



ADEPT and EXPERT-GRUP

EUROMONITOR

Issue no.1 (23), Edition VII

**Implementation of reforms in the context of the EU-RM cooperation,
Assessment of progress for January – March 2012**

*The report is published with the financial assistance Soros Foundation – Moldova
within the project*

„EU –Moldova Relations, Monitoring Progress in the context of European Neighbourhood Policy”

implemented by

Association for Participatory Democracy ADEPT and Independent Analytical Centre EXPERT-GRUP

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Note: *The authors have developed this report in good faith and with good intentions. The authors are solely responsible for their affirmations and conclusions, which are not necessarily shared by the Soros-Foundation Moldova, Government of Republic of Moldova or other institutions mentioned in the report.*

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INTRODUCTION

The Republic of Moldova is an EU partner in the framework of the European Neighbourhood Policy (ENP). In the ENP framework the European Union – Republic of Moldova Action Plan (EUMAP) was signed in 2005 for a three-year term and was based on the Partnership and Cooperation Agreement (PCA). The EUMAP term is formally over, but the plan is relevant so far, as EU will assist Moldova under the EUMAP until 2013.

On January 12, 2010, the Republic of Moldova and the European Union pledged to negotiate an ambitious document, an Association Agreement to replace the PCA. In parallel, EU authorities negotiated and completed in late 2010 with the Moldovan Government the Visa Liberalization Action Plan,¹ which contains 4 important blocs: security of documents; illegal immigration; rule of law and security; foreign relations and fundamental rights. One part of the Association Agreement will address an eventual Deep and Comprehensive Free Trade Area (DCFTA) and the European Union submitted a set of recommendations to the Moldovan executive, which were transposed into Government Decision No. 1125 of 14 December 2010 concerning the approval of Moldova's Action Plan on Fulfillment of the EU Recommendations for the establishment of a Deep and Comprehensive Free Trade Area between the Republic of Moldova and the European Union."² In December 2011, the European Commission informed about the launch of negotiations on creation of the Free Trade Area with the Republic of Moldova, while in March 2012 the first round of negotiations took place.

In 2011, the European Commission initiated the process of reforming the ENP, as response to the wave of revolutions in the South neighborhood of the European Union and democratic setbacks in the Eastern neighborhood states. The Revised European Neighbourhood Policy gives an emphasis on the principle of differentiation, which states that the deepening of relations between the EU and partner countries, and the amount of assistance offered by the EU will depend on the progress made in implementing reforms. The EU will assess the countries' performance considering primarily the promotion and strengthening of democratic values - democracy, rule of law, human rights and fundamental freedoms, judicial independence, combating corruption, respect for media freedom and promoting civil society. Moreover, the EU will assess to what extent the partner promotes inclusive economic growth.

Based on the principles promoted by the EU in relations with its partners and commitments to European integration taken by Moldovan Government, the authors of Euromonitor report, ADEPT and EXPERT-GRUP, decided to focus attention on reforms implemented by the Republic of Moldova in several key areas for advancing political association and economic integration with the European Union. The following fields, separated into two categories - political and economic - have been subject to monitoring process:

Political field	Economic field
<ol style="list-style-type: none"> 1. Protection and realization of human rights 2. Justice reform 3. Combatting corruption 4. Transnistrian conflict settlement 	<ol style="list-style-type: none"> 1. Financial markets and policies 2. Market regulatory institutions 3. Trade policy 4. Sustainable development and promotion of social dialogue

¹ Moldovan Government approved a national programme concerning the implementation of the Visa Liberalisation Action Plan (GD 122/04.03.2011).

² Hereinafter Action Plan concerning the Fulfilment of the EU Recommendations.

SECTION I. REFORMS IN KEY AREAS (POLICAL)

SUMMARY

The situation of **human rights** has not noticeably progressed, although the government continued to improve the national legal framework for protecting human rights. Withdrawal of the broadcasting license of NIT TV channel, and several regions council decision to ban LGBT community meetings represented a decline in ensuring freedom of expression and right to assembly. Good implementation of existing legislation continues to be hampered by the lack of effective investigation/sanction mechanisms of human rights violation cases, lack of financial and administrative resources necessary for achieving the action plans and national programs on human rights, corruption among civil servants and law enforcement bodies, politicization of the state institutions, and the low awareness level of the importance of human rights by agencies responsible for pursuing legislation. The lack of any progress in investigating and adequate sanctioning of abuses committed by prosecutors and courts during the events in April 2009 raises concerns. The number of actual convictions of the guilty is very low, and currently applied punishments are not able to deter future abuses.

Although there are obligations undertaken internally and externally, the justice reform have not gone beyond the development stage and elaboration of some normative and legislative acts. The impact of the Justice Sector Reform is practically indistinguishable within the system, including considering the delay in enforcing and respecting the temporal parameters established by the Strategy and its implementation Plan. The human and financial resources allocated to the judiciary reform did not have noticeable quantitative changes. The activity within the judicial system takes place under the same organizational and procedural laws; substantive changes regarding criminal procedure, civil procedure, status of judges and judicial court procedure were not enforced. Justice system is not perceived as independent of political and administrative factors. The high rate of perceived corruption in the system reduces confidence in the judiciary, courts and the exponents of the overall system.

The **prosecution reform** remained at the concept stage of legislative draft amendments, without changes to the system or general status. Prosecution activity remains subject to the criticism of public officials (government), mass media and justice officers. The prosecution system is neither considered independent nor effective, and political influence was not removed.

Combating corruption is perhaps one of the biggest failures of the Moldovan authorities, both in terms of implementation of EU commitments, but also in terms of internal achievements. The existence of legislation adjusted to community standards and to recommendations of the specialized agencies, the adoption of the National Anticorruption Strategy and its Implementation Plan does not have the necessary effect. Anticorruption laws and plans are limited by the lack of administrative capacity, but also by subjective factors, among which the main shortcomings are the low political will, delaying reforms and continued toleration of adverse events, such as excessive politicization and keeping suspicious management schemes in the fields of activity.

The failure to effectively enforce the declaration of assets, income and interests mechanism is determined by the failure to ensure proper functioning of the National Integrity Commission and by certain legislative drawbacks, but it is largely influenced by the reluctance of politicians to create an independent control system of integrity. Legal and institutional framework for financing political parties and electoral campaigns remain faulty, and the legislative developments in the field are only at project level and are to be promoted.

The change of government in the Transnistrian region has created the conditions for intensifying the dialogue between Republic of Moldova Government and Transnistrian administration, by the Moldovan Government's efforts in the Transnistrian conflict settlement had a moderate positive impact. The main success in the Transnistrian settlement process was the protocol decision over the principles of plenary recommencement of rail freight through the region. By adopting "small steps" strategy, the Transnistrian administration contributes to solving everyday problems of the citizens and to promoting confidence-building measures, however avoids pursuing discussions on fundamental issues, which would undermine the stated purpose of strengthening independence and self-proclaimed sovereignty of the Transnistrian region.

PROTECTION AND REALIZATION OF HUMAN RIGHTS

OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

Since the EU-RM Action Plan, adopted in 2005, Republic of Moldova has assumed several obligations in respecting, protecting and promoting human rights, some of these being transferred in the Moldova's Priority Reform Action³ and in the Action Plan on visa liberalization with EU⁴. The key human rights commitments include:

- Adopt a comprehensive antidiscrimination legislation, which will ensure effective protection and remedy against discrimination, followed by a process of amending related legislation, including the National Human Rights Plan for 2011-2014. Following the adoption of antidiscrimination law, Republic of Moldova is urged to adopt a declaration under Article 14 of the UN Convention on the Elimination of all forms of Racial Discrimination (CERD) and to ratify Protocol 12 of the European Convention on Human Rights;
- Investigate all reported cases of torture related to the events in April 2009 and hold liable the guilty persons;
- Consolidate interdependence and operational autonomy of the Parliamentary Lawyers and the Centre for Human Rights, in particular by enforcing the necessary measures in accordance with the Paris principles and recommendations found in Special Procedures of UN, UN negotiating bodies and European Convention on Prevention of Torture;
- Ensure compliance with legislation on access to information, decisional transparency and freedom of expression;

Actions for the achievement of the obligations assumed were included in several national action plans.

DEVELOPMENTS

Although with a delay for almost half a year⁵ and in the context of protests both from the church, as well as from parliamentary and extra-parliamentary opposition against antidiscrimination law, the Parliament adopted the Law on Ensuring Equality. The adoption of law was preceded by extensive and lengthy public debates, but also by negotiations between the Government of RM and the European Commission on the antidiscrimination law content, particularly in regard to keeping the sexual orientation criterion in the law. Finally, the Government decided to exclude four discrimination criteria from the law, namely "health status, sexual orientation, wealth and social origin", which resulted in restricting the scope of the law and leaving room for interpretation by courts.

It is regrettable that some members of the Alliance for European Integration conditioned the adoption of the law with the vote on amendment of Criminal Code and enforcement on legalization of forced chemical castration for persons convicted for rape in aggravating circumstances. This is in direct contradiction with human rights, but also with the constitutional provisions and international human rights agreements to which RM is part.

In order to strengthen the Ombudsman institution, in November 2011, the Ministry of Justice established a working group to review the legal framework, which regulates the work of Ombudsman, and in December 2011, the Ministry of Justice announced the initiation of the draft decision on amending the law on parliamentary advocates and the Center for Human

³ <http://www.mfa.gov.md/img/docs/implementation-tool-matrix-ro.pdf>.

⁴ <http://www.gov.md/doc.php?l=ro&id=3397&idc=447>.

⁵ According to the National Implementation Plan of the Moldova-EU Action Plan on visa liberalization with the EU, approved by Government Decision no. 122/04.03.2011, anti-discrimination law was to be adopted by the Parliament in the second quarter of 2011.

Rights of Moldova. After nearly five months since the launch of decision drafting, it was not submitted for public consultation.

MAJOR PROBLEMS

- Republic of Moldova continues to register minimum results in convicting for human rights violation cases related to the events in April 2009. The investigation process is less efficient and examination of cases in courts is delayed⁶. In the absence of definitive sentence decisions to individuals accused of torture, so far 15 cases related to the events in April 2009 were submitted to ECHR and in one case⁷, the Court declared violation of Article 3 of the European Convention on Human Rights, which prohibits torture. The lack of clear progress in holding liable those guilty of torture and insufficiently severe sanctions for acts of torture committed is likely to perpetuate the phenomenon of ill treatment and impunity among police.
- Discriminatory decisions of some local councils on banning public meetings for the LGBT and Islamic communities is an infringement of right to assembly and highlight the phenomenon of public intolerance towards ethnic, religious and sexual minorities, which are present in the Moldovan society. It is worrying that some political leaders in power transmit messages of intolerance. This does not contribute to strengthening social stability, but rather amplifies the existing stereotypes and propagates intolerance. Moldovan political elite is far from understating the principle of non-discrimination, which could create difficulties in enforcing the antidiscrimination law.
- The withdrawal of NIT TV channel license brought back on the public agenda the need to revise the Broadcasting Code, namely the sanctioning modalities and their enforcement in cases of breach the principles of audiovisual communication. Although the Broadcasting Coordinating Council (BCC) had arguments to sanction NIT on grounds of failure to ensure equilibrium and pluralism of opinion, the withdrawal of broadcasting license was a disproportionate measure, without exhausting the full set of preliminary penalties, such as temporary suspension of emission license. In this situation, BCC decision to withdraw the broadcasting license violates the right to freedom of expression and freedom of press. Such a severe sanction for a broadcaster, which promotes the message of parliamentary opposition, may create a dangerous precedent.

FORECAST

1. The debates around the law on equal opportunities will continue. However the main problems will emerge during the implementation process of the law, related to both public intolerance and restriction of the area of law enforcement.
2. The existence of an independent and impartial judicial system is an essential condition for respecting human rights. Without a substantial reform of the judiciary, the national legislation on human rights may be applied poorly, and therefore remaining ineffective.

⁶ Out of 58 criminal cases initiated for the events in April 2009, so far, only 9 police officers were convicted for the events in April 2009, with conditional suspension of punishment. The decisions are not final. In 17 cases, the police officers were acquitted by the courts.

⁷ Taraburca versus Moldova, ECHR decision of 6.12.2011, the Court awarded the applicant in respect of pecuniary damage with EUR 15.000 and for costs EUR 1500.

JUSTICE REFORM

REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

As one of the key areas that allow assessing the compliance level of the political criteria and community standards, justice sector is the absolute priority in the relation Republic of Moldova – European Union. Even if some adjustments of priorities occur, the basic objectives remain the same:

1. Judicial reform in order to ensure the independence and efficiency of courts
2. Ensure independence and effectiveness of prosecution

DEVELOPMENTS

Because justice reform's objectives are very general, the developments are also difficult to observe and quantify. However, in terms of developments, there are:

- Adoption of Action Plan for implementation of the Justice Reform Strategy for 2011-2016;
- Adoption of legislative amendments that caused liquidation of economic courts⁸;
- Adoption of legislative amendments, which would fight financial-banking scams and forced property takeover⁹;
- It was adopted the law on civil service payment system, including civil servants from courts; increase in remuneration is expected¹⁰;
- The quality of justice enforcement is considered satisfactory¹¹;
- The transparency of courts' activity is increasing and technical assistance projects for justice sector are implemented;
- The external financial resources out of the free support packaged for the implementation of judicial reform are accessed¹²;
- A relative increase of public confidence in justice is registered¹³.

A particular development can be considered the election of a representative of the judiciary, the President of Superior Council of Magistracy as the President of Republic of Moldova, after a political crisis that lasted almost three years.

MAJOR PROBLEMS

Mostly, the problems in the justice sphere remain the same, and the impact of reform measure is less noticeable. Practically, all actions that may be considered developments have some shortcomings:

- The political influence and corruption the judicial system affects law enforcement and impartiality of courts¹⁴;
- The Action Plan for implementation the Justice Sector Reform is not published and enforced, is in significant delay and is not supplied with sufficient internal resources to provide massive support and noticeable impact;
- The liquidation of specialized courts was declared unconstitutional¹⁵;
- Even though economic courts, which examined a record number of cases was liquidated, the commercial and military courts, with an insignificant performance, continue their activity;

⁸ Law no. 29 of 06.03.2012 provided maintaining specialized courts: military and commercial, with limited competences. Statistical data proves that these courts examine a small amount of cases.

⁹ Law no. 5 of 15.01.2012 also named "Anti-raider Law".

