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**Implementation of reforms in the context of the EU-RM cooperation,  
Assessment of progress for October-December 2012**

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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 Partnership and Cooperation Agreement. In parallel, EU authorities negotiated and completed in late 2010 with the Moldovan Government the Visa Liberalization Action Plan,<sup>1</sup> 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."<sup>2</sup> 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:

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

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

<sup>2</sup> Hereinafter Action Plan concerning the fulfillment of the EU Recommendations.

## SECTION I. REFORMS IN KEY AREAS (POLITICAL)

### SUMMARY ON 2012

During 2012, authorities continued to harmonize national legislation on **human rights** with that of the EU, especially regarding anti-discrimination, prevention and combating of torture. The National Human Rights Action Plan for 2011-2014 was adopted, being supplemented with several measures meant to help meet the recommendations that Moldova received during the Universal Periodic Review. However, the inefficient national protection mechanisms, the often indifferent attitude of law enforcement actors and courts regarding the protection of human rights did not allow making any significant progress in the implementation of human rights in 2012. The remaining issues are linked with preventing and investigating torture and discrimination cases, the right of access to information and freedom of the press and expression, the right to a fair trial, children rights, domestic violence prevention etc. Traditional lack of financial resources for the implementation of action plans in this field did not allow their effective implementation. At the same time, for political reasons there are delays in the accomplishment of the objective regarding the improvement of the legal framework regulating the activity of mass media, especially concerning the prohibition on media ownership concentration and oligopoly on the advertising market. The delayed court examination of the NIT case as well as the repeated BCC refusal to grant a cable broadcasting license to the Moldnews portal, a supporter of the opposition, have generated concerns among foreign officials regarding the press freedom in Moldova.

The adoption of the Action Plan for accomplishing the **Justice Reform** Strategy resulted in certain actions and projects that contributed to positive changes within the system. Among the most important actions are: promoting the procedural reform, reform of judiciary and the status of judges, reviewing the legal framework on the functioning of the self-administration of justice; adoption of the legislation on selection and promotion of judges as well as of the new rules regarding special investigative activities. Important institutional changes took place - the number of Supreme Court of Justice judges was reduced, new structures of courts and of the Court of Appeal were approved, the work of many judges was facilitated by employing personal assistants. The activity of the self-administration structures improved; the interventions in disciplinary proceedings and penalties for infringements were more decisive. It has to be noted the promotion of a bigger budget to be allocated to the judiciary in 2013. Although 2012 was a good year in terms of legal and institutional reforms regarding the judiciary sector, it was not marked by strong manifestations of the will and the capacity of the public authorities to implement deep and qualitative, efficient reforms. *The effect of the reforms was minimal, and on the social level the situation is perceived as continuously worsening.* The biggest concern is the fact that after a year "full" of reforms, the level of trust in the justice sector among citizens has reached the lowest level recorded in the last decade. There were insufficient cooperative efforts of the representatives from public authorities and those from the law enforcement bodies, while the influence of political and group interests on the justice sector continued, affecting the independence and credibility of the judiciary. A persisting issue is that of investments in the premises and equipment for the courts as well as the issue of remuneration and social insurance of the main actors in the justice sector.

The developments in the area of **combating corruption** comprised: the reform of the National Anticorruption Center (NAC), the development and adoption of several innovative anti-corruption regulations, including on the regional level. Changes in criminal legislation ensured the implementation of recommendations offered by the specialized international institutions. Republic of Moldova benefited of improved ratings in various international assessments, including those regarding corruption perception and ensuring the functioning of state institutions. Corruption combating efforts and actions started targeting officials of different ranks, and

investigations have been started regarding high-level corruption cases. Formal actions in the area of preventing and combating corruption did not result in noticeable changes with sustainable effect. The National Anticorruption Center reform was hindered by delayed adoption of required laws and regulations, by a politicized process of selecting the NAC leadership and failure to ensure fully operational control structures of this institution. One of the biggest failures of 2012 is the establishment and functioning of the National Integrity Commission (NIC) as well as the failure of effective control of income and assets statements and declarations of interests of officials and civil servants. New anti-corruption policies did not result in the initiation and resolution of any visible cases against judges and public officials, although the perception of corruption in the judiciary and government deepened. The continuing politicization of state institutions, failure to officially admit the persistence of corruption in the judiciary, as well as rejection of certain anti-corruption policies, continues to raise special concerns. A special attention needs to be given to preventing and combating political corruption (financing of political parties and election campaigns).

**Transnistrian settlement** process in 2012 had a rather sinuous evolution. Resumption of official "5 +2" negotiations in February 2012 solved certain social and economic problems. However, the refusal of Transnistrian side to discuss the legal status of the Transnistrian region, as well as the lack of common vision regarding ways of solving more complex problems have led to a significant deterioration of relations between Chisinau and Tiraspol in the second half of 2012. The Dublin Ministerial Declaration on Transnistrian conflict settlement in the "5 +2" format indicates a common position of the OSCE member countries, but a further maintained financial and political support from the Russian Federation for the Transnistrian separatist regime could undermine future negotiations.

## PROTECTION AND REALIZATION OF HUMAN RIGHTS

### OBLIGATIONS ASSUMED BY THE REPUBLIC OF MOLDOVA

Adhering to the democratic values is an important prerequisite of the European integration process. This process is not an immediate one, therefore it requires the establishment of a legal and institutional framework that will ensure on one side the promotion and securing of the democratic rights, principles and values and on the other side their effective application and appropriate sanctioning for their infringement. The Moldovan legal and institutional framework in the area of human rights protection is quite developed and is in a process of further improvement. However the main problems are connected with the practical implementation of legal provisions for ensuring the human rights and freedoms confirmed by national and international reports, as well as with the continuing monitoring of Moldova by the Council of Europe.

As part of its European integration process, the Republic of Moldova has made a number of commitments regarding the human rights and fundamental freedoms, enshrined in bilateral documents, such as the EU-RM Action Plan, Visa liberalisation Action Plan<sup>3</sup> and included in a number of national documents<sup>4</sup>. According to these documents, the Republic of Moldova is committed to the following reform measures:

- Adoption and implementation of a comprehensive anti-discrimination legislation, including creating an appropriate and functional institutional mechanism;
- Combating ill-treatment and impunity of law enforcement agencies;
- Investigate all reported torture cases related to the events of April 2009 and prosecute all those responsible;
- Strengthening the independence and functional autonomy of the Ombudsman institution and of the Centre for Human Rights of Moldova;
- Ensure that access to information, freedom of expression and media freedom is respected.

### MAJOR DEVELOPMENTS

Most of developments were again limited to improving the national legal framework on human rights, in compliance with the international standards and the recommendations of international human rights organizations.

- After repeated public consultations<sup>5</sup> over the project meant to amend and complete the National Human Rights Action Plan for 2011 – 2014 (NHRAP), the Government approved the revised document<sup>6</sup> and submitted it to the Parliament for adoption. The revision of the National Human Rights Action Plan was conducted in order to respect Moldova's commitment to international organisations of complementing the document with additional measures for implementing the recommendations received by Moldova at the Universal Periodic Review. The Parliament adopted the NHRAP on December 26, 2012.
- Government approved the Regulation regarding the activity of the Council on Prevention of and Fighting Against Discrimination and Ensuring Equality<sup>7</sup>. The regulation was subsequently passed by the Parliament on December 21, 2012. In the same time, one week before the Regulation was approved by the Government, the Parliament decided the establishment of a Special Commission for organizing a public competition for the selection

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<sup>3</sup> Visa Liberalisation Action Plan, available on <http://www.gov.md/doc.php?l=ro&id=3397&idc=447>.

<sup>4</sup> Government activity program "European integration: Freedom, Democracy, Welfare", 2011-2014, National Human Rights Action Plan for 2011-2014.

<sup>5</sup> The project was in a process of public consultations for more than half a year.

<sup>6</sup> Government Decision No. 907 of 07.12.2012.

<sup>7</sup> Government Decision No. 908 of 07.12.2012.

of Council members<sup>8</sup>. According to this decision the Parliament was supposed to announce competition results within one month, which did not happen<sup>9</sup>.

- Government adopted a decision on granting one-time allowances to a number of 102 persons (civilians as well as policemen), who suffered in the events of April 7, 2009<sup>10</sup>. This decision completes the list of the victims of April 7 2009 events, approved by the Government Decision No. 192 of April 4, 2012. These persons will receive allowances of 3 to 7 thousand MDL. The money will be allocated from Government's reserve fund.
- On December 26, 2012 the Parliament adopted a draft law regarding Moldova's Statement at the International Convention on the Elimination of All Forms of Racial Discrimination, adopted in New York on December 21, 1965.
- The Government approved several amendments to legislation (Criminal Code, Civil Procedure Code, Contravention Code etc.) in order to bring them in line with the Law on Ensuring Equality<sup>11</sup>.
- The Parliament has adopted several amendments to the Criminal Code, Criminal Procedure Code and Enforcement Code that will ensure efficient investigation, prosecution and punishment of torture cases or inhuman and degrading treatment<sup>12</sup>, these amendments have entered into force at the end of 2012. The most important changes refer to the introduction of torture in the list of very serious offenses against human dignity as well as the introduction of harsher punishments for such offenses. In addition, the provision regarding the excess of power was excluded, since it was often used to reclassify torture acts and thus apply softer punishments.

## MAJOR PROBLEMS

- A major problem continues to be the financial backing of the human rights action plans. Due the fact that the Government will publish the 2012 annual report on the implementation of the National Human Rights Action Plan for 2011-2014 only in April 2013, we cannot determine exactly the extent to which the actions planned for 2012 were accomplished. However, the information presented by responsible institutions, within the Committee for the implementation of NHRAP, points to problems in implementing the proposed measures, due to lack of financial resources. In these conditions the state institutions find themselves obliged to independently identify the required financial resources<sup>13</sup>.
- The reform of the Ombudsman institution is also hindered by delays. According to the National Human Rights Action Plan for 2011-2014, the process of amending the national legislation in order to strengthen the Ombudsman institution and consolidate the capacities of the Center for Human Rights of Moldova (CHRM) had to be completed in 2011, however by the end of 2012 this goal was not yet achieved. As a result, in the revised NHRAP document adopted in December 2012, CHRM reform measures have been rescheduled for 2013-2014. At the moment the Ministry of Justice has already developed a bill, but it has not yet been subject of wider public consultations. At the same time, the Center has continued its efforts to increase its visibility and transparency.

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<sup>8</sup> Parliament Decision No. 266 of 29.11.2012.

<sup>9</sup> The competition for selecting the members of the Council on Prevention of and Fighting Against Discrimination and Ensuring Equality was announced on 20.12.2012.

<sup>10</sup> Government Decision No. 853 din 14.11.2012.

<sup>11</sup> The Government's Decision project was adopted at the Cabinet meeting of 06.12.12 and can be accessed on [http://www.gov.md/public/files/ordinea\\_de\\_zi/06.12.2012/Intr20.pdf](http://www.gov.md/public/files/ordinea_de_zi/06.12.2012/Intr20.pdf).

<sup>12</sup> Law No. 252 of 08.11.2012.

<sup>13</sup> See the meeting of the Commission for the implementation of the National Human Rights Action Plan for 2011-2014, of 31.10.2012, <http://www.privesc.eu/Arhiva/13125/Sedinta-Comisiei-pentru-Implementarea-Planului-National-de-Actiuni-in-Domeniul-Drepturilor-Omului--2011-1014->.

- Another problem is that of bringing to justice those guilty of torture during the events of April 2009. As mentioned in previous editions of Euromonitor, the investigation and examination of cases in courts is very slow. According to the latest data provided by the Prosecutor's Office<sup>14</sup> out of a total of 139 complaints, 71 criminal cases were opened<sup>15</sup>, and 28 cases were sent to court (compared with 27 cases in 3<sup>rd</sup> quarter of 2012). In all other cases, the prosecution was either terminated or suspended. Only 14 policemen were convicted (most of them with a conditional suspended sentence), and 20 policemen were acquitted.
- Unexplained delay in the examination of "NIT vs Broadcasting Coordinating Council (BCC)" case by the Court of Appeal raises questions about the quality and impartiality of the Court of Appeal panel of judges. The lengthy examination of the respective case does not honor Moldova's commitments regarding compliance with the European Convention on Human Rights and Fundamental Freedoms as well as the International Covenant on Civil and Political Rights adopted on December 16, 1989 in New York, which enshrines the right to a fair trial held within a reasonable time-frame. Additional concern is raised by repeated refusal of BCC to grant a cable TV broadcasting license to Moldnews portal, an opposition supporter.
- After the Government approved in 2010 the Law on de-etatisation of public periodicals<sup>16</sup>, in December 2012, the Ministry of Economy released for public consultations a draft amendment, which proposes to introduce in the law a number of periodicals not subject to privatization. Among other, the list includes those periodicals that are published and funded by rayon and municipal councils. The proposed amendments raised concerns among mass-media organizations that have warned against the ensuing contradiction between the proposed amendments and the PACE Resolution 1666 (2009) as well as the very essence of the Law on de-etatisation of public periodicals.
- The issue of transparency of media ownership and that of limiting media ownership concentration has not been resolved. In October 2012 the Government established a working group on financial issues that had to draft until December 2012 a bill prohibiting legal entities and individuals registered in offshore zones from participating in the ownership of financial institutions, private enterprises, organizations of strategic importance, and media outlets. However this did not produce the expected outcomes. In December 2012 the Government approved some prohibitive measures only regarding offshore companies' participation in the ownership of local banks.

## CONCLUSIONS

- Moldova has had some progresses in the process of harmonizing its human rights legal framework with the EU legislation. The main achievements are the adoption of the anti-discrimination law, amendment of the criminal code and criminal procedure code through the introduction of harsher penalties for torture crimes, the adoption of the completed National Human Rights Action Plan.
- Nevertheless the improvement of human rights legal framework continues to be driven by external factors. As a result, the adoption of laws is not always followed by the establishment of efficient human rights protection mechanisms, and strengthening the mechanisms already in place is not seen as a priority. Such an inconsistent approach does not allow the effective protection of human rights. Furthermore, the deficient implementation of human rights laws is also conditioned by the quality of justice in Republic of Moldova.

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<sup>14</sup> General Prosecutor's Office press release of 10.12.2012, <http://www.procuratura.md/md/news/1211/1/4963/>.

<sup>15</sup> Out of these 71 criminal cases, 42 have the count of torture, 19 – abuse of power or excess of duties, 10 - other offenses.

<sup>16</sup> Law No. 221 of 19.09.2010.



- Despite a certain improvement of mass-media freedom in the period of 2010-2011, the 2012 year was marked by some problems regarding media freedom and freedom of expression, particularly that of local and opposition media outlets. The Parliament delayed the adoption of the legal framework on transparency of media ownership, advertising market and the demopolization of the media market. Although the law on freedom of expression was adopted two years ago, its impact is still low due to limited knowledge of this law's existence among judges and journalists<sup>17</sup>.

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<sup>17</sup> These are the conclusions of the report “The Impact of the Law on Freedom of Expression”, published by Independent Journalism Center,  
[http://www.ijc.md/Publicatii/studii\\_mlu/The%20impact%20of%20the%20Law%20on%20Freedom%20of%20Expression.pdf](http://www.ijc.md/Publicatii/studii_mlu/The%20impact%20of%20the%20Law%20on%20Freedom%20of%20Expression.pdf)

## JUSTICE REFORM

### REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA

Ensuring an independent and efficient justice represent an absolute priority for the Republic of Moldova – European Union relations, maintaining the following objectives:

1. *Justice reform aimed to ensure independence and efficiency of the judiciary;*
2. *Ensure independence and effectiveness of prosecution;*

### MAJOR DEVELOPMENTS:

- An initial comprehensive assessment of the situation of all courts is completed<sup>18</sup>;
- The Law on police and policeman status was adopted;
- A package of anti-corruption laws is being developed as well as a new draft law on disciplinary liability of judges;
- The project of the Prosecutor's Office Strategic Development Program for 2012-2014 is developed and presented for public debate<sup>19</sup>;
- The results of verifying the assets and incomes of certain magistrates have led to sanctions and subsequent dismissal<sup>20</sup>;
- The Supreme Court of Justice (SCJ) is reorganized, the number of judges has been reduced, the appeal procedure is reviewed in accordance with the procedural changes;
- The National Council for the reform of institutions protecting the legal norms started its activity<sup>21</sup>.

### *Due commitments during the monitoring period (4<sup>th</sup> quarter, 2012)<sup>22</sup>*

PLANNED ACTION/ DUE BY Q IV, 2012	DEGREE OF IMPLEMENTATION (IMPLEMENTED/NOT IMPLEMENTED) <sup>23</sup>
Conduct a feasibility study regarding the optimization of the courts placement map in order to strengthen courts' institutional capacities, optimize the number of judges and ensure the efficient use of available resources	Not implemented
Draft amendments to the Law on state tax No.1216-XII of December 3, 1992, the Code of Civil Procedure No. 225-XV of May 30, 2003 and other laws	Not implemented
Conduct a study on judiciary system financing in the recent years, with an overview of the international practices in this area	Not implemented
Conduct a feasibility study regarding the Palace of Justice, taking into account previous studies on this topic	Not implemented
Conduct a review of the Superior Council of Magistrates (SCM) regulations regarding the transparency of Council's activities as well as of its subordinated institutions	Not implemented
Prepare amendments to the SCM regulations regarding the operation of the integrated case management program	Not implemented

<sup>18</sup> "Evaluation report of Moldovan Courts", USAID-ROLISP, 2012.

<sup>19</sup> The Strategic Development Program is meant to evaluate and consolidate the efforts of reforming the Prosecutor's Office, <http://procuratura.md/file/2012-09-06%20FINAL%20PDS%20procuratura%202012-2014.pdf>.

<sup>20</sup> A Supreme Court judge was fired as a result of discrepancies between his assets and incomes statement, PD No. 326 of December 27, 2012.

<sup>21</sup> The Council had a session on December 11, 2013.

<sup>22</sup> According to the Action Plan for the implementation of the Justice Sector Reform Strategy for the period 2011-2016 (PD No. 6 of 16.2.2012) by the end of the 4<sup>th</sup> quarter of 2012 a number of specific actions and research activities were to be executed.

<sup>23</sup> "Not implemented" means that the document (information) is not developed or published (in the Official Gazette; on the website of responsible institutions; and on the website of MJ – responsible for PA monitoring) and there is no public access to information about the content of that act.

Develop standards regarding the length of procedural acts during the examination of the case and developing the methodology for controlling their enforcement	Not implemented
Develop the schedule for training judges on case management and rules for delaying cases examination.	Not implemented
Conduct a study regarding the opportunity of creating a common web portal for all courts in order to optimize their on-line presence.	Not implemented
Conduct a study and develop recommendations regarding the need for specialization of judges on specific cases	Not implemented
Create the Review Board for evaluating judges' performance	Not implemented
Improving the legal framework regarding the police and carabineer by drafting the Law on police and policeman status, the Law on Carabineer Service and other relevant legislation as well as ensuring the compliance of the existing legislation with these new laws	Not implemented
Implement changes to the status of the Center for Combating Economic Crimes and Corruption	Partially implemented
Conduct a comparative study regarding the prosecution institutions in order to optimize their number and, where appropriate, draft the amendments of certain laws	Not implemented
Conduct a study of the existing laws, including criminal procedure laws to determine its compliance with the standards for the protection of human rights and fundamental freedoms.	Not implemented
Ensure that the provisions of the Criminal Code No. 985-XV of April 18, 2002 and the Contravention Code No. 218-XVI of October 24, 2008 are compliant with the new provisions of the criminal procedure legislation	Not implemented
Conduct a study on the procedure for the nomination and dismissal of the Prosecutor General and subordinated prosecutors as well as the term of office of the Prosecutor General	Not implemented
Develop the mechanism recovering the costs for the state guaranteed legal aid	Not implemented
Review the criteria for the selection of lawyers offering qualified state guaranteed legal aid and ensuring the transparency in selecting these lawyers	Not implemented
Drafting the amendment to the Law No. 113 of June 17, 2010 on bailiffs, and of the Enforcement Code No. 443-XV of 24 December 2004	Not implemented
Drafting a new Law regarding the notary service	Not implemented
Conducting a study on the existing tax regime, social security and medical insurance regime of those employed in fields affiliated with the justice system	Not implemented
Drafting amendments to the legal framework in order to eliminate the drawbacks in the area of enforcing courts judgments	Not implemented
Develop the regulation regarding the enforcement of European Court of Human Rights decisions	Not implemented
Elaborate draft amendments to the regulatory framework for the institutional and functional strengthening of the Licensing Commission and Disciplinary Board	Not implemented
Develop amendments to the regulatory framework in order to eliminate the deficiencies in the system of information management and communication, including access to databases	Not implemented
Changing the regulatory framework in order to simplify the methods of calculating the wages and re-evaluating the social guarantees of actors from the justice sector	Not implemented
Appointing the National Integrity Commission and selecting its staff	Partially implemented
Designating the persons responsible for collecting income and assets statements and declarations of interests from central and local public authorities	Partially implemented
Creating the website of the National Integrity Commission	Not implemented
Drafting and approving instructions on how to fill-in the statements of incomes, assets and declarations of interests	Not implemented

Drafting amendments to the regulatory framework in order to allow harsher punishments for acts of corruption, including the possibility to deprive those convicted of corruption, of the right to benefit from social guarantees provided by the positions they used to hold.	Partially implemented
Elaborate the draft law regarding the methods of administering the integrity test to representatives of the justice sector	Partially implemented
Conduct a study regarding the tools for avoiding interferences in the work of justice and preventing corruptive behavior	Not implemented
Amending the regulatory framework for introducing the mandatory polygraph testing of candidates for the positions of judges, prosecutors and investigators	Partially implemented
Develop the schedule of combating corruption trainings for the representatives of the justice sector	Not implemented
Conduct a study regarding the voluntary polygraph testing of the representatives of justice sector	Not implemented
Conduct a study regarding the opportunity of amending the regulatory framework covering the publication and media coverage of courts judgments regarding the conviction of justice representatives on cases of corruption	Not implemented
Organize training courses for judges examining economic (commercial) cases	Not implemented
Conducting studies regarding the functioning of mediation in specific areas (family, civil, commercial, labor, administrative, consumer protection disputes) and the opportunity to develop a system of community mediation and the arbitration institution	Not implemented
Conduct a study regarding the regulation and use of mechanisms for the recognition and enforcement of foreign arbitrage decisions	Partially implemented
Drafting regulations on the admission to the profession of authorized administrator and the supervision of this activity	Not implemented
Develop the training schedule of the authorized administrators	Not implemented
Conducting a study regarding the methods of modernizing the system of electronic evidence of businesses.	Not implemented
Conducting a study on the single register of businesses and non-profit organizations	Not implemented
Changing the regulatory framework in order to expand the amount of information in the electronic registers of businesses that is accessible for free	Not implemented
Develop a new draft law regarding the Ombudsman institution, and a draft amendment of the Regulation of the Center for Human Rights of Moldova	Partially implemented
Conduct a study regarding the activity of Ombudsmen and the Center for Human Rights of Moldova, including an evaluation of their performance in order to determine funding requirements	Not implemented
Develop the curricula for initial training of new employees; and the training plan for continuous training of the staff of the Center for Human Rights of Moldova (including its branches), including the development of skills necessary for identification and reporting of human rights violations	Not implemented
Develop a modified more interactive version of the website of the Center for Human Rights of Moldova	Not implemented

## MAJOR PROBLEMