

WHITE BOOK OF GOOD GOVERNANCE

Policy priorities for the next 12 months for the Government of the Republic of Moldova

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About the Paper

Given the formation of the new Government and the urgent need to promote a number of policies and reforms to strengthen a good governance in the key development sectors, Expert-Grup Independent Think-Tank, the Center for European Policies and Reforms (IPRE) and the Legal Resources Center from Moldova (LRCM) joined their efforts to develop the White Book of Good Governance.

The paper represents a short synthesis of the main policies and reforms related to economic, social, justice, foreign policy, security, defence and public administration reform sectors, as well as the implementation of the Association Agreement (AA) and of the Deep and Comprehensive Free Trade Area (DCFTA) with the EU, which are recommended to be implemented by the Government during the next 12 months. These were identified following a number of policy analyses and studies conducted by Expert-Grup, IPRE and LRCM that combine three core principles: (i) urgency of implementation (need to be implemented as soon as possible); (ii) financial and technical feasibility of implementation, and (iii) expected short- and long-term impact.

The authors do not insist that the proposed list of recommendations is exhaustive, but strongly recommend that the Government included them into its activity plan. At the same time, the authors are open to providing their expertise to promote and implement these recommendations, including in partnership with other civil society representatives and the development partner community.

Public Finance

- **Ensure tax policy stability. It is necessary to maintain the tax policy adopted by the previous Government**, including the single income tax rate and the reduced employers' state social insurance contribution. As times go, the VAT system could be revised to streamline, simplify and minimize loopholes in the system and eliminate multiple exemptions and reliefs. At the same time, there is an urgent need to implement more effectively the indirect methods of estimating taxable income and to extend the indirect methods to the valuation of properties for income tax purposes.
- **Increase budget revenues by reducing tax evasion.** The State Tax Service should step up its efforts to identify large-scale informal economic activities and bring them into the realm of law. In this respect, it is necessary to streamline resources and adopt the necessary techniques to limit tax evasion, including by accumulating, analysing and ensuring the interoperability of data with other public and commercial bodies. At the same time, it is necessary that the State Tax Service and the regulatory framework to be adapted to ensure the effectiveness of the tax monitoring, so that the monitoring costs are significantly lower than the potential monitored tax revenue.
- **Carry out a strategic evaluation of public spending.** It is necessary for each sector to carry out in-depth analyses about the impact of public spending on performance and outcome indicators. Special emphasis should be put on strategic public investment analysis. The results of this activity should be taken as a basis for expenditure planning in the future MTBF.
- **Ensure absolute transparency of the system of public finance and property.** There is no reason that would justify the camouflaging of data on public revenues and expenditures unless it is related to a state secret that is indispensable for ensuring security. Although the transparency of the public financial system has long been spoken about, little was done in practical terms. We believe there are two technical measures that would greatly enhance transparency and public control over budget expenditures. In particular, we believe that it is necessary to implement: 1) an integrated electronic public procurement system and 2) an electronic treasury system, both of which would ensure real-time transparency and public control over public finances.
- **Fully implement the electronic public procurement system MTender.** The existence of an electronic procurement system is crucial to ensuring the transparency, record keeping and efficiency of the public expenditures. The public finance area should prioritise the speeding up the completion of the MTender system, including by identifying additional sources in the public budget.
- **Increase the efficiency of earmarked funds.** The Ministry of Finance, together with the line ministries, should reform the Road Fund and the National Environmental Fund.

- **Implement gender budgeting.** Revise the budget process so that it takes into account the gender and, in particular, the specific needs of women and men, especially from vulnerable categories (e.g. rural, low-income, disabled, ethnic minorities, etc.).
- **Implement measures to increase public procurement efficiency** by (i) developing public procurement electronic systems, (ii) involving civil society organisations in monitoring public procurement, (iii) enhancing the capacity of contracting authorities, including via voluntary cooperation.
- **Enhance the efficiency of local public finances.** It is necessary to develop the draft administrative-territorial reform and to launch broad consultations on this topic, followed by the adoption of the new structure with implementation starting with 2023.

Public Sector Integrity

- **Ensure a better segregation of the political sphere from the economic one and establish mechanisms to avoid conflicts of interest.** In particular, it is necessary to isolate autonomous public agencies (regulatory authorities) from political influences, including by better regulating conflicts of interest and introducing the principle of independent external evaluation of their work. Such institutions as the Competition Council, NARE, NRAECIT and others, must be better protected against political influences, including by legislative provisions that would regulate the transfer from one position to another in the public sector. In some cases, such as moving immediately from being a minister to being member of the board of director of an autonomous agency should be prohibited or allowed only after a certain period of time passed between these positions (e.g. 2 years). At the same time, the national legislation should establish mandatory regular external evaluation mechanisms for regulatory entities. These evaluations should result in public reports on the quality of the regulatory act by the authority concerned.
- **Enhance the control over the use of public assets** by: (i) ensuring a better monitoring of the assets owned by public authorities, institutions and enterprises (with State participation), (ii) reporting on the use of public assets on the basis of a template developed by the Ministry of Finance, (iii) developing a system of performance indicators for the use of public assets.
- **Exclude the businesses from jurisdictions that do not implement international transparency standards (offshore jurisdictions)** or the businesses that are directly or indirectly controlled by such businesses from trading with public authorities (public procurement, privatisation, concession, and public-private partnership).

