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings under the State Chancellery (PS of NC CTHB) is in charge of coordinating the activities of finalising the draft Government Decision Approving the 2017-2022 National Strategy for Preventing and 2017-2022 Combating Trafficking in Human Beings and the Action Plan.

The public consultations of this draft started on 18 January 2017<sup>70</sup>. But, according to the

<sup>69</sup>Available at: <http://crjm.org/wp-content/uploads/2018/01/17-11-01-File-Platforma-Parl-anti-trafficking.pdf>

<sup>70</sup>Available at: <http://antitrafic.gov.md/libview.php?l=ro&idc=101&id=845&t=/Transparenta/ANUNT-privind-initierea-procesului-de-consultare-a-proiectului-Hotararii-de-Guvern-cu-privire-la-aprobarea-Strategiei-nationale-de-prevenire-si-combatere-a-traficului-de-fiinte-umane-pentru-anii-2017-2022-a-Planului-de-actiuni-privind-realizarea-Strategiei-nationale-de-prevenire-si-combatere-a-traficului-de-fiinte-umane-pentru-anii-2017-2019-a-Tabelului-prevederilor-Conventiei-Consiliului-Europei-privind-lupta-impotriva->

information offered by the Permanent Secretariat of the National Committee against Trafficking in Human Beings, in the context of the 2017 Government reform, it was impossible to finalize the draft. At present, the activity in this area was carried out on the basis of a set of measures regarding the implementation of priority actions in preventing and combating trafficking in human beings until 31 December 2017<sup>71</sup>, approved by an indication of the Prime Minister No 24-04-6083 of 4 August 2017.

On 29 November 2017<sup>72</sup>, the representatives of central public authorities with competences in providing support and protection to THB victims, THB preventing and combating, and the development partners met in a working meeting organised by the PS of NC CTHB. At this event they presented the drafts of the 2018-2023 National Strategy for Preventing and Combating Trafficking in Human Beings and the 2018-2020 Action Plan implementing the Strategy, then the participants discussed the amendments made to the policy documents as a result of the activities in the thematic working groups of 20 and 24 November 2017.

On 10 January 2018, PS of NC CTHB submitted the drafts of the 2018-2023 National Strategy for Preventing and Combating Trafficking in Human Beings and of the 2018-2020 Action Plan<sup>73</sup>, which, resulting from its functional competences, will submit this policy document for coordination to all the interested institutions.

The effort of the national authorities in the development of such an important project for our country is welcome given that the last Trafficking in Persons Report 2017 of the US Department of State<sup>74</sup>, stipulates an important set of recommendations aimed at streamlining the national policy on preventing and combating trafficking in human beings and reveals that the Republic of Moldova was downgraded to Tier 2 Watch List<sup>75</sup>(a ranking set out by the US Department of State). The fact that the Republic of Moldova is at this level makes the national authorities to be more determined in tacking appropriate actions to accede in this ranking. We encourage, therefore, to approve this draft in due time and to consider international recommendations in this respect.

Action 3.8.is rated as 'Initiated but not finalized ', given that the draft is currently being finalised and failed to be approved before the Roadmap expires.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>3.9. Government to approve the Decision Approving the 2017-2020 Action Plan on the Implementation of the 2017-2027 Strategy for Strengthening Interethnic Relations in the Republic of Moldova</b>	<b>October</b>	<b>Achieved without concerns</b>

The Draft Government Decision 'On approving the 2017-2020 Action Plan Implementing the

[traficului-de-fiinte-umane-si-a-altor-instrumente-internationale-ratificate-de-catre-Republica-Moldova-si-a-indicatorilor-de-monitorizare-a-acestor-prevederi](#)

<sup>71</sup> Available at: <http://antitrafic.gov.md/libview.php?l=ro&idc=101&id=963&t=/Transparenta/Set-de-masuri-privind-realizarea-actiunilor-prioritare-in-domeniul-prevenirii-i-combaterii-traficului-de-fiinte-umane-pana-la-31-decembrie-2017>

<sup>72</sup> Available at: <http://antitrafic.gov.md/libview.php?l=ro&idc=94&id=1016&t=/Presa/Stiri-si-Evenimente/edinta-Grupului-tehnic-coordonator-al-Secretariatului-permanent-al-CN-CTFU>

<sup>73</sup> Available at: <http://antitrafic.gov.md/libview.php?l=ro&idc=101&id=1036&t=/Transparenta/Proiectul-Hotararii-Guvernului-cu-privire-la-aprobarea-Strategiei-nationale-de-prevenire-si-combatare-a-traficului-de-fiinte-umane-pentru-anii-2018-2023-i-al-Planului-de-actiuni-pentru-anii-2018-2020-in-vederea-implementarii-Strategiei-nationale>

<sup>74</sup> Available at: <http://www.antitrafic.gov.md/libview.php?l=ro&idc=94&id=949&t=/Presa/Stiri-si-Evenimente/Raportul-Departamentului-de-Stat-al-SUA-privind-situatia-traficului-de-persoane-editia-2017/>

<sup>75</sup> Available at: <https://www.state.gov/j/tip/rls/tiprpt/2017/271117.htm>

2017-2027 Strategy for Strengthening Interethnic Relations in the Republic of Moldova', was developed by the Bureau for Interethnic Relations and adopted by the Government on 15 November 2017.<sup>76</sup> The Government Decision was published in the Official Gazette on 8 December.

The Action Plan aims at facilitating the implementation of the Strategy for Strengthening Interethnic Relations in the Republic of Moldova, that the Government approved on 30 December 2016. The Action Plan provides for the organisation of courses to teach Romanian to adult speakers of other languages, conducting a study on the options of ratifying the European Charter for Regional or Minority Languages and the related legislative impact, development of the legal framework to ensure the right of national minorities to study in their language and the right to education in their language, according to Article 10(1) and (2) of the Education Code of the Republic of Moldova, as well as actions to train the civil society, mass-media and the Audiovisual Coordination Council regarding the prevention and counteraction of the cases of discrimination and incitement to interethnic hatred, etc.

Given the approval of the draft Action Plan and its quality, the Action 3.9. is rated as 'Achieved without concerns'.

### **Recommendations:**

#### ***The Parliament:***

- Adopt the 2018-2020 Civil Society Development Strategy and ensure budget support for the actions planned in the Action Plan;
- Improve the 2018-2021 NHRAP draft and approve it as soon as possible;
- Ensure a correct and prompt legislative process to adopt the Audiovisual Media Services Code of the Republic of Moldova and the 2018-2025 Concept of the National Media Development Policy of Moldova.

#### ***The Government, Ministries and Independent Institutions:***

- The Government – identify the financial resources needed to implement the 2018-2025 Concept of the National Media Development Policy of Moldova and ask for the donors' support;
- The Government and NCPDP – ensure the wide consultation of the draft laws with the representatives of public authorities, the judiciary, civil society organisations and media representatives before initiating the registration of these draft laws with the Parliament.
- The Ministry of Justice – improve the draft Law No 450 on the review of the regulatory framework on non-discrimination and ensuring equality, including by introducing CPEDEE's powers to address the Constitutional Court and to directly apply contravention sanctions;
- The Ministry of Foreign Affairs and European Integration – ensure transparent consultations and completion of drafts of the 2018-2023 National Strategy for Preventing and Combating Trafficking in Human Beings and of the 2018-2020 Action Plan in order to be submitted in due term to the Government for review.

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<sup>76</sup> Available at: <http://www.bri.gov.md/index.php?pag=proiecte&opa=view&id=84&start=&l>

## 4. Governance in the Financial and Banking Sector

### Summary of overall progress

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*Of the 8 actions monitored, 6 were achieved without concerns, 1 was achieved with concerns and 1 was initiated but not finalized.*

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As regards 'Governance in the Financial and Banking Sector', the Priority Reform Action Roadmap suggests a set of actions characterising the process of reform started in the financial and banking sector, the implementation deadline for which was established at the end of 2017. Generally, these actions aim at approving legislative acts in a number of financially-related areas, such as banking sector, non-banking financial sector or financial reporting and audit sector. In particular, these actions aim at unblocking the situation related to the procurement of some equity stake from the largest banks from the sector and from some insurance companies, harmonising certain legislative acts in line with the National Action Plan for the Implementation of the Association Agreement<sup>77</sup> and boosting the process of investigating frauds from the banking sector.

Of the proposed 8 actions, the vast majority were implemented within the time limits set. At the same time, even if one of the actions is not yet implemented, in more specific terms, it is initiated but not finalized, it represents rather a technical stage for the harmonisation of the current banking legislation with the new Law on Banks' Activity. Therefore, the implementation of this action is a matter of time, because the consensus for it is already given. At the same time, although we rate the action focused on the creation of an inter-institutional platform to monitor and control the status of the bank fraud investigation as being 'implemented', in fact this action is implemented with very big deficiencies. In this context, theoretically, the platform was created exactly for this purpose, but does not implies other actions.

Furthermore, although the bank fraud investigation and the recovery of assets acquired by fraud is not only an important action on the Government's agenda, but a request from development partners, the results are long-awaited, however. After three years from the de-capitalization of several banks, the investigation aimed at identifying the persons involved and the recovery of the damage run around in circles. Although the investigation was being carried out both internally and externally, this is a rather slow process, which causes speculations and interpretations about the authorities' real intention to shed light on this issue, which is of particular interest for the society. The sole remarkable fact from the past months is the publication of the 'Kroll 2' report summary which confirms that the Sor group was involved in the fraudulent process of granting credits, as well as the use of certain sophisticated money laundering mechanisms. At the same time, the report indicates expressly on the fact that Sor group undergone some actions coordinated and coherent from chronological point of view, the aim of which was to take the full control over those three banks and to theft the funds owned by them. The 'Kroll 2' report will be submitted to prosecution bodies and will not be made public in order not to impede the investigation. Thus, beyond the Kroll investigation, the success of funds' recovery will depend directly on the capacity of national criminal prosecution bodies to bring charges in the court of law.