¹⁰ Law no. 48 of 22.03.2012.

¹¹ Statistical data for 2011 demonstrates that cancelled, changed on criminal causes are around 9.5% of decision, and on civil causes – 4.8% of decisions.

¹² Ministry of Justice signed the grant agreement with EU for justice reform, accounting for EUR 10 million.

¹³ According Public Opinion Barometer data, by April 2012 the trust in justice system increased up to 26%, compared to 18.3% in November 2011, www.ipp.md.

¹⁴ U.S. State Department Report on the state of human rights worldwide (Moldova, 2011).

¹⁵ Constitutional Court Decision no. 3 of 09.02.2012.

- Institutional changes delay and the number of cases per judge is still considerable¹⁶;
- Financial resources allocated for the functioning of courts did not increase in 2012 and covers only current needs;
- The Government and Parliament relinquished to increase wages for civil servants, including judges and prosecutors, who are officials of great public importance;
- The problem of delaying the examination of cases in courts persists¹⁷;
- The external funding allocated for justice reform will be accessed in stages, and much of the first tranche will be used for technical activities or related areas of justice sector¹⁸;
- The activity of the new President of Republic of Moldova in the field of coordination and boost justice reforms is latent and almost imperceptible.

FORECAST

Due to the fact that justice reform priorities have a general nature it is difficult to make clear predictions, but some of the can be assumed:

1. Authorities will continue to proceed with formalizing actions and report the performance of minor actions. Significant reforms will not take place by the end of the second quarter of 2012.
2. By the end of summer session (July 2012) are to be adopted legislative acts regarding the criminal and civil procedure reform, the statute of judges and judicial organization, Law on Special Investigation. However enforcing the amendments will still take time.
3. The President of Republic of Moldova will be able to revive and improve the activity of the Coordinating Council for law enforcement reform, ensuring the highest monitoring level of implementation the strategy, and thus granting a mark of national priority of judicial reform;
4. The Action Plan for implementation of the Justice Reform Strategy will be implement, but with considerable delay of the previously established deadlines and lacking proper implementation resources. The public budgetary constraints will reduce the possibilities of adequate funding and will not cover the additional reform costs.
5. The Prosecution Reform did not reach an internal common vision and its implementation will delay, although the changes in the field would be boosted by the adoption of legislative programme of achieving the Moldova's commitments to the Council of Europe. A substantial Prosecution Reform would involve changing the Constitution, but for this there is no political consensus in the ruling alliance, or within the opposition forces.

¹⁶ In 2011, average monthly load of cases for a judge accounted for 67.

¹⁷ See the Report on Superior Council of Magistrates, method of organizing and function of courts in 2011, www.csm.md.

¹⁸ According official statements, out of the first tranche of EUR 10 million, around EUR 3 million will be allocated to Ministry of Justice to coordinate the judicial system reform and enforcing the reform strategy, around EUR 2 million will be directed to a concept project to support pre-trial investigation process and over EUR 2 million to support the prison system, probation and rehabilitation.

COMBATTING CORRUPTION

REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

The priorities in combating corruption are three intervention chapters, which can be periodically assessed:

1. Institutional reform of anticorruption bodies (CCECC);
2. Establishment of national integrity system and transparency of government;
3. Implementation of GRECO recommendations for Moldova.

DEVELOPMENTS

The developments are ground arguments to elaborate and lobby some legislative and normative documents:

- The Parliament approved the Action Plan for implementation the National Anticorruption Strategy for 2012-2013¹⁹;
- The Law on National Integrity Commission was enforced²⁰;
- Through Government Decision was approved the National Plan for implementation the EU-RM Action Plan on visa liberalisation, aiming at achieving the Phase II benchmarks of the Action Plan²¹;
- The Reform of the Centre for Combating Economic Crimes and Corruption (CCECC) Strategy document is completed and submitted to public consultation, as well as the legislative package resulting from the Reform Strategy of CCECC²²;
- The Government has adopted a new regulation on official websites of public authorities on Internet and the Action Plan for Open Government for 2012-2013 is approved, which aims at ensuring public integrity, transparency of decision-making and efficient public resources management.

MAJOR PROBLEMS

The level of citizen satisfaction to anti-corruption measures has not increased, and concerns about the problem of corruption have increased²³. The efforts in anticorruption strategy remain mainly declarative and are not supported by system reforms and impacting actions. The problems and major deficiencies in fighting corruption are:

- Excessive politicization of law enforcement institutions (Prosecution, Information and Security Service of Moldova - ISS, CCECC, Supreme Judicial Council- SJC)²⁴;
- The Government and Parliament did not pass CCECC Reform, as the main law enforcement anticorruption, CCECC Reform Strategy is not adopted, although provided in international and community commitments and their action plans for implementation;
- The Government approved an emergency bill on CCECC reform, that missed a number of provisions previously analysed and considered necessary, and the Parliament voted the law within a day of its entry in parliamentary procedure²⁵, without public debates, breaching the law on decisional transparency and cooperation with civil society.

¹⁹ Government Decision no. 12 of 17.02.2012

²⁰ Law no. 180 of 19.12.2011

²¹ Government Decision no. 130 of 24.02.2012.

²² Projects published on http://ccec.md/Parerea_TA, submitted for public debates, with participation of NGOs and under the parliamentary committee.

²³ Republic of Moldova's Corruption Perception Index (developed by TI, 2011) decreased, the last BOP survey showed an increase in social concerns against corruption, about 27% declared themselves worried (April 2012), compared to 23% (November 2011).

²⁴ The leading officials' statements on the need to depoliticize law enforcement institutions are significant. Independent studies found deficiencies in independent activity because of politicization level of the institutions responsible for implementing policies (CREDO study, May 2012).

²⁵ Government approved the bill at Government Meeting on 23.05.2012, and on 25.05.2012 the bill was passed in 2 readings by Parliament, without debates.

- The hurried nature of adopting the Law on CCECC Reform and the lack of concomitant reforms in MIA and Prosecution considerably reduce the expected impacts of the reform, jeopardizing its success;
- The Parliament did not respect its own regulation and did not form the National Integrity Commission (NIC), and the way in which members of NIC were appointed demonstrates excessive politicization of the process and incompliance with public interest. Appointment of NIC members was conducted through non-transparent methods; the compliance assessment with integrity criteria of the candidates nominated by political parties was not made. There is the suspicion of the unsuitability criteria of integrity of some candidates and lack of impeccable reputation²⁶.
- External reports show stagnation or considerable deficiencies in combatting corruption in Republic of Moldova, describing corruption as a major problem in the country, and the relevant legislation is implemented ineffectively²⁷. It is needed a decisive and effective approach in combatting corruption, legislation and institutional frameworks have to be comprehensive, clear reform and action visions are needed, which will not cause deficiencies in implementation²⁸;
- The internal institutions reports show deficiencies, especially in terms of appropriate sanctioning of corruption cases²⁹.

