

**Monitoring report on the implementation of the  
Priority Reform Action Roadmap  
(5<sup>th</sup> July – 22<sup>nd</sup> November 2017)**

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## Abbreviations

AA	Association Agreement between the European Union and the Republic of Moldova
PPA	Public Procurement Agency
NAQAER	National Agency for Quality Assurance in Education and Research
NARD	National Agency for Research and Development
NIA	National Integrity Authority
NAER	National Agency for Energy Regulation
NASC	National Agency for Solving Complaints
ARCA	Agency for Recovery of Criminal Assets
ASM	Academy of Sciences of Moldova
EIB	European Investment Bank
EBRD	European Bank for Reconstruction and Development
NBM	National Bank of Moldova
CoA	Court of Auditors
PIFC	Public Internal Financial Control
NAC	National Anti-corruption Centre
NHIC	National Health Insurance Company
NSIO	National Social Insurance Office
NIC	National Integrity Commission
NCPDP	National Centre for Personal Data Protection
NCFM	National Commission for Financial Markets
CPEDEE	Council for the Prevention and Elimination of Discrimination and Ensuring Equality
SCJ	Supreme Court of Justice
SCM	Superior Council of Magistracy
ECtHR	ECtHR European Court of Human Rights
FATF	Financial Action Task Force
IMF	International Monetary Fund
ICOM	International Council of Museums
SE STC	S.E. Special Telecommunications Centre
MIA	Ministry of Internal Affairs
MIA	Ministry of Foreign Affairs and European Integration
OSMESD	Organization for Small and Medium Enterprise Sector Development
AP NIAS	Action Plan for the Implementation of the National Integrity and Anti-corruption Strategy
NHRAP	National Human Rights Action Plan
NAPAA	National Action Plan for the implementation of the EU-Moldova Association Agreement
MLPCS	Money Laundering Prevention and Combating Service
EU	European Union

## Introduction

On 5 July 2017, the Government and the Parliament of the Republic of Moldova signed the Roadmap for the Priority Reform Agenda for the second semester of 2017<sup>1</sup>. As stated by the authors of the document, it 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 expedite some reforms to strengthen relations with the International Monetary Fund and other development partners.

As a matter of fact, the Roadmap aims to strengthen the confidence of development partners and the citizens in 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 ensuring a 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 programmes.

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.

This report provides an independent evaluation of the implementation of Roadmap provisions for June - November 2017. The document covers eight policy areas, with a summary of developments for each of the actions, comments on the main achievements, and a list of relevant policy recommendations.

Evaluation of the implementation of provisions of the Priority Reform Action Roadmap was based on a methodology focused both on the evaluation of the implementation in terms of the established timelines and in terms of the quality of the implemented actions. Given that timelines for several 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 1).

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

## Executive Summary

**Although the authorities have been fully engaged in implementing the Priority Reform Action Roadmap, there are multiple delays in the process and numerous concerns in terms of content and procedure.** Of those 51 actions covered by the Roadmap, 26 were planned for the monitored period (July - November), of which only 11 were implemented, while others are still under implementation. Furthermore, of those 11 implemented actions, 4 were rated as "implemented with concerns", while reasons ranged from non-observance of the decision-making transparency to content issues requiring substantial improvements. The main reasons for breaking deadlines are too ambitious timelines, as well as public administration reform that temporarily affected the pace of reforms in general and the implementation of measures set out in the Roadmap in particular.

### ***In the field of public administration reform***

- We note that main action on public administration reform is the approval of the new Government structure, based on which several ministries were merged, while the key innovation was the replacement of the Deputy Minister's position 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 testifies to the likelihood that the reform was driven by political considerations (decreasing the number of ministries, decreasing the number of public servants and thus creating savings), rather than streamlining of processes. Most drafts of normative acts in this chapter were not subjects to public consultations.
- 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 Auditors and the Customs Service. However, the legislative process had several shortcomings. For instance, the draft law on the organization and functioning of the Court of Auditors was not available for public consultations, while the draft law on the Customs Service was voted by the Parliament more than a year after its registration.
- In the process of reforming the public procurement system, an indispensable component was the creation of the National Agency for Solving Complaints (NASC). The creation of this agency was delayed with more than a year, which increased the risks of corruption at that time and affected the confidence of economic agents in the public procurement system. The fact that NASC was ultimately created is an important step forward in improving the public procurement system. However, it is important to strengthen its institutional capacity, and ensure its independence and functionality.

### ***In the field of justice and anti-corruption:***

- The Ministry of Justice prepared and shared for public consultations the draft law no. 428, which includes good and necessary changes in the selection and promotion of judges. However, it has to be improved to ensure a true merit-based system, to increase the transparency of the Superior Council of Magistracy and to ensure the functional independence of the Judicial Inspection.
- The Government approved the type and method of the electronic signature for online submission of declarations of assets and personal interests and the amount needed to distribute electronic signatures. The amount of estimated costs for the distribution of electronic signatures and the lack of their clear substantiation raises concerns.
- The Government approved the mechanism for the development and coordination of the sectorial and local anti-corruption plans for the years 2018-2020. Out of 9 planned sectorial anti-corruption plans, only 4 were presented for public consultation: in the field of public

order and security, environmental protection, taxation and customs.

- Some actions raise concerns. So far, neither a draft law has been initiated, nor a provision is included in the draft law initiated by the Ministry of Justice to simplify and raise the efficiency of the mechanism for disciplinary liability of judges. In addition, the draft law no. 307 registered with the Parliament provides for limiting the appeal of SCM decisions in disciplinary cases only to procedural issues, which might be contrary to ECtHR standards. We recommend that the Parliament reject this draft law.
- A major concern is the delay in ensuring the efficient operation of the Agency for the Recovery of Criminal Assets (ARCA). On 30 March 2017, the Parliament voted in the second reading for the ARCA Law, in force since 19 May 2017. In line with the Roadmap, the Government and the Parliament were to ensure the effective functioning of the ARCA by October 2017. Less than 5 months after the entry into force of the ARCA Law, on 9 October 2017, a group of MPs registered a draft law that provides for the institutional and functional reconfiguration of this institution by changing the subordination of the ARCA from the NAC to the State Tax Service. The institutional and functional reconfiguration of ARCA will lead to major delays in the creation and efficient operation of ARCA. We recommend that the Parliament reject this draft law or the provisions that will delay the creation of ARCA.
- There has been no progress in the final adoption of the new law on preventing and combating money laundering and terrorism financing. Since the approval of the draft law in the first reading (30 March 2017), public hearings were held only once, on 13 June 2017, without the subsequent publication of the results or the amended version of the draft law. The initial version of the bill contained several gaps, leaving room for interpretation and legal abuses.
- Another concern is the inactivity of the Parliament in defining the maximum staffing level and the organizational structure of the National Integrity Authority and the delay in selecting the NIA leadership. This situation caused delays in the whole process of adopting the internal documents necessary for the fulfilment of the NIA's duties and for completing the institutional reform of NIA.

***In the field of fundamental rights and freedoms:***

- The Ministry of Justice drafted and submitted to the Government for review the draft Parliament's Decision on the approval of the National Human Rights Action Plan for 2018-2022 (NHRAP).
- The Parliament set up a working group to improve the media law, which among other proposed objectives is expected to draft the new Audiovisual Code and the Media Development Strategy. Both documents are being finalized by the thematic subgroups.
- Several actions raise important concerns. The reform of the National Centre for Personal Data Protection (NCPDP) raises several concerns, because it provides the authority responsible for ensuring the personal data protection with very broad competences without providing checks and balances of its activity.
- Another concern relates to the Civil Society Development Strategy for 2017-2020. The draft version was finalised and was expected to be registered at the beginning of the 2017 spring session. The Parliament should expedite the adoption of the Strategy. The delay in adopting the Strategy in 2017 may trigger the need to revise the implementation deadlines set in the original draft version.
- It also raises concerns about how to promote the law draft on improving the legal framework in the field of equality and non-discrimination. The Council for the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDAE) published the draft law amending the legal framework on ensuring the principle of equality and non-discrimination

on its website and initiated public consultations on the draft law. 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, but does not contain a number of important provisions for the field, initially included by CPEDAE. We recommend the Ministry of Justice to improve the draft law before submitting it to the Government for approval.

### ***In the field of governance in the financial and banking sector***

- The National Bank of Moldova, with the support of the partners in the Twinning project "Strengthening the NBM's capacity in the field of banking regulation and supervision in the context of EU requirements", prepared and promoted the draft law on banks' activity. At the Plenary Session of the Parliament held on 6 October 2017, the draft law was voted in final reading and will enter into force on 1 January 2018. This law will fully replace the provisions of the Law on Financial Institutions no. 550 of 21 July 1995 and will provide the regulator with a new set of tools applicable to the licensing, regulation and supervision of commercial banks. Thus, one of the major actions of the banking sector reform was implemented in the set deadline, which also implies the fulfilment of commitments to the IMF and the EU.
- A number of amendments were proposed to the legislation establishing the mechanism for the elimination of improper shareholders of banks and insurance companies. Thus, for both the banking and insurance sectors, has been proposed a consistent procedure for the sale of new issued shares, which expressly determines the criteria for determining the price of the shares, the terms of sale and the conditions for the extension, as well as the compensation procedure of the former shareholders.
- A number of legislative acts aimed at improving the situation in the non-banking financial sector and adjusting the national financial reporting framework to the latest best international practices were approved by the Government and submitted to the Parliament for debate and adoption, within the agreed time limits.
- Much slower is the action that provides for the creation of an inter-institutional platform for monitoring and controlling the status of the bank fraud investigation. The delay in the creation of this platform and the whole investigation process raises major concerns as to the authorities' will to recover funds and to bring to court those who were actually involved. Three years after this fraud, the process of recovering the assets acquired by fraud takes place only in the sense of liquidation of the three banks (BC Banca de Economii, BC Banca Sociala, BC Unibank), while the internal investigations are not progressing and do not generate any clear results, as the focus is constantly on the results of the Kroll 2 report.

### ***In the field of investment and business climate:***

- We note a number of actions aimed at facilitating the activity of economic agents, including the implementation of amendments to the Labour Code, the reduction of the number of permissive acts, as well as the approval of the new Energy Law.
- Also, measures have been taken to simplify the reporting procedure for economic agents, although it is necessary to align the regulatory framework to the new legal provisions. At the same time, the law on state and municipal enterprises was approved, although the new provisions on transparency are insufficient. On the other side, actions involving sustained efforts are still in the process of implementation, such as the implementation of institutional reform in the field of state control.
- 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 concerns about securing the interests of end-users, identifying financial resources for residential sector renovation, or the risks arising from non-implementation of related legislation.
- A series of measures were taken to launch the construction of the Ungheni-Chisinau pipeline, while the selection of the company that is going to build the infrastructure is planned for November-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 use of the EBRD and EIB loan; or, 3) a combined option. 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 the country's energy security after 2019 depends.

***In the field of agriculture and food safety:***

- The Law on animal by-products not intended for human consumption and the Food Safety Strategy for the years 2017-2022 were developed and made available for public consultations. The documents aim at improving the quality infrastructure in the Republic of Moldova and the regulation to be drafted are beneficial for the consumers' safety. There is a problem related to the unrealistic timing set in the Road Map, and thus there is some delay from deadline for implementation of mentioned documents.

***In the field of education, culture and science***

- The draft Law on museums, which includes the concept of cultural heritage protection, was adopted in the first reading. The new Law on museums will regulate: the classification, accreditation and revocation of accreditation of museums; the duties of the 1st and 2nd level local public authorities in the field of museums; management of the museum's own resources; the financial motivation of employees handling parts classified in the Thesaurus category; the duties of the National Commission on Museums and Collections; procedures for the reorganization or winding-up of museums. The most important objection to be considered in the final reading of the Law on museums was the need to take into account the competences of the Gagauz Yeri autonomy's authorities.
- The Law on the amendment and completion of the Code on Science and Innovation was adopted. The law provides for the transfer of all scientific institutions under the Academy of Sciences to the Ministry of Education, Culture and Research. The aim is to provide a more efficient administration and funding of the research and innovation sector. Opportunities will be provided for a substantial increase of allocations aimed at financing research projects, and the ASM will only deal with research, while being exempted from administrative management of its properties. However, an important segment of the academic community has expressed its disagreement with legislative changes, claiming that these could substantially reduce the potential of the ASM.

***In the field of social programmes:***

- We note the launch of the "Prima Casa" programme, aimed at facilitating the access of individuals to the purchase of a dwelling by contracting loans that are partly guaranteed by the state, especially for young families. An impediment to the implementation of the "Prima Casa" programme is the related interest rates, which are relatively high, due to the lack of long-term cheap resources in Moldovan Lei and the volatility of rates for these resources. This problem becomes even more acute in the context of the population's low income.
- The implementation of the concept of meal vouchers aims at introducing an additional tool



to distribute the cash allowances for employees' meals. At the same time, the "Law on meal vouchers" contains provisions that could adversely 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 35 to 45 MDL, while other food allowances for employees may not exceed 35 MDL. Another issue is that this law favours the application of anti-competitive practices. The article stipulating that issuers of meal vouchers shall have specialized equipment and premises for producing and storing vouchers is, in fact, 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, 2 actions were implemented with concerns, 3 actions are in negative progress and 1 action is in positive progress.*

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The purpose of promoting and adopting the Government's package of laws and decisions in this area is to implement the central public administration reform and achieve the objectives set in this respect in a number of policy documents, in particular in the Strategy for Public Administration Reform for 2016-2020 and its Action Plan for the years 2016-2018. Actually, the draft laws only set an updated general framework for the functioning of the Government and adapt the legal framework for a new structure of the Government. However, the actual reform actions that had to be based on the drafting of these acts were not carried out in a transparent and evidence-based manner. During the monitored period, no meetings of the National Council for Public Administration Reform, created by the Government Decision no. 716 of 12.10.2015 have been organised, since this Council represents the necessary platform for discussion, participation and substantiation of the actions of public administration reform.

The Government made an effort to adjust the institutional and legal framework to its commitments under the EU-Moldova Association Agreement (AA). According to these commitments, the process of drafting new laws related to the activity of the Court of Auditors and the Customs Service was initiated. However, the legislative process had several shortcomings. Thus, the draft law on the organization and functioning of the Court of Auditors 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.

Some of the commitments made under the AA were the reform of the public procurement system, and an indispensable component of this reform was the creation of an independent complaints resolution institution in this area. Such an institution has become the National Agency for Solving Complaints (NASC), which has started to be operational since July. At the same time, the process of setting up NASC was delayed for more than a year, when the new Public Procurement Law entered into force on 1 May 2016. This law provided that the Public Procurement Agency, which was responsible until then for the settlement of the complaints, lost this competence and had to be replaced by NASC. In order to successfully complete the reform and reduce many risks in this area, NASC had to become operational on 1 May 2016.