### Summary of individual actions

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<sup>77</sup>National Action Plan for the Implementation of the Association Agreement between the Republic of Moldova and the European Union during 2017-2019, <http://dcfta.md/uploads/0/images/large/plan-de-actiuni-ro.pdf>

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.1. Parliament to adopt a new Law on Banks' Activity</b>	<b>November</b>	<b>Achieved without concerns</b>

One of the most important stages in the banking sector reform is the transposition of the provisions of the Basel III Accord in the field of licensing, regulation and banking supervision into the national legislation. The transposition of the new standards results not only from the commitments undertaken when the EU Association Agreement was signed, but also from the need to restructure the way in which national commercial banks operate. Basel III is transposed in the national legislation via the new legislative framework related to banking activity, in particular the Law on Banks' Activity<sup>78</sup>, that the Parliament passes in the final reading during the meeting of 6 October 2017. NBM is the author of the draft Law and its related regulatory acts within the Twinning project<sup>79</sup> funded by EU and implemented with the support of the National Bank of Romania and Central Bank of Netherlands.

Thus, the Law on Banks' Activity is primarily the fulfilment of commitments undertaken by our country, and namely the transposition at national level of the provisions of the European banking regulatory framework - the CRD IV package<sup>80</sup>. Secondly, this regulatory act seeks to strengthen the legal framework applicable to banks not only in prudential supervision, in particular, capital, risk management or asset quality, but goes much further to corporate governance, sanctions or shareholders' and managers' quality, which proved to be problematic in our country. Last but not least, the new requirements aim at enhancing the capacity of the banking sector to absorb shocks and potential losses through a higher risk management and in the context of strong corporate governance.

Moreover, by introducing new supervision and accountability tools, the Law also aims at preventing eventually new frauds or manipulative actions in the banking sector. The need to hold banks, managers and shareholders accountable for their activity is a common approach, used worldwide, and the Republic of Moldova cannot any longer be kept out of this. In these conditions, a new legal framework regulating the banking sector inspires the hope that such events as those that took place in 2014-2015 will not repeat, or that the old law – Law on Financial Institutions, which was adjusted more times, proved its limits and can't secure any longer a healthy banking environment. Even so, it was not because of the regulatory framework existing at that moment that caused the events occurred in the crisis period, but it was rather because of the way in which it was applied and implemented. Thus, no law can guarantee that the events triggering the crisis will not reappear, irrespective of how good is that law. This fact proves that they are indeed willing to comply and apply the legal framework.

At the same time, although the entry into force of the adopted Law was set for 1 January 2018, banks will have a period of three years, until 2020, to comply fully with the new rules. In addition, this legislative act replaces most of the provisions of the Law on Financial Institutions<sup>81</sup> and leaving in place only the chapters related to remedial measures, particularly, the procedure of

<sup>78</sup> Law on Banks' Activity No 202 of 6 October 2017

<sup>79</sup>The Twinning Project 'Strengthening the NBM's capacity in the field of banking regulation and supervision in the context of EU requirements'

<sup>80</sup>CRD IV - Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC. CRR – Regulation No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

<sup>81</sup>Law on Financial Institutions No 550 of 21 July 1995.

voluntary and compulsory liquidation of the bank. Finally, taking into account that the approved regulatory act, passed in final reading, transposes without distortion the newest and the best European practices in banking activities, and thanks to the fact that it was passed within the established period of time, ensuring a wide consensus among stakeholders, we believe this action was Achieved without concerns.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.2. Parliament to adopt a package of laws amending and supplementing the legislation (related legislation), in line with the new law on banks' activity</b>	<b>December</b>	<b>Initiated but not finalized</b>

The adoption of a new banking law (Action 4.1) implies a broad process of revision of the related legislation, as well as the adjustment of several regulatory acts issued by the NBM. To bring the secondary legislation into line with the Law on Bank's activity<sup>82</sup>, the NBM drew up a draft law amending and supplementing certain legislative acts, aiming at connecting the whole legislative framework of banks' activity to the new notions and provisions. So, amendments and addenda are to be made to legislative acts, the most important being the Law on NBM<sup>83</sup>, the Law on Bank Recovery and Resolution<sup>84</sup>, the Law on Joint Stock Companies<sup>85</sup>. The consultation with stakeholders, authorities and interested public institutions started in August 2017, after which the draft was to be submitted to the Government for approval and to the Parliament for adoption. Even though the Action remains unachieved by the end of 2017, we mention that it is rather a technical stage depending on the agenda of the Government and the Parliament, the agreement in principle being already taken with the adoption of the basic law. Even so, we deem it expedient to speed up the process of adopting the draft law so that to eliminate in due time all mismatches and ambiguous interpretations that may create impediments to banking supervision and regulation.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.3. Parliament to adopt the Law Amending and Supplementing Certain Legislative Acts (Law on Capital Market, Law on Financial Institutions) (targeting the alienation of banking shares)</b>	<b>November</b>	<b>Achieved without concerns</b>

The complex process of restructuring shareholdings in several banks and insurance companies, by removing shareholders that do not meet the quality requirements imposed by the regulator, has generated a number of significant enforcement issues and other related risks. Thus, after the blocking of shares in the first two largest banks in the sector (BC Moldindconbank, BC Moldova-Agroindbank), the alienation process has stalled due to the lack of a detailed procedure for the cancellation, issuance and sale of these shares. To this end, in order to unlock this process, the legislative initiative for amending and completing the Law on the Capital Market<sup>86</sup> and the Law on Financial Institutions which would determine expressly the stages for selling the newly issued

<sup>82</sup> Law on Banks' Activity No 202 of 6 October 2017

<sup>83</sup> Law No 548 of 21 July 1995 on National Bank of Moldova.

<sup>84</sup> Law No 232 of 3 October 2016 on Bank Recovery and Resolution.

<sup>85</sup> Law No 1134 of 2 April 1997 on Joint Stock Companies.

<sup>86</sup> Law No 171 of 11.07.2012 on Capital Market

shares, criteria for setting the price of shares, terms of sale and conditions for their extension, as well as the means of compensating the previous shareholders was registered.

Also, in order to eliminate the risk of de-capitalization of the bank by cancelling the shares for which the term of alienation expired, the operated amendments propose extending every three-month period, at most three times, of no more than three months each. This is to avoid the bank's redemption of unsold shares with the simultaneous diminishing of the capital and the compensation of the eliminated shareholders. These adjustments tend to remove the obstacles emerged with regards to the shares of B.C. Moldindconbank, B.C. Moldova-Agroindbank, put up for sale, which, however, do not meet all the preconditions that could attract high-quality strategic investors.

At the same time, taking into account the reduced interest shown by the potential investors and the possibility of expiry of already extended terms, it was proposed as an interim measure the takeover of the shares by the State with subsequent sale to a strategic investor. In this respect, concomitantly with the draft law on the alienation of banking shares, amendments were also proposed to the Law on the Administration and Privatisation of Public Property<sup>87</sup> in order to ensure the legal framework necessary for State involvement in the sale process. This mechanism is to be used for systemically important banks only, as determined by the National Financial Stability Committee (NFSC), based on the Government's decision. Although these amendments are meant to ensure the financial stability and to protect the depositors' interests, the involvement of the State in the activity of some private banks raises some deficiencies, especially due to the experience with the Banca de Economii. Thus, it is important to ensure a transparent process for the management of these banks, the mechanism for determining the final price of shares to be paid by the State, and the whole sale process. Both draft laws were voted in final reading by the Parliament at its meeting on 15 December 2017, and entered into force at the time of publication.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.4. Parliament to adopt the Law on Non-Banking Credit Organizations</b>	<b>December</b>	<b>Achieved without concerns</b>

NCFM developed and promoted since 2012 a draft law on non-banking credit organisations in order to strengthen the regulation and the supervision of the non-banking financial activity. Considering that at that moment the agreement necessary to adopt the given draft was not reached, it was subsequently removed from the Parliament Agenda. The current situation of the banking sector and the fact that the demand for loans shifts towards non-banking credit organisations (especially microfinance and leasing companies) require a new approach and vision on the given sector, in particular as regards regulation, prevention of excessive risks and consumer protection.

In addition, the role of the NCFM (both in the 'monitoring' of the non-banking financial sector and in the effective 'supervision' over the latter) should be clear, given the interconnection between the microlending and banking sector and the aim to maintain the financial stability. 'Thus, draft law proposes the concept of 'non-bank lending organisations' to all professional entities practising lending activities without the right to attract deposits from population and companies. Also, rules are laid down as regards the minimum level of social capital and equity, expressly set out for prohibited activities (attraction of deposits), stringent requirements for administrators or the

<sup>87</sup> Law No 121 of 05.05.2007 on the Administration and Privatisation of Public Property

obligation to conduct the financial audit.