FORECAST

Combatting corruption will remain the focus of Community institutions, this being one the criteria to ensure rule of law, but the attention and dedication of government institutions in combatting the phenomenon will not radically change. For the next period can be expected the following:

1. Anticorruption activity will be distorted by election of CCECC presidency and the implementation of new changes in legislation concerning operation of CCECC. Politicization of these processes is not excluded and will occur during the implementation of the reform.
2. The transfer of powers over economic crimes from CCECC to MIA institutions, that lack the capacities, qualification and probity, will cause difficulties for law enforcement to combat economic crimes.
3. Omission to implement the Reform Strategy of CCECC could annihilate the effect of implementation the Law, which includes the reform and even to substantially compromise it.
4. Establishing NIC was delayed and because this institution is not out of political interest, only its independent activity (including management), along with resource allocation and adequate normative-legislative framework will lead to some short-term achievements. The external pressure in this respect will be further determined.
5. The draft laws regarding legal and institutional changes in political party funding and electoral campaigns will be promoted faster at the Government and Parliament level, because in autumn Republic of Moldova will present new reports to GRECO and it can be further classified as debtor for this matter. However, due to increased interest of political forces, at the moment of examination the draft laws, the political-administrative

²⁶ See: Public appeal of NGOs on selection process of NIC members (18.04.2012), <http://www.api.md/news/35243/>; The Call of the Civic Initiative for a Clean Parliament on revising the list of candidates in National Integrity Commission (17.05.2012), <http://moldovacurata.md/?mod=news&id=27>.

²⁷ U.S. State Department Report on the state of human rights worldwide (2011).

²⁸ Progress Report in implementing PEV, 15.05.2012

²⁹ Prosecution Reports „State of legality and rule of law in Republic of Moldova for 2011” shows deficiencies in sentencing in cases of corruption and related causes, most cases ending with fines, suspension of sentence, failure to apply the complementary sentence of depriving the right to hold certain positions or to practice certain activities, or release of criminal offence and application of contravention sanction, <http://www.procuratura.md/md/raport2011>.

interventions that might distort the intended effect of the reforms in the filed are not ruled out.

6. The existing penal policy and judiciary practice will not deter actions of corruption, in this respect are necessary changes, which would increase the sanctions and would limit the absconding possibilities from criminal liability.

TRANSNISTRIAN CONFLICT SETTLEMENT

OBJECTIVES AND PRIORITIES

Policy documents of Government of Republic of Moldova on viable Transnistrian conflict settlement, supported by external partners, provide:

- Identifying a solution within the negotiation format “5+2”, respecting the sovereignty and territorial integrity of Republic of Moldova;
- Creating the reintegration conditions for the Transnistrian region in the economic, informational, political, social and cultural environment of Republic of Moldova;
- Mobilization of external partners’ efforts in promoting conflict settlement process.

In order to achieve the above-mentioned objectives, following the re-launch of negotiations on Transnistrian conflict settlement in the format “5+2”, priority actions are aimed at:

- Elaboration of a strategy for reintegration;
- Implementation of confidence-building measures through strengthening links between people, removing barriers to free movement of persons, goods and services between the two banks of the river Dniester, elaboration and implementation joint projects, which would contribute to increasing the welfare of populations;
- Withdrawal of foreign military forces from the territory of Republic of Moldova;
- Transformation of the current peacekeeping operations in a multinational mission of civilian observers under an international mandate;
- Securing the Transnistrian segment of the Moldovan-Ukrainian boarder through cooperation with EUBAM mission;
- Maintain the Transnistrian conflict on the agenda of the external partners and relevant international organizations, increasing the EU and USA role in the process of conflict settlement.

ACTIONS AND ACHIEVEMENTS

The main actions in Transnistrian conflict settlement were focused on: strengthening the dialogue between Chisinau and Tiraspol; consolidating the trust building measures; solving the problems of citizens living in the Security Zone, under the jurisdiction of Chisinau.

Change of government in Transnistrian region created the conditions for intensifying the dialogue between the Government of Republic of Moldova and Transnistrian authorities. In this context, Prime Minister, Vlad Filat and Transnistrian leader, Yevgeny Shevchuk met on March 15, 2012 to discuss on mutual confidence strengthening through:

- Recommencement of rail transportation,
- Normalization of the situation of postal services,
- Intensifying the activity of sectorial working groups,
- Solving the problem of unutilised radioactive sources, which are at various companies in the region,
- Participation of Transnistrian experts as observers in the negotiations for establishing the Trade Area.

Consequently, the most important event, intended to help strengthen confidence-building measures between the two banks of the river was the signed protocol decision between Prime Minister, Vlad Filat and the Transnistrian leader, Yevgeny Shevchuk on over the principles of plenary recommencement of rail freight through the region. This decision provides:

- Establishment of a joint customs control and establish mixed checkpoints, on a parity basis in certain stations, under the jurisdiction of parties, with the purpose of joint customs control;
- Within these areas, the customs control will be conducted under the principle of “one stop”, which will reduce the time, required for the issuance of customs formalities.

Multiple requests from Dubasari population, located in the Security Zone, on the need to overcome the social, economic, free circulation difficulties motivated the Government to create a special working group, consisting of representatives of ministries, with the participation of city mayors from Dubasari localities, having the task to elaborate the list of most pressing problems for the population of the concerned localities, and further to identify solutions for them. Accordingly, the meeting of the Government Committee for Reintegration of March 29, 2012 was dedicated, including the project of Development of localities in the Security Zone for 2012-2015, which will be proposed for Government approval.

NEGOTIATIONS IN THE FORMAT „5+2” AND INVOLVEMENT OF FOREIGN PARTNERS

The role of international partners in Transnistrian settlement was strongly expressed:

- At the meeting in Odessa on January 27, 2012, mediated by the Ukrainian Minister of Foreign Affairs, Konstantin Grişcenko, was discussed an action plan designed to strengthen mutual confidence, regarding the creation of conditions to improve economic activity on both banks of the river, solving the problems faced by citizens by removing all artificial barriers between the two banks, recommencement of rail freight through the region. The Transnistrian leader opposed to discussing political nature issues, related to Transnistrian status, the change of peacekeeping missions status or of participants in the “5+2” negotiations;
- During the negotiations round under “5+2” format in Dublin, during February 28-29, 2012, were discussed the principles and procedures for conducting negotiations, the schedule of future meetings. The intention of Moldova’s representatives to discuss issues related to identifying as soon as possible a durable solution for the conflict, ensuring stability and prosperity of the region, based on respecting the principles of sovereignty and territorial integrity of Republic of Moldova in its internationally recognized boards, was rejected by representatives from Tiraspol administration;
- Political Moldovan-Russian consultations, at the level of Deputy Foreign Affairs Ministers, in March 2012 reconfirmed Russia’s position to put, yet, the emphasis on the importance of promoting confidence-building measures. Moldovan authorities interpreted the appointment of the Deputy Russian Prime Minister, Dmitriy Rogozin, as Special Representative of the Russian President for Transnistria, as proof of the level of importance Russian Federation considers for the Transnistrian conflict settlement. Meanwhile, Moldovan officials expressed their concern that such a nomination was not discussed with Moldovan authorities, since the necessary clarifications on this decisions directly addresses a part of Moldova;
- EUBAM mission supported the re-launch of Moldovan trains on the Transnistrian segment, highlighting the importance of both the economic aspect, as well as the confidence-building between the two banks of the river over that decision.