- **Facilitate the access to information.** It is necessary to examine the existing regulatory requirements for transparency and disclosure of information, by reviewing both elements subject to transparency and enforcement mechanism of these requirements, but also by making the regulatory framework on transparency and disclosure of information mandatory for economic entities with State participation. At the same time, it is necessary to clarify the responsibilities and obligations of all stakeholders involved into the process of ensuring transparency and disclosing information, and to include a mechanism to sanction the entities or their managers for failing to observe the legal requirements for reporting and ensuring transparency.
- **Enhance transparency in the private sector.** Remove tax and statistical reports of private entities from the trade secret category. Develop interactive databases with public access to statistical and tax data.
- **Enhance transparency in state-owned enterprises.** Support state-owned economic entities in their efforts to align to the transparency and reporting requirements, by developing reporting models and procedures, consistently monitored performance indicators, and creating a web platform that would inform the general public about the results of public property management, which would cover all the information reported by these entities. In addition, it is necessary to ensure that state-owned enterprises comply with the provisions on disclosure of information, including by publishing annually a comprehensive report on the aggregated financial performance of all enterprises.
- **Reduce the role of the state in managing state-owned enterprises down to setting performance indicators,** whereas the Board should be fully empowered to develop the business strategy that would lead to achieving these indicators. Establish clearly the criteria (professionalism and skills) for appointing the members of the Boards and enterprise managers, while politically affiliated individuals should not be allowed to hold such positions. Gradually professionalise the Boards, attracting private sector managers and finance and accounting professionals to the company's audit committees. Ensure the competitive and transparent privatisation of state-owned companies which operate inefficiently, including due to the corruption and political clientelism.

Business Climate

Strengthen the rule of law and protect private investment by:

- Reviewing the Criminal Code and the interpretability of crimes, especially of economic crimes.
- Reviewing and reducing the discretion of officials in interpreting requirements for the private sector.
- Initiating a draft detailed analysis of the processes of public service delivery and interaction with the private sector, meant to eliminate unnecessary processes, simplify procedures, minimise citizens' effort.
- Increasing the accountability of officials to the citizens and the private sector.

Ensure the market economy principles by:

- Removing the barriers to the free movement of capital, human resources and goods, as well as the elements of unfair competition.
- Homogenizing the tax burden on investment income so that all financial instruments compete with each other.
- Removing the practices of setting fees, other measures by business entities to block or artificially increase customer transfer costs from one service provider to another.
- Implementing payment instruments (promissory note, note payable, bonds) with enforceable writ and special procedure for dispute review (similar to Romanian practice).

Supplement the Law on Real Estate Cadastre with additional provisions on the protection of real estate investors, namely:

- Obligation to indicate in the investment agreement the parameters of the shared infrastructure, shared areas, networks, land, other infrastructure objects that will be part of the condominium and will be transferred on a free basis to the association in the condominium.
- Obligation to indicate the quality of materials used in building the premises and infrastructure.
- Obligation to provide information on the financial status of the company at the investor's first request, obligation to publish the financial statements, being accessible free of charge for investors if the company collects money from investors before the construction stages.
- Revision of the conditions for issuing construction permits (urban planning certificates and building permits) by protecting neighbors' rights, observing the urban planning requirements, eliminating the abuses related to the change of project documentation prior to the putting into operation of housing blocks (abusive attic-related works).
- Establishment of condominium owner's association at the stage of initiating investment projects.
- Entry into force and implementation of the Condominium Law.

Protect the rights of private investors and of mayoralities in the distribution networks

by:

- Initiating a comprehensive project for the evaluation of natural gas distribution networks built on the money of citizens and local authorities (about 2/3 of the total distribution networks) and their recognition as investors, granting them the respective quotas from the national natural gas distribution company.
- Setting up a legal framework regulating and recognising the investments made by citizens in local infrastructure: equity stakes, municipal bonds or other investment instruments, with simple and clear rules and practical application.

Remove the abuses under the Law on Personal Data by:

- Removing the obligation to register and notify on the status of personal data operator, except for the companies operating with massive volumes of client data (banks, insurance companies, telecommunication companies, tax service, police, registry office, other similar institutions).
- Strengthening the regulatory framework on the initiation of investigations into the abuse of personal data processing by citizens, the obligation and accountability of the institutions and officials in the field of monitoring this sector.

Encourage the small business (freelancers, family businesses, small agricultural businesses and other private entities with up to 20 employees) by:

- Developing simplified reporting methods and reporting less frequently to tax bodies and other authorities (e.g. once a year).
- Simplified tax payment methods that reduce the computation and reporting effort.
- Developing a stand-alone chapter in the Labour Code for this category of businesses, removing a number of burdens for this category of businesses and simplified methods of staff employment and dismissal.
- Matching the economic fines with the amount of damage in order to remove the massive advantage of big companies as regards the low fines for violations vs the damage.

Labour Market

- **Ensure transparency of the labour market reform.** The analysis of the labour law and the possible amendment of the Labour Code or the adoption of a new Code should be based on relevant international methodologies and not based solely on lobbying activities by businesses or trade unions. In this respect, the OECD employment protection indicators can be used, for instance, on the basis of which an objective analysis could be performed using comparable international data.

- **Strengthen the labour market institutional framework.** It is necessary to review the decisions limiting the occupational safety control competencies of the State Labour Inspectorate, especially of the unannounced controls. The Inspectorate must adopt a risk-based control policy providing also for the publication of the lists of entities of risk that should expect such controls, without specifying the date of the controls. Returning the right to conduct unannounced controls based on risk criteria and publishing control lists will facilitate efforts to reduce informal employment by making the process transparent.

Social Protection

Social insurance

- **Develop the multi-pillar pension system.** Gradual implementation of pension pillar 2 and 3 with the same tax treatment as pillar 1, based on a thorough impact analysis.
- **Review the mechanism for the formation of contributions to the social fund by:**
 - separating from the other funds the age-based pension fund to which each citizen contributes;
 - separating the unemployment fund with the inclusion of a separate individual insurance contribution in case of job loss;
 - establishing a separate social fund for other social payments (vulnerable groups, poor, special pensions, preferential pensions, police pensions and pensions for other categories paid until the standard retirement age). All these payments, which cannot be formed by the contributions of the individuals in favor of whom these payments are made, must be fully covered by the state's general income sources and not by placing greater burdens on the labour force.
 - removing other social burdens from the compulsory contributions calculated on the labour force, in particular the social fund.
- **Extend the eligibility activity period to be taken into account when calculating age pensions.** It is necessary to adjust the current legislation so that the unpaid childcare leave (3-4 years) would also be considered as parent's length of service, calculated at the minimum wage per economy (just as the 0-3 year segment is currently considered). In many EU countries, a much longer period of time is considered as length of service, in the form of pension credits for the period of raising a child under the age of 12. At the same time, it is necessary to supplement the current legislation, which stipulates, starting with 1 January 1999, removing the provision of considering higher education as years of length of service – so that the years spent for Bachelor's and Master's studies were considered, after 1 January 1999, as length of service to the minimum salary per economy.