In order to add the mentioned provisions to the current legislative framework NCFM revised, during 2017, the draft law on the non-banking lending organisations proposed above, as well as the entire process of consultation and approval, so that it eventually met the consensus of all involved parties in the decision-making process. The draft law was adopted in the final reading by the Parliament on 22 December 2017, and is expected to enter into force within 9 months since its publication.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.5. Parliament to adopt the Law Amending and Supplementing the Insurance Act No 407/2006</b>	<b>November</b>	<b>Achieved without concerns</b>

Following the model of the alienation procedure of holdings held with non-compliance with the shareholders' quality requirements adopted for banks and promoted under action 4.3, similar amendments were also proposed for the insurance sector. Thus, NCFM developed and proposed for approval the draft Law Amending and Supplementing the Article 29 of the Law No 407 of 21.12.2006 on Insurance<sup>88</sup>, referring to qualified participations (significant shareholders or persons exercising significant influence over the management of the insurer/ reinsurer). The amendments are meant to supplement the procedure for the cancellation, issue and sale of shares held without complying with quality requirements of the shareholders in the capital of the insurer/ reinsurer, with the criteria for setting the price of shares put up for sale, terms of selling and conditions for their extension, as well as the compensation procedure of the former shareholders.

In addition, the Law on Insurance is supplemented with provisions similar to the ones contained in the Law on Financial Institutions, according to which the persons subjected to restrictive measures can no longer hold, directly or indirectly, new shares of the (re)insurer, as well as of other investment (re)insurers. The draft law was adopted in the final reading by the Parliament on 23 November 2017, and is expected to enter into force since its publication.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.6. Parliament to adopt the new Accounting Law, transposing the 2017-2022 EU Directives</b>	<b>December</b>	<b>Achieved without concerns</b>

In order to bring the national legislative framework into line with the European practices in financial reporting and accounting, the Ministry of Finance drafted and promoted a new accounting law. This ensures the transposition of the Directive 2013/34/EU<sup>89</sup> and the Regulation No 1606/2002<sup>90</sup> and, at the same time, the achievements of some commitments under the EU Association Agreement. This new law aims at setting up a legal framework, general requirements

<sup>88</sup> Law No 407 of 21.12.2006 on Insurance

<sup>89</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on annual financial statements, consolidated financial statements and related reports of certain types of undertakings

<sup>90</sup> Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards

and a mechanism aiming at regulating accounting and financial reporting in the Republic of Moldova in compliance with the EU rules and practice. In addition, its provisions apply to several types of entities other than budget ones, which are classified into four groups (micro, small, medium and large) under several criteria such as sales revenue, total assets and number of employees. Also, taking into account the need to establish the national currency equivalent of the thresholds provided for in the European Directive and the possibility of adjusting them by +/- 5%, the set criteria were diminished taking into account the size of the local business entities as compared to the Community ones.

Another important point of the new accounting law is that it clarifies the public interest entities and defines their separate financial reporting requirements. This will include entities whose securities are allowed for trading on a regulated market, financial institutions, insurance companies, non-state pension funds, or companies in which the State owns more than 50% of the share capital. The draft law was adopted in the final reading by the Parliament on 15 December 2017, and is expected to enter into force after one year, on 1 January 2019<sup>91</sup>.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.7. Parliament to adopt the new Law on Audit of Financial Statements, transposing the EU Directives</b>	<b>December</b>	<b>Achieved without concerns</b>

Once the Association Agreement with the European Union was signed, the Republic of Moldova undertook to transpose the community acquis in the field of corporate financial reporting into the national legislation. To achieve this commitment, the Ministry of Finance developed and promoted the draft of a new law on audit of financial statements. This particularly transposes the Directive 2006/43/EC<sup>92</sup> on statutory audits of annual and consolidated accounts and is also meant to supplement the reform of the general financial reporting framework with the adoption of the new accounting law (Action 4.8 of the Roadmap).

The main provisions of the new law aim at ensuring professional competence and extending the professional requirements of audit practitioners, a new registration procedure for auditors and audit entities, new transparency requirements for the reporting procedure, and strengthening audit quality by identifying effective investigation systems and sanctions. At the same time, the establishment an *audit committee* made up of at least three members subject to special requirements regarding independence from the audited company becomes mandatory for the public interest entities. Under these circumstances, the audit committee becomes accountable for informing the public interest entity board about the results of the audit, the monitoring of the financial reporting process and the effectiveness of the internal control system, the risk management and the independence of the audit entity. In addition, the audit committee recommends that the next entity carry out the audit and monitor the selection procedure. The draft law was adopted in the final reading by the Parliament on 15 December 2017, and is expected to enter into force after one year, on 1 January 2019<sup>93</sup>.

<sup>91</sup>Law on Accounting and Financial Reporting No 287 of 15 December 2017

<sup>92</sup> Directive 2006/43/EC of the European Parliament and Council of 17 May 2006 on Statutory Audits of Annual and Consolidated Accounts

<sup>93</sup>Law No 271 of 15 December 2017 on Financial Statement Audit

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.8. The Government and the Parliament to create an inter-institutional platform (consisting of including NBM, GPO, NCFM, etc.) to monitor and control the status of bank fraud investigation and recover fraudulent assets, both at international (Kroll) and national level.</b>	<b>September</b>	<b>Achieved with concerns</b>

The banking crisis of 2014-2015, which was based on the embezzlement of massive funds through several commercial banks, has had serious consequences on the banking environment and increased weaknesses in the overall financial intermediation mechanism. Despite some investigations initiated both internally and externally, investigations into the theft of the billions and the recovery of misused money do not yield tangible results to date. Thus, although several resounding files are already drawn up (e.g. Filat, Platon, Sor files) the misused funds are recovered only through liquidation of the three banks (B.C. Banca de Economii, B.C. Banca Sociala and B.C. Unibank) and sale of assets held by these banks. In addition, in order to identify mechanisms generating the embezzlement and develop the working partnerships with international authorities, the contract with Kroll investigation company, whose actions are directed externally to identify assets bought with fraudulent means and their subsequent and recover them through legal processes, was extended.

In order to fasten the investigation process, the decision to launch an inter-institutional platform to monitor and control the status of bank fraud investigation and to recover fraudulent assets was taken internally. Thus, the platform composition was approved during the meeting of the Standing Committee on Monitoring Cases of Increased Social Interest of 18 September 2017. It is supposed to include the Parliament, Government, NBM, General Prosecutor's Office, NAC, NCFM and other institutions that will cooperate for an efficient management of bank fraud consequences. Although a solution was found to officialise this platform (by having the involved institutions sign a protocol), no public information on meetings, decisions or results of this platform exists, and this process is lagging behind without any clear results. This process is constantly being delayed and pointed towards the results of the Kroll 2 Report.

NBM published on 21 December 2017 the detailed summary of the second investigation report of Kroll and Steptoe & Johnson companies. The document comes with a number of additions to Kroll 1 Report and an analysis of exposures of defrauded banks during 2012-2014, the relation between Sor group and shareholders of these banks, mechanisms of money laundering and the destination of fraudulent funds. In addition, besides Ilan Sor, this summary does not reveal any other names, the information detailed, including operative data on the follow-up of defrauded funds, as well as the list of presumed beneficiaries are to be submitted in the full Kroll 2 report.

#### **Recommendations:**

Following immediate actions taken to stabilize the banking sector in 2015/2016, the reform of the national financial system continues with the implementation of the commitments assumed with the signature of EU Association Agreement and those negotiated in IMF Memorandum. However, despite measures taken to ensure the legal framework required to attract strategic foreign investors in banks and insurance companies under the special supervision or administration regime, they are still awaited. Nonetheless, the sale mechanism of shares belonging to the largest banks also provides for state participation in the procurement process, which causes uncertainties and needs an increased attention to be paid. In addition, three years passed since decapitalization of the banking sector, yet the investigation aimed at identifying the defrauded funds and persons involved shows no clear results. Thus, in order to continue reforming the

financial sector in the same pace, we encourage the institutions involved in this process to correlate their actions and strengthen efforts to achieve their goals in time. Recommendations to achieve the objective:

- Achieve the overdue actions (Action 4.2) provided for in the roadmap for aligning all legislative and normative acts with the new Law on Banking Activity;
- Make the sale of shares of the largest banks in the sector transparent in the event of the use of public money and the acquisition of shares by the State at an intermediate stage;
- Make the conduct of criminal prosecution of banking frauds transparent, within the legal boundaries. Being informed, the general audience will show increased confidence in the accuracy of measures;
- Provide (political) support for the implementation of legislative acts adopted in the financial-banking sector, which would ensure a fully achieved goal – a stable financial system supporting efficiently the activity of business entities and individual consumers.

## 5. Improving Investment and Business Climate

### Summary of overall progress

*Of the 10 monitored actions, 4 were achieved without concerns, 2 were achieved with concerns, 3 were initiated but not finalized and 1 was not initiated.*

A range of actions aiming at facilitating the activity of business entities were taken during the reference period. Thus, among the main achievements are the introduction of amendments to the Labour Code, the reduction of permits, and the approval of the new Law on Energy. Also, measures have been taken to simplify the reporting procedure of business entities, although it is also necessary to align the regulatory framework with the new legal provisions. In addition, the Law on State-Owned and Municipal Enterprises was also approved, although the new transparency provisions are not sufficient. On the other side, actions involving sustained efforts, such as the implementation of the institutional reform in the field of State control, were not completed within the set deadline. However, other actions are only at an inception stage. The development of amendments to the Law on Public Procurement and the Law on Public-Private Partnership at institutional level was initiated. A draft law on energy efficiency was prepared. While positively revolutionizing energy efficiency measures, it raises some deficiencies about securing the interests of end-users, identifying financial resources for residential sector renovation, or the risks arising from non-implementation of related legislation. The draft law is available on Particip.gov.md web page, but still unpublished on the Parliament's web page, in the category of documents under examination. A range of measures were adopted to launch the construction of Ungheni-Chisinau pipeline, while the selection of the company that is going to build the infrastructure is planned for November-December 2017

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.1. Parliament to adopt amendments and addenda to the Labor Code in order to adjust it to the modern requirements of the market economy and improve the business environment and investment climate</b>	<b>July</b>	<b>Achieved without concerns</b>

The draft law amending and supplementing the Labor Code of the Republic of Moldova (No 154 – XV of 28.03.2003) was voted by the Parliament on 24.07.2014.<sup>94</sup> The amendments to the Labour Code aim at improving the investment climate by liberalizing contractual relationships between the employer and the employee. The main amendments include the reduction of the additional unpaid child care leave from 6 to 4 years, the right of the employer to dismiss an employee even after the first serious breach of work duties, as well as to dismiss persons who have reached the retirement age, but with the possibility of reemployment for a defined period of time.