CONCLSIONS

1. The efforts of the Government of Republic of Moldova on Transnistrian settlement had a moderate positive impact. The relaunch and conducting of negotiations in the “5+2” format, regular dialogue with Tiraspol administration, unlocking circulation on the Transnistrian

railway segment, engagement in solving everyday problems of citizens located within the Security Zone create the prerequisites for advancement the regulatory process;

2. The tasks related to: elaboration of strategy on reintegration, engaging representatives of Tiraspol administration in discussions on the legal status of the region, withdrawal of military Russian presence, change of the peacekeeping mission, increasing the role of USA and EU in negotiations were not achieved. The Transnistrian side categorically opposed discussions on this matters;
3. Representatives of the Transnistrian administration announced that during the conflict settlement process they have a “small steps” approach, designed to help solving everyday problems of the citizens, and avoid pursuing discussions on fundamental issues, which would achieve the declared purpose of strengthening the independence and sovereignty of the proclaimed Transnistria. In this respect, the Transnistrian administration enjoys political and financial support of the Russian Federation.

SECTION II. REFORMS IN KEY AREA (ECONOMIC)

SUMMARY

In the first quarter of 2012 we acknowledged a number of developments relevant to **financial markets and financial policies sector**. The most controversial is the National Bank of Moldova (NBM) proposal to link floating interests of banking products to a list of benchmarks established by the central bank. Although the argument of protecting consumer rights is strong, NBM should pay attention to any negative implications of this proposal, which, essentially, is an administrative one, rather than within the logic of the market. Another noteworthy initiative is the proposed amendment of the top-management structure of NBM according to the model of European Central Bank (ECB), transposition ad verbatim from ECB bylaw the rescission conditions of top-management members and procedure modification of approval of expenses estimate of the institution. Our main concerns relate to a number of provisions that may undermine the independence of NBM and which represent deviations from the best international practices in the field, such as: inclusion in the monitoring body a member appointed by the Government; any conflicts of interest; insufficiently restrictive nature of the ban on the purchase by NBM of debt bonds on primary market.

Related to **market regulatory institutions**, there were noted delays in adopting competition laws. Approved on first reading, the law on competition and law on state aid leave many questions unanswered, generating at the same time concerns about coverage and regulatory instruments. The plan on public procurement development for 2010-2013 has not yet been adopted. As a result, the actions relating to legislative harmonization and institutional reform of the Public Procurement Agency are in delay.

In terms of **trade policy**, the most important achievement of the first quarter of 2012 can be considered the actual beginning of negotiations on DCFTA. The first round was held during the reporting period and highly appreciated by both parties in dialogue. A number of obligations that Moldova has undertaken (passage of strategy for food safety, restoring the pest and veterinary control services to several auto borders) were achieved. However, there are some difficult areas – such as technical regulations and sanitary and phytosanitary standards – where the progress is slower than necessary.

One area that has not received due attention so far is the **sustainable development and promotion of social dialogue**. Within the framework of the Action Plan on implementing the recommendations of the European Commission (EC) on establishing the Deep and Comprehensive Free Trade Area (DCFTA), Republic of Moldova has made an important commitment to promoting sustainable development and particularly to improving the institutional framework associated with the social environment. We conclude that despite EC recommendations and obligations assumed by Republic of Moldova to the EU, no decision was adopted on establishing the Economic-Social Council. Delaying implementation of such specific EU recommendation relates more to the cost of this action for the policy makers following the decrease in decisional autonomy, and less to any financial or organisational aspects invoked.

FINANCIAL MARKETS AND POLICY

REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

A financially viable, stable and transparent system is crucial for the long-term funding of the growth process. It is, therefore imperative an appropriate regulation system, able to realize its development potential. In this context, Moldova has assumed to EU a number of reform obligations, outlined below. At the same time, it is important to note that implementation of these reforms is a necessity per se, regardless of whether EU would specifically require it.

- Initiate amendment of legislation and normative acts of National Bank of Moldova in the context of implementation of BASEL norms;
- Compliance of normative acts of National Bank of Moldova with amendments of Law on financial institutions;
- Strengthen Central Bank independence in accordance with best European practices;
- Enforce the provisions of the Development Strategy of the non-banking sector for 2011-2014;
- Transposition of EU practices on regulation and supervision of the banking system;
- Establish and ensure effective implementation of independent authorities, in accordance with internationally recognized standards;
- Combat counterfeiting and money laundering;
- Implementation of community *acquis* in banking;

MAJOR DEVELOPMENTS

- In the first quarter of this year, NBM initiated a process of public consultations on the draft law on Civil Code amendment³⁰. This process aims at increasing transparency of the determination and adjustment process of bank's interest rates on loans and deposits. Essentially, it is proposed reporting floating interest of banking products to a list of benchmarks established by central bank. Thus, according to the draft law, the banks will be able to set the interest strictly according to the fluctuations of the respective benchmarks, limiting their right to change the interest in unilaterally and economically unfounded method. Therefore, the project aims at protecting consumers, who represent the weak contractual part in relation to banks. They will be able to reject the adjustments operated regularly during credits/deposits, as well as easier monitor the grounds for establishing the interest. However, in addition to the official objective, NBM initiative could serve as pretext to ensure commercial banks' more prompt reaction to the monetary policy signals. Currently, the impact of monetary policy decisions on lending activity is delayed and modest, which negatively affects the achievement of NBM strategy on inflation and price stability. Although, apparently, the initiative aims at protecting creditors and depositors against possible abuses on pricing policies by banks, several important aspects involve deviations from the principles of market economy. First, it is considered a very simplistic approach on determining the interest on loans and deposits mechanism: they are to be formed from the benchmark to which the bank will apply a certain margin of profit. Second, this margin is expected to be fixed throughout the deposit/loan duration. Such provision omits a crucial and sometimes determinative for interest fluctuations – the risk premium. Thus, in the context of increased uncertainty banks usually increase the premium to insure against the risk of possible losses. Depriving banks of such risk management mechanism will cause them to reverse by setting tighter credit conditions (e.g.: tightening collateral requirements, increased reluctance against customers without credit history etc.). Therefore, the draft law, being actually an

³⁰ Law no. 1107-XV of 06.06.2002..

interventionist measure, must into account all these aspects before being approved and the initiation of public consultation in this regard is very welcomed.

- After being approved by the Government, the draft law on amending the Law on National Bank of Moldova was³¹ sent to the Parliamentary Committee on Economy, Budget and Finance. The main innovations introduced relate to changing the top-management structure of NBM according to the model of European Central Bank (ECB), transposition ad verbatim from ECB bylaw the rescission conditions of top-management members and procedure modification of approval of expenses estimate of the institution. All these provisions aim at streamlining internal corporate governing and at strengthening bank's independence. Furthermore, the draft law provides NBM authority to regulate and supervise the activity of providing payment services and issuing electronic money, as well as the payment system in Moldova. However, our main concerns related to a number of provisions that may undermine the independence of NBM and which represent deviations from the good practice in this field. These relate to: (i) including in the supervisory body a member appointed by the Government, (ii) same persons are both members of the governing body and supervisory body, (iii) the prohibition on the purchase by NBM on primary market of debt issued by state does not extend to private companies and with state capital, (iv) the lack of additional provisions on increasing transparency of the central bank activity³².
- Following the provisions of Basel Committee documents, NBM came with the initiative to introduce an additional indicator of short-term liquidity for commercial banks. Therefore, in addition to the current liquidity ratio and long-term reported, banks will present information about the ratio between assets with repayment term of up to 1 month and liabilities with equivalent term payment. The essential condition is that the ration should be less than 1, which means that banks will be required to maintain sufficient cash and other highly liquid assets to satisfy immediately all payment requests adjacent to resources attracted for up to 1 month. Considering that, according to data at the end of first quarter of 2012, the ratio between loans, deposits and assets with maturities up to 1 month is lower than the unit value, the introduction of such norm will not generate any major distortions in the activity of commercial banks. It will rather discipline the bans to maintain sufficient liquidity of asset to cover immediate payment obligations. Furthermore, it will strengthen confidence in the banking system, as bank's liquidity is a determining factor in this respect.
- Following approval by the Government, on 15.02.2012 was sent for examination in the Parliament the draft Law on Non-banking financial organizations elaborated by the National Commission of Financial Market (NCFM)³³. The document was elaborated in accordance with the Action Plan on implementation of EU Commission recommendations on enforcing DCFTA between Republic of Moldova and European Union. Essentially, the draft law aims at establishing a common regulatory framework of non-banking financial organizations. The main provisions are: (i) main activities of non-banking financial institutions, as well as those prohibited (e.g. prohibition on attracting redeemable funds from individuals); (ii) established minimum capital requirements; (iii) empower NCFM to regulate the activity of these organisations; (iv) enforce the provisions of the Civil Code for non-banking loans similar to the banking ones.