Social assistance

- **Organise public consultations with civil society and development partners** to discuss as a matter of priority the problems faced by the persons with disabilities, tax facilities and/or other facilities for the employers who recruit persons with disabilities and young professionals, the support to orphaned children, development of specialised nursery services for children under the age of 2, and the development of specialised services for seniors.
- **Conduct a special assessment of the situation of the pensioners with the lowest income (all those who have a pension under the minimum subsistence and have reached the universal retirement age) and establish a new absolute minimum threshold.** As a goal, it is necessary that every pensioner, irrespective of the length of service, receive the minimum pension threshold equal to the VMLG indicator (MDL 1056 in 2019), and those with a full contribution period – have a minimum pension equal to the minimum existence.
- **Increase, from 1 January 2020, the income tax exemption for each dependent child** – each parent to benefit from an exemption of at least 70% of his/her personal exemption for each minor under the age of 18 (would mean an increase from about MDL 30 kept monthly in the parent's pocket – to about MDL 168 for each child).
- **Increase the minimum childcare allowance (0-2 years old)** – from the current minimum of MDL 540 to the VMLG indicator of MDL 1056 for both insured and uninsured persons. If there are budget constraints, this increase in the minimum threshold may be applied gradually – initially to take effect at least for the first year of life, then for the second year. It is necessary that the unique minimum threshold be applied identically – both for insured and uninsured persons who have children under the age of 2.
- **Increase the monthly minimum allowance for children with congenital/birth disabilities** – gradually to the VMLG minimum indicator, then to the minimum subsistence level.
- **In the medium term, it is recommended to introduce a monthly universal childcare allowance from birth up to the age of 18** (initially of at least 30% of VMLG, gradually increased depending on the level of country's economic development).
- **Review the list of essential medicines offered for free to children up to the age of 18** (the list is not relevant at present), and extend the free dental treatments currently offered to children up to the age of 12 (extend up to the age of 18).

Implementation the Association Agreement (AA)

- **Strengthen the capacity of MFAEI as coordinator of the process of coordination and monitoring of AA implementation.**
- **Clarify the role and competencies of the MFAEI, the State Chancellery, the Center for Legal Harmonisation, the Ministry of Economy and Infrastructure and of the Ministry of Finance in coordinating and monitoring the implementation of the AA as well as the strategic development objectives of the Republic of Moldova.**
- **Address the backlogs in the AA implementation** by developing a list of legislative and implementation priority actions foreseen in the NAPIAA (2017-2019) for the period (1) August-December 2019 and (2) those to be achieved during the period January-December 2020 to advance AA implementation in key arrears .
- **Initiate consultations with the EU on the new EU-Moldova Association Agenda for the years 2021-2023** by launching the review of the current Association Agenda (2017-2019) and identify short- and medium-term priorities.
- **Request EU's support to establish a Facility to support Moldova in transposing the EU acquis into the national legislation.** This support could also include an important component aimed at enhancing the capacities of non-governmental stakeholders to contribute to the monitoring and ex-post assessment of policy implementation in line with the commitments provided by the Association Agreement and the DCFTA.
- **Cooperate with non-governmental stakeholders and development partners to pilot the 'legal screening', i.e. the assessment of the approximation of the national institutional and legal framework to the EU acquis.** One of the goals of this exercise is to identify new indicators to ensure further implementation of AA objectives and to advance the approximation of the Republic of Moldova to the EU law and standards.

DCFTA Implementation

- **Accelerate the implementation of EU standards.** Adopt secondary legislation that would require both the ongoing adoption of European standards and their enforcement by the business environment. The reporting on the taking over of European standards as national standards reaches maximum value when systematically assessing the number of de facto standards used in the production process in the national economy.
- **Review continuously the national standards and demonopolise the GOST**, but in consultation with the business environment, including through rounds of negotiations, with the identification of facilities and an agenda of voluntary transition to European

standards. Ensure the secondary technological framework that allows the use of both standards. Develop the capacities of branch specialists to adopt European standards, certificate and authorise constructions and works according to European standards. Such approach is particularly relevant to old technical regulations that make certain GOSTs compulsory. Assess immediately the secondary legislation (branch rules, technical standards, etc.) to identify and review the technical regulations that require the application of GOSTs and include expressly the EU standards as alternatives to technical norms and standards, especially in cases that contradict with the European standards.

- **Inspect the functionality of the market surveillance mechanism at the compliance level, as well as the accreditation of testing laboratories.** The production of quality and safe goods for domestic consumption, their import and export depends on the proper functioning of public and private institutions, which ensures a strict compliance with the requirements resulting from good European practices.
- **Remove the restrictions on the export of animal products to the EU market.** Enforce the efforts targeting the inclusion of the Republic of Moldova in the group of third countries with the right to export animal products to the EU market.
- **Renegotiate the volume of the existing quotas to increase them for the categories of products that proved a higher export potential.**
- **Provide the necessary support to local manufacturers** to facilitate the entry on new markets, implement EU standards or compete on the domestic market, as well as to support and encourage the deep structural transformations to raise the competitiveness of the national economy.
- **Identify a reliable mechanism to monitor DCFTA implementation in the Transnistrian region,** taking into account the responsibility of the constitutional authorities to guarantee European partners that the commitments under this agreement will be implemented correctly all across the country.
- **Resume the discussions with the Russian authorities as regards the reassessment of restrictive measures applied to Moldovan goods,** including by presenting the arguments regarding the alleged invasion of poor quality goods on the Russian Federation market, and by removing the subjective admission of exports made only by certain Moldovan companies.
- **Reassess the initiatives aimed at expanding free trade regimes with countries where there is a huge trade imbalance** and a limited export potential (such as China) by objectively quantifying the impact of these agreements on the national economy.