Towards the end of the year, the Public Internal Financial Control (PIFC) Programme will be approved for the years 2018 - 2020. This programme aims to replace the previous that expires in the current year and has not reached the overall goal of strengthening managerial accountability for optimal resource management in public institutions. The new programme aims to address the shortcomings of the previous stage, such as the low interest of top managers for PIFC, the lack of staff trained in this field, poor cooperation between different institutions, etc. However, the implementation of the new programme will be facilitated by the support of the EU and the Dutch Ministry of Finance, which will reduce the programme's risks.

### **Summary of individual actions**

<b><i>Action</i></b>	<b><i>Deadline</i></b>	<b><i>Stage</i></b>
<b><i>1.1. Parliament to adopt the package of laws relating to the central public administration reform:</i></b> <b><i>1.1.1. New Law on Government</i></b> <b><i>1.1.2. Law on amending and supplementing some legislative acts (related to the draft Law on Government)</i></b> <b><i>1.1.3. Parliament's Decision approving the list and the new</i></b>	<b><i>July</i></b>	<b><i>Implemented with concerns</i></b>

<p><b>structure of the Government</b></p> <p><b>1.1.4. Law on amending and supplementing some legislative acts (names, competences, duties of ministries and their subordinated authorities)</b></p> <p><b>1.1.5. Law on amending and supplementing some legislative acts (Law no.146/1994 on the state enterprise, Law no.121/2007 on the administration and denationalization of public property and Law no.98/2012 on specialized central public administration)</b></p>		
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The Law on Government was adopted in final reading on 7 July 2017 (Law no. 136 of 07.07.2017). 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 inconsistencies" in the previous law on the Government. Among the novelty elements of the law, according to the informative note to the draft, there are: (i) the substitution of the positions of Deputy Minister with the positions of General State Secretary and State Secretary, who will exercise administration functions of 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 functions of General State Secretary and State Secretary (a function that actually existed before) in ministries in order to clearly delimitate political functions from administrative ones, by transferring the last ones 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 paragraph (4) of art. 25 "the minister, under the law, may delegate to the General State Secretary the administration of the current activities of the ministry", from which it follows that (i) the administration function is nevertheless attributed to the Minister, who may delegate this function, (ii) the delegation of the administration function remains at the discretion of the minister, (iii) the administration function can only be delegated to the Secretary General, not to the State Secretary.

Regarding the exclusion of the need for approval of the list of ministries by law, but by Parliament's decision, we mention that this is not 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. At the same time, 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 prerequisites for reducing transparency in the process of modifying the structure of the Government.

The draft of the new law on the Government was submitted for public consultations in the period of 22 May - June 2017, and was approved by the Government on 8 June 2017. The draft entered the Parliament on 19 June 2017, being adopted in 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 with the minimum deadline for receiving the recommendations (10 days). At least the stage of informing the public about the initiation of the drafting of the law, according to the legal provisions, was not observed.

The draft Law on amending and supplementing some legislative acts, drafted for the implementation of amendments to the legal framework for the implementation of the new law on the Government, was adopted with no. 153 of 14.07.2017. For the most part, this law is a "technical" one, by which in a series of legislative acts the terms "General State Secretary" and "State

Secretary" are introduced. The main element of the law is the amendment of Law no. 98/2012 "Regarding the specialized central public administration", in which the duties of the "General State Secretary" and those of the "State Secretary" are updated. As in the case of the law on the Government, this law does not expressly mention the political functions of the minister and the functions of administration of the ministry exercised by the General State Secretary and the State Secretary, and one of the competences of the latter, under paragraph (3), art. 13, is the following task "performs the activities of managing 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 approving the List of ministries. However, the analysis that would substantiate the option of the Government structure was not made public. Moreover, the draft regulatory act was not subject to public consultations, and it was approved in the Parliament one day after the registration of the draft.

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

Another important aspect of government reform, as mentioned in the Strategy on Public Administration Reform, is the functional analysis of the entire Government that must precede and substantiate 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 and only those that are most efficiently needed. The main idea of the functional analysis is that the existence of a public administration is justified only in terms of the performance of functions deemed necessary in a specific system. 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 reorganization alternatives in order to inform strategic decisions about possible restructuring and reorganization. The first and only functional analysis of the entire Government, as described above, was carried out in 2006 during 7 months. Such an analysis was supposed to substantiate the new structure of the Government, but this, even if done in a simplified manner, was not made public.

Law no. 80 of 05.05.2017 for amending and supplementing some legislative acts was approved in the context of the creation of the Public Services Agency. It was promoted in the Parliament after the establishment of the Public Services Agency at the end of April 2017, in order to establish a legal basis for its creation. The law was not subject to the public consultation process.

Draft of the new law on the state enterprise and the municipal enterprise was posted for public consultations on 29 June 2017, approved at the Government meeting of 10 July 2017 and approved in the final reading in Parliament sitting of 23 November 2017. 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 draft in the current wording is improved, but it also does not contain norms that would render transparent the activity of state enterprises and their management, according to the provisions of the Action Plan for the implementation of the Public Administration Reform Strategy for the period 2016-2018.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<p><b>1.2. Government to approve the regulatory acts relating to the central public administration reform:</b></p> <p><b>1.2.1. Decisions regulating the organization and operation of ministries and entities subordinated to ministries</b></p> <p><b>1.2.2. Decision to amend and supplement 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 the creation of the Public Property Agency</b></p> <p><b>1.2.4. Decision on approving the methodology for calculating tariffs for services provided by the Public Services Agency</b></p> <p><b>1.2.5. Decision on approving the Nomenclature of Services provided by the Public Services Agency and their tariffs</b></p>	<b>September</b>	<b>Negative progress</b>

The decisions regarding the organization and functioning of the ministries according to the new Government structure and the standard structure of the Regulation on the organization and functioning of the ministry was 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 them minimum deadline for public consultations was observed (MIA Regulation was posted for consultations on 29.08.2017, but was approved on 30.08.2017; Regulation of the Ministry of Education, Culture and Research and of the Ministry of Finance was posted on 21 August 2017, but was approved on 30 August 2017). The regulations contain tasks and standard functions for ministries, which do not present an innovative element for public administration. The regulations of the authorities subordinated to the ministries are in the process of being drafted.

Six Government Decisions listed (no.1714/2002; no.201/2009; no.168/2010; no.1211/2010; no.499/2012; no.433/2015) were amended by GD no. 655 from 16.08.2017 regarding the approval of the amendments and completions operated in some Government Decisions. These stipulate that the legal service, the human resources subdivision, the unit of analysis, monitoring and evaluation of the public policies, the information and communication unit with the media, the e-Transformation subdivision, the financial service within the central public authorities will no longer be autonomous and subordinated directly to the head of the authority, and if the authority has a staff of less than 100 units of personnel, the duties of these subdivisions are in the competence of the superior hierarchical 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 rational considering the introduction of the position of General State Secretary, but the need to exclude autonomy for all these subdivisions is not sufficiently justified. Similarly, the threshold of 100 units of staff, without any evidence of rigorous reasoning, seems to be arbitrarily established.

The draft Government Decision "on the organization and functioning of the Public Property Agency" was posted for public consultations on 25.09.2017 and was approved at the Government sitting of 11.10.2017. The draft provides for the transfer of state-owned enterprises subordinated to

ministries to the Public Property Agency. It will be subordinated to the Government. The Government Decision does not contain provisions on rendering transparent the activity of state-owned enterprises, according to the provisions of the Action Plan for the Implementation of the Strategy on Public Administration Reform for the period 2016-2018 and on ensuring the integrity and professionalism of the enterprises' manager.

The services nomenclature and the methodology for calculating tariffs for services provided by the Public Services Agency is in the process of being drafted, which is not transparent under the provisions of Law no. 239 of 13.11.2008 on the transparency in the decision-making process, referring to the necessity to announce the public, 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 the Court of Auditors</b>	<b>July</b>	<b>Negative progress</b>

The draft law on the organization and functioning of the Court of Auditors was drafted by a group of MPs and registered in the Parliament on 01.02.2017.<sup>2</sup> This draft aims to replace the current Law of the Court of Auditors (No. 261 of 05.12.2008).<sup>3</sup>

Drafting a new law on the Court of Auditors was caused by the need to adjust the existing legal framework to existing standards and good practices in this field. Thus, the draft law was drafted in accordance with the provisions of the International Standards on External Public Audit, adopted by the International Organization of Supreme Audit Institutions. The existing terminology (audit, external public audit, performance audit, etc.) has been harmonised with these standards, but some new provisions (compliance audit, quality control, etc.) have been included. In addition, the draft law redefines the types and procedures of audit, the status of the staff with public audit duties, etc. In addition to the terminology changes, the framework of the Court of Auditors' interaction with the Parliament, the entities subject to public audit, as well as the international cooperation relations are more clearly defined.

The draft law on the organization and functioning of the Court of Auditors was voted in its first reading on 30.06.2017. A drawback found in the process of drafting this draft law was that it was not subject to public consultations, the document being submitted only to the relevant public institutions for endorsement. In the second reading the relevance of expanding the age limit of up to 70 years for candidates for membership of the Court of Auditors; publishing audit reports on the websites of audited institutions in order to increase their transparency and engagement; clarification of legal formulations used in defining the form and status of the governing body of the Court of Auditors shall be additionally examined. A recommendation from MPs relates to allowing only the Permanent Bureau of the Parliament to request additional audits to those planned by the Court of Auditors, which may affect the independence of external public audit under the current conditions in the Republic of Moldova.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
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<sup>2</sup> <http://parlament.md/ProcesulLegislativ/Proiectedeacteleislative/tabid/61/LegislativId/3585/language/ro-RO/Default.aspx>

<sup>3</sup> <http://lex.justice.md/md/330168/>

<b>1.4. Parliament to adopt the Law on Customs Service</b>	<b>December</b>	<b>Negative progress</b>
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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 the basic functions, duties and structure of this institution, establishing a new vision on the organization and functioning of the Customs Service. The draft regulates the rights and powers, the status and obligations, the legal and social protection of the customs officer. It also regulates aspects related to the customs officer's work relations, the performance evaluation, and the peculiarities of conferring special degrees.

The draft Law on Customs Service was transmitted and registered in the Parliament in March 2016, but was voted in first reading only on 19.10.2017.<sup>4</sup> Thus, this draft has been in Parliament for more than a year since registration, although all the opinions of other committees and ministries have been received as early as 2016.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>1.5. Parliament and Government to ensure the functionality of the Agency for Solving Complaints</b>	<b>September</b>	<b>Implemented with concerns</b>

The National Agency for Solving Complaints (NASC) became operational when the Parliament voted on 21 July 2017 the leadership and advisers of this institution.<sup>5</sup> Despite the fact that NASC became operational by September, the implementation of this action was delayed by more than one year. NASC should have become operational on 01.05.2016 when the new law on public procurement (no. 131 of 03.07.2015) came into force. Under the provisions of this law, the Public Procurement Agency (PPA) lost the right to resolve the complaints and had to be replaced by NASC. In reality, however, the process of setting up NASC 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 an appeal institution, the only option for economic agents being the judiciary system. This situation increased the risks of corruption in the system and negatively influenced the image of the future NASC.

<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>Positive progress</b>

The draft GD on the approval of the Public Internal Financial Control (PIFC) Development Programme for the years 2018 - 2020 was submitted for public consultations.<sup>6</sup> This Programme aims to replace the previous document expiring at the end of 2017. The previous programme 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

<sup>4</sup> <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3123/language/ro-RO/Default.aspx>

<sup>5</sup> <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3801/language/ro-RO/Default.aspx>

<sup>6</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4573>

unresolved are (i) strengthening managerial accountability for optimal resource management; (ii) attracting and training qualified staff in this field; (iii) integrating the financial management and internal control system into all operational, financial and economic processes and support; (iv) developing operational plans and objectives with a financial dimension and a link to the resources needed to use them. As a result, these deficiencies have been transposed into the new Programme for the years 2018 - 2020 as a priority. A facilitating factor for the new programme will be EU assistance through a Twinning project, as well as support from the Dutch Ministry of Finance. At the same time, without a closer coordination between all the actors involved in PIFC implementation, the perpetuation of the low interest of the top PIFC managers, but also the misunderstanding of internal audit at all levels of public administration, there are risks that the objectives of the Programme will not be fully reached.

### **Recommendations:**

- Reanimate the work of the National Council for Public Administration Reform, which is an important platform to discuss and make informed and participatory decisions, and to monitor the implementation process of public administration reform.
- Undertake all actions foreseen for 2017 in the Action Plan for the years 2016-2018 for the implementation of the Public Administration Reform Strategy for 2016-2020. At the moment, the reform of the public administration is limited to the approval of the regulatory acts, without resorting to analysis of the reform options, according to the actions included in the Action Plan, which could seriously erode the impact of the public administration reform.
- Ensure greater transparency in the decision-making process regarding the public administration reform, because many drafts of the regulatory acts promoted so far have omitted the consultation process, according to the legal provisions.
- Enhance the reform actions (transparency in employment and evaluation) that would exclude politicization of the civil service and ensure that the civil servants employed in the public administration are honest and professionals, especially in the context of re-employment according to the new structures of the authorities.
- The creation of NASC 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 reform of the institutional framework.
- In order to strengthen the independence of the Court of Auditors, it is necessary for the audit programmes to be developed exclusively by this institution. If other institutions would have a right to request additional and ad hoc audits by the Court of Auditors, there is a risk of interference with the political factor in the audit work. Thus, it is necessary to exclude from the draft law on the organization and functioning of the Court of Auditors the exclusive right of the Permanent Bureau of the Parliament to request additional audits to those planned by the Court.

## **2. Justice and Anti-Corruption**

### **Summary of overall progress**

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*Of those 10 monitored actions, 8 are in positive progress, and 2 are in negative progress.*

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In the field of justice, during the reference period, the Ministry of Justice finalized the draft law on amending and supplementing the Civil Procedure Code (aimed at reducing the length of court proceedings by simplifying procedures) and submitted it to the Government. The Ministry of Justice



prepared and submitted for public consultations the draft law on strengthening the functional capacities of the Superior Council of Magistracy and the Judicial Inspection, but it is to be substantially supplemented and improved. No draft law has been published yet that would provide for the simplification and, respectively, render efficient the mechanism for disciplinary liability of judges. No draft law on video surveillance has been initiated.

In the field of anti-corruption, actions were taken to develop anti-corruption sectorial plans and approved the manner of distributing electronic signatures to subjects of declaration of asset and personal interests. Progress has lacked related to the adoption of the new law on preventing and combating money laundering and terrorism financing. The main concerns relate in the delay in ensuring the effective operation of the Agency for the Recovery of Criminal Assets (ARCA), the delay in appointing the National Integrity Authority (NIA) staff member units by the Parliament and the delay in appointing NIA's leadership, the latter resulting in blocking the NIA's activity of controlling the assets and interest declarations.