Although improving the regulatory framework for the non-banking financial sector is necessary for ensuring financial stability, preventing various forms of financial fraud and reducing the uncertainty in the sector, we consider inappropriate limiting the value of micro-credits to 120000 lei. In most European countries such practices are not existent, with few

³¹ Law no. 548-XIII of 21.07.95..

³² More details, see A. Lupușor, „Analysis of proposed amendments and supplements on Law on NBM”, Expert-Grup, 2012, http://expert-grup.org/library_upld/d486.pdf.

³³ Government Decision no. 96 of 15.02.2012..

exceptions (e.g. Romania, France), where the regulatory framework is considered by investors too restrictive and thus preventing the sector's development³⁴. This provision will be a constraint for non-banking financial organizations, since the value of a loan from microfinance organizations in the country currently accounts for 16000 lei. The problem becomes more acute in the context of the sector's access to additional funding, as well as insignificant inter-sectorial competition between banks and non-banking financial organizations.

MAJOR PROBLEMS

- One of the many impediments for balanced development of the banking system is related to the deficiencies of the competitive environment, confirmed by the relatively high market concentration, relatively small share of foreign direct investment in the sector. One of the studies previously conducted by EXPERT-GRUP confirms through econometric estimates the low level of competition in the sector³⁵. This fuels more suspicion on the method of determining the interest rates on loans and deposits. Moreover, the NBM initiative on increasing transparency on determining interest process can be perceived as a response to these deficiencies. However, it includes overly interventionist provisions and does not coincide with European good practices in this regard.
- Although over the last years several legislative changes to strengthen central bank independence were made, and the regulatory framework ensures an acceptable separation between monetary policy and political factors, we note increase pressure from the executive authority over the monetary authority. This prevents full adjustment of the regulatory framework to the international best practices regarding central bank independence. As example is the draft law on amendment the Law on National Bank of Moldova. In particular, this concerns the inclusion of persons appointed by the Government in the supervisory body of the bank. The initial text of the document proposed by the National Bank for approval by the Government included a very important provision required for ensuring institutional independence of the Bank: exemption of the central bank's acts from the review and expertise of the Ministry of Justice. However, following the negative service from the Ministry, this note was eliminated from the bill approved by the Government and submitted to Parliament. Such disagreements could affect future efforts to fully align the regulatory framework to European standards on central bank independence.
- One of the problems limiting the NBM's ability to supervise the banking system that affects the confidence in the system, and respectively its development relates to the low level of transparency on final bank's shareholders. This problem, added to the deficiencies of the local judiciary system significantly undermines the protection of investors' rights and reflects negatively on investment attractiveness of overall Moldovan financial system. Thus, on medium and long-term, these structural deficiencies can be considered as the main constraints affecting the cost of credit and real sector access to additional sources of funding, attracting investments in the financial sector and will challenge the entire domestic financial system's stability and sustainability.

FORECAST

1. The monitoring and supervision institutions of the financial and banking system (NBM) and non-banking system (NCFM) will continue implementation of various EU practices in order to streamline its activities, following both European Commission's recommendations and strategic planning documents, which provide the alignment with

³⁴ „The regulation of Microcredit in Europe”, European Commission, 2007, http://ec.europa.eu/enterprise/newsroom/cf/getdocument.cfm?doc_id=538.

³⁵ A. Lupusor, A. Babin, „A Diagnostic Analysis of the Moldovan banking system in the context of signing DFCTA”, Expert-Grup, 2011, http://expert-grup.org/index.php?new_language=0&go=biblioteca&n=224.

European practices and norms. In particular, it refers to introduction of various electronic instruments in the daily activity of institutions that would streamline the monitoring and regulation processes of NBM and NCFM. A relevant example in this sense is the concept elaborated by NBM regarding the implementation of a unique trading platform of monetary and foreign exchange instruments.

2. Another priority of the relevant institutions in the near future will most likely relate to increase transparency of financial organizations shareholders and to eliminate legislative gaps that in recent years have generate a number of conflicts, labeled as “raider attacks”. Thus, we expect a series of measures to strengthen monitoring and supervisory capacities of NBM and NCFM in this respect.

MARKET REGULATORY INSTITUTIONS

REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

The well-functioning of market economy is impossible without ensuring full functionality of key regulatory institutions. Besides the fact that regulatory institutions enforce fair and clear conditions for local businesses, in the context of European integration aspirations, Moldova has assumed certain obligations to EU concerning establishment of strong institutions and development of clear and transparent procedures and standards. Therefore, both EU-RM Action Plan and Action Plan on implementation of EU Commission's Recommendations on establishing the Deep and Comprehensive Free Trade Area (DCFTA) between Republic of Moldova and European Union, as well as the general obligation to harmonize national legislation with the community *acquis* refer to the need of ensuring functionality of the following institutions:

- National Agency for the Protection of Competition (NAPC) on areas of competition and state aid;
- Public Procurement Agency (PPA) on ensuring transparency in the use of public money;
- Institute of Standardization and Metrology on areas of technical barriers to trade;
- National Agency for Energy Regulation (NAER) on area of electricity and natural gas;
- National Regulatory Agency for Electronic Communications and Information Technology on electronic communication regulation;

Although many recommendations and obligations were assumed a long time ago and some have a systemic and continuous nature, there are delays both at the adoption of policies, as well as at their implementation. Thus, in the first quarter of 2012 were planned many activities, the most important being:

- Elaboration of secondary normative acts on competition;
- Consolidation of NAPC capacities;
- Implementation of the provisions of the new Law on Competition;
- Harmonization of public procurement legislation with the community *acquis*;
- Establishment and implementation of a professional development plan for the NAPC staff to ensure the required resource for the implementation of the new legal framework.