Necessity of amendments to the Labour Code results directly from recent developments on the labour market of the Republic of Moldova. Thus, the possibility for women to benefit from additional unpaid child care leave for a six-year period has led to a significant drop off in the

<sup>94</sup><http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3824/language/ro-RO/Default.aspx>

employment rate of young women in recent years.<sup>95</sup> Thus, this initiative aims to encourage a more active participation of women in the labour market.

The possibility of terminating contractual relations between the employer and the person who reached the retirement age will provide more employment opportunities for young people. At the same time, this option will stimulate the persons reaching the retirement age to invest additionally in their own capital so as to be more attractive for the employer.

The draft was approved on 24.07.2017, but the President refused to promulgate it. The President sent back the draft law to Parliament with some amendment proposals. After the review by the Parliament, the draft law was repeatedly voted on 19.09.2017 in its first wording.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.2. Parliament to adopt the Law Amending and Supplementing Certain Legislative Acts (in order to approve the new classification of permits and reduce the number of licenses and permits)</b>	<b>October</b>	<b>Achieved without concerns</b>

The Draft Law Amending and Supplementing Certain Legislative Acts Regulating the Authorisation of Entrepreneurial Activity was announced for public consultations on 2 February 2017<sup>96</sup>, and then adopted in final reading at the plenary session of 21 September 2017<sup>97</sup>.

These amendments aim to diminish the existent burden on businesses, as well as to streamline the costs and efforts of the regulatory process through permissive acts, including licenses. This document provides for the removal of about 140 permissive acts (including 18 licenses) from the entire legislative system. About 90 of the removed permissive acts will have a direct impact on the business environment (it is estimated that the private sector will annually save up to MDL 43.6 million, and the public sector's annual savings will amount to MDL 18.4 million). Note that the revision of the legal framework is carried out in order to implement the one-stop-shop mechanism at national level, which is a precondition for the inclusion of permits and licenses in the one-stop-shop electronic platform.

At the same time, in tandem with the regulations aimed at streamlining this sector, it is crucial to review and optimise the existing institutional processes as, in some cases, some authorities have the tendency to introduce new permits, not being ready to apply modern mechanisms of surveillance, collection and exchange of information.<sup>98</sup> This phenomenon can be combated and the general goal can be achieved via a systematized and standardized approach of the regulation based on permits, excluding the discretionary approaches/principles of each separate institution that might apply different criteria for identifying the situations when permits are necessary.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
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<sup>95</sup> <http://expert-grup.org/ro/biblioteca/item/1177-reforma-concediu-copil>

<sup>96</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=3878>

<sup>97</sup> <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3795/language/ro-RO/Default.aspx>

<sup>98</sup> An ongoing multiplication trend of permissive acts by public authorities is found. For example, 416 permissive acts and licenses were identified in the 2015 survey. Compared to 2011, the first version of the Classification contained 273 permissive acts and about 50 licenses. Thus, the number of permissive acts and licenses increased by around 100 acts in only 4 years.

<b>5.3. Parliament to adopt the draft Law Amending and Supplementing Certain Legislative Acts (simplifying the reporting procedure for business operators – single report)</b>	<b>July</b>	<b>Achieved without concerns</b>
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The Draft Law Amending and Supplementing Certain Legislative Acts (implementing the single report FSIC16 on payroll) was proposed for public consultations<sup>99</sup> on 13.05.2016 and was approved in final reading on 30 June 2017 (Law No 123 of 07.07.2017 Amending and Supplementing Certain Legislative Acts). The document aims to simplify the reporting process related to the payroll and related fees, and some aspects of labor relations, emerging the 5 reports submitted by NHIC, NSIH and State Tax Service in a single report that will be managed by the State Tax Service.

In order to implement the new provisions, the Ministry of Finances passed Order No 126 of 04.10.2017 approving the standardised form (Form IPC18) Report on Withheld Income Tax, Compulsory Health Insurance Premium and Social Insurance Contributions and the Instruction on how to fill in this form. At the same time, once the new reporting forms are introduced the whole regulatory framework needs to be adjusted to these new legal provisions (including Government Decision No 697 of 22.08.2014), in order to eliminate the overlapping provisions.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.4. Parliament to adopt the package of laws implementing the institutional reform in the field of state control exercised over entrepreneurial activity</b>	<b>July</b>	<b>Initiated, but not finalized</b>

The amendments introduced by the Law No 230 of 23 September 2016 to the Law No 131 of 08 June 2012 on State Control Over Entrepreneurial Activity, led to the exclusion of the double controls on the basis of the same risk criteria and to the reduction of the number of control bodies of the entrepreneurial activity from 58 to 18. To make this happen, it is necessary to harmonize the legislation in force with the new legal provisions. Thus, to achieve this objective, several draft laws amending and supplementing some legislative acts were developed and proposed for public consultation, which are meant to align the legislative acts regulating the activity of control of several entities.

The alignment of the legal framework was thus approved for the following entities: The Inspectorate of Technical Supervision and Inspectorate for Environmental Protection, National Food Safety Agency, Agency for Consumer Protection and Market Surveillance, National Public Health Agency and the State Labour Inspectorate<sup>100</sup>. On the other side, the draft law targeting the following entities was not approved yet: The Customs Service, the State Tax Service, the Naval Agency, the Civil Aviation Authority and the National Agency of Auto Transport<sup>101</sup>.

The regulatory framework for the creation, reorganisation or optimization of these entities<sup>102</sup> was

<sup>99</sup><http://particip.gov.md/proiectview.php?l=ro&idd=3166>

<sup>100</sup>Law No 185 of 1 November 2013 Amending and Supplementing Certain Legal Acts and Law No 175 of 21.07.2017 Amending and Supplementing Certain Legislative Acts

<sup>101</sup><http://particip.gov.md/proiectview.php?l=ro&idd=4136>

<sup>102</sup>GD No 705 of 06.09.2017 on Establishment of the National Agency for Public Health and Reorganisation of Certain Legal Entities, GD No 886 of 01.11.2017 on Establishment of the Agency for Technical Supervision, GD No 887 of 01.11.2017 on Establishment of the Inspectorate for Environmental Protection, GD No 888 of 01.11.2017 on Reorganisation of Certain Legal Entities (targets the National Agency for Food Safety and Agency, Agency for Consumer Protection and Market Surveillance), GD No 889 of 01.11.2017 on Optimisation of the structure and effectiveness of authorities with control and supervision functions (targets the State Labour Inspectorate, National Agency of Auto Transport, Civil Aviation Authority, Naval Agency, National Agency for Quality Assurance in

adopted, and for some of them the framework for organisation and functioning was also adopted<sup>103</sup>. However, sustained efforts need to be made in order to develop a set of regulatory acts (the new Regulations for the other entities) or other regulatory acts that regulate their activity. It is thus important now that the provisions included in the new documents not to contravene or distort the objectives introduced by the amendments to the legal framework.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.5. Parliament to adopt the Law on State-Owned Enterprise and Municipal Enterprise</b>	<b>November</b>	<b>Achieved with concerns</b>

The draft Law on State-Owned Enterprises and Municipal Enterprises, in the revised version, was approved in the second reading during the plenary session of 23 November 2017<sup>104</sup> (the previous version being rejected during the plenary session of 3 November 2016). The document was placed on the website of the Ministry of Economy on 28 December 2016, although the announcement of the initiation of the project is not there.

The revised version now contains rules that do not allow selling the property assigned to the public area and the goods with a social purpose, but also sets the 24-month deadline for the reorganisation of SOE and ME into joint-stock companies or public institutions. In addition, while being promoted the document was supplemented with provisions on the conduct of audit, manager selection criteria and the conditions when the latter may be sanctions for an inefficient management of the entity.

Though the document aims at modernising the relevant legal framework, the transparency provisions in the document are insufficient, and it is pertinent to include references to supplement the regulatory framework that would encourage the efforts of business operators to report externally the registered performances (external communication guidelines, reporting forms, web platform for information centralisation, etc.), in line with the best corporate governance practices. Moreover, the elements of transparency are also uncertain with regards to the procurement of goods, works and services by the respective entities. Though new references have to be introduced in the standardised Regulation (to be approved by the Government), they are insufficient taking into account the existing gaps in this area, that require a more ample Government intervention.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.6. Government to amend the Decision No 875/2014 to approve the Regulation on the Financial Monitoring of State-Owned/Municipal Enterprises and Companies with a Wholly Owned or Majority Public Shareholding.</b>	<b>December</b>	<b>Initiated, but not finalized</b>

Professional Education, National Food Safety Agency, Agency for Technical Supervision, Agency for Consumer Protection and Market Surveillance, Inspectorate for Environmental Protection, National Agency for Public Health).