### Summary of individual actions

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>2.1. Parliament to adopt the Law on amending and supplementing legislative acts (aimed at strengthening the functional capacities of the Superior Council of Magistracy and the Judicial Inspection and bringing the legislation on the disciplinary liability of judges in line with the recommendations of the Venice Commission)</b></i>	<i><b>November</b></i>	<i><b>In positive progress</b></i>

The Ministry of Justice completed the process of coordination and approval of the draft law no. 428<sup>7</sup>, on the reform of the judiciary. The draft is being now finalized. It has to be significantly improved following the proposals of the authorities and civil society. Once the project has been finalized, it will be clearer to what extent it meets the recommendations of the Venice Commission.

The draft provides for good and necessary changes regarding the selection and promotion of judges, but it is to be improved to ensure an effective merit-based system. In addition, the transparency of the SCM should be increased by limiting the cases of examining in deliberation (secret), and the number of votes for/against to be indicated in the SCM judgments. In order to increase the independence of judges, inter alia, the possibility of dismissing judges on grounds of vague reasons (failure to comply with the provisions on incompatibilities under Article 8 of the Law on the status of judges) is to be excluded. In addition, the draft does not provide for sufficient provisions to increase the autonomy and functionality of the Judicial Inspection.

According to information from the Ministry of Justice, it is due to publish a draft on reforming the justice sector, which will be merged with the draft no. 428. Although there is room for improvement of the draft law no. 428, it does not raise a major concern at this stage, and therefore it is rated as "positive progress".

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
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<sup>7</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)

<b>2.2. Parliament to adopt the Law on amending and supplementing the Civil Procedure Code (aimed at reducing the length of court proceedings by simplifying procedures)</b>	<b>December</b>	<b>Positive progress</b>
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The action regarding the amendment and completion of the Civil Procedure Code is part of the commitments made in the Government's programme of activities for the years 2016 - 2018. The objective of the draft is to simplify several judicial procedures and eliminate procedural barriers that currently contribute to increasing the duration of court proceedings. The final goal of the draft, according to the informative note<sup>8</sup>, is to increase the efficiency and transparency of the courts, which in turn would increase the investment climate, the confidence of the citizens and the business environment in the judiciary.

The draft mainly proposes to reduce the length of civil proceedings by reducing the number of hierarchical appeals in certain categories of cases, limiting the grounds for suspending the trial by the participants, and introducing a new simplified procedure (made only through written comments) of examining certain categories of cases amounting to up to 10 average salaries per economy (~ MDL 50.000). In addition, the draft proposes detailing the procedure for preparing the case for examination in the courts (merits and appeal), tightening the rules for submitting evidence and summoning the participants, and introducing the possibility of filing procedural documents in electronic format (e-case system).

The draft was registered with the Ministry of Justice in early 2017. The drafting of the draft complied with the norms on ensuring transparency in the decision-making process. At the end of August 2017, the Ministry of Justice drew up a summary table of the proposals and objections to the draft. On 4 September 2017, public debates were organized on the draft, examining the proposals received from civil society and interested persons. On 27 October 2017, the draft was sent to the Government and on 1 November was approved at the Cabinet of Ministers meeting<sup>9</sup>. The approved version contains some new changes to be analyzed qualitatively in the near future.

<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>Negative progress</b>

The draft law no. 428 on the reform of the judiciary sector includes amendments to the Law no. 178. The Ministry of Justice finalized the coordination and approval process of the draft law no. 428. The draft is currently being finalized. It is to be improved by the proposals of the authorities and civil society.

The draft law no. 428 provides for a number of amendments to the disciplinary deviations provided by Law no. 178, which largely correspond to the recommendations of the Venice Commission. However, this draft does not foresee a simplification of the disciplinary mechanism that is

<sup>8</sup> See the draft law available at: [http://justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2017/octombrie/Nota\\_informativa\\_simplificare\\_a\\_CPC.pdf](http://justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2017/octombrie/Nota_informativa_simplificare_a_CPC.pdf).

<sup>9</sup> See the Communiqué of the Ministry of Justice of 27 October 2017, available at: <http://justice.gov.md/libview.php?!=ro&idc=4&id=3648>

recognized by the legal community and even the judges as a difficult one<sup>10</sup>. Currently, a disciplinary procedure can go through 5 stages (at 5 different organs). Simplification can take place by strengthening the role of the Judicial Inspection in the examination of disciplinary complaints, the exclusion of the admissibility stage, and the introduction of direct appeal of the Disciplinary Board's rulings to the SCJ, on merits and procedure<sup>11</sup>.

Furthermore, on 11 October 2017, the Parliament registered the legislative initiative of two MPs, the draft no. 307<sup>12</sup>, which provides for the amendment of the Law no. 178, by introducing the appeals of the judgments of the Superior Council of Magistracy with the SCJ only in the "part referring to the issuance/adoption procedure". In disciplinary proceedings, limiting the appeal of SCM judgments only to procedural issues could be contrary to ECtHR standards<sup>13</sup>. At present, draft no. 307 is in the process of being endorsed within the Parliament.

Due to the lack of provisions for simplification of the disciplinary procedure and of the draft law no. 307, which raises essential concerns, this action is rated as "negative progress".

We also mention that action 2.3. is vaguely formulated and seems to reiterate action 2.1. Until 22 November 2017, we did not receive a response from the Ministry of Justice about the difference between the two actions, but we hope to be able to clarify these issues in the near future.

<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>Positive progress</b>

The National Centre for Personal Data Protection (NCPDP) is the institution responsible for drafting the Law on Video Surveillance. According to the information provided on 23 October 2017 by the NCPDP representative, the institution requested the appointment of the responsible persons within the Ministry of Justice, the Ministry of Internal Affairs (MIA) and the National Anti-corruption Centre (NAC) to be included in the working group responsible for drafting the respective draft.

On November 27, 2017, NCPDP initiated public consultations on the draft law on regime of video means. The proposals / recommendations on this project may be submitted by December 4, 2017, ie within 7 days, which is in violation of Law No. 239 of 13 November 2008 on transparency in decision-making process.

However, Action 2.4. is rated as "in progress positive" due to the fact that short-term activities were initiated. Qualifier it may be modified depending on the final content and the way of promoting the project.

<sup>10</sup> CRJM, The Survey "Perception of Judges, Prosecutors and Lawyers on the Reform in Justice and the Fight against Corruption" („Percepția judecătorilor, procurorilor și avocaților privind reforma în justiție și combaterea corupției”), December 2015, pages 42-43, available at: <http://crjm.org/wp-content/uploads/2016/01/CRJM-Percepts-reformelor-just-1.pdf>

<sup>11</sup> Details of the need for these reforms can be found in the Policy Paper "Analysis of Legislation and Practice on Disciplinary Liability of Judges, 2015-2016" (DPP „Analiza legislației și practicii privind răspunderea disciplinară a judecătorilor 2015-2016”) of November 2016, available at: [http://crjm.org/wp-content/uploads/2016/11/CRJM\\_2016.11-DPP-Raspundere-disciplinara\\_fin.pdf](http://crjm.org/wp-content/uploads/2016/11/CRJM_2016.11-DPP-Raspundere-disciplinara_fin.pdf) and the Policy Paper "Assessment of Needs to Improve the Legal Framework on the Disciplinary Liability of Judges" (DPP „Evaluarea necesităților de îmbunătățire a cadrului legal privind răspunderea disciplinară a judecătorilor”) of February 2016, available at: <http://crjm.org/wp-content/uploads/2016/02/2016-02-DDP-Legea-178-CRJM-web.pdf>.

<sup>12</sup> Available at: <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3928/language/ro-RO/Default.aspx>.

<sup>13</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)

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.5. Parliament to adopt the Law on preventing and combating money laundering and terrorism financing</b>	<b>December</b>	<b>Positive progress</b>

According to the National Action Plan for the implementation of the EU-Moldova Association Agreement (NAPAA) for 2017-2019, the new law on preventing and combating money laundering and terrorism financing was to enter into force in the first quarter of 2017. The draft law, drafted in a participatory manner, was approved by the Government on 30 December 2016, registered in Parliament on 03 February 2017 and voted in first reading on 30 March 2017. The new law aims to harmonize the national standards in the field with the European and international ones, the transposition into national law of the provisions of EU Directive 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorism financing as well as the 40 recommendations of the Financial Action Task Force (FATF) revised in 2012. An independent evaluation of the draft the law<sup>14</sup> identified several gaps and weaknesses, with the potential to create dysfunctions in the real sector and to undermine the mechanism to combat money laundering. One of the main recommendations suggested by the author was to set up 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 13 June 2017, the National Security, Defence and Public Order Parliamentary Committee organized public hearings on the draft law, with the participation of MPs, representatives of public authorities, civil society, financial-banking institutions and development partners. During the hearings 12 amendments were accepted, but without being adopted. The proposed amendments did not address several deficiencies previously identified by independent experts<sup>15</sup>. The results of the hearings, as well as the amended version of the draft law, have not yet been made public.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.6. National Anti-corruption Centre to ensure the transposition into domestic legislation of the provisions 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 terrorism financing</b>	<b>December</b>	<b>Positive progress</b>

Applying the new law to combating and preventing money laundering and terrorism financing will require harmonising the current legislation in line with the new law, but also revising or adopting more regulatory and departmental acts. Such an exercise requires at least 2 months' time. Considering that the new law has not yet been voted in second reading, there is the possibility that NAC will not succeed in achieving the action in due time. However, NAC has taken some action.

<sup>14</sup> Expert-Grup, Draft Law on Money Laundering Prevention and Combating – A Source of Economic Stability or Instability? ("Proiectul de lege cu privire la prevenirea și combaterea spălării banilor – sursă de stabilitate sau instabilitate economică?"), by Sergiu Gaibu, Chisinau, May 2017, <http://www.expert-grup.org/ro/biblioteca/item/1423-proiectul-de-lege-cu-privire-la-prevenirea-si-combaterea-spalarii-banilor-sursa-de-credibilitate-sau-instabilitate-economica&category=7>.

<sup>15</sup> Expert-Grup, "Prevenirea și combaterea spălării banilor: Foaie de parcurs pentru adaptarea cadrului regulator la contextul Republicii Moldova", autor Sergiu Gaibu, septembrie 2017, [http://www.expert-grup.org/media/k2/attachments/2017\\_09\\_24\\_AML\\_3\\_1.pdf](http://www.expert-grup.org/media/k2/attachments/2017_09_24_AML_3_1.pdf).

On 25 August, the MLPCS initiated the process of adjusting the Guidelines on Suspicious Activities and Transactions to comply with EU Directive 2015/840 and revised FATF standards in 2012, and held a first meeting with World Bank representatives, financial institutions and the Association of Banks of the Republic of Moldova.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.7. Parliament and Government to ensure the efficient functioning of the Agency for Recovery of Criminal Assets</b>	<b>October</b>	<b>Negative progress</b>

On 30 March 2017, the Parliament voted in the second reading the Law on the Agency for Recovery of Criminal Assets (ARCA). The scope of the new Agency is to develop the capacities and tools needed to recover criminal assets in connection with corruption and money laundering offenses. The ARCA Law entered into force on 19 May 2017, being set up as an autonomous subdivision within the NAC. In June 2017, the head of the Agency (Otilia Nicolai) was appointed.

On 9 October 2017, a group of MPs proposed to change some of ARCA's competences and duties<sup>16</sup>. The amendments propose, inclusively institutional and functional reconfiguration of the institution, by moving the Agency subordinated to the NAC under the subordination of the State Tax Service. Changes come not more than five months after the entry into force of the ARCA law.

On 2 November 2017, the draft amendment to the ARCA competences was voted in the first reading. Although at the hearing the representatives of the Legal Commission assured that the changes regarding the relocation of the ARCA under the State Tax Service are to be excluded from the draft, the Parliament voted the draft in the first reading without excluding the amendments regarding the change of the ARCA's hierarchical subordination.<sup>17</sup> These would be introduced in the debate on the draft in the second reading by the amendments of the MPs (the authors of the initiative).

In the event of the proposed changes, ARCA's institutional reconfiguration implies a number of risks related to the Agency's ability to be fully operational (need to re-initiate staff selection procedures and institution's leader, institution's budget allocation or headquarters). The lack of clarity about ARCA's duties, competence and subordination jeopardizes the effective functioning of ARCA in the immediate aftermath and implicitly the possibility of successful action. Therefore, Action 2.7 is rated as "negative progress".

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>2.8. Parliament and Government to ensure the functioning of the National Integrity Authority</b>	<b>November</b>	<b>Positive progress</b>

Within 6 months from the entry into force of the integrity laws package<sup>18</sup> (1 August 2016, except for

<sup>16</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>.

<sup>17</sup> See the Parliament's Sitting of 2 November 2017, available at: <https://www.privesc.eu/arhiva/78663/Sedinta-Parlamentului-Republicii-Moldova-din-2-noiembrie-2017>.

<sup>18</sup> The so-called integrity package is made of the Law no. 132/2016 on the National Integrity Authority, Law no. 133/2016 on the declaration of personal assets and interests and the Law no. 134/2016 on amending and supplementing some legislative acts.



some provisions - in force since 1 January 2018), the Government was to undertake several actions to ensure the functioning of the National Integrity Authority (NIA) and the implementation of the new legislative framework, including: 1) submitting 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) ensuring the interoperability of data from the on-line E-integrity declaration system and state and private registers; 3) establishing the type of electronic signature and how it is assigned to the subjects of the declaration. The Parliament in turn was to approve the staffing and organizational structure of NIA.

It was only on 28 August 2017 that the Government adopted Decision No. 673 (in force as of 06.09.2017)<sup>19</sup> setting out: the advanced electronic signature for the signing of electronic declarations of assets and personal interests and the distribution of electronic signatures to civil servants, subjects of declaration of property and personal interests. According to this decision, electronic signatures will be issued in a centralised way by the State Enterprise Special Telecommunications Centre (SE STC) for the amount of MDL 125 per signature, the total cost for providing all subjects of declaration with the electronic signatures (700,000), with a one-year validity period amounting to MDL 8.76 million. This amount exceeds by far the cumulative budget expenditures of MDL 2891596<sup>20</sup> incurred for digitization services and processing of declarations for the entire duration of NIC/NIA's activity (2013-2017). From the informative note to GD, it is unclear why the Government opted for a qualified one-year advanced electronic signature issued by the STC and did not examine other types of signatures, such as mobile ones, which are also certified by SE STC.