MAJOR DEVELOPMENTS

- The delays in the adoption of the key laws on competition prevented progress with their implementation. However, we note that both the draft Law on Protection of Competition and draft law on state aid have been passed by Parliament in first reading in March. The shortcomings of these laws and our concerns related to the draft laws have been highlighted in the previous editions of Euromonitor, the most important were related to the exclusion of agriculture sector from the regulatory law on state aid and unjustified fines, stipulated by the Law on Protection of Competition;
- Meanwhile, NACP has directed attention towards an important field – competition in the wholesale trade of medicines. In particular, NAPC plans to launch a research study of this field. Note that, in recent years there have been several concerns about medicine prices in Republic of Moldova, much higher compared to neighbouring countries. There have been even governmental attempts to reduce medicine prices. However, negative reactions from the Association of Pharmacists in Moldova, but also of other stakeholders require a thorough understanding of the economy sector. Moreover, in EU this is also a difficult area, as barriers that prevent placing on the market medicines exist, so that research was developed and were monitored the agreements between the originator and medicine companies.

- It was elaborated the “Report on assessment the competitive environment of the food trading market in the network of sale units (supermarkets) in CIS countries”. It is yet to be submitted and approved, but several problems were identified, the most important concerning the quality monitoring system of the products/services.
- In order to provide a similar regulatory framework to all regulatory institutions subordinated to the Parliament, was submitted a draft law on reducing the number of board members of NAPC, conditioned their appointment by Parliament.
- As regards to public procurement, in the first quarter was submitted to Parliament a legislative initiative on giving priority to registered economic agents and operating in the field of the contracting authority. Besides the fact that this provision would be in contradiction to national legislation (Law on Protection of Competition, art.9, prohibits emergence of privileged circumstances to some economic agents to competitors operating on the same commodity market; but the new draft law on protection of competition, art.12, prohibits actions or inactions of authorities and public central authorities or local, impediment or distortion of competition), it contradicts to community legislation. Most probably, the Association Agreement will include requests on market access liberalization and harmonization of public procurement legislation, including implementation requirements of the Central European Free Trade Agreement (CEFTA), which expressly provides the need to ensure that economic operators, as well as their goods and services on other state-members of CEFTA are treated “no less favourable” than the local (or local economic agent). Therefore, the given proposal is a measure to limit competition, and this can only delay the deepening relations between Moldova and EU.

MAJOR PROBLEMS

- The main problems in ensuring a strong competitive environment and transparency in the use of public funds relate to the slow progress of actions, which is not likely to intensify. Thus, the action plan on procurement development for 2011-2013 has not yet been adopted. As a result, actions relating to legislative harmonization and institutional reform of Public Procurement Agency delay.
- The same issues are present in competition area, where actions seem to be stopped because of the slow examination process of legislative acts, but also of their imperfections that evoked many negative reactions. Therefore, important areas remain insufficiently regulated, and worse, even in the case of legislation adoption, some important areas will remain outside the regulatory framework (such as agriculture).

FORECAST

1. Although laws on competition are about to be adopted in Parliament, the chronic problem will not have a rapid solution. Implementation of these laws will also take time, primarily because of additional regulations, which were not included in the text body of the law. They, along with the draft law generated intense discussions during the consultation process, which will not be overlooked given the importance of the regulated aspects.

TRADE POLICY

REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

Republic of Moldova has fully committed to an intense negotiation process with EU on DCFTA, which in case of satisfying all requested conditions, will allow local producers to access the EU single market and provide more predictability and stability of commercial relations. The Government has established a clearly structured agenda for achieving objectives related to DCFTA negotiation and operation, negotiations to be concluded by September 2013. The first round of negotiation on DCFTA was held in Chisinau, during March 20-22, 2012. The second round is planned for June 11-15, 2012 in Brussels. Thus, the most important obligations assumed by Moldova are:

- *Negotiation and signing the Free Trade Agreement between Republic of Moldova and Turkey*, which is a prerequisite to benefit from DCFTA, especially with reference to the development of sectorial analysis on agriculture and industry concerning trade liberalization with Turkey, as well as develop negotiation positions;
- *Negotiation and signing the Agreement on DFCTA establishment in order to facilitate access of Moldovan goods to the EU market*, particularly on elaboration the draft Government decision on amending Government Decision no. 1125 of 14.12.2010 on approval of the Action Plan on implementation the European Commission's recommendations on establishing the Deep and Comprehensive Free Trade Area (DCFTA) between Republic of Moldova and EU; elaboration of feasibility studies in agriculture and industry sectors; elaboration of negotiation positions in trade sector; elaboration of quarterly progress reports and submit to the European Commission and Government.
- In parallel with the activities of the sub-program of economic cooperation, the Ministry of Economy has planned a number of activities related to the national standardization system, elaboration of legislative and normative framework in area of foreign trade, which will impact including on economic and trade relations with EU.

MAJOR DEVELOPMENTS

- The most significant achievement can be considered the actual start of negotiations on DCFTA, the first round was held during the reporting period and highly regarded by both parties in dialogue;
- Elaboration of a study regarding the current situation on market supervision and the need to adjust the current legal framework with Regulation EC 765/2008 of the European Parliament and of the Council of July 9, 2008 on setting the accreditation and supervision requirements of the markets concerning trade³⁶.
- Enforcement of three legislative acts, which will regulate accreditation, metrology and standardization in accordance with European standards, namely: Law no. 235 on accreditation and evaluation activities of conformity, inured on March 7, 2012; Law no. 233 on amending and supplementing the Law on metrology no. 647-XIII of November 17, 1995, inured on January 27, 2012; and Law no. 32 on amending and supplementing Law no. 590-XIII of September 22, 1995 on standardization;
- Approval of Food Safety Strategy in Republic of Moldova for 2011-2015;
- Reestablishment of veterinary and phytosanitary services at 8 state border controls;

³⁶ Report is available in Romanian, http://www.mec.gov.md/docs_news/raport-privind-studiul-situatiei-existente-in-domeniul-supravegherii-pietei-in-republica-moldova.pdf.

- Amendment of Law on animal identification and registration (deadline for animal identification and registration, as well as funding the system of identification and traceability);
- Request for training (possibly TAIEX) on international negotiations in the field of Sanitary and Phytosanitary (SPS) for capacity building of the negotiation team and for further facilitation of the discussion process on technical aspects in this field;
- Obtain commitment to evaluate by a group of six international experts the current capacities and functionality of the existent laboratories, with concrete recommendations on establishment a system of food safety laboratories, according to EU requirements and standards.
- Approval, within the Government session of March 21, 2012 of the draft law on amending and supplementing of some legislative acts, aiming at creating the National Office of Vine and Wine, the Vine and Wine fund and harmonization of national legislation with EU legislation in this field. The newly created office will be a public-private structure and will allow the transfer of competences from state to wine producers. The central directions of the Office's activity will be marketing, promoting exports and domestic consumption. The duties of the Office will be reducing technical barriers, tariff and non-tariff barriers to trade in wines and implementing measures for facilitating the use of quotas to Moldova for export;
- Signing with Great Britain and Lithuania a contract related to Twinning Project in phytosanitary field and control of pesticide residues. The project aims at improving the capacities of General Inspectorate for Phytosanitary Supervision and Seed Control to define, plan, organize and implement strategic and operational objectives, using risk-based approach and prevention, in accordance with EU practices³⁷;
- Elaboration by the Ministry of Economy of the quarterly report no.5 on the progress made in implementing the Action Plan on DCFTA, which summarizes the main achievements obtained over February – April 2012, some of which are mentioned above.

MAJOR PROBLEMS

- In efforts to implement the planned activities for first quarter in the trade relations with the European Union and other activities with direct or indirect impact, one of the major obstacles is the fact that DCFTA is perceived by EU as a trade agreement with effect on the entire territory of Republic of Moldova, or this is difficult in the current conditions of unsolved conflict in Transnistrian region. DCFTA, according to EU officials, could be an effective tool, which will lead to resolution of the frozen conflict;
- Effective implementation of the adopted legislative acts and enforced during the reference period is problematic, given the limited institutional capacity and reduces implementation abilities of the relevant bodies in the country. Moreover, it remains unclear the DCFTA impact on the agriculture sector, which is the sector where start the most significant share of exports to EU, included. The amendments and adjustments to the existing legislative framework, during the negotiation process, could lead to export diversification and increase in competitiveness. So far, have not been conducted quantitative and qualitative studies that provide a clear and comprehensive picture of the impact of liberalization on agricultural producers and exporters. In addition, the DCFTA does not provide abolition of minimum prices applied to single market for agricultural products, so export quality problem is and will remain a priority. On the other hand, many exporters of agricultural products to the Russian Federation will face an additional shock when joining WTO;

³⁷ Report on implementation of Action Plan of RM Government "European Integration: Liberty, Democracy, Welfare" 2011-2014 for 2011, pp. 36-38.

- The private sector, particularly active in agriculture, is clearly unprepared for the speed with which the DCFTA negotiations commenced. The projected costs could be too high and some entrepreneurs have limited potential to cope with competition on the EU market. The dialogue with the private sector can be more effective and with better outcomes.

FORECAST

1. Obstacles encountered in the first quarter are rather universal and are not necessarily related to a particular sector of the economy. The European Parliament recommends continuing efforts in alignment with European standards in terms of technical regulatory framework, standardization, testing, supervision of market and metrology.
2. The recession in the Euro area could potentially affect the implementation of the proposed activities in the coming quarters, on which we will report later.

SUSTAINABLE DEVELOPMENT AND PROMOTION OF SOCIAL DIALOGUE

REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

Within the Action Plan on implementing European Commission (EC) recommendations on establishing the Deep and Comprehensive Free Trade Area (DCFTA), Republic of Moldova has made an important commitment to promoting sustainable development and particularly to improving the institutional framework associated with the social environment. The Action Plan EU-Moldova provides the establishment of Social and Economic Council aiming at strengthening the democratic process of collective decision making, as well as improving the quality of public policy decisions through engaging the national social dialogue between policy makers (Government), trade and employers' unions and civil society. The Social and Economic Councils also aims at improving quality of life for present and future generations through increased participation of its members to elaboration of public policy and promotion of social solidarity in establishment of national development strategies. Promotion of social inclusion is actually an essential component in ensuring sustainable national development and would ensure the effective representation of various social groups in decision-making process of collective interest.

The expected social benefits following the establishment of Social and Economic Council, with the EC support through TAIEX programme, relate to:

- Elaboration of economic and social policies focused on increasing overall society welfare through civil society consultation, trade and employers' unions;
- Increase legitimacy of public decision by connecting them with society's needs expressed through civil society and other organizations represented in the Social and Economic Council
- Improvement of social climate by solving conflicting situations at national level, promoting social dialogue and social solidarity;

MAJOR DEVELOPMENTS

- We conclude that despite EC recommendations and Moldova's assumed obligations to EU, no decision was adopted on the establishment of Social and Economic Council. The examination of the establishment possibility of the Council is not even stipulated in chapter "Social Partnership" within the Action Plan for 2011-2012 of the institution responsible for implementation – Ministry of Labour and Social Protection (MLSP). Concurrently, within the Action Plan on implementation EC recommendations on establishing DCFTA, the second quarter of 2011 is indicated as the deadline for adopting the decision on establishing the Social and Economic Council. Below are identified the major problems and risks related to the implementation of EC recommendations on the establishment of Social and Economic Council.

MAJOR PROBLEMS

- The theme of sustainable development, social protection and healthy working environment has always been the focus of policy makers. Moreover, European institutions are actively engaged in promoting reforms aiming at improving the institutional framework associated the dialogue between the stakeholders interested in the above-mentioned topics. The establishment of Social and Economic Council represent, in this sense, an important step towards establishing and maintaining social balance.
- Establishment of an official platform to strengthen social dialogue on the issues of sustainable development and social inclusions is also a crucial step towards deepening

relations between the EU and Moldova. For this reason and because transaction costs are significant and may hinder participation of interested stakeholders in negotiation processes that directly affect their welfare, there is the need of a platform through which the civil society, trade and employers' unions would formulate solutions to increase collective welfare in the long-run, taking into account the constraints and environmental opportunities.

- At the same time, to make mandatory the consultation process with the Social and Economic Council of the initiators of draft laws and draft programs and strategies on key socio-economic areas would involve additional administrative costs. And more relevant are costs for policy makers are costs, if the Council services would contravene the interests of policy initiators, who are largely guided by short-term incentives.
- Although the role of Social and Economic Council is a consultative one, as suggest the examples of the European Social and Economic Council³⁸ and the Romanian³⁹ one, the political reluctance to hold a representative forum of collective preferences on national policies and strategies, relates to the increasing accountability of policy makers to stakeholders, following the establishment of Social and Economic Council. The latter is designed to promote the collective interest in socio-economic policies and to reduce the manoeuvre ability guided by the political agenda of the initiators of draft laws, programs and strategies. For this reason, delaying the implementation of EC Recommendations on the establishment of Social and Economic Council relates more to the cost of this measure to policy makers following the decrease in decisional autonomy, and less to possible financial and organizational aspects.

FORECAST

1. The opportunity assessment of the establishment of Social and Economic Council will most likely be made with the identification of organizational and functionality provisions, through which the policy makers' decisional autonomy will not be affected. As the costs following their autonomy decrease are concentrated and identifiable, and the social benefits are significant, although dispersed, the role of the Council in promoting social inclusion and prioritizing sustainable development may be hindered;
2. Mechanisms of marginalization the social dialogue institution in decision-making process will most likely be achieved by limiting its scope of competence and/or strategic adjustment of its composition.

³⁸ European Economic and Social Committee, <http://www.eesc.europa.eu/?i=portal.en.about-the-committee>

³⁹ See Law no. 62/2011 – Law on social dialogue – that stipulates the organization and functionality of the Social and Economic Council, <http://www.ces.ro/legislatie/ro/9>

INFORMATION ABOUT IMPLEMENTING ORGANISATIONS

The **Association for Participatory Democracy ADEPT** is a nongovernment, not-for-profit, independent, and non-partisan organisation, which is acting in the Republic of Moldova. ADEPT was registered in January 2000 and gained status of an organisation working for public benefit. ADEPT is an analytical and practical centre that offers expertise in electoral and democratic processes in Moldova. The mission of ADEPT is to promote and to support citizen participation in all aspects of public life.

EXPERT-GRUP is an independent think tank that acts in the Republic of Moldova. Being a nongovernment organisation, EXPERT-GRUP is not affiliated politically to any party and it decides independently on its institutional strategy. The mission of Expert-Grup is to contribute to the economic and democratic development of Moldova and to consolidation of Moldova's international competitiveness. The organisation uses analyses and research at international quality standards as its practical instruments to achieve these goals. Economic policy, European integration, private and public management are the areas where EXPERT-GRUP expertise is applied.