- **Promote and implement the WTO Trade Facilitation Agreement**, which will streamline regional and international trade by reducing transaction costs, and optimise the transborder flow.
- **Ensure the full functioning of PEM Convention on Rules of Origin that will create economic benefits**, especially as regards the opportunities to attract additional investment in the industrial and raw material processing sectors.

Financial Sector

- **Maintain the financial stability by preventing over-indebtedness of the population.** It is essential to start collecting data to monitor the indebtedness of the population by the National Bureau of Statistics and to extend the obligation to report to the Credit Bureau of all sectors crediting the population. At the same time, in terms of protection of citizens, it is important that annual percentage rate of charge (APRC) is included in every credit advertising and that the credit agreement is provided to the client before signing it, and that the standard contracts are published on the websites of financial institutions and available in their offices and agencies.
- **Develop the deposit guarantee mechanism.** Although the recent amendments made to the legislation in force extended the coverage level up to MDL 50,000, the mechanism still has a modest role in preventing crises and sanctioning the risky activity of banks. Against this background, it is important that the reform continues so that banks with a higher risk appetite are properly charged for possible implications upon the entire financial system. In addition, the protection of depositors should extend to a wider group of people, such as legal entities or other categories of individuals (e.g. individual entrepreneurs). Last but not least, guarantee schemes should be also developed for other forms of saving, such as deposits within Savings and Loan Associations that have become quite active lately.
- **Exclude the interaction with off-shore jurisdictions.** Implement international transparency standards in the national legislation, know the real owners of the public interest entities and verify thoroughly the investments of exotic origins.
- **Develop the Government securities market.** Issued five year maturity GS have been an important step taken by authorities that has to base a long-term trend. However, the current GS placement and trading mechanism favors the banks holding more than 70% of the GS balance in circulation. Thus, it requires increasing the number of people/institutions having access to primary tenders of GS and their trading on a free secondary market (stock exchange) easily accessible by all professional and non-professional investors.

- **Make the intermediation mechanism more efficient.** Besides the upgrade of the banking legislation, the pledge legislation (e.g. the maximum term within which the pledged values can be transmitted into the lender's ownership) should be revised. Moreover, Credit Bureaus can become a more reliable source of knowing the customers with expanding the volume of customer debt information.
- **Increase the financial inclusion of the population.** Reducing the transaction costs, making all government transfers exclusively through the banking system, and promoting the information and protection of consumers of financial services should become an imperative.
- **Encourage the initiatives to develop financial instruments through technologies (Fintech).** Regulators need to be more open to digital innovations in the area of payments and financial services. The European practice provides in this regard for the creation of sandboxes, which is a framework enabling newly-established FinTech companies to conduct experiments under real conditions, in a controlled environment and under the supervision of regulatory authorities. Subsequently, after the testing period, if the product is found to be suitable for the market, the participants submit the dossier to obtain all the authorisations according to the legislation in force. This will considerably reduce the costs of launching businesses by stimulating innovation.

Environment

- **Tap into the energy potential of waste by adjusting environmental legislation to encourage incineration and co-incineration,** and promote at the same time the legal and institutional framework to prevent potential air and water pollution that might result from these practices.
- **Build the capacity and ensure the effective operation of the State Ecologic Inspectorate and of the Environment Protection Agency** by unblocking the process of recruiting staff in these institutions.
- **Support companies to implement the ISO 14000 standard on environmental management.**
- **Prevent the negative impact of the hydropower plant construction on Nistru River.** It is paramount for the Government to involve in active negotiations with the Ukrainian side on the issue of the hydropower plant construction on Nistru River, collecting in parallel evidence of the potential impact and ensuring the transparency of this process.

Public Administration Reform

- **Assess the effects and the impact of the Government reform of 2017.** The Government's reform specifically aimed at reducing spending on the operation of ministries and of other central administrative authorities, which led to the decrease in the number of staff in the authorities and implicitly eroded the capacities of the central public authorities. The reform had little or no aim at rationalising and strengthening the functions and business processes within and between authorities, essential in the effective and efficient, economical and evidence-based development and implementation of reforms and public policies assumed by the Government and focused on citizens' needs and expectations. Therefore, at this stage it is paramount to assess the effects and impact of the institutional reform of central public administration, carry out functional analyses of authorities, including horizontal review of portfolios, vertical review of ministries and subordinated entities, review of public spending, review of business processes, and adjust the structure and functions of the authorities, following the principles of good governance, to the long-term development vision of the Republic of Moldova.
- **Implement the 'Moldova 2030' National Development Strategy.** During 2018, the main national strategic planning document, i.e. 'Moldova 2030' NDS, was developed and approved by the Government and the Parliament. It was developed with the support of UN agencies and Expert Grup Independent Think-Tank on the basis of a broad participatory process and aims to operationalize the vision and key elements of the 2030 Agenda for Sustainable Development and, implicitly, the Sustainable Development Goals. In order to implement the people- and life quality-centered vision, the paper provides for the reform of the national strategic planning system by optimizing the number of policy documents, reviewing them and ensuring the coherence of the policy framework with the budget process. In this context, the President of the Republic of Moldova needs to promulgate 'Moldova 2030' NDS in order to reform and improve the strategic planning framework, on which the coherence and the sustainability of the country's development policies and reforms in all spheres depend. Subsequently, it is necessary to align the activities of the central administrative authorities with the NDS provisions in terms of strategic planning, development, implementation and monitoring of public policies and regulatory acts.
- **Adjust sectoral strategies to 'Moldova 2030' NDS.** Once 'Moldova 2030' NDS enters into force, the line ministries, under the coordination of the State Chancellery, are to adjust the sectoral strategies remaining after optimization to the vision of 'Moldova 2030' NDS. Correspondingly, the action plans, programs and sectoral expenditure strategies are to be adjusted.