According to GD no. 673, the NIA created the list of persons responsible for collecting the declarations of assets and personal interests and transmitted it to the SE STC. NIA also approved their training plan to fill in the Electronic Register of the subjects of the declaration of assets and personal interests. On 4 October 2017, the Government approved the draft law amending the budget for 2017, which provides for the allocation to the State Chancellery of the amount of MDL 9.8 million for issuing electronic signatures. The draft law was registered in the Parliament on 17 October (draft law no. 316) on 25 October - approved by the Parliamentary Committee on Economy, Budget and Finance, and on 27 October and 10 November voted in the first and second readings. At the same time, we notice, on the one hand, an inactivity of the Parliament regarding the approval of the NIA's staff and, on the other hand, an indirect involvement in clarifying the uncertain situation regarding the ANI management during the reorganization of the ANI and the ANI Chair position vacancy. In the absence of Parliament's decision on the NIA's staff, the Government maintained in the draft budget law for 2018 the limit staff of 26 units for NIA, identical to the personnel approved for NIC. Allocating insufficient financial resources for the employment of integrity inspectors could create risks for the efficient control of the assets and interest declarations 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 declarations and declarations of conflicts of interest and will ensure the on-</b></i>	<i><b>December</b></i>	<i><b>Positive progress</b></i>

<sup>19</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 subject to public consultations, see <http://www.particip.gov.md/proiectview.php?l=ro&idd=4152>.

<sup>20</sup> The annual cost of digitization and processing of declarations on 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>.

<b><i>line functioning of the declaration and verification system by ensuring submission of electronic declarations on assets and interests and ensuring public access to the declarations</i></b>		
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From the information obtained, NIA has developed a preliminary draft of the methodology for controlling assets and personal interests. It is to be examined and approved by the president or vice-president of the NIA, which has not yet been selected by the Integrity Council. At the same time, the set of documents necessary for the registration of the on-line system for filing and verifying the declarations of assets and interests in the Register of personal data recorders is under preparation, including the Regulation of the E-Integrity informational system. Due to the lack of qualified personnel in this field within the NIA, the activity is carried out with the support of the World Bank. At the same time, NIA trained the collectors of assets and interest declarations from public institutions who will have to fill in the Electronic Registry of the subjects of declaration (Registry) and then distribute electronic signatures and help public officials to complete online declarations. ANI has further developed and made public on its web page two guides, one for collectors how to fill in the Register and the other for subjects to declare how to file electronically their personal assets and interest declarations. Although with some delay regarding the legal provisions, the declarations of assets and personal interests for the year 2016 were published on the NIA's website. It raises concerns the delay in the selection of the NIA leadership, which has practically blocked the whole process of adopting the internal acts necessary to achieve NIA's competences and to complete the institutional reform of NIA.

<b><i>Action</i></b>	<b><i>Deadline</i></b>	<b><i>Stage</i></b>
<b><i>2.10. State institutions to approve the Sector Anti-corruption Plans in line with the National Integrity and Anti-corruption Strategy 2017-2020</i></b>	<b><i>November</i></b>	<b><i>Positive progress</i></b>

The Action Plan for the implementation of the National Integrity and Anti-corruption Strategy 2017-2020 (AP NIAS)<sup>21</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 and health insurance, education, agro-food, public order, environmental protection. The deadline for approving the sectorial plans set up by AP NIAS is the fourth quarter of 2017, which is more extensive than foreseen in the Roadmap. By GD no. 676 of 29.08.2017 (in force from 01.09.2017), the Government approved the mechanism for the elaboration and coordination of sectorial and local anti-corruption plans for the years 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 designated. Templates and instructions for drawing up sectorial and local anti-corruption plans and trimestral monitoring reports on their implementation by the responsible authorities were also approved. 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 later published on the website of the respective authorities and the NAC. We consider that the proposed deadlines did not take into account the possible delays caused by the implementation of Government reform. Thus, at the time of writing this report, only 4 sectorial anti-corruption plans out of the 9 planned were presented for public consultations: in the field of public order and

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>.

security<sup>22</sup>, environmental protection<sup>23</sup>, taxation<sup>24</sup> and customs<sup>25</sup>.

### Recommendations:

- For the Ministry of Justice - improving the draft law no. 428 on the judiciary in order to ensure effective selection and promotion of judges on a merit basis, to ensure the transparency of the SCM by indicating the number of votes in its judgments and clear regulation of cases of holding secret meetings, and supplementing the draft in order to ensure functional independence of the Judicial Inspection;
- For the Ministry of Justice - improving the draft law no. 428 or drafting a new draft law amending Law no. 178 (disciplinary liability of judges) by simplifying and rendering efficient the mechanism of disciplinary liability of judges, respectively;
- For the Parliament - rejecting the draft law no. 307 proposing limiting the challenge of SCM judgments on disciplinary cases only to procedural issues, which could be contrary to ECtHR standards;
- For the Parliament - adopting the limit staff and the organizational structure of NIA;
- For the Parliament - adoption of the new law on combating and preventing money laundering and terrorism financing, after repeated consultation of the draft law with stakeholders;
- For the NCPDP - assurance of qualitative and inclusive consultations in drafting and finalizing the draft on video surveillance law;
- For the NCPDP and the Ministry of Justice - ensuring a transparent process of drafting and consulting the draft law in the field of personal data protection, before their submitting to the Government for adoption;
- For the Parliament - ensuring the ARCA's institutional functioning and giving up any changes that could jeopardize the start of ARCA's effective activity and operation.

## 3. Fundamental Rights and Freedoms

### Summary of overall progress

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*Of the 9 monitored actions, 5 are in positive progress, 3 are in negative progress and 1 implemented without concerns.*

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During the reference period, the Ministry of Justice has submitted to the Government the draft National Human Rights Action Plan (NHRAP). The Action Plan for the period 2017-2020 on the implementation of the Strategy for the strengthening of interethnic Relations in the Republic of Moldova for the years 2017-2027 was adopted and actions for creation a special committer to control and monitor progress in the fight against trafficking in human beings by the Parliament were initiated. The period was marked by the delay in adopting the Strategy on Civil Society Development.

Two actions raise concerns. The first relates to the draft law to strengthen the legal framework regulating the activity and powers of the Council for the Prevention and Elimination of Discrimination and Ensuring Equality (CPEDAE), submitted for public consultation on 22 November by the Ministry of Justice, which does not contain a number of important provisions for the field,

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<sup>22</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4623>.

<sup>23</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4691>

<sup>24</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4734>

<sup>25</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4735>



initially included by CPEDAE. Another concern relates to the two draft laws drafted by the National Centre for Personal Data Protection (NCPDP), which provides for the NCPDP reform and the amendment of the related legal framework. This reform raises a number of concerns because it gives the authority responsible for ensuring the protection of personal data very broad competences without ensuring checks and balances

### Summary of individual actions

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>3.1. Parliament to adopt the Law on amending and supplementing some legislative acts (strengthening the regulatory framework regulating the activity and competencies of the Council for Preventing and Eliminating Discrimination and Ensuring Equality)</b></i>	<i><b>December</b></i>	<i><b>Negative progress</b></i>

The draft law amending the legal framework on equality and nondiscrimination was drafted by the Equality Council and sent for public consultations on 7 November 2017. The draft included a series of important provisions for improving the Equality Council's activity and ensuring effectively equality and nondiscrimination. Among others, the draft included an extended list of protected grounds, a series of important new definitions, the right of the Council to address the Constitutional Court and to apply directly administrative sanctions for discrimination, as well as a series of technical improvements of Council's activity. The draft law was elaborated based on several evaluations of the legal framework and practice of ensuring equality and non-discrimination in Moldova, including evaluations carried out by the Council of Europe.

Although the draft law was still at the public consultation stage of the Equality Council, on 22 November 2017 the Ministry of Justice has published for public consultation a revised version of the draft law. Compared to the Council's draft, the draft law published by the Ministry of Justice does not contain a series of important provisions meant for increasing the role and efficiency of Council's activity. For example, it does not provide for the Council's right to address the Constitutional Court or directly apply sanctions for discrimination acts. In addition, the sexual orientation was excluded as expressly generally protected ground, and a series of definitions were excluded.

Taking into account the unclear public consultation procedure of the draft law and publication by the Ministry of Justice of a draft that excludes important provisions for effectively combating discrimination, initially introduced by the Equality Council, the action is qualified as in „negative progress”. Taking into account the experience of adopting the Law no. 121 in 2012, it is crucial that the draft law that is submitted to the Parliament is of the best quality. The action will be requalified depending on the content of the adopted law.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>3.2. Parliament to ensure the drafting of the new Audiovisual Code</b></i>	<i><b>December</b></i>	<i><b>Positive progress</b></i>

The adoption of the new Audiovisual Code is one of the residual actions of the March-July 2016

Priority Reform Roadmap. After the new Audiovisual Code (Law no. 53 of 15 March 2015)<sup>26</sup> was adopted in July 2016 in the first reading, and 3 draft laws (no.125 of 02.04.2015; no.218 of 22.05.2015 and no.231 of 28.05.2015) on the amendment and completion of the current Audiovisual Code<sup>27</sup>, it was decided to merge all the draft laws and finalize the new Audiovisual Code for second reading, but only after it has been sent for endorsement to the Council of Europe, the OSCE and other international institutions in the field. This decision was abandoned because the draft Audiovisual Code (drafted in 2011) was out-dated and did not correspond to reality in the audiovisual sector. On 13 June 2017, the Working Group on improving the media legislation was created based on a motion issued by the Speaker of the Parliament and the Regulation on its operation was adopted<sup>28</sup>. The working group, consisting of MPs, media experts, representatives of national broadcasters and civil society, works with the logistical support provided in a joint project of the Council of Europe and the EU. Within the working group, 8 thematic sub-groups were created, including sub-group 1 "Developing a new Audiovisual Code". At the time of writing this report, sub-group 1 agreed on the on the structure of the new Code, drafted and discussed 9 of the 10 chapters of the future document. The meetings of the sub-groups are closed, but the participation of the interested persons is allowed on the basis of a prior invitation.

<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>Negative progress</b>

The National Centre for Personal Data Protection (NCPDP) has drafted the draft laws on the National Centre for Personal Data Protection and related legislation and has posted it for public consultations<sup>29</sup>. The goal of the project, according to the authors, is to strengthen the institutional and functional capacities of the NCPDP. The related legislation attached to the draft transposes de facto the Law no. 133/2011 on the protection of personal data in a new version.

The NCPDP reform is ambitious. At the same time, it raises a number of concerns because it gives the authority responsible for ensuring the protection of personal data very broad competences without ensuring checks and balances. Furthermore, the possibility of amendments to some of the NCPDP's competences is at least questionable. The Centre aims to become the sole authority of the state invested with the right to oversee the observance of data protection principles and investigate compliance with the principles of personal data protection. These competences imply the possibility of collecting information and intervening in the activity of public authorities and economic agents without the need for 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 informative note, since they propose also to change the competences of some judicial authorities (SCJ and SCM) in the part related to anonymization/depersonalization of judgments. All these changes require careful attention and

<sup>26</sup> The draft law no. 53 of 15.03.2016 was voted 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>27</sup> The three draft amendments to the Audiovisual Code were approved 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>28</sup> <http://www.parlament.md/Actualitate/%C3%8Embun%C4%83%C4%83%C8%9Birealegisla%C8%9Bieimassmedia/tabid/255/language/ro-RO/Default.aspx>.

<sup>29</sup> See the draft laws placed on the official website of the NCPDP: [http://datepersonale.md/md/transp\\_consult/](http://datepersonale.md/md/transp_consult/).

analysis.

It is imperative that the draft law be widely consulted with representatives of public authorities, the judiciary and civil society organizations and media representatives until the start of the draft law registration procedures. In October, the Centre initiatives were negatively endorsed by the SCM.<sup>30</sup> 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. Because of the deficiencies included in the drafts prepared by NCPDP, this action is rated as "negative progress".

<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>Positive progress</b>

Drafting the Media Development Strategy is the responsibility of sub-group 4, which is part of the Working Group on improving the media legislation, created on 13 June 2017 by the Speaker of the Parliament<sup>31</sup>. In the absence of previous similar documents, the process of drafting the strategy was slower, but by the end of November a first draft of the Strategy has been developed. Once elaborated, the draft Strategy will be submitted to the Working Group for approval and published on Parliament's website.

<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>Negative progress</b>

The new Strategy on Civil Society Development (2017-2020) was drafted during the years 2016-2017. The priorities of the new strategic document continue the efforts started in the implementation of the previous strategies of civil society development, being organically reflected 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-sectorial working group (divided into three working sub-groups according to the general objectives of the Strategy) with the support and involvement of civil society organizations, development partners, Government and Parliament. In this part, the process of drafting the document has been an example of good practice of involving civil society in the decision-making process.

In March 2017, the draft strategy and all the recommendations on the content of the public consultation were submitted to the Parliament. According to the estimates of the working groups, the final draft was to be registered at the beginning of the spring session of 2017. Since May 2017, the participants in the sub-groups have not been informed at what stage the draft strategy is. Until 2 November 2017, the final version of the draft was not registered in the Parliament. The delay in adopting the Civil Society Strategy involves more risks, mainly the need to revise the implementation deadlines initially proposed with the expiry of the implementation deadline in 2017.

<sup>30</sup> For further details, please see SCM decisions no. 694/695-31 from 31 October 2017, available at: <http://www.csm.md/files/Hotaririle/2017/31/694-31.pdf>; <http://www.csm.md/files/Hotaririle/2017/31/695-31.pdf>.

<sup>31</sup> <http://www.parliament.md/LinkClick.aspx?fileticket=Nq5cNqgf4yM%3d&tabid=255&language=ro-RO>

<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>Positive progress</b>

The Ministry of Justice is the institution responsible for finalizing the draft Parliament decision on the approval of the National Human Rights Action Plan (NHRAP) for the years 2017-2021. NHRAP is a national policy document drafted by a Working Group composed of representatives of central public authorities, representatives of the civil society and development partners who have the observance of human rights as activity priorities. 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.

Due to the complexity of its drafting process, the working group was divided into 5 thematic sub-groups, set up according to the areas of intervention and based on the character of the recommendations formulated through the international mechanisms for monitoring human rights. By letter no.07/6550 of 20 June 2017, the Ministry of Justice submitted for public review/public consultations<sup>32</sup> with the national institutions and the civil society. In the context of the institutional changes that took place in the context of the central public administration reform, the Ministry of Justice, by letter no. 07/11482 of 16 October 2017 requested the re-expertise of NHRAP draft according to the new institutional competencies and duties.

On 31 October 2017<sup>33</sup>, the draft Parliament's decision on the approval of the National Human Rights Action Plan for 2018-2022 (NHRAP) was submitted to the Government for consideration. Thus, following the delayed process of elaborating the draft law, the deadlines for the implementation of the NHRAP were revised. At this stage, the course of the action does not raise concerns, but we cannot express ourselves on the content of the draft text, since the synthesis of the recommendations received during the public consultation and the results of the expertise have not been made public, but the "positive progress" rank is granted for transmission to the Government for approval. It can be amended later depending on the content of the document.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<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>Positive progress</b>

According to the information provided by the Parliament, on 18 October<sup>34</sup>, the subject of prevention and combating trafficking in human beings (THB) was discussed on parliamentary 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 prevention and combating. It was chaired by 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.

<sup>32</sup> Available at: <http://www.justice.gov.md/pageview.php?l=ro&idc=192> (no.410)

<sup>33</sup> Available at: <http://www.justice.gov.md/pageview.php?l=ro&idc=230> (no.196)

<sup>34</sup> Available at: <http://www.antitrafic.gov.md/libview.php?l=ro&idc=94&id=1000&t=/Presa/Stiri-si-Evenimente/Crearea-platformei-de-control-parlamentar-asupra-implementarii-legislatiei-in-domeniul-prevenirii-i-combaterii-traficului-de-fiinte-umane>

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.

Similarly, the Parliament's Secretariat, in its letter dated on 3 November 2017, informed us that through an order of the Speaker of Parliament dated on 1 November 2017, the parliamentary control platform on the implementation of the Law on Preventing and Combating Trafficking in Human Beings and actions achieved in this area was created.

Although the Speaker's order was not published until 22 November 2017, the action is rated as „positive progress” based on the fact that such a committee / platform met in a first working session.

At the same time, it is important to note that the action 3.7 is of a technical and simplistic nature and its inclusion in the Roadmap is unclear, especially as long as it is formulated and interpreted by authorities strictly referring to the creation of the commission 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 National Strategy for Preventing and Combating Trafficking in Human Beings for the years 2017-2022 and the Action Plan for the years 2017-2022</b>	<b>December</b>	<b>Positive progress</b>

The Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings, at the State Chancellery, is responsible for coordinating the activities in order to finalize the draft Government Decision on the approval of the National Strategy for Preventing and Combating Trafficking in Human Beings for the years 2017-2022 and of the Action Plan for the years 2017-2022.

On 18 January 2017<sup>35</sup>, the public consultation procedure for the respective draft was launched. However, according to the information provided by the Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings in the context of the 2017 Government reform, it was impossible to finalise the draft. Accordingly, a new Strategy for the years 2018-2023 and the Action Plan for 2018-2023 with the submission for promotion by the MIA is envisaged.

Currently and until 31 December 2017, the activity is carried out on the basis of a Set of measures for the implementation of priority actions in the field of preventing and combating trafficking in human beings<sup>36</sup>, approved by the Prime Minister's Instruction no. 24-04-6083 of 04.08.2017.

Action 3.8. is rated as a "positive progress" based on the fact that the draft has previously been subject to public consultations, as well as the fact that a new Strategy for the years 2018-2023 is planned. This rating can be changed depending on the content, terms and method of promoting the respective draft.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
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<sup>35</sup> Available at: <http://antitrafic.gov.md>

<sup>36</sup> Available at: <http://antitrafic.gov.md/libview.php?!=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>

<b>3.9. Government to approve the Decision on the approval of the Action Plan for the period 2017-2020 regarding the implementation of the Strategy for Strengthening Interethnic Relations in the Republic of Moldova for the years 2017-2027</b>	<b>October</b>	<b>Implemented without concerns</b>
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The Draft Government Decision "On the approval of the Action Plan for the years 2017-2020 for the implementation of the Strategy for Strengthening Interethnic Relations in the Republic of Moldova for the years 2017-2027"<sup>37</sup> was elaborated by the Interethnic Relations Bureau and adopted by the Government on 15 November 2017.

The Action Plan aims to facilitate the implementation of the Strategy for Strengthening Interethnic Relations in the Republic of Moldova, adopted by the Government on 30 December 2016. The Action Plan foresees, among others, the elaboration of a study on the feasibility of creating a public institution for teaching the Romanian language for the adult non-Romanian speaking population, the elaboration of the study on the configuration of the ratification options of the European Charter for Minority or Regional Languages and the legislative impact, the elaboration of the legal framework for ensuring the right of the national minorities to learn their language and education in their language according to art. 10 par. (1) and (2) of the Education Code of the Republic of Moldova, as well as training actions of the civil society, the media and the Audiovisual Coordination Council regarding the prevention and counteraction of the cases of discrimination and incitement to interethnic hatred, etc.

In the light of the content of the Action Plan, action 3.9. is rated as "implemented without concerns". It can be modified depending on the content of the Government Decisions published in the Official Gazette.

#### **Recommendations:**

- For the Government and NCPDP - ensuring extensive consultation of the draft laws on the reform of personal data protection, with the representatives of public authorities, the judiciary and civil society organizations and media representatives until the procedures for registering the draft law in the Parliament are initiated.
- For the Ministry of Justice - improving the draft law no. 450 on the revision of legal framework on non-discrimination and on ensuring equality, including by introducing CPEDEE's powers to address the Constitutional Court and to directly apply misdemeanour sanctions;
- For the Parliament - urging the initiation of the adoption process of the Civil Society Development Strategy;
- For the Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings and the Ministry of Foreign Affairs and European Integration - expedite the initiation of development and public consultation of a new National Strategy for Preventing and Combating Trafficking in Human Beings for the years 2018-2023 and Action Plan for - 2018-2023.

<sup>37</sup> Available at: <http://www.bri.gov.md/index.php?pag=proiecte&opa=view&id=84&start=&>

## 4. Governance in the Financial and Banking Sector

### Summary of overall progress

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*Of the 8 actions monitored, 2 were implemented without concerns, 5 are in positive progress and 1 is in negative progress.*

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The banking crisis and large-scale frauds that took place in recent years call for a new approach to the regulation of the national financial system and the way it contributes to supporting economic activities. Following the immediate stabilization actions taken in 2015/2016, a comprehensive process of recovery and redemption was started, which is currently geared towards three distinct areas: (i) reform of the banking sector; (ii) improving the non-bank financial sector and (iii) adjusting the overall financial reporting framework. These actions can only be in line with the commitments undertaken while signing the Association Agreement with the European Union and in correlation with the latest and best international practices in the field.

The Priority Reform Action Roadmap proposes a series of actions to be implemented by the end of 2017, which are primarily aimed at solving the problem related to the purchase of stocks of the largest banks in the sector, harmonizing some legislative acts in line with the National Action Plan for the implementation of the Association Agreement<sup>38</sup> or investigating the funds diverted from several commercial banks. Of the proposed 8 actions, the vast majority are in advanced progress. However, there is a need to enhance the parliamentary debates in order to adopt them by the set deadlines.

At the same time, although one of the actions implies the investigation of the bank fraud and recovery of assets acquired by fraud, three years after this fraud, the investigation of the persons involved and the jurisdictions where the money was transferred has not produced any conclusive and clear results. Although steps are taken to create inter-institutional fraud investigation platforms, public opinion seems to be reconciled with the authorities' real desire to recovery funds and to bring to court those who were actually involved.

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<sup>38</sup> National Action Plan for the implementation of the EU- Moldova Association Agreement, 2017-2019, <http://dcfta.md/uploads/0/images/large/plan-de-actiuni-ro.pdf>



## Summary of individual actions

<i>Action</i>	<i>Deadline</i>	<i>Stage</i>
<b>4.1. Parliament to adopt a new law on banks' activity</b>	<b>November</b>	<b>Implemented without concerns</b>

While signing the Association Agreement with the European Union, the Republic of Moldova has committed itself to comply with the European banking and financial standards. Thus, one of the most important stages is the transposition into national legislation of the provisions of the Basel III Standards in the field of licensing, regulation and banking supervision. In this context, the draft law on banks' activity was prepared and adopted, a law that is expected to replace completely the provisions of the Law on financial institutions. 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 "Capital Requirement Directive IV" (CRD IV) package, which in turn ensures the transposition of the Basel III provisions. Secondly, this law 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 a solid corporate governance.

It can no longer be accepted that the excessive risks assumed by banks, losses caused by frauds or those caused by the poor quality of management be placed on the shoulders of taxpayers. The need to hold accountable the banks, managers and shareholders for their work and the achieved results is a common approach at global level, and the Republic of Moldova cannot avoid this. At the same time, the new legislative framework regulating the banking sector may serve as a hope that such events as those from 2014-2015 will not happen again. Otherwise, the old law, the Law on financial institutions, being amended many times, demonstrated its limits, and can no longer guarantee a healthy banking environment.

Even so, the responsibility for events that happened during the crisis cannot be attributed to the regulatory framework in force at that time, but rather to manner of its enforcement and implementation. Therefore, no law, however good it may be, can guarantee that such events as those that triggered the crisis will not be repeated, which implies the existence of a real will to observe and enforce the legal framework.

Finally, taking into account that the law voted in the final reading transposes the latest European best practices in banking activity without being distorted and given that the adoption process was completed by the deadline, while ensuring a broad consensus among stakeholders, this action is deemed to be implemented without reservation.

<i>Action</i>	<i>Deadline</i>	<i>Stage</i>
<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>Positive progress</b>



Once the new law on banks' activity is adopted, a series of legal and regulatory acts on banking activity need to be amended to be consistent with each other. In this respect, the National Bank of Moldova (NBM) prepared a draft law for amending and supplementing some legislative acts. This action is required to align the related regulatory framework on banks' activity to the new concepts stipulated in the new banking law. Thus, amendments and additions will be made to such legislative acts as the Law on the NBM, the Law on bank recovery and resolution, the Law on joint stock companies, etc. The public consultation with the interested persons, public authorities and institutions started in August 2017, after which the draft was expected to be finalized and submitted for approval to the Government and promotion to the Parliament. At the same time, taking into account that the deadline was set for December this year, while the Law on banks' activity is expected to enter into force in January 2018, this action should be implemented by the end of December, this year.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>4.3. Parliament to adopt the Law on amendment and completion of some legislative acts (Law on capital market, Law on financial institutions) (relating to alienation of bank shares)</b></i>	<i><b>November</b></i>	<i><b>Positive progress</b></i>

The outcomes of the 2014-2015 banking crisis represented through enormous amounts of misappropriated funds and the impossibility of immediate accountability of the authors revealed the way in which a large number of public interest entities are held, in particular banks and insurance companies. Although, in theory, the so-called foreign investors prevail, most of the shareholders are in fact nationals who disguised their property through offshore jurisdictions or behind fictitious people who do not meet the current requirements of financial transparency, reputation and quality.

Thus, considering the situation of the shareholding of several banks and insurance companies (fraudulent schemes of removal/appropriation of financial resources by means of illegal transactions or investments whose origin is not documented, proved and approved by the regulator, etc.), and to remedy the situation regarding the alienation of the proposed banking shares, a legislative initiative was registered in order to amend and supplement the Capital Market Law and the Law on Financial Institutions. Once adopted, this act aims to include a consistent procedure for the sale of new shares issued by the banks, which expressly presents the criteria for determining the price of the shares, the terms of sale, the conditions for terms extension and the compensation procedure of former shareholders. At the moment, the draft law is being debated within the parliamentary committees, and is expected to be presented to Parliament in plenary session. At the same time, taking into account the little time left for fulfilling this action, and the fact that not all consultation and approval procedures were finalized, we believe it necessary to speed up the process for adoption by the established terms.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>4.4. Parliament to adopt the Law on non-bank lending organizations</b></i>	<i><b>December</b></i>	<i><b>Positive progress</b></i>

In order to strengthen the regulation and supervision of the non-banking financial activity, in 2012

the NCFM developed and promoted a draft law on non-bank lending organizations. Taking into account that the consensus for the adoption of the draft law was not reached at that time, it was subsequently withdrawn from the Parliament's agenda. However, the current situation in the banking sector and the shift of loan demand to non-bank financial institutions, in particular to microfinance companies and leasing companies, require a new approach and vision on this sector, especially with regard to regulation, prevention of excessive risks and maintaining the stability of this activity.

Although the amount of loans granted by domestic banks declined by more than 10% over the last two years, the amount of financing provided through non-bank financial institutions increased by at least 30%. These developments account for a share of non-bank loans of about 20% in the total financing provided by the financial system, which is twice higher than the level recorded before the crisis.

Given the interconnection of the two sectors and the maintenance of financial stability, it is important to clearly define the NCFM's role not only in "monitoring" the non-banking financial sector but also in its effective "supervision". In addition, taking into account the diversity of lending mechanisms (microlending, leasing activity, loan associations), the concept of "non-bank lending organizations" is supported to ensure the consistency of the regulatory and supervisory framework.

Thus, in order to achieve these objectives, during the year 2017, NCFM revised the previous draft law on non-bank lending organizations, as well as the entire consultation and endorsement process, so that, at the moment, stakeholders have finally reached a consensus on the new draft law, which was approved by the Government and promoted for debate and adoption to the Parliament.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>4.5. Parliament to adopt the Law on amending and supplementing the Law on insurance no. 407/2006</b></i>	<i><b>November</b></i>	<i><b>Implemented without concerns</b></i>

The Draft Law Amending and Supplementing the Insurance Act No 407 of 21.12.2006 was developed with the aims to complete the Article 29 of the law referring to qualified participations (significant shareholders or persons exercising significant influence over the management of the insurer / reinsurer). Thus, the amendments come to provide exhaustive regulations and details regarding the stages and procedure for the cancellation, issue and sale of shares held without complying with quality requirements of the shareholders. At the same time, the Insurance Law is supplemented by provisions similar to Financial Institutions Act, according to which the persons against whom the restrictive measures have been ordered can no longer hold, directly or indirectly, new shares of the respective insurer/reinsurer, as well as in other insurers / reinsurers. The draft law was passed in the final reading in the plenary of the Parliament on 23 November this year.

At the same time, although the improvement of the insurance related legislation is actively promoted by making regular amendments to the main relevant Law, we find that in order to implement a genuine reform and ensure the accelerated development, there is a need to draft a new law that would combine the latest best practices in this field (e.g. recovery and resolution mechanism, effective accountability tool for managers and shareholders, etc.). Thus, in the perspective of a wider reform of the legal framework regulating the insurance market, this should be part of the implementation of the commitments undertaken when signing the AA, in particular the implementation of the Solvency II regime in the insurance activity.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.6. Parliament to adopt a new Law on accounting transposing the EU Directives 2017-2022</b>	<b>December</b>	<b>Positive progress</b>

In order to ensure the transposition of the Directive 2013/34/EU, the Ministry of Finance drafted a new accounting law. It aims at establishing the legal framework, the general requirements and the mechanism for regulation of accounting and financial reporting in the Republic of Moldova according to the EU rules and practice. The draft Law on accounting was approved by the Government at its meeting on 8 June 2017 (GD No. 457 of 21.06.2017) and was submitted to the Parliament for debate and adoption. Subsequently, this draft was voted in the first reading by the Parliament on 13 July 2017.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.7. Parliament to adopt a new Law on the audit of financial statements transposing the EU Directives</b>	<b>December</b>	<b>Positive progress</b>

While signing the Association Agreement with the European Union, the Republic of Moldova has committed itself to transpose the *acquis communautaire* in the field of corporate financial reporting into the national legislation. To meet this commitment in the field of audit of financial statements, the Government should transpose the Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts. In this respect, the Ministry of Finance prepared the draft Law on the audit of financial statements aimed at establishing the legal framework for the organization of audit by audit entities, the regulation of the auditor's profession, as well as special requirements for the audit of public interest entities, according to the EU rules and practice. The draft law was approved by the Government (GD no. 792 of 11.10.2017) and subsequently voted in the first reading by the Parliament on 2 November this year.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>4.8. Government and Parliament to create an inter-institutional platform (including the NBM, GPO, NCFM, etc.) to monitor and control the status of the bank fraud investigation and the recovery of assets acquired by fraud, both at international (Kroll) and at national levels.</b>	<b>September</b>	<b>Negative progress</b>

The banking crisis of 2014-2015, which was triggered by the embezzlement of massive funds through several commercial banks, generated serious effects on the image of the banking environment and increased the weaknesses in the overall financial intermediation mechanism. Despite several investigations initiated both internally and externally, investigations of the "one billion dollar theft" and the recovery of misappropriated funds have not produced tangible results so far. Thus, despite the fact that several renowned cases were investigated (e.g. Filat, Platon, Sor), people expressly accused of involvement in these activities have not yet been convicted,

while the recovery of funds acquired by fraud is done only through the liquidation of the three banks (B.C. Banca de Economii, B.C. Banca Sociala and B.C. Unibank) and the sale of their assets. At the same time, in order to identify mechanisms that generated the fraud and to develop working partnerships with international authorities, the contract was extended with the investigating company Kroll, whose actions are focused on the external identification of the assets bought with fraudulent means and their subsequent recovery through legal procedures. Thus, based on the information notes published periodically, we found that there was a large group of companies that acted in concert to organize a fraud scheme in several banks by taking dubious loans. Details of this mechanism and the people involved are to be presented in the Kroll 2 report, which should be made public within such limits that would not affect the course of the investigation.

At the domestic level, in order to accelerate the investigative process, the decision was made to create an inter-institutional platform for monitoring and controlling the status of the bank fraud investigation and the recovery of assets acquired by fraud. Thus, the meeting of the Standing Committee for monitoring the cases of increased social interest, held on 18 September, approved the composition of this platform, which will include the Parliament, the Government, the NBM, the General Prosecutor's Office, the NAC, the NCFM, as well as other institutions that will collaborate in order to effectively manage the consequences of bank fraud. Although the solution was found to formalize this platform (signing a protocol between the involved institutions), there is no public information about the meetings, decisions or results of this platform and internal investigations of the bank fraud do not progress and do not have clear results. This process is constantly delayed and geared towards the results of the Kroll 2 report.

Moreover, a number of amendments proposed to the Criminal Code, to the criminal procedure Code or to the contravention Code<sup>39</sup>, which suppose the suspension of the execution of the prison sentence for certain financial crimes bring even more doubt on the desire to find those guilty. Thus, in the context of the so-called "substantial improvement of the investment climate, attracting foreign investments and reducing pressure on the business environment by the force institutions", a new ground is proposed for the release of criminal liability for 48 offenses, including crimes related to credit activity and bankruptcy, securities market crimes, breach of shareholders' rights and competition. It is also proposed that the release takes place if the offense was committed for the first time, the person repaired the damage and paid in the state budget twice the maximum amount of the fine provided by the Criminal Code for the respective offense. The release of criminal liability of persons involved in fraudulent lending, poor bank management means in concrete terms that persons guilty for bank's fraud will not be penalized if they pay a sum of money to the state budget. Introducing these amendments at this moment will seriously hamper the proper investigation of banking fraud, or the consequences are visible in many directions and can hardly be quantified.

### **Recommendations:**

Following the immediate actions for stabilization of the banking sector in 2015/2016, the reform of the national financial system continues through the implementation of the commitments undertaken when signing the Association Agreement with the EU. At the same time, efforts are being made to provide the legal framework for attracting strategic foreign investors to banks and insurance companies under special supervision or administration, which could also serve as an element that would support the initiated reforms. At the same time, three years after the fraud in the banking sector, investigations for the identification of misappropriated funds and persons involved have not produced any clear results. Thus, in order to continue the pace of reforms in the financial sector, we encourage the institutions involved in this process to correlate their actions and strengthen their efforts in order to achieve the proposed actions in due course. To achieve this goal, the following

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<sup>39</sup>[http://www.justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/coordonare/2017/octombrie/PL311017.pdf](http://www.justice.gov.md/public/files/transparenta_in_procesul_decizional/coordonare/2017/octombrie/PL311017.pdf)

recommendations are made:

- Enhance the legislative process with a view to achieving in due course the actions proposed for November - proposed amendments to the insurance law and the capital market law;
- Expedite actions required for the efficient functioning of the national macro-prudential body (National Financial Stability Committee), namely by adopting the Law on its activity. In the context of proposed reform actions that often do not meet the broad consensus of all the stakeholders, this body represents the most accessible platform for debates and rapid identification of solutions;
- Eliminate any attempt to amend criminal legislation in the context of bank's fraud investigation. The release of criminal liability of persons involved in fraudulent lending or poor bank management will seriously hamper the proper investigation of bank fraud and the accountability of the guilty persons.
- Ensure the transparency, within the legal limits, of the criminal investigation of the bank frauds. Information of the general public will increase the public confidence in the fairness of measures taken;
- Ensure the necessary (policy) support and the implementation of the new legal and regulatory documents adopted in the financial and banking field, which would fully ensure the achievement of the proposed objective – a stable financial system that effectively supports the activity of economic agents and individual consumers.

## 5. Improving Investment and Business Climate

### Summary of overall progress

*Of the 10 actions under monitoring, 4 actions were implemented without concerns, 1 action was implemented with concerns, 1 action is in negative progress, 3 actions are in positive progress and 1 action was not initiated.*

A number of actions designed to facilitate the activity of economic operators were carried out during the reference period. Thus, amendments to the Labour Code, reduction in the number of permissive acts, as well as approval of the new Energy Law are among the main achievements. Also, measures have been taken to simplify the reporting procedure for economic agents, although it is necessary to align the regulatory framework to the new legal provisions. At the same time, the law on state and municipal enterprises was approved, although the new provisions on transparency are insufficient. On the other side, actions involving sustained efforts are still in the process of implementation, such as the implementation of institutional reform in the field of state control. On the other hand, some actions are at their incipient stage; thus, the process of drafting amendments to the Law on Public Procurements and the Law on Public-Private Partnership at the level of institutions is being initiated. At the same time, the draft law on energy efficiency, although, brings fundamental positive changes in energy efficiency measures, gives rise to a number of concerns, namely protection of final consumers' interests, identification of financial resources for the renovation of the residential sector or the risks arising from the failure to implement the related legislation. The aforementioned draft law is available at [www.particip.gov.md](http://www.particip.gov.md), but it is not yet published on the webpage of the Parliament, under draft pending examination section. Moreover, several actions needed for the commencement of construction of Ungheni – Chisinau gas pipeline and selection of the company that will build the infrastructure (activity scheduled for November – December) were initiated.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.1. Parliament to adopt amendments and supplements to the Labour Code to adjust to the modern requirements of the market economy and improve the business and investment climate.</b>	<b>July</b>	<b>Implemented without concerns</b>

The draft law amending and supplementing the Labour Code of the Republic of Moldova (No. 154-XV of 28.03.2003) was voted by the Parliament on 24.07.2014<sup>40</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

<sup>40</sup> <http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3824/language/ro-RO/Default.aspx>

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.

Amendments to the Labour Code follow 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 employment rate of young women in recent years<sup>41</sup>. Thus, this initiative aims to encourage a more active participation of women in the labour market.

The possibility of terminating contractual relationships between the employer and the employee who reached the retirement age will create 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 law was approved on 24.07.2017, but the President has refused to promulgate it. The President sent back the draft law to the Parliament with a number of amendments. 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 on amending and supplementing certain legal acts (with a view of approving the new nomenclature of permissive acts and reducing the number of licenses and permissive acts)</b>	<b>October</b>	<b>Implemented without concerns</b>

The draft law amending and supplementing certain legal acts on the regulation through licensing of entrepreneurial activity was proposed for public consultations on 02 February 2017<sup>42</sup> and was subsequently adopted in final reading at the plenary meeting on 21 September 2017<sup>43</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. They provide for the elimination of more than 140 permissive acts (including 18 licenses) from the entire legislative system. About 90 of the removed permissive acts have a direct impact on the business environment (it is estimated that the private sector will annually save up to 43.6 million MDL, and the public sector's annual savings will amount to 18.4 million MDL). It is worth mentioning that the existent legal framework is currently undergoing review in order to implement the one-stop shop mechanism at the national level, the latter being a precondition for the inclusion of these permissive acts and licenses into the electronic one-stop shop platform.

At the same time, with the implementation of the above-mentioned regulations, it is imperative to review and streamline the current processes at the institutional level, as some authorities tend to include new permissive acts, without being ready to apply other modern mechanisms for monitoring, collection and exchange of information<sup>44</sup>. To fight this phenomenon and achieve the general objective, it is necessary to have a systematic and standardized approach to the entire regulatory process through permissive acts, excluding the discretionary approaches/principles of

<sup>41</sup> <http://expert-grup.org/ro/biblioteca/item/1177-reforma-concediu-copil>

<sup>42</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=3878>

<sup>43</sup> <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3795/language/ro-RO/Default.aspx>

<sup>44</sup> There is a steady trend of increasing the number of permissive acts by public authorities. For example, the study carried out in 2015 identified more than 416 permissive acts and licenses. Compared to the year 2011, the version of the Nomenclature contained 273 permissive acts and approximately 50 licenses. Thus, in just 4 years the number of permissive acts and licenses increased with approximately 100 acts.

each institution regarding the application of different criteria in identifying situations when the latter are required.

<b>Actions</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.3. Parliament to adopt the draft law on amending and supplementing certain legislative acts (simplified reporting procedure for economic operators – consolidated report)</b>	<b>July</b>	<b>Implemented without concerns</b>

The draft law amending and supplementing certain legal acts (implementation of the consolidated report FSIC16 on salary payments) was proposed for public consultations<sup>45</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 purpose of this law is to simplify the reporting on salary payments and related taxes, as well as some aspects of work relationships, by consolidating the five reports submitted to NHIC, NSIO and the State Tax Inspectorate into a single report, to be administrated by the State Tax Inspectorate.

In order to implement the new provisions, the Ministry of Finance approved the Order No. 126 of 04.10.2017 on the approval of the standard form (Form IPC18) The report on the withholding of the income tax, the mandatory health insurance premiums and the mandatory state social insurance contributions and the Instruction on how to complete the nominated form.

At the same time, it is necessary to rally the entire normative framework to the new legal provisions, with the substitution of the reporting forms (including the Government Decision no.697 of 22.08.2014), in order to exclude overlapping.

<b>Actions</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.4. Parliament to adopt the package of laws for implementing the institutional reform in the field of state control over entrepreneurial activity</b>	<b>July</b>	<b>Positive progress</b>

The Law no. 131 of 08 June 2012 on state control over entrepreneurial activity is to be amended through the Law no. 230 of 23 September 2016. Thus, the overlapping controls against the same risk criteria were excluded and the number of control bodies has been reduced from 58 to 18. In order to achieve this, it is necessary to harmonize the current legislation with the new legal provisions. Therefore, in order to accomplish this objective, several draft laws amending and supplementing certain legal acts were drafted and proposed for public consultation. These amendments are designed to harmonize other legislative acts regulating the control activity of the following bodies, although they have not been approved yet:

- Agency for Technical Supervision and the Environmental Protection Inspectorate <sup>46</sup>;
- Customs Service, State Tax Service, Naval Agency, Civil Aviation Agency, National Agency for Road Transport<sup>47</sup>;
- National Food Safety Agency, Agency for Market and Non-Food Products Surveillance and

<sup>45</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=3166>

<sup>46</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4104>

<sup>47</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=4136>



State Labour Inspectorate<sup>48</sup>.

At the same, it is worth mentioning that although the legal framework on the creation, reorganization or optimization of the above-mentioned entities has been adopted<sup>49</sup>, there is still need for sustained efforts in drafting a number of regulatory acts (new regulations) or other regulatory acts governing their activity. Thus, it is important that at the stage of approving amendments to the legal framework, the provisions of the new acts do not contradict or distort the objectives set out by the law.

<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>Implemented with concerns</b>

The draft law on state-owned enterprise and municipal enterprise in the new wording was approved in the second reading at the plenary session of 23 November 2017<sup>50</sup> (the previous wording was rejected during the plenary meeting of 03 November 2016). The document was published on the webpage of the Ministry of Economy on 28 December 2016, although the advertising on the initiation of the drawing up of the law is not there.

The revised version contains rules on inadmissibility of selling public and social goods, and sets a time limit of 24 months for the reorganization of the SOEs and MEs in joint stock companies or public institutions. Also, during the promotion of the document, the provisions related to the audit were supplemented, as well as the introduction of criteria for the selection of the administrator, as well as the addition of the conditions in which it can be sanctioned in case of a deficient management of the given entities.

Although the document is designed to modernize the legal framework in this field, its transparency provisions in the document are insufficient, being pertinent to include references to complement the regulatory framework that would encourage the efforts of these entities in external reporting of their performance (external communication guides, standardized reporting, web platform for centralizing information, etc.), in line with the best corporate governance practices. Moreover, the same elements of transparency remain uncertain in the case of acquisitions of goods, works and services performed by the given entities. Thus, despite the introduction of some references in the new law to the Model Regulation (which will subsequently be approved by the Government) this could be insufficient taking into account the existing deficiencies in the field requiring a much wider intervention of the state.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
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<sup>48</sup> <http://particip.gov.md/proiectview.php?l=ro&idd=3994>

<sup>49</sup> GD no. 886 of 01.11.2017 on the creation of the Agency for Technical Supervision, GD no. 887 of 01.11.2017 on the creation of the Environmental Protection Inspectorate, GD no. 888 of 01.11.2017 on the reorganization of certain legal entities (the National Food Safety Agency and the Consumer Protection and Market Surveillance Agency), GD no. 889 of 01.11.2017 on the optimization of the structure and staffing of some entities with control and supervision functions (State Labour Inspectorate, National Agency for Road Transport, Civil Aviation Authority, Naval Agency, National Agency for Quality Assurance in Vocational Education, National Food Safety Agency, Agency for Technical Supervision, Consumer Protection and Market Surveillance Agency, Environmental Protection Inspectorate, National Public Health Agency).