<sup>103</sup>GD No 1088 of 18.12.2017 on Organization and Operation of Agency for Technical Supervision, GD No 1089 of 18.12.2017 on Organisation and Operation of Agency for Consumer Protection and Surveillance Market, GD No 1090 din 18.12.2017 on Organization and Operation of National Agency for Public Health.

<sup>104</sup><http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3840/language/ro-RO/Default.aspx>

A draft Government Decision Amending and Supplementing the Government Decision No 875 of 21 October 2014 was developed. This documents was placed on the Ministry of Finance website for public consultations on 19 July 2017<sup>105</sup>.

The draft was developed to adjust the content of the Regulation on the Financial Monitoring of State-Owned/Municipal Enterprises and Companies with Whole or Partial State Participation to the recommendations of the Court of Accounts (CoA), provided for in the Decision No 3 of 25 February 2016. However, CoA recommendations were only partially taken into account as a result of the Government's initiation of the public administration reform, according to which the administration and privatization of the entire public property of the state is within the competence of the Public Property Agency subordinated to the Government, which also acts as founder of state-owned entities. Therefore, the Court of Accounts' recommendations aimed at improving the financial monitoring of the state-owned entities were deemed inappropriate in the context of moving to a centralized management model. The authorities will return to them after taking the final decision on the method of state-owned entities management.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.7. Parliament to adopt the Law on Energy, according to recommendations of the Energy Community Secretariat</b>	<b>November</b>	<b>Achieved without concerns</b>

This action was performed without any reserves and before the deadline stated in the Roadmap (November). However, the Energy Community Secretariat did not launch any public objection regarding the adopted law up to the end of 2017. The draft Law on Energy, developed during 2016, with the support of the Energy Community Secretariat, was voted in final reading in September 2017. On 20 September 2017, the President of the country refused to promulgate the law. The reasons invoked are that the National Agency for Energy Regulation will obtain financial autonomy and that the salaries of heads of state institutions should be capped up to the maximum of MDL 60 thousand. The document was returned to the Parliament for re-examination and repeated voting, and the President of the country could not abrogate it again. The new Law on Energy is part of the country's commitments to external partners, in particular the Energy Community, and plays a key role in strengthening the political and financial independence of the regulator. Eventually, after voting repeatedly for the Law on 21 September 2017, the President promulgated it on 10 October 2017.

The new law repeals Law No 1525 of 1998 on Energy. The law broadly meets the recommendations formulated by the external partners and the civil society, aimed at strengthening the political, functional and financial independence of the regulator - ANRE. However, the functional independence is partially decreased by the fact that ANRE's activity Regulation should be approved by the Parliament. It specifies ANRE's duties to supervise the energy market, promote competition and fight monopoly by implementing the competition legislation. The new law introduces a more inclusive practice of evaluating candidates for the position of director of ANRE. Thus, the law provides expressly for the possibility for the EU representatives, Energy Community as well as experts in the energy field to participate as observers.

However, it does not envisage a transparent evaluation mechanism (interview stage), which is crucial for an objective selection of candidates. In addition, the criteria for revoking directors from

<sup>105</sup> <http://mf.gov.md/ro/content/modificarea-%C8%99i-completarea-hg-nr-875-din-21-octombrie-2014>

their positions on the basis of the findings of the National Integrity Agency (NIA) and the incompatibility, status leave room for abusive interpretations, in particular if NIA's activity is affected by political interference. Note that the Law empowers ANRE to approve its own budget, replacing the previous practice of having the budget approved by the Parliament. The budgetary autonomy is balanced with the obligation to publish the annual financial statements, audited by foreign audit firms, and the obligation to have the financial statements audited by the Court of Accounts, submitting its audit reports in the Parliament. The innovatory nature of the law consists in the fact that it invokes ANRE's obligation to contribute to the implementation of the Republic of Moldova's international commitments, in particular the ones deriving from the Energy Community Treaty. The new law will be implemented properly only if the primary and secondary legal framework is adjusted and implemented correctly by the Government and ANRE during the following 12 months, and if ANRE is professional, transparent and really independent from any political influence.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<b>5.8. Government to develop and submit to the Parliament the draft Law on Energy Efficiency</b>	<b>December</b>	<b>Achieved with concerns</b>

Although the Government developed and consulted the draft law, this was not yet included in the list of legislative acts under examination in the Parliament by the end of December 2017.<sup>106</sup> The draft law was developed under the technical assistance project 'Capacity Building to the Ministry of Economy in the Area of Energy Efficiency and Renewable Energy', financed by the Swedish International Development Cooperation Agency (SIDA) and proposed for public consultations on 19 May 2017. The new draft law substitutes the existent legal framework in the field of energy efficiency (Law No 142 of 02.07.2010). This allows for the transposition of the provisions of Directive 2012/27/EU, which aims at improving energy supply, sustainable development of energy production, boosting the energy services market and mitigating adverse effects on the environment. At first sight, once adopted, the new law will create a stimulating environment for energy efficiency measures, will provide for additional operational and financial tools and renew the obligations of energy market operators. The proposed legislation covers a number of new provisions, such as: i) restructuring of the previous institutional framework – establishment of the National Institute for Sustainable Energy (merging of the Agency for Energy Efficiency and the Energy Efficiency Fund); ii) introduction of mandatory obligations in the field of energy efficiency ('contributions' from the operators); iii) mandatory energy efficiency criteria for public procurements (costs-quality-energy efficiency); iv) improvement of energy audits and mandatory conduct of the energy audit, once in four years, for large enterprises, including the energy efficiency projects, carried out for public money; v) adjusting of reporting principles and relevant statistics (heating, cooling, co-generation), application of energy performance contracts, etc. Furthermore, it is proposed to mobilize the financial resources for the renovation of buildings from the public and private sector (the 'national real estate fleet'), based on long-term sectoral strategy. Another positive aspect of the draft law is the commitment to finance energy efficiency measures with a social impact that benefit socially vulnerable groups and reduce energy poverty.

Although the new legal framework seeks to improve energy-saving tools, some of its provisions need to be adjusted to ensure a balance between the interests of the market operators and the

<sup>106</sup> The last check of the Parliament's web page was on 8 November 2017.

final consumers. As a result, it is necessary to rethink the 'scheme of obligations', under which, the operators will be able to include the cost of 'contributions' in the tariff paid by final consumers for the distribution of electricity and gas, but in marketing of fuels. Although the preliminary Regulatory Impact Analysis of the Ministry of Economy and Infrastructure outlines the fact that the consumers will be 'insignificantly' and 'at the first stage' affected, the draft law guarantees the operators the payment of 'contributions', unlimited in time, from the account of increasing the tariffs. Similarly, there is a lack of clarity in what regards the identification of financial resources for the renovation of the residential sector, which, unlike public buildings, cannot benefit from public funds. Other major impediments to the application of the new law include the inappropriate implementation of related laws, such as Law No 128 of 11 July 2014 on the Energy Performance of Buildings, against which the Energy Community objected for not transposing or misapplying the European legislation (Directive 2010/31/EC).<sup>107</sup>

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.9. Government to develop and submit to the Parliament the draft Law Amending the Public Procurement Law, the Law on Public-Private Partnerships and the Law on Public Utility Companies (Utility Law)</b>	<b>December</b>	<b>Initiated but not finalized</b>

The process of drafting amendments to the Law on Public Procurements and to the Law on Public-Private Partnerships, as well as the approval of the Law on Public Utility Companies has been initiated, but was not proposed for public consultations.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.10. Government to ensure the organisation of auction for selecting a general entrepreneur needed for the construction of the gas pipeline on Ungheni-Chisinau route</b>	<b>December</b>	<b>Not initiated</b>

By the end of December 2017, the authorities did not organize the tender for selecting the company to build the Ungheni - Chisinau pipeline.

However, the Parliament voted on 4 May 2017 the draft Law on Declaring the Construction Works of the Gas Pipeline on the Ungheni - Chisinau Route Public Utility of National Interest (phase II of the 'Interconnection gas pipeline' Project). In addition, the authorities received the technical design of Ungheni-Chisinau gas pipeline, which includes the crossing points of the national roads, including the Chisinau city bypass. The financing contracts with EIB and EBRD, amounting to EUR 92 million, were supposed to be ratified in October 2017, but it was postponed. The Romanian side is at a more advanced stage in infrastructure construction on its territory. Thus, in September 2017, the necessary permits for the construction of gas pipelines on the Onesti-Gherasti and Gherasti-Letcani routes were issued, which should deliver gas to the Iasi-Ungheni gas pipeline.

Instead of the competition to select the construction company for the Ungheni-Chisinau pipeline, the authorities focused on the competition for privatisation of Vestmoldtransgaz SOE along with

<sup>107</sup> Energy Community, Secretariat urges Moldova to properly transpose the Energy Performance in Buildings Directive, 27 October 2017, <https://www.energy-community.org/news/Energy-Community-News/2017/010/30.html>

other 16 state-owned joint stock companies launched by the Public Property Agency. Vestmoldtransgaz was founded in 2014 with the purpose to manage the Iasi-Ungheni Gas Transmission System and its value is MDL 180 million (about EUR 9 million). The privatisation terms would request the investment of EUR 93 million in the company's activity over the next two years. The Ministry of Economy and Infrastructure issued a urbanism certificate to Vestmoldtransgaz SOE prior to the competition of privatisation, allowing it to make the design for the Ungheni-Chisinau pipeline. The privatisation took place during the same period of time when Eurotransgaz SRL was established in Moldova on 18 December 2017. This is the representative office of the Romanian company Transgaz, which is in charge of building the Onesti-Gherasti and Gherasti-Letcani pipelines on the Romanian side of Iasi-Ungheni gas pipe. The bid submitted by Eurotransgaz SRL on the last day of the competition of privatisation, on 28 December 2017, confirmed the previous suspicions that Transgaz would have control over Vestmoldtransgaz, but would also build the Ungheni-Chisinau pipeline.

The Romanian investments in the country's gas sector can create new opportunities for the progress of infrastructure and interconnection projects. However, the central authorities should ensure maximum transparency and fair competition regardless of the privatization strategies selected for objects of strategic importance in the gas market. Although the true intentions of the authorities can be inferred, there is no official position and a coherent vision on the selected option to build the Ungheni-Chisinau pipeline: 1) strict using the resources obtained from Vestmoldtransgaz privatisation; 2) immediate harnessing of EBRD and EIB loan; or 3) a mixed option, which would allow keeping EUR 10 million of the grant that EU is willing to give in case the EBRD and EIB loan was used. The lack of a clear approach in this regard adversely affects the proposed timetable for starting and finishing the construction of the gas pipeline, on which the security of gas supplies after 2019 depends, when the contract with the Russian gas company GAZPROM, extended in December 2016, is to lapse.

### **Recommendations:**

- Recent amendments to the Labor Code are only a first step in reviewing and liberalizing this document. The next step that has been already initiated is the drafting and adoption of a new Code. However, the drafting has been launched without a clear understanding of the extent of labor relationship liberalization; although a participatory process is envisaged, the authors have not set a defined goal. In this context it is advisable for the drafting to be guided by the international comparative analysis of labor legislation.
- Ensure effective implementation of One-Stop Shop mechanism for permits in the context of approval of the new amendments to the legal framework aimed at reducing their number to facilitate entrepreneurship. At the same time, a systematized and standardized approach to the entire regulation based on permits is needed, excluding the discretionary approaches/principles of each separate institution that might apply different criteria for identifying the situations when permits are needed.
- Accelerate the approval of submitted draft laws regulating the state control over the entrepreneurship, while operating the necessary amendments to the regulatory framework in order to align to the provisions and ensure the convergence on the objectives set by the approval of the amendments to the legal framework.
- In the context of promoting the new law on the state-owned enterprise and municipal enterprise it is deemed appropriate to amend the regulatory framework in order to strengthen the provisions on transparency and corporate governance in line with international best practices.
- Draft a regulatory act with comprehensive provisions related to the financial monitoring of state-owned/municipal enterprises and companies with whole or partial state participation to

reflect both the CoA recommendations (possibly, the provisions of the new law on state-owned enterprise and municipal enterprise), as well as the amendments to the management of state-owned entities as a result of public administration reform.

- Although the draft law on energy efficiency was not registered with the Parliament by the end of 2017, the latter must ensure decisional transparency when adopting the new Law on Energy Efficiency, through public consultations and broader involvement of the civil society. This will improve the draft law and address the deficiencies with regard to the protection of final consumers' interests, identification of financial resources for renovation of the residential sector and due implementation of related legislation.
- Urgent launch of a competition to select the company responsible for the construction of Ungheni-Chisinau pipeline, by ensuring maximum transparency, inclusively with the involvement of EU and Energy Community observers and comprehensive implementation of public procurement legislation.

## 6. Agriculture and Food Safety

### Summary of overall progress

*Out of the two monitored actions, one was achieved without concerns, while the other one was initiated but not finalized.*

The actions included in this chapter envisage the adoption of two regulatory acts aimed at improving the quality infrastructure of the Republic of Moldova. These acts are beneficial for consumers' safety. However, due to the fact that these actions are long-term oriented, it is difficult to quantify the immediate effects of the regulatory acts. In addition, a significant delay was registered in the implementation of the actions. Both documents had to be drafted in the third quarter of 2017. In fact, a regulatory act ('Draft Law on Animal By-products and Derived Products not Intended for Human Consumption') is still at the public consultation stage, while another document ('Food Safety Strategy') was approved during the last Government session of 2017 - on 20 December. Some of the causes behind this delay are the following: the lack of intra and inter-institutional communication and setting time-frames in the Roadmap that do not correspond to the real period of implementation of the actions, as well as the pause caused by change of the Government structure.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>6.1. Government shall develop and submit the Law on Animal Waste to the Parliament</b>	<b>September</b>	<b>Initiated but not finalized</b>

The Law is aimed at ensuring compliance with the sanitary-veterinary requirements for the collection, transport, storage, processing, use, marketing and disposal of animal by-products not intended for human consumption. Another purpose of the document is to reduce/eliminate any risks that animal by-products not for human consumption may pose to human or animal health. The existing regulatory framework: Law No 221-XVI of 19 October 2007 on Sanitary-Veterinary Activity, Law No 50 of 28 March 2013 on Official Controls to ensure the Verification of Compliance with Feed and Food Law, Animal Health and Animal Welfare Rules and Law No 113 of 18 May 2012 establishing the Principles and General Requirements of the Food Safety Law will be supplemented by the draft law. In addition, the draft law is developed in the context of harmonization of national sanitary-veterinary rules to EU standards. This law will create the necessary framework for the application of Regulation No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Regulation on Animal by-products). In addition, it should be noted that the draft law envisages some structures, which currently are not operational, such as the units that process or dispose the animal by-products not intended for human consumption.

Although the document was supposed to be approved by the Government in 2017, the 'draft Law on Animal By-products not Intended for Human Consumption' was placed for public consultations only on 6 September 2017. The document was partially adjusted and the renewed version of the document entitled 'draft Law on Animal By-products and Derived Products not Intended for

Human Consumption' was placed for public consultations twice: during 13-24 November 2017 and 5-19 December 2017. Nonetheless, the Government failed to approve the draft law in 2017, this most likely will be done in 2018.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>6.2. Government shall approve the Food Safety Strategy</b>	<b>July</b>	<b>Achieved without concerns</b>

The main objective of the new Food Safety Strategy is to achieve a high level of protection of human health and consumers' interests by guaranteeing food safety, as well as to ensure an increased access to domestic food products on various foreign markets. The strategy is based on an integrated approach that includes all sectors and stages of the food chain: feed production, plant and animal health, animal welfare, primary production, food processing, storage, transport and marketing. The document is aligned to the National Agriculture and Rural Development Strategy for 2014-2020 and to the National Public Health Strategy for 2014-2020. The Strategy is also developed in the context of harmonizing the national regulatory framework with the *acquis communautaire*. The innovative actions of the Strategy include the implementation of the 'e-ANSA' integrated information system that would ensure the operative exchange of data and would streamline the electronic flow of documents, and the establishment of a unique Healthcare Platform that would strengthen the cooperation of the institutions involved in ensuring the food quality and safety.

According to the Roadmap, the document had to be approved in July 2017. The document was placed for public consultations several times: during 8 June-8 September 2017, 13-29 September 2017 and 6-31 October 2017, and the Food Safety Strategy for 2018-2022 was approved only during the last Government session of 2017 - on 20 December. Besides, at the initial stage, the Strategy was foreseen for 2017-2022, but the delay the implementation of the Strategy will start in 2018.

#### **Recommendations:**

- To avoid setting unrealistic time-frames for implementation of the actions in future, it is necessary to ensure an efficient intra- and inter-institutional communication. In the current Roadmap short time limits were set, which caused the delay in the implementation of the actions;
- It is necessary to strengthen the specialized institutions responsible for the food safety sector, so that they can provide quality public services. The main issue in implementing the regulatory acts is the low quality and limited capacities of public institutions, and, in this context, the dissemination of the positive effects associated with the enforcement of policy papers is diminished.

## 7. Education, Culture, Science

### Summary of overall progress

*Out of the 4 monitored actions, 2 were achieved without concerns, 1 was achieved with concerns, and 1 was initiated but not finalized.*

The activities relating to the reforming of the education, culture and innovation were carried out, generally, within the time-frames provided by the Roadmap. The four activities were in line with the international commitments of the Republic of Moldova for the above-cited fields, being correlated with the strategic development documents and previously adopted regulatory acts. Among the obvious shortcomings was the failure to take into account the opinion of the academia on the reform of the Academy of Sciences of Moldova and its role in the research and innovation. In this context, the experts from the Academy of Sciences expressed conclusive opinions that by the transfer of the academic institutions to the central specialized body, the role of the Academy of Sciences will diminish. In particular, the deviation from the building of a knowledge-based society was mentioned, which is a key factor for the modernization of the Republic of Moldova and implementation of the European Union Association Agreement<sup>108</sup>. These deficiencies can also be removed upon the establishment of institutions implementing the reform promoted by the amendments to the Code on Science and Innovation.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>7.1. Parliament shall adopt the Law on Museums</b>	<b>December</b>	<b>Achieved without concerns</b>

The Law on Museums No 262 was adopted in the final reading on 7 December 2017<sup>109</sup>. The draft Law on Museums was developed by the Ministry of Culture back in 2016, approved by the Government on 1 March 2017 and voted in the first reading by the Parliament on 6 October 2017. The new Law on Museums will implement the commitments assumed by the Republic of Moldova in the reference area according to the European Union Association Agreement. It falls within the concept of the Law No 280 on the protection of the cultural heritage, as part of the set of documents stipulated by the 'Culture 2020' Strategy for Cultural Development approved by GD No 271 of 09.04.2014. The Law on Museums elaborates the notions developed by the International Council of Museums (ICOM) and shall address the following problems encountered by the museums: the low capacity of museum institutions to manage and exploit the national heritage; the slow pace of collections development; obsolete management; underdevelopment of the local museum network; inadequate remuneration of staff, which generates its leaving. The Law removes the previously identified shortcomings in the field by regulating: the classification, accreditation and revocation of museum accreditation; the duties of level-one and level-two local public authorities in the field of museums; the management of the museums' own resources; the financial motivation of employees dealing with exhibits from 'Treasure' category; the duties of the

<sup>108</sup> Balmus Victor. The prevalence of law and legal security in amending the Code on Science and Innovation and the Education Code. In: Akademos, 2017, nr. 3, p. 23-30, [https://ibn.idsi.md/sites/default/files/j\\_nr\\_file/Akademos\\_3\\_2017.pdf](https://ibn.idsi.md/sites/default/files/j_nr_file/Akademos_3_2017.pdf)

<sup>109</sup> <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3693/language/en-US/Default.aspx>

National Commission of Museums and Collections; the reorganisation or liquidation of museums. The Law provides for the setting up of a Methodical Centre in the field of museography to develop and apply effective methods for the management and operation of the country's museums. The Methodical Centre will operate on the basis of a Regulation drafted and approved by the Ministry of Education, Culture and Research, and it also needs a budget for carrying out the given activity. In order to duly prepare the staff for the operation of the country's museums, the specialized Ministry shall complete the education curricula. The Law will enter into force after 3 months from the publication.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>7.2. Parliament shall adopt the Law amending the Code on Science and Innovation</b>	<b>October</b>	<b>Achieved with concerns</b>

The reforming of the research and innovation field was carried out by revoting the Law No 190 of 21 September 2017 amending and supplementing some legislative acts by the Parliament on 21 September 2017. The cited Law entered amendments and addenda into the Code on Science and Innovation (Law No 259-XV of 15.07.2004) and the Education Code of the Republic of Moldova (Law No 152 of 17.07.2014), and shall enter into force on 20 February 2018. The law provides for the transfer of all scientific institutions from the Academy of Sciences of Moldova (ASM) into the subordination of the Ministry of Education, Culture and Research. The transfer is aimed at providing a more efficient way to manage and finance the research and innovation and ensuring opportunities for the substantial increase of allocations to finance research projects. After the reforming, ASM will be in charge of science only, not having to deal any more with the administrative and property management. The most important provisions of the reform focus on: transfer of policy development for research and innovation from ASM to the central specialised Government body - the Ministry of Education, Culture and Research; establishment of the National Agency for Research and Development, in charge of policy implementation; establishment of the National Agency for Assuring Quality in Education and Research; transfer of the status of founder of all public organisations, active in research and innovation, to the specialised central Government body.

The issue relating to the reform of the research and innovation has been in the attention of the Government for many years, and it returned to it by approving on 10 July 2017 the draft Law amending and supplementing the Code on Science and Innovation within a broader reform of the central public administration. Previously, in 2016, the Government rejected a similar initiative of the MPs (No 59 of 24 February 2016) to reform this area. The recently implemented reform is based on the 'Innovations for Competitiveness' Innovation Strategy of the Republic of Moldova for 2013-2020 approved by GD No 952 of 27 November 2013 and the Research and Development Strategy of the Republic of Moldova until 2020 approved by GD No 920 of 7 November 2014. These documents related also to the reforming of the institutions of branch scientific research (economics, agriculture, medicine, etc.), which shall ensure the cooperation of scientific institutions, including of the Academy of Sciences, with the relevant ministries, as well as the adequate funding of scientific and innovation activities. The institutional restructuring of the research and innovation, innovation and technology transfer provided for the exchange of experience and best practices under the 'Orizont 2020' Thematic Program, with the participation of experts from Austria, Poland, Greece, the Netherlands, Romania and Estonia.

Notwithstanding the foregoing, the amendment of the Code on Science and Innovation was

challenged by notorious academics, who argued that their opinion had been insufficiently consulted<sup>110</sup>. The experts from the Academy of Sciences expressed conclusive opinions that by the transfer of the academic institutions to the central specialized body, the role of the Academy will diminish, in particular as regards the building of a knowledge-based society, a key factor for the modernization of the Republic of Moldova and implementation of the European Union Association Agreement<sup>111</sup>. In addition, they highlighted the provisions of the regulatory acts that the authorities disregarded when amending the Code on Science and Innovation: Law No 317-XV of 18 July 2003 on the Regulatory Acts of the Government and other Central and Local Public Administration Authorities; Law No 780 of 27 December 2001 on Legislative Acts; Law No 239 of 13 November 2008 on Transparency in the Decision-making Process, etc. The draft legislative act, accompanied by the briefing note, was not submitted ‘for endorsement to the interested internal and external authorities and institutions’ and was not subjected to ‘public consultation’ as prescribed by the law; it was not submitted to scientific expertise carried out by ‘specialized scientific and higher education institutions, experts, including from abroad’, etc<sup>112</sup>. In the same train of thoughts, the head of the state raised doubts about the reform in the field and initially refused to promulgate the Law<sup>113</sup> by pointing out to the primary interest of certain political circles in the properties managed by ASM. Thus, it was necessary to revote the Law by the Parliament and promulgate it following the Constitutional Court's finding of the temporary impossibility of the head of state to exercise his powers. Under the above circumstances, the suspicions and misunderstandings relating to the reform of the research and innovation shall be removed with the support of the agencies in charge of implementing the reforms in the area of science and innovation that still need to be established.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>7.3. Government shall approve the Decisions implementing the Amendments to the Code on Science and Innovation and on the Establishment of Agencies in charge of implementing these Amendments</b>	<b>November</b>	<b>Initiated but not finalized</b>

The establishment of agencies in charge of implementing the reforms in the area of science and innovation is aimed at adjusting the institutional framework for the management of this area. The competencies will be concentrated at the Government level, which will approve the policy documents reflecting the priorities in the area. In this regard, the Center for Reforms Implementation initiated the establishment of the National Research and Development Agency (NRDA), which will be in charge of assessing, on a competitive basis, the project proposals submitted by researchers, regardless of the institution they belong to. Access to the funds, managed by NRDA, will be facilitated by eliminating the accreditation of research and innovation organisations and replacing it with the evaluation and confirmation of scientific degrees. These policies will be developed by the scientific community within the supreme forum, represented by the Academy of Sciences of Moldova (ASM), which will have the role of the Government’s strategic consultant in research and innovations. Another institution for reform implementation to be established is the National Agency for Assuring Quality in Education and Research

<sup>110</sup><http://unimedia.info/stiri/doc-reprezentantii-aSm-cerem-stoparea-aplicarii-legii-privind-modificarea-si-completarea-codului-stiintei-si-inovarii-140507.html>

<sup>111</sup> Balmus Victor. The prevalence of law and legal security in amending the Code on Science and Innovation and the Education Code. In: Akademos, 2017, nr. 3, p. 23-30, [https://ibn.idsi.md/sites/default/files/j\\_nr\\_file/Akademos\\_3\\_2017.pdf](https://ibn.idsi.md/sites/default/files/j_nr_file/Akademos_3_2017.pdf)

<sup>112</sup> Ibidem

<sup>113</sup><http://www.presedinte.md/rom/presa/prezident-respubliki-moldova-rasskazal-cto-skrvyayut-otklonennye-im-zakonoproekty-na-prinyatii-kotoryh-nastaivaet-dpm>

(NAAQER), which will perform the duties of the National Agency for Assuring Quality in Vocational Education, of the National School Inspectorate and the National Council for Accreditation and Attestation. The Agency will assess the implementation of the National Curriculum and the management of exams and review tests in the general education. There is a delay in the adoption of the Government decision on the establishment of the agencies in charge of implementing, which had to occur in November 2017, but anyway it will be adopted before the Law No 190 of 21 September 2017 enters into force.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>7.4. Government shall approve the draft Government Decision approving the National Qualifications Framework of the Republic of Moldova (NQF)</b>	<b>December</b>	<b>Achieved without concerns</b>

On 23 November 2017, the Government approved the Decision No 1016 on the National Qualification Framework of the Republic of Moldova (NQFRM)<sup>114</sup>. The draft document was developed back in 2016, aimed at developing a unique national system for the recognition and organisation of qualifications on the labour market, as requested by the commitments assumed by the Republic of Moldova when joining the Bologna process. The main objectives are: ensure the cooperation between the education services market and labour market; upgrade the vocational training system; facilitate the labour force mobility and increase its competitiveness. The Association Agreement urges the Republic of Moldova and the European Union to cooperate for the development of a national qualification framework, in order to improve the transparency and recognition of qualifications and competencies. To this end, the NQFRM envisages to prepare for the alignment to the European Qualification Framework (EQF), self-certification in relation to the Qualification Framework for the European Higher Education Area (QF-EHEA). NQFRM is structured in eight levels, which correspond to the levels envisaged by the European Qualification Framework. Within 3 months of publication of the decision NQFRM, the Ministry of Education, Culture and Research will develop the necessary methodologies for the enforcement of its provisions, and within 6 months of publication the National Register of Qualifications will be developed.

#### **Recommendations:**

- Comply with the deadlines for implementing the research, innovation and education reforms;
- Law No 190 of 21 September 2017 Amending and Supplementing Certain Legislative Acts requires amendments made in agreement with the experts of the Academy of Sciences;
- The establishment of the agencies in charge of implementing the amendments to the Code on Science and Innovation must be accompanied by a transparent drafting of the regulations on the operation of these institutions, considering the objections of academia and head of the state who challenged the adoption of the cited Law.

<sup>114</sup><http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=372759>

## 8. Social Programs

### Summary of overall progress

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*Out of the two monitored actions, both were initiated but not finalized.*

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'Prima Casa' ('First Home') Program is a mechanism by which the state can support young people who want to purchase real estate. This program could have a beneficial impact and would facilitate the purchase of housing for young families. The Law on Meal Vouchers aims at introducing an additional tool to distribute the cash allowances for employees' meals. The implementation of the Law could lead to the emergence of a low-competition economic sector - that of the meal vouchers issuers. During the monitored period the legal framework was developed and thus was laid the foundation for the future implementation of the 'Prima Casa' Program and the meal vouchers system. However, important aspects ensuring the direct implementation of the actions were not carried out. Thus, although there is a regulatory basis, the institutional framework was not set up and the mechanisms for implementation of the actions were not defined. In this context, both actions were qualified as initiated but not finalized.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>8.1. Implementation of 'Prima Casa' Program</b>	<b>December</b>	<b>Initiated but not finalized</b>

'Prima Casa' Program aims to facilitate the access of individuals to the purchase of housing, especially for young families. The government programs in support of the population for purchase of housing are widely applied internationally. All developed countries pay special attention to housing financing programs for families, as they are considered as citizens' fundamental social needs<sup>115</sup>. The experience of Romania can be mentioned in the region: in the neighbouring country the program to support young people to purchase a housing has been implemented since 2009, and the State guarantees the mortgage credit. Besides, it should be noted that the 'Prima Casa' Program was inspired by the model applied in Romania. In the past, some projects that aimed citizens to purchase housing were implemented in the Republic of Moldova . However, the previous projects had limited areas of coverage: they were either applied only in one geographic area (the 'Prima Casa' Program of Chisinau Mayor's Office, which run during 2011-2012), or intended for restricted groups (National Program to support the young graduates employed in the budgetary sector, which was launched in 2008). The current program has a nationwide coverage and will consist in the state intervention in the credit guarantee process. Under the program, the Ministry of Finance will authorize the Organization for Small and Medium-Sized Enterprises Sector Development (ODIMM) to issue guarantees in the name and on behalf of the State in favour of banks that grant loans to individuals for the purchase of a housing. Besides, the draft GD approving the Draft Law on Certain Measures to Implement the 'Prima Casa' State Program was developed in order to ensure the implementation of this program. The adoption of the said

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<sup>115</sup> Gaibu S., Cum transformăm programul „Prima casă” din vis în realitate [“How to Turn the 'Prima Casa' Program from Dream into Reality”], Expert-Grup Independent Think Tank, Chisinau, 2017, p. 2, available on <http://www.expert-grup.org/ro/biblioteca/item/1374-cum-transformam-programul-prima-casa-din-vis-in-realitate>

draft law is determined by the need to facilitate the access of individuals to the purchase of housing by contracting loans partially guaranteed by the State, especially for young families.

The Concept of 'Prima Casa' Program was adopted during the Government session of 26 July 2017 (the draft Government Decision was placed for public consultations between 30 May and 12 June). The draft GD approving the Draft Law on Certain Measures to Implement the 'Prima Casa' Program was made public on 14 September 2017, and the deadline for comments was 28 September 2017. Then, the Draft Law on Certain Measures to Implement the 'Prima Casa' Program was adopted by the Parliament: on 1 December 2017 (voted in first reading) and on 22 December 2017 (voted in final reading).

The authors of the draft hope the banks will be interested in this project, and this is due to the structure of the interest rate on mortgage credits under the program. The components of the interest rate to be paid by the beneficiary will consist of 3 elements:

- the reference rate for the 'Prima Casa' State Program communicated by the National Bank of Moldova (calculated as the weighted average interest rate on deposits with the term from 6 to 12 months);
- maximum margin of up to 3.0%, to be specified annually by the Government;
- 0.5% annual guarantee fee on the guarantee balance, which will be transferred quarterly to ODIMM.

Thus, under this program, the banks would earn from the reference rate and margin, which is less, but close to the commercial rates of the banks. In this context, financial institutions may have some interest in the 'Prima Casa' program.

The main impediment to implement this program is the low income of population. Another important obstacle to set up the 'Prima Casa' program is the lack of cheap long-term resources in national currency and the volatility of interest rates for national currency resources due to crises and inflationary processes.<sup>116</sup>

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>8.2. Implementation of meal voucher system</b></i>	<i><b>December</b></i>	<i><b>Initiated but not finalized</b></i>

The meal vouchers represent an individual meal allowance for each working day, which is additionally paid to the salary and is to be used exclusively for the purchase of food. The system has several steps: (i) the employer transfers the amount of money representing the equivalent of vouchers to the issuer of meal vouchers and receives the issued meal vouchers, which he/she distributes to the employees; (ii) the vouchers issuers conclude contracts with commercial units supplying food, and (iii) the employee presents the meal voucher to the commercial unit with which the issuer has concluded a contract, and receives food in exchange.

The Speaker of the Parliament proposed the introduction of meal vouchers in the Republic of Moldova at the beginning of February 2017. In order to popularize the initiative and clarify the technical aspects of the use of meal vouchers, several public discussions with representatives of

<sup>116</sup> Gaibu S., Cum transformăm programul „Prima casă” din vis în realitate [“How to Turn the 'Prima Casa' Program from Dream into Reality”], Expert-Grup Independent Think Tank, Chisinau, 2017, p. 2, available on <http://www.expert-grup.org/ro/biblioteca/item/1374-cum-transformam-programul-prima-casa-din-vis-in-realitate>

Government institutions, employers' organisations and trade unions were organised. The draft law on meal vouchers was registered with the Parliament on 17 May 2017 by a group of 5 MPs. The Law on Meal Vouchers was adopted by the Parliament in final reading on 21 July 2017. The head of the country did not promulgate the law and it was transmitted to the Parliament for reexamination on 17 August 2017. The Law on Meal Vouchers was voted again by the Parliament on 21 September 2017, and then it was promulgated by the President.

The Law on Meal Vouchers contains provisions that could negatively affect the competitive environment. The meal vouchers were assigned a privileged role as compared to other tools for distribution of food allowances. At present, there are 2 documents governing the grant of allowances for employees' nutrition: Law on Meal Vouchers and GD No 144 of 26.02.2014 approving the Regulation on the quantum and criteria for establishing the expenses incurred and determined by the employer for the transport, food and professional training of the employee. Thus, according to the Law, the value of the meal voucher may vary between MDL 35-45, whereas according to the GD the amount of the allowance for the employee cannot exceed MDL 35 and only if the company offers an average monthly salary not exceeding  $\frac{3}{4}$  of the quantum of the average monthly salary per economy forecasted for each year. Another issue is that this law favours the application of anti-competitive practices. On the basis of the international experience, we can assume with a high probability that the issuers' market will be concentrated in the Republic of Moldova: oligopoly or monopoly<sup>117</sup>. Paragraph 5 of Article 9 of the Law relating to the licensing of the operator (the issuer of meal vouchers) stipulates that companies wishing to issue meal vouchers shall have specialized equipment and premises for producing and storing vouchers. This is, in fact, an obstacle for small operators to enter the market and favours large companies.

#### **Recommendations:**

- In general, 'Prima Casa' is a necessary program. However, the success of this program will be strongly influenced by an external factor: the level and dynamics of population income. Thus, if young people do not have a decent income, they are unlikely to afford access mortgages, including through the 'Prima Casa' program. At the same time, the state has another difficult task. On the one side, ways to reduce the interest rate paid by the beneficiaries of mortgages need to be identified and, on the other side, mechanisms are needed to ensure the interest of financial institutions in the program.
- It would be appropriate that the nutrition of the employees is carried out within a unified system with homogeneous components. Thus, food allowances, irrespective of how they are distributed, as well as the related tax regimes (the way this amount is treated from the perspective of applying the income tax to individuals and paying social and medical contributions) must be identical. In this context, the provisions of GD No 144 and of the Law on Meal Vouchers relating to the amount of allocations must be made uniform. In addition, the provision on the requirement for holding specialized equipment and premises for producing and storing vouchers should be excluded from the Law. At the same time, there is a need for a mechanism to monitor the competition on the market of meal vouchers' issuers.

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<sup>117</sup> Fala A., Este oare introducerea tichetelor de masă o deschidere a „cutiei Pandorei” [‘Is the introduction of meal vouchers an opening of “Pandora’s box”], Expert-Grup Independent Think Tank, Chisinau, 2017, p. 2, available on <http://www.expert-grup.org/ro/biblioteca/item/1407-este-oare-introducerea-tichetelor-de-masa-o-deschidere-a-cutiei-pandorei>

## Annex. Ratings used in the final evaluation of implementation of the actions included in the Roadmap and their meaning

<b>Stage</b>	<b>Ratings used in the monitoring</b>	<b>Meaning</b>
<b>Not achieved</b>	Not initiated	No activity was taken to implement the action.
	Initiated but not finalized	The action was initiated but it was not fully implemented by 31 December 2017 according to the assessed indicator (it is allowed to extend the deadline for implementation of some actions in view of the tight deadlines of the Roadmap).
<b>Achieved</b>	Achieved without concerns	The action was implemented in compliance with the legal provisions on the legislative procedure and transparency in the decision-making process, the adopted act or the actions taken are in line with the spirit of the action and international commitments.
	Achieved with concerns	The action was achieved with concerns, which means that issues were identified related to the compliance with the legal provisions on the legislative procedure, the transparency in the decision-making process, the contents of the adopted act or the actions taken are not in line with the spirit or purpose of the action or they are contrary to the international commitments.