- **Introduce the practice of developing public evidence-based and informed policies** by conducting ex-ante analyses of the impact of public policies, especially before the development of regulatory acts that have a major impact on citizens.
- **Delineate the powers and public property between central public administration authorities, level I and level II local public administrations.** A clear delineation of the powers and public property between all levels of public administration is inherent to further the decentralization and will create the preconditions necessary for the transparency and empowerment of public administration, allocation of human and financial resources necessary for the full exercise of the functions of public authorities and effective provision of public services.
- **Strengthen the Strategic Framework for the Public Administration Reform** by:
 - Strengthening the role, functions and capacities of the State Chancellery to act as a 'center of the Government', in line with SIGMA recommendations.
 - Reviewing the mandate of the Center for Reforms Implementation to ensure its role as a Delivery Unit to support ministries in achieving results along with the implementation of reforms launched by the Government.
 - Ensure the functioning of the National Council for the Public Administration Reform in order to create an appropriate framework for coordination and transparent decision-making on all components of the central and local public administration reform – empowering authorities, strategic planning and public policies, public services, public finance management and the public function.
 - Reviewing and relaunching the institutional framework needed to further the decentralization, in particular the Parity Commission on Decentralization and the relevant working groups.
 - Promoting a parliamentary platform that will include the Government, local public authorities and civil society, that will aim at reviewing draft regulatory acts with an impact on local public administration and will promote draft regulatory acts that will strengthen local autonomy and decentralization.
 - Implementing budgeting based on programs included in government policy documents. Otherwise (lack of an initially planned budget that reflects including the funding source), it is difficult to implement those policies.
 - Improving and making coordination and monitoring mechanisms more efficient at both political and administrative levels.

Energy Security

- **Take over the recommendations of the Energy Community Secretariat and of the EU representatives** to definitively improve the annual electricity procurement mechanism, i.e. to make it part of a primary law instead of being a secondary legislative act (Order of the Ministry).

- **Take urgently the necessary steps to separate electricity and natural gas producers from suppliers** to ensure a truly liberalized market and meet external commitments to the Energy Community.
- **Facilitate, in technical and bureaucratic terms, within the law, the advancement of the construction of Ungheni-Chisinau natural gas pipeline.** Apart from construction aspects, an indispensable role for the commissioning of the gas pipeline depends on the tariff policies adopted by ANRE. For these reasons, the contest for the appointment of the management of this institution must be fully open and completely de-politicized.
- **Establish strategic intergovernmental dialogues with Romania and Ukraine to develop action plans for force majeure situations in the field of natural gas supply, which may be obstructed due to the Russian politicized acts.** Besides, the relations with Ukraine in the energy field are part of the common goal of joining together the European Network of Transmission System Operators for Electricity (ENTSOE).
- **Place on the agenda the energy efficiency projects in the dwelling and social infrastructure (educational institutions, kindergartens) systems,** that have so far stagnated under available investments from external stakeholders. The mechanism should build on a National Fund to finance these projects, having a transparent activity and clear funding criteria for efficiency projects based on funding lines targeting the categories of beneficiaries. The review of the operational plans to optimise the energy-consuming sectors should rest with the Ministry of Economy and Infrastructure. At the same time, Parliament should actively engage in updating the 2030 Moldova Energy Strategy, which is already outdated in many aspects.
- **Facilitate the production of renewable energy from the sources that least affect the environment (wind, solar, geothermal energy)** in order to increase energy independence, but taking into account the benefits of the export of electricity produced from wind power in Romania (Dobrogea region). It is necessary to ensure easy access for individual producers to the supply chain at regulated prices by favoring the purchase of green energy as a general objective to achieve the indicators of CO2 emissions reduction.
- **Adopt a strategic plan to tackle the gas debt problem** amounting to USD 7 billion, posing a potential major risk to the functioning of the natural gas sector. Thus, the development of the necessary tools to separately meter gas supplies on the right and left bank is proposed. It is also necessary to separate and allocate the debts to the jurisdictions responsible for consumption, by clearly dividing the legal responsibilities related to debts according to the commercial law to each individual consumer (individual or legal entity).

- **Investigate the production of cryptocurrency in the Transnistrian region in order to identify the negative consequences resulting from it for the energy security of the Republic of Moldova.**
- **‘Map and develop a profile’ of the national gas distribution networks in the process of segregation of the distributor gas supplier.** In this context, the gas supplier should be separated from the distribution operator, with the inclusion of mayoralties and private owners, who have invested in about 2/3 of the gas distribution networks in the country, as co-owners.
- **Make the regulation of oil product market more efficient.** Reassess the current model of oil price regulation by developing a sustainable algorithm (a new Methodology) that would meet the minimum interests of all parties involved, being anchored by the perspective of total liberalization of this market. Exclude the existing deficiencies in the competitive environment on the oil product market by thoroughly analysing the existing practices in this field by competent institutions. Ensure the functionality of the new system monitoring the oil product quality in line with European standards in the filed, which would support consumers’ confidence that the price paid fully reflects the quality of the product purchased.

Foreign Policy

- **Strengthen and advance the relations with the European Union and its Member States in order to support the implementation the Association Agreement** and other agreements pursuing the objective of political association and economic integration with the EU.
- **Strengthen the strategic partnerships of the Republic of Moldova with the USA (i.e. deepening the US-Moldova Strategic Dialogue) and Romania (i.e. the Strategic Partnership for European Integration),** with Ukraine, Georgia and other Eastern Partnership countries (i.e. **implementation of the Eastern Partnership objectives in the field of political association and economic integration with the EU).**
- **Promote a political dialogue with the Russian Federation,** observing the national interests of the Republic of Moldova, the Treaty of friendship and cooperation, the principles of sovereignty and territorial integrity of the Republic of Moldova, aiming at restoring the commercial and economic relations by excluding the discriminatory tariffs and non-tariff barriers on Moldovan products.
- **Promote a harmonized framework for bilateral and multilateral development cooperation with international partners** in order to achieve national development objectives in line with the commitments set out in the 2030 Agenda for Sustainable Development and AA objectives.

Defense and Security Sector

- **Strengthen the cooperation with NATO in reforming the defense and security sector** by implementing the Individual Partnership Action Plan (IPAP) Republic of Moldova – NATO for 2017-2019, negotiating and approving a new IPAP for 2020-2022, implementing the 2nd phase of the Defence and Related Security Capacity Building Initiative (DCBI) dedicated to transforming the defense system of the Republic of Moldova.
- **Tap into the Republic of Moldova's co-operation with the EU in the field of security** in order to strengthen national institutional capacities, inter-operability with EU intelligence and security agencies and training of defense and security staff.
- **Convene with the EU on the mechanism for implementing the Agreement on security procedures for the exchange of classified information.**
- **Strengthen the national mechanism for recruiting, training, designation and participation of national experts in international missions and operations.**
- **Start discussions with the EU on the Republic of Moldova's participation in the projects under the EU's Permanent Structured Cooperation Program in the field of security and defense (PESCO).** Taking into account the current challenges, Moldova would participate in the following projects: (1) Joint European Union Intelligence School, (2) the European Union Training Mission Competence Centre (EU TMCC), (3) the Deployable Military Disaster Relief Capability Package, (4) the Cyber Threats and Incident Response Information Sharing Platform.
- **Promote in dialogue with the EU the initiative to launch an EU Assistance Mission** to strengthen the internal and external resilience of the Republic of Moldova.
- **Explore the opportunities of a pilot country status for the EU efforts to counteract hybrid threats.**
- **Develop and implement a national integrated Hybrid Threats-focused Early Warning and Early Response (EWER) System with the EU and USA support.** The development of these mechanisms, aimed at strengthening cyber security, is foreseen by the National Security Strategy. However, additional efforts are needed to cover the whole range of hybrid threats to national security. The EWER system would include as a key element a phase-out and comprehensive mechanism for collecting, processing and analyzing data on hybrid threats, including on the military line.

- **Reform the Security and Intelligence Service** to strengthen capabilities and competencies focused on countering external threats to national security and constitutional order. Setting up a civilian counter-information unit with enhanced capabilities, focused on counter-intelligence actions and countering foreign efforts to undermine state security.

Transnistrian Conflict Settlement

- **Launch a genuine nationwide process of developing a common vision of country's reintegration**, with the involvement of all competent national institutions and with the participation of civil society.
- **Advance the talks in the '5+2' format for launching the negotiations on the 3rd basket**, aimed at broad political regulation, including institutional, political and security issues.
- **Promote the "issue-linkage" principle within the current '5+2' negotiation format**, where the confidence-building measures involving non-political costs, including those already agreed, are implemented in close connection with the progress achieved in the political settlement of the Transnistrian conflict.
- **Initiate the talks in the '5+2' format as regards the assessment of the current peacekeeping mission and reform it into a Civilian Mission with an international mandate.**
- **Promote within the OSCE the importance of strengthening the role and tools of the OSCE Mission to the Republic of Moldova on monitoring and preventing incidents in the security area**, following the example of the monitoring and reporting mechanism of the OSCE Special Mission to Ukraine.
- **Secure the support of the international (i.e. UN, OSCE, EU, USA, Russia) and humanitarian (e.g. the International Red Cross Committee) community to initiate the inspection of the Cobasna weapons depot.**

Justice

- **Amend the Constitution to strengthen the independence of the judicial system** by:
 - Initiating and adopting the draft law to amend the Constitution in order to cancel the initial five-year term of appointment of judges, standardising the appointment of judges at all levels of courts and changing the membership the Superior Council of

- Magistracy by excluding the Prosecutor General and the President of the Supreme Court of Justice as *ex-officio* members;
- Developing the relevant legal framework for implementing the Constitutional amendments.
- **Reform the Supreme Court of Justice** by reviewing the competencies and the number of judges of the Supreme Court of Justice (SCJ) to ensure its role as a genuine cassation court, focusing on the unification of the judicial practice. Achieving this goal involves reducing the number of Court's judges. Taking into account the problematic practice from the last 5-6 years of appointment and promotion of judges, including at the SCJ, we recommend to set up an *ad hoc* mechanism for the appointment of the new membership of the SCJ through a public contest, open to all eligible judges in the country, and offer the current judges of the SCJ, who will not choose to remain at the SCJ, the possibility to transfer, while maintaining the remuneration level. The body that will select the judges is to be a representative one, composed of former judges with impeccable reputation, representatives of civil society, Parliament, Government and foreign experts with impeccable reputation. Integrity, professionalism and capabilities to resist inappropriate influences should be the main criteria for selecting the judges of the reformed SCJ.
 - **Ensure the representativeness, transparency and accountability of the Superior Council of Magistracy** by:
 - Expressly indicating in the Law on the Superior Council of Magistracy (SCM) the number of judges selected from each court level to ensure a genuine proportional representation of the judicial system. We propose that of the six judges three to be from the first instance courts, two – from the courts of appeal and one from the Supreme Court of Justice. The law should also provide for the selection of alternate members.
 - Expressly indicating in the Law on SCM a transparent mechanism for the selection of the SCM members, providing clear deadlines for the announcement of the contest, the documents to be submitted by the candidates, their timely publication and prohibition of the nomination of the candidates by the courts' collectives.
 - Exclude from the Law on SCM the 'deliberation' institution for the adoption of its decisions, except when the SCM reviews disciplinary cases.
 - **Review the current mechanisms and criteria for assessing, selecting and promoting the judges in order to ensure merit and transparent evaluation, selection and promotion.** Request external support to assist the Superior Council of Magistracy and its colleges to improve their current criteria and mechanisms for selecting, promoting and evaluating judges, as well as to implement the new rules on the organisation of regular contests for the merit and transparent selection and promotion of judges.

- **Assess the system of disciplinary liability of judges in order to ensure an effective system of holding the judges accountable.** Request external support to assess the current system of disciplinary liability of judges and a foreign mission/group of experts (including judges) who could assist the Judicial Inspection and the Disciplinary Board for a period of at least three months to improve their work.
- **Adopt a new strategy on justice sector reform or development.** Develop, conduct public consultations and adopt a new strategy on justice sector reform or development for 2020-2023. The strategy should focus on the most important priorities, respond to real current needs, setting clear objectives and measurable indicators.
- **Repeal Article 307 of the Criminal Code** in order to exclude the inappropriate influence of the prosecution on judges.
- **Ensure the proper functioning of the Integrated Case Management Program in all courts, of the E-file Program in all prosecutor's offices in the country and develop a single electronic criminal record system:**
 - Request external technical assistance to ensure the proper implementation of the latest version of the Integrated Case Management Program (ICMP) in all courts, as well as to provide sufficient capacity building to the Agency for Court Administration to maintain and update the ICMP in the future.
 - Request external technical assistance to complete the development of the E-file Program in the prosecutor's office and implement it in all prosecutor's offices in the country.
 - Request external technical assistance to develop and implement a single electronic criminal record system.
- **Amend the Constitution as regards the Constitutional Court and the related legal framework:**
 - Increase the number of constitutional judges from six to seven, extend their mandate to nine years and introduce the prohibition on holding two mandates of constitutional judges;
 - Amend the related legal framework on the activity of the Constitutional Court by expressly stipulating the selection of constitutional judges via a public contest and improving the Court's procedure.
- **Adopt legislative measures to empower investigative judges and reduce the excessive use of preventive arrest:**
 - In 2017, in a non-transparent manner and without any justification, the Parliament excluded by law the mandatory requirement of a minimum of 3 years of experience in order to exercise the duties of an investigative judge. As a result, many appointed investigative judges have insufficient experience as judges to determine the prosecutors to observe the human rights in criminal proceedings. We recommend

- reintroducing the requirement of professional experience for the appointment of judges who exercise the duties of investigative judges;
- Adopt legislative measures that would increase the transparency of the investigative judges' activity and their accountability, such as the publication of sentences on the application of preventive arrest and ensuring open hearings.
- **Accelerate the implementation of court reorganisation:**
 - Request external assistance to implement the court reorganisation reform, namely financial support for the reconstruction or construction of new buildings;
 - Change the territorial jurisdiction of the courts of appeal to ensure a more even distribution of the workload between the courts of appeal and the reduction of the workload of judges from Chisinau Court of Appeal.
 - **Revise the role of the General Prosecutor's Office and reduce the number of prosecutors working here:** Rethink the role and structure of the General Prosecutor's Office to turn it into a subdivision that ensures the proper functioning of the Prosecutor's Office. This amendment is proposed to increase the independence of hierarchically inferior prosecutors.
 - **Strengthen the current mechanisms for evaluation, selection and promotion of prosecutors in order to ensure merit and transparent evaluation, selection and promotion:** Request external support to assist the Superior Council of Prosecutors and its colleges to improve their current mechanisms for selection, promotion and evaluation of prosecutors in order to ensure the proper, merit and transparent selection, promotion and evaluation of prosecutors.
 - **Improve the initial and on-going training of judges and prosecutors at the National Institute of Justice:** Request an external assessment of the training process and of the curriculum at the National Institute of Justice to determine whether it corresponds to the current and actual training needs of judges and prosecutors and make proposals to improve its work.

Anticorruption

- **Improve and make the mechanisms for corruption investigation more efficient:**
 - Limit the powers of the Anti-Corruption Prosecutor's Office to investigate high-level corruption and provide it with sufficient staff and technical equipment to investigate on its own the cases of high-level corruption;
 - Request external technical assistance to investigate the most important cases, with emphasis on bank fraud and Russian Landromat;
 - Grant the competence to review cases of petty corruption to territorial prosecutors;

- Exclude the criminal prosecution from the competences of the National Anticorruption Center, with the corresponding reduction of its staff and the transfer of the latter to the other criminal investigation bodies.
- **Strengthen the system of verifying the assets, property, conflicts of interest and incompatibilities of the employees in the public system:**
 - Review the selection of integrity inspectors by excluding the polygraph and the preliminary checking of candidates by the Security and Intelligence Service and the National Anticorruption Center;
 - Provide by law an ad hoc mechanism for selecting integrity inspectors to fill the remaining vacancies with the involvement of foreign experts and civil society in the selection process;
 - Request a mission of foreign experts to work for at least six months at the National Integrity Authority to assist integrity inspectors to improve their working methods;
 - Verify as a matter of priority all judges and prosecutors by the National Integrity Authority.
- **Assess the effectiveness and lawfulness of the mechanism for integrity testing in the public sector** – assess the mechanism and the results of the integrity testing in the public sector conducted by the National Anticorruption Center in 2016-2018 in order to establish the opportunity to maintain this mechanism.