<sup>50</sup> <http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3840/language/ro-RO/Default.aspx>

<b>5.6. Government to amend the Decision no. 875/2014 approving the Regulation on financial monitoring of state-owned/municipal enterprises and companies with a majority or entirely public shareholding</b>	<b>December</b>	<b>Negative progress</b>
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The draft Government Decision amending and supplementing the Government Decision no. 875 of 21 October 2014 was drawn up. This document was published for public consultations on the webpage of the Ministry of Economy on 19 July 2017<sup>51</sup>.

The draft was developed to adjust the Regulation on financial monitoring of state-owned/municipal enterprises and companies with a majority or entirely public shareholding to the recommendations of the Court of Auditors (CoA) outlined in Decision no. 3 of 25 February 2016. However, the recommendations of the CoA were taken into consideration only partly due to the public administration reform, launched by the Government, according to which administration and denationalization of state public property falls within the competences of the Public Property Agency under the Government, the latter having the role of founder of entities with state capital.

Therefore, the recommendations of the Court of Auditors aimed at improving the financial monitoring process of companies with state capital in the context of shifting to a centralized management model were deemed inexpedient and will be considered only when the administration model of entities with state capital is defined.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.7. Parliament to adopt the Energy Law in accordance with the recommendations of the Energy Community Secretariat</b>	<b>November</b>	<b>Implemented without concerns</b>

This action was implemented without concerns and even before the deadline envisaged in the Roadmap (November). By the time this report is being drawn up, the Energy Community Secretariat has not issued any public objections to the adopted law. The draft Energy Law developed with the support of the Energy Community Secretariat during 2016 was voted in final reading in September 2017. On 20 September 2017, the President of Moldova refused to promulgate the law. The reasons invoked included financial autonomy of the National Agency for Energy Regulation (NAER) and the need for a salary cap of a maximum 60 thousand MDL for the heads of state institutions.

The draft law was sent back to the Parliament for re-examination and it was repeatedly voted, the President having no power to repeatedly abrogate this law. The new Energy Law is part of the commitments of the country to external partners, in particular, the Energy Community and plays a key role in consolidating the political and financial independence of the regulator. Finally, following the repeated voting of the Law on 21 September 2017, the President promulgated the law on 10 October 2017.

The new law abrogates the Energy Law no. 1525 of 1998. In general terms, the law meets the recommendations of the external partners and the civil society that are aimed at strengthening the political, functional and financial independence of the regulator – NAER. Nevertheless, the functional independence is partly diminished by the fact that the Regulation on the activity of NAER shall be approved by the Parliament. The competences of NAER of energy market surveillance, promotion of competition and fighting the monopoly through the enforcement of competition law,

<sup>51</sup> <http://mf.gov.md/ro/content/modificarea-%C8%99i-completarea-hg-nr-875-din-21-octombrie-2014>

are embodied. The new law introduces a more inclusive performance evaluation of candidates for the position of director within NAER. Thus, the law provides expressly for the possibility for EU representatives, Energy Community as well as experts in the energy field to participate as observers.

However, a transparent evaluation mechanism (at the interview stage), crucial for the objective selection process of candidates is missing. Moreover, the criteria for revocation from office of directors in relation with the reports of findings issued by the National Integrity Authority (NIA) and incompatibility status give room for abusive interpretation, in particular, if the activity of NIA is affected by the political factor. It is noteworthy to mention that the Law grants NAER the prerogative to adopt the own budget, excluding the previous practices, when the budget was adopted by the Parliament. The budgetary autonomy is balanced with the obligation to publish annual financial reports, verified by foreign audit companies and the audit of financial situation, conducted by the Court of Auditors, with subsequent presentation in the Parliament. The law has some innovative elements as it states out the obligation for NAER to contribute to the implementation of international commitments of the Republic of Moldova, in particular in relation with the Energy Community Treaty. Nevertheless, appropriate implementation of the new law will depend on the adjustments and correct application by the Government and NAER of the primary and secondary legal framework in the next 12 months, as well as by the level of professionalism, transparency and de facto independence of NAER from the political factor.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.8. Government to prepare and submit to the Parliament the draft law on energy efficiency</b>	<b>December</b>	<b>Positive progress</b>

The Ministry of Economy and Infrastructure proposed the draft law on energy efficiency for public consultations on 18 May 2017. The draft law was drawn up with the support of 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 Agency (SIDA). Although the Government has drafted the law and published it for consultation, the latter has not been yet included in the list of legislative acts pending examination in the Parliament<sup>52</sup>.

The new draft law substitutes the existent legal framework in the field of energy efficiency (the 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) adjustment of reporting principles and relevant statistics (heating, cooling, cogeneration),

<sup>52</sup> The Parliament's website was checked last on 08 November 2017.

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 law 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 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 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 that it would not transpose or misapply European legislation (Directive 2010/31/EC).<sup>53</sup>

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.9. Government to prepare and submit to the Parliament the draft law on amending the law on public procurement, the law on public-private partnerships and the law on public utility companies</b>	<b>December</b>	<b>Positive progress</b>

The process of drafting amendments to the law on public procurements to transpose the provisions of the Directive 2014/24/EU as well as of provisions governing the procurements of public utility companies has been initiated.

The process amending the Law on public-private partnership has been also initiated.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>5.10. Government to ensure the organization of tender for the selection of the general contractor for the construction of Ungheni - Chisinau gas pipeline</b>	<b>December</b>	<b>Not initiated</b>

Until present, the Parliament has voted the draft law on declaring construction of the gas transportation pipeline Ungheni-Chisinau (the 2nd implementation stage of the project “Interconnection Pipeline of the Transport System) as public utilities of national interest on 4 May 2017. At the same time, 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. In October 2017, the financing agreements with the EIB and the EBRD, amounting to 93

<sup>53</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>

million EUR was expected to be ratified. The Romanian side is at a more advanced stage in terms of infrastructure construction on its territory. Thus, in September 2017, the necessary permits were issued for the construction of gas pipelines on the Onesti-Gherasti and Gherasti-Letcani route, which are to deliver gas to the Iasi-Ungheni gas pipeline.

Moldovan authorities plan to launch the contest for the selection of the company for the construction of Ungheni-Chisinau pipeline in November – December 2017. Meanwhile, the Public Property Agency announced the privatization of 17 state-owned joint stock companies, including the IS "Vestmoldtransgaz", established in the year 2014 to manage the gas transport network Iasi - Ungheni.

The value of the enterprise amounts to 180 million lei (about 9 million Euro), and the conditions for the privatization will include the commitment to invest 93 million Euro in the next two years. Previously, the Ministry of Economy and Infrastructure issued town-planning certificates to IS "Vestmoldtransgaz" for the design of construction works of Ungheni – Chisinau pipeline. Privatization of the IS "Vestmoldtransgaz" coincides with the initiation of the process of opening of the representative office of the Romanian company "Transgaz" in the Republic of Moldova, responsible for the construction of the Onesti-Gherasti and Gherasti-Letcani pipelines on the Romanian side of the Iasi-Ungheni gas pipeline. For these reasons, Transgaz is likely to participate in both the Vestmoldtransgaz privatization and the construction of the Ungheni-Chisinau pipeline. The participation of Romanian investors in the natural gas sector of the country can create new opportunities for the advancement of infrastructure and interconnection projects. However, central authorities must ensure maximum transparency and fair competition regardless of the privatization strategies selected for objects of strategic importance on the gas market. Finally, the authorities must decide as soon as possible which option they choose for the construction of the Ungheni-Chisinau pipeline: 1) the use of the resources obtained from the privatization of "Vestmoldtransgaz"; 2) make immediate use of the EBRD and EIB loan; or, 3) a mixed choice. The lack of a clear approach in this regard may affect the proposed timetable for starting and finalizing the construction of the pipeline on which the country's energy security depends after 2019.

### **Recommendations:**

- Recent amendments to the Labour Code are only a first step in revising and liberalizing this code. The next step that has been already initiated is the drafting and adoption of the new Code. However, the drafting process has been launched without a clear understanding of the extent of working relationships liberalization; although the participatory process is envisaged, the authors have not set a defined goal. In this context it is advisable for the drafting process to be guided by comparative analysis of labour legislation, so as to establish the possible boundaries for the liberalization of the Labour Code of the Republic of Moldova;
- Ensure effective implementation of the single window mechanism for permissive acts, in the context of the approval of the new amendments to the legal framework aimed at reducing their number to facilitate the entrepreneurial activity. At the same time, a systematized and standardized approach to the entire regulatory process through permissive acts is needed, excluding the discretionary approaches / principles of each institution, on the application of different criteria in identifying where they are needed.
- Accelerate the approval of the draft laws that have been submitted regulating the state control activity of the entrepreneurial activity, while operating the necessary modifications to the normative framework related to this field, in order to harmonize the provisions and ensure the convergence to the objectives set by the approval of the amendments to the legal framework.

- In the context of promoting the new law on the state enterprise and municipal enterprise it is considered appropriate to amend the normative framework in order to strengthen the provisions on transparency and corporate governance in line with international best practices.
- Draft a new regulatory act with comprehensive provisions related to the financial monitoring of state-owned/municipal enterprises and enterprises with a majority or entirely public shareholding to reflect both recommendations of the Court of Auditors (possibly, the provisions of the new law on state-owned enterprise and municipal enterprise) as well as changes in the governance model of entities with state capital as a result of public administration reform.
- The Parliament must ensure decisional transparency when adopting the new Law on Energy Efficiency, through public consultations and broader involvement of the civil society to improve the draft law and address the concerns with regard to the protection of final consumers' interests, identification of financial resources for the renovation of the residential sector and due implementation of related legislation.
- Ensure maximum transparency in the selection of a company responsible for the construction of Ungheni – Chisinau pipeline, 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

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*The two monitored actions are in positive progress.*

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The actions included in this chapter aim to improve the quality infrastructure of the Republic of Moldova, while the regulatory acts to be drafted are beneficial for consumers' safety. Because of the fact that those actions are forward-looking, it is difficult to quantify the immediate effects of the regulatory acts.

### Summary of individual actions

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>6.1. Government to draft and submit to the Parliament the Law on animal by-products not intended for human consumption</b>	<b>September</b>	<b>Positive progress</b>

The Law on animal by-products not intended for human consumption must ensure compliance with the sanitary and veterinary requirements for the collection, transport, storage, processing, use, placing on the market, and disposal of animal by-products not intended for human consumption. Another purpose of this document is to diminish/eliminate any risks that animal by-products not intended for human consumption may pose to human or animal health. By adopting the law, the necessary framework for the application of the Regulation no. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing the Regulation (CE) no.1774/2002 (Regulation on animal by-products) will be established. "The draft law on animal by-products not intended for human consumption" was open for public consultations on 06 September 2017, and

the deadline for submitting the comments is 12 December 2017. On 13 November 2017, an updated version of the document, entitled: "The draft law on animal by-products and derived products not intended for human consumption" was placed for public consultations.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
<b>6.2. Government to approve the Food Safety Strategy</b>	<b>July</b>	<b>Positive progress</b>

The main objective of the Food Safety Strategy for 2017-2022 is to attain a high degree of protection for human health and interests of consumers by guaranteeing food safety as well as ensure a broader access for domestic food products to various external 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 Agricultural and Rural Development Strategy for the years 2014 – 2020 and the National Public Health Strategy for the years 2014 – 2020. At the same time, the strategy is developed in the context of the harmonization of the national regulatory framework with the *acquis communautaire*. The document was published for public consultations on 06 October 2017 and the final deadline for receiving the comments was 31 October 2017. This document was twice subjected to public consultations: between 08 June – 08 September 2017 and 13-29 September 2017.

#### **Recommendations:**

- Because of unrealistic timeframes envisaged by the Road Map it would be appropriate to extend the time limits for the implementation of the actions under this section;
- It is necessary to consolidate the specialized institutions responsible for the food safety sector, so that they can provide qualitative public services. The main issue in the implementation of the regulatory acts is the quality and limited capacities of public institutions, and, in this context, the dissemination of positive effects associated with the application of policy documents is diminished.

## **7. Education, Culture, Science**

### **Summary of overall progress**

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*Of the 4 monitored actions, 1 was implemented with concerns and 3 are in positive progress.*

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The process of reforming the field of education, culture and innovation was carried out in the terms provided by the Roadmap. The four activities had a positive progress, being correlated with the



international commitments of the Republic of Moldova, the strategic development documents by areas and the regulatory acts adopted previously. Among the obvious shortcomings was the failure to take into account the specificity of the Gagauz autonomy in the drafting of the new law on museums as well as the opinion of the academic environment on the reform of the Academy of Sciences of Moldova and its role in the innovation process. Experts from the Academy of Sciences also expressed conclusive opinion that by the transfer of academic institutions to the central specialized body the role of the Academy of Sciences will diminish, especially in the field of building a knowledge-based society, which represents an important factor for the modernization of the Republic of Moldova and the implementation of the Association Agreement with the European Union<sup>54</sup>. These deficiencies can also be removed when the law on museums is adopted in final reading and upon the creation of institutions implementing the amendments to the Code on Science and Innovation.

### Summary of individual actions

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>7.1. Parliament to adopt the law on museums</b></i>	<i><b>December</b></i>	<i><b>Positive progress</b></i>

The draft law on museums was drafted by the Ministry of Culture in 2016, approved by the Government on 1 March 2017 and voted in Parliament's first reading on 6 October 2017. The draft Law on Museums was drafted in order to implement the commitments of the Republic of Moldova within the Association Agreement with the European Union, being aligned to the concept of the Law no. 280 on the protection of the cultural heritage and as part of the set of acts stipulated by the Strategy on Culture Development "Culture 2020", approved by GD no. 271 of 09.04.2014.

The draft law takes into account and develops the notions issued by the International Council of Museums (ICOM) and was to solve the problems of the museums: the low capacity of museum institutions to manage and exploit the national patrimony, the slow pace of collections development, obsolete management, the underdevelopment of the network of local museums, insufficient salary of staff, which generates the rebound of employees in the field. The Law on Museums in the new version will fill in the identified shortcomings by regulating: a) the classification, accreditation and revocation of museum accreditation; b) the duties of the local public authorities of I and II level in the field of museums; c) managing the museum's own resources; d) financial motivation of employees dealing with classified parts from Thesaurus category; e) the duties of the National Commission of Museums and Collections; f) the procedure for the reorganization or liquidation of museums in the country. According to the new draft law, a Methodical Centre in the field of museography is to be created for the elaboration and application of the modern methods for the management and functioning of the museums in the country. The Methodical Centre will operate on the basis of a Regulation drafted and approved by the Ministry of Education, Culture and Research, requiring a budget for carrying out the respective activity. In order to adequately prepare the staff for the activity of the museums in the country, the Ministry of Education is to complete the education curricula.

The law on museums is an ordinary one, and it is possible to adopt it in a single reading. The Parliament, however, has decided to take into account the observations made in the debates by a

<sup>54</sup> Balmuş Victor. Preeminența dreptului și securitatea juridică în procesul amendării Codului cu privire la știință și inovare și a Codului educației. În: Akademos, 2017, nr. 3, p. 23-30.



number of MPs to improve it and is to be voted in second reading.

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

On 21 September 2017, the Parliament re-voted the law on the amendment and completion of the Science and Innovation Code (Law No. 259-XV of 15.07.2004) as well as the Education Code of the Republic of Moldova (Law 152 of 17.07. 2014), after being rejected by the president of the state. The law in question (no.190) is promulgated and published in the Official Gazette on 20 October 2017 and will enter into force on 20 February 2018. The law provides for the transfer of all scientific institutions within the Academy of Sciences of Moldova (ASM) to the Ministry of Education, Culture and Research. The purpose of the transfer is to provide a more efficient way to manage and fund research and innovation. Consequently, possibilities should be provided for substantially increasing the allocations dedicated to the financing of the research projects, and the ASM will only deal with research, being exempted from the administrative management and its properties. The most important provisions of the project aim at: a) transmitting the development of policies for the field from the ASM to the central specialized body of the state responsible for shaping the national research and innovation policy, "in the framework of a wide consultation exercise with the stakeholders, and promotes the National Program and action plans for their implementation"<sup>55</sup>; b) creating the National Agency for Research and Development as the entity responsible for implementing the policies; c) creation of the National Agency for Ensuring Quality in Education and Research; d) the transfer of the founder status of all public law organizations in the field of research and innovation to the central specialized state body.

The Government returned to the issue of the reform of the research field, approving on 10 July 2017, the draft law amending and supplementing the Science and Innovation Code under a broader reform, that of the central public administration. Previously, in 2016, the Government rejected a MPs' initiative (No. 59 of 24 February 2016) to reform the respective area. The recent reform was to start from the Innovation Strategy of the Republic of Moldova for the period 2013-2020 "Innovations for Competitiveness", approved by GD no. 952 of 27.11.2013 and the Research and Development Strategy of the Republic of Moldova until 2020, approved by GD no.920 of 7.11.2014. The respective documents have also suggested reforming institutions of branch scientific research (economics, agriculture, medicine, etc.) which are to ensure the cooperation of scientific institutions, including the Academy of Sciences with the relevant ministries, as well as the adequate financing of scientific and innovation activities. The institutional restructuring of R & D, innovation and technology transfer provided for the exchange of experience and good practice within the "Horizon 2020" Thematic Programme, with the participation of experts from Austria, Poland, Greece, the Netherlands, Romania and Estonia.

Notwithstanding the above, the amendment to the Science and Innovation Code has been challenged by notorious academics, who have argued that their opinion has been insufficiently consulted. The main objection of the academic sector is that "the reform will lead to the disintegration of the scientific activity and the liquidation of the Academy ... which, without scientific institutes, will not be able to fulfil its function as a competent national authority"<sup>56</sup>. On the other

<sup>55</sup> Law no. 190 of 21.09.2017 for amending and completing certain legislative acts, <http://lex.justice.md/md/371973/>.

<sup>56</sup> <http://unimedia.info/stiri/doc-reprezentantii-aSm-cerem-stoparea-aplicarii-legii-privind-modificarea-si-completarea-codului->

hand, the head of state questioned the reform of the field, invoking the primary interest of certain political circles for the properties managed by the ASM, arguments justifying its initial refusal to promulgate the law<sup>57</sup>. Under these circumstances, the way in which agencies are created to implement science and innovation reforms is to eliminate existing suspicions and misunderstandings.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>7.3. Government to approve the Decisions for implementing the amendments to the Science and Innovation Code, including the creation of implementing agencies</b></i>	<i><b>November</b></i>	<i><b>Positive progress</b></i>

The Reform Implementation Centre initiated the creation of the National Agency for Research and Development (NARD), which will be responsible for evaluating project proposals submitted by researchers through competition, irrespective of their institutional ownership. Access to funds managed by NARD will be facilitated by excluding the mechanism of accreditation of research and innovation organizations by replacing it with the scientific evaluation and confirmation tool of scientific titles. The aim is to adjust the institutional framework for the management of the research and innovation fields, the competencies in this regard being concentrated at the level of the Government, which will approve the policy documents that will reflect the priorities in the sector. These policies will be developed by the scientific community within the supreme forum, represented by the ASM, which will act as a strategic consultant of the Government in the field of research and innovation. Another reform implementing institution to be created is the National Agency for Quality Assurance in Education and Research (NAQAER), which will comprise the duties of the National Agency for Quality Assurance in Vocational Education, the National School Inspectorate and the National Council for Accreditation and Attestation. The Agency will evaluate how to implement the National Curriculum and how to administer exams and assessments in general education.

<i><b>Action</b></i>	<i><b>Deadline</b></i>	<i><b>Stage</b></i>
<i><b>7.4. Government to approve the draft Government Decision for approving the National Qualifications Framework of the Republic of Moldova (NQF)</b></i>	<i><b>December</b></i>	<i><b>Positive progress</b></i>

The draft Government Decision approving the National Qualifications Framework of the Republic of Moldova was drafted in 2016<sup>58</sup>. The purpose of the document is to develop a unique system for the recognition and organization at national level of the labour market qualifications as stipulated by the commitments of the Republic of Moldova, assumed by the accession to the Bologna Process. The basic objectives are: to ensure the cooperation between the education services market and the labour market; modernization of the vocational training system; facilitating labour mobility, increasing its competitiveness. The National Qualifications Framework is to be structured on eight levels, which correspond to the levels set by the European Qualifications Framework. The Association Agreement, like the Association Agenda, stipulates that Moldova and the European Union will cooperate in developing a national qualifications framework to improve transparency and

[stiintei-si-inovarii-140507.html](http://stiintei-si-inovarii-140507.html)

<sup>57</sup> <http://www.presedinte.md/rom/presa/prezident-respubliki-moldova-rasskazal-cto-skryvayut-otklonennye-im-zakonoproekty-na-prinyatii-kotoryh-nastaivaet-dpm>

<sup>58</sup> [http://particip.gov.md/public/documente/137/ro\\_3527\\_HGCNC.pdf](http://particip.gov.md/public/documente/137/ro_3527_HGCNC.pdf)

the recognition of qualifications and competences. Currently, the technical vocational education in the Republic of Moldova is supported by the European Union in the process of modernization and alignment with labour market needs, and 67 qualifications and 34 curricula have been developed so far, based on the new qualifications, which will come to ensure this link.

**Recommendations:**

- The new law on museums must take into account the specificity of the Gagauz-Yeri Territorial Administrative Unit;
- The Law amending and completing certain legislative acts no. 190 of 21.09.2017 requires amendments made in agreement with the experts of the Academy of Sciences;
- The creation of agencies implementing the amendments to the Science and Innovation Code must be accompanied by a transparent drafting of the regulations on the functioning of the respective institutions, taking into account the objections of academics and head of state who have challenged the adoption of the respective law.

**8. Social Programmes**

**Summary of overall progress**

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*Of the 2 actions under monitoring, 1 action is in positive progress, and 1 action is in negative progress.*

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The programme "Prima Casa" represents a mechanism by which the state can support young people who want to purchase the real estate. This programme could have some beneficial effect and would facilitate the purchase of housing for young families. The Law on meal vouchers aims to introduce an additional instrument for the distribution of cash allowances for the alimentation of employees. The implementation of the law could lead to the emergence of a low-competition economic sector that of the meal vouchers issuers.

**Summary of individual actions**

<i>Action</i>	<i>Deadline</i>	<i>Stage</i>
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<b>8.1. Implementation of the "Prima Casa" Programme</b>	<b>December</b>	<b>Positive progress</b>
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The purpose of the "Prima Casa" programme is to facilitate individuals' access to the purchase of a dwelling by contracting partially secured state loans, especially for young families. The programme is national and has a social character, represented by state intervention in the process of guaranteeing loans. Under the programme, the Ministry of Finance will mandate the Organization for Small and Medium Enterprise Sector Development (OSMESD) 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 dwelling. In addition, in order to ensure the implementation of the "Prima Casa" programme, the "Draft GD for the approval of the draft law on some measures for the implementation of the "Prima Casa" State Programme was drafted. The adoption of this draft law is determined by the need to ease the access of individuals to purchase housing by contracting partially secured state loans, especially for young families.

In the Government sitting of 26 July 2017, the concept of the "Prima Casa" programme was adopted (between 30 May - 12 June, the draft Government Decision was posted for public consultations). On 14 September 2017, the "Draft GD for the approval of the draft law on some measures for the implementation of the "Prima Casa" State Programme was publicly posted, and the final date for receiving the comments was 28 September 2017. On 7 November 2017 the Government approved " The draft Law on Some Measures to Implement the State Program "Prima Casa".

The authors of the draft hope the banks will be interested in this project, and this is due to the construction of the interest rate on mortgage loans under the programme. 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 Programme communicated by the National Bank of Moldova (calculated as the weighted average interest rate on deposits with the term from 6 months to 12 months);
- maximum margin of up to 3.0%, to be specified annually by the Government;
- the 0.5% guarantee fee on the guarantee balance, which will be transferred quarterly to OSMESD.

Thus, under this programme, banks would earn from the benchmark and margin, which is less, but close to the commercial rates practiced by banks. In this context, financial institutions may have a certain interest in the "Prima Casa" programme.

The most important impediment to creating a "Prima Casa" programme with broad national coverage is the lack of cheap and long-term resources in domestic currency and the volatility of interest rates on national currency resources due to crises and inflationary processes<sup>59</sup>. This problem becomes even more acute in the context of the low level of population incomes, which also affects the demand for such products<sup>60</sup>.

<b>Action</b>	<b>Deadline</b>	<b>Stage</b>
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<sup>59</sup> Gaibu S., How to turn "Prima Casa" programme from dream into reality (Cum transformăm programul „Prima casă” din vis în realitate), Independent Think Tank „Expert-Grup”, Chisinau, 2017, p. 2, available at <http://www.expert-grup.org/ro/biblioteca/item/1374-cum-transformam-programul-prima-casa-din-vis-in-realitate>

<sup>60</sup> *Ibidem*, p. 3

<b>8.2. Implementation of the meal voucher system</b>	<b>December</b>	<b>Negative progress</b>
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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 operation of the system involves several steps: (i) the employer transfers the amount of money representing the counter value of the tickets of the issuer's meal vouchers, which it distributes to the employees; (ii) the tickets 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 instead is offered food. At the beginning of February 2017, the Speaker of the Parliament proposed the introduction of meal vouchers in the Republic of Moldova. In order to popularize the initiative and clarify the technical aspects of the use of meal vouchers, several public discussions were organised with representatives of government institutions, employers' organizations and trade unions. The draft law on meal vouchers was registered in the Parliament on 17 May 2017 by a group of 5 MPs. The Law on meal vouchers was passed by Parliament in final reading on 21 July 2017. The country's president did not pass the law, and it was submitted for review to the Parliament on 17 August 2017. On 21 September 2017, the Law on Meal vouchers was voted again by the Parliament, and then promulgated by the President.

At the same time, in the Law on meal vouchers provisions were introduced that could adversely affect the competitive environment. The meal vouchers were assigned a privileged role in relation to other food distribution tools. At present, there are 2 documents governing the granting of allowances for employees' nutrition: "Law on meal vouchers" and GD no. 144 of 26.02.2014 "for the approval of the Regulation on the amount and criteria for determining the amount and criteria for determining the expenses incurred by the employer for transport, food and professional studies 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 a gross average monthly salary not exceeding  $\frac{3}{4}$  of the average economy monthly salary forecasted for the each year. Another issue is that this law favours the application of anti-competitive practices. On the basis of international experience, we can assume with a high probability that in the Republic of Moldova the issuers' market will be concentrated: oligopoly or monopoly<sup>61</sup>. Paragraph 5 of Article 9 of the Law relating to the licensing of the operator (the issuer of meal vouchers) provides that companies wishing to issue meal vouchers must have specialized equipment and spaces for producing and storing tickets. In essence, this condition is an obstacle to breaking into market and favours large companies.

### **Recommendations:**

- In general, "Prima Casa" is a necessary programme. However, the success of this programme will be strongly influenced by an external factor: the level and dynamics of population incomes. Thus, if young people do not have a decent income, they are unlikely to allow themselves to access mortgages, including through the "Prima Casa" programme. At the same time, the state still has a difficult task. On the one hand, ways to reduce the interest rate paid by the beneficiaries of mortgages need to be identified and, on the other hand, mechanisms are needed to ensure the interest of the financial institutions for the programme.
- It would be appropriate that the alimentation of the employees is carried out within a unified

<sup>61</sup> Fala A., Is the Introduction of Meal Vouchers an Opened "Pandora's box"? (Este oare introducerea tichetelor de masă o deschidere a „cutiei Pandorei”), Independent Think Tank „Expert-Grup”, Chisinau, 2017, p. 2, available at <http://www.expert-grup.org/ro/biblioteca/item/1407-este-oare-introducerea-tichetelor-de-masa-o-deschidere-a-cutiei-pandorei>

system that has 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 point of view of applying income tax to individuals and paying social and medical contributions) must be identical. In this context, the provisions of GD no. 144 and the Law on meal vouchers referring to the amount of allocations must be unified. In addition, the provision on conditions for the possession of specialized equipment and premises for producing and keeping tickets should be excluded from the Law. At the same time, there is a need for a mechanism to monitor competition on the market for meal vouchers issuers.

## **Annex 1. Qualifications used in the mid-term evaluation of the implementation of the Roadmap actions and their meaning**

<b>Stage</b>	<b>Qualifications used in the monitoring exercise</b>	<b>Meaning</b>
<b>Not initiated</b>	Not initiated	No activity has been taken to implement the action.
<b>In progress</b>	In positive progress	The action is under implementation in line with the legal provisions regarding the legislative procedure and transparency in decision-making process, the adopted act or the actions taken are in line with the spirit of the action and international commitments
	In negative progress	The action is being implemented with deficiencies, which means that the following issues were identified: compliance with the legal provisions regarding the legislative procedure,

		transparency in the decision-making process, the content of the adopted act or the actions taken are not in line with the spirit or purpose of the action or do not comply with international commitments
<b>Implemented</b>	Implemented without concerns	The action was implemented in compliance with the legal provisions regarding the legislative procedure and the 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.
	Implemented with concerns	The action was implemented with concerns, which means that the following issues were identified: compliance with the legal provisions regarding the legislative procedure, transparency in the decision-making process, the content of the adopted act or the actions undertaken are not in line with the spirit or purpose of the action or do not comply with international commitments.