Human Rights

- **Adopt comprehensive legislation to incriminate the offenses committed on the ground of prejudice, bias or hate, in line with international standards:** Adopt urgently and in the final reading of the draft Law No 301, adopted in first reading on 8 December 2016. The draft law was subject to expert advice from the experts of the Council of Europe and the OSCE/ODIHR, but the final version has not yet been published. Without amending the Criminal Code and the Contravention Code, a number of prejudice crimes and hate speech incidents will remain unsanctioned.
- **Improve the legal framework on equality and non-discrimination by amending the Laws Nos 121 and 298:** Amend the legislation to extend the list of protected criteria and introduce a number of key definitions in the area of equality and non-discrimination. Similarly, it is necessary to mandate the Council for Preventing and Eliminating Discrimination and Ensuring Equality (CPEDEE) with the competence of submitting constitutional requests to the Constitutional Court and applying directly sanctions for acts of discrimination in order to ensure an effective national remedy for victims of discrimination.

- **Urgently allocate sufficient funds for the repair of the Ombudsperson's Office premises or move it in another administrative building:** Repairing the main office was envisaged in the 2011-2026 Justice Sector Reform Strategy. The review of the 2015 State Budget Law cut down the capital expenditures, making it impossible to repair the central office. The Government did not return to this issue afterwards. During the first three months of 2019, the Ombudsperson's Office had 46 medical leaves, as members of staff were diagnosed with respiratory diseases due to the conditions in the building.
- **Accelerate the construction works for the four arrest houses; finalize the procurement procedures and start the construction of a new penitentiary for Chisinau municipality:** The construction of the new penitentiary is delayed by more than 56 months. The conditions of detention in Penitentiary No 13 from Chisinau municipality violate seriously the fundamental human rights and dignity.
- **Strengthen the mandate of the Council for Torture Prevention (CTP) as a National Torture Prevention Mechanism (NTPM):** Clarify the Council's status and improve the provisions regarding its mandate, including its cooperation with the Ombudsperson's Office.

Civil Society

- **Adopt in the second reading the draft Law on Non-Commercial Organisations:** The draft law was adopted in the first reading on 3 May 2018. It is to be adopted without any significant changes compared to the version tabled by the Government.
- **Ensure effective implementation of the 2018-2020 Civil Society Development Strategy (CSDS):** Although the 2018-2020 CSDS was adopted more than a year ago, its implementation is at risk. The Government was to report on the CSDS implementation by 31 March 2019, which was not done. Besides, the Parliament and the Government have not yet appointed three representatives each in the Strategy Implementation Monitoring Committee, which should be done as soon as possible.
- **Improve the legislative framework on transparency in decision-making processes:** The legislation on transparency in decision-making at the level of the Parliament, Government and local public authorities needs to be improved. In 2016-2017, several civil society organisations submitted a number of proposals to the Parliament, recommending, *inter alia*, to improve the Law on transparency in decision-making, Parliament's Rules of Procedure, the Law on access to information, etc. These proposals, however, have not led to any results. The Government, in cooperation with the Parliament, should resume the work on improving those pieces of legislation with the participation of civil society organisations.
- **Ensure transparency in decision-making by:**

- Ensure the functionality of and public access to e-Legislation platform. The platform should contain all the information about the regulatory acts: draft regulatory acts and briefing notes, summary of objections and comments, all versions of the draft laws and the final draft adopted;
 - publish regularly the annual legislative plans of the Parliament, Government and ministries, which currently are either not published, or are very general;
 - ministries, the Government or the Parliament publish for public consultation all draft regulatory acts, with no exceptions;
 - publish, with no exceptions and before draft laws are passed, the summary of objections and comments/table of divergences compiled after the public consultations either on the website of the public institutions in charge of the draft law or on www.particip.gov.md platform.
- **Amend the Tax Code with regards to non-commercial organisations:** The tax regime applied to non-commercial organisations (public associations, private institutions and foundations) is unclear and difficult to apply in practice. The 2018-2020 Civil Society Development Strategy provides for the improvement of the tax law applicable for civil society organisations (Specific Objective 2.4.) by: (1) improving and unifying the income tax rules applicable to non-commercial organisations in a separate chapter of the Tax Code; and (2) improving the tax law on VAT applicable to CSOs with a public utility status. These changes need to be made by a working group set up by the Ministry of Finance, comprising representatives of non-commercial organisations as well.
- **Ensure enforcement of the 2% Law:**
 - Allow liberal professions (such as lawyers, notaries, bailiffs, authorized administrators and mediators) to designate 2% of their tax by including the relevant field in the DAJ17 form (filed by these categories of persons), similarly to the standard form for individuals CET17;
 - Amend the Government Decision No 1026/2010 on Financial Inspection in order to appoint the Financial Inspection, which will start its activity in 2020, in charge of controlling the 2-percent designations.
- **Improve the legal framework on philanthropy and sponsorship:** The legal framework is ambiguous, not adjusted to the current needs, does not regulate clearly how to perform sponsorship and philanthropy activities, etc. This results in non-commercial organisations using seldom or not using at all these mechanisms. The Ministry of Justice started working on a draft law to amend the Law on Philanthropy and Sponsorship No 1420/2002. This draft needs to be written in cooperation with the non-governmental sector. It is also necessary to revise the mechanism of tax deductions for donations for philanthropy and sponsorship purposes, currently stated in the Tax Code, as it is inoperative.

- **Improve the legal framework on direct funding of civil society organisations by the Government:**
 - The legal framework on direct funding of civil society organisations by the Government is incoherent. Although the Government has allocated about EUR 2.4 million in 2018 for direct funding, each ministry and agency decides independently on the funding rules. A framework mechanism for direct funding of civil society organisations by the Government needs to be developed in order to standardize the conditions and procedures for granting funding, establish unified rules for all Government institutions, and ensure transparent allocation of these funds. The relevant general framework is to be laid down in the new Law on Non-Commercial Organisations.
 - There is a need to plan the Government funding of civil society organisations needs both strategically in the national budget, and locally; to broaden the cooperation areas between the Government and civil society organisations; and to develop a system for monitoring and evaluation of Government-funded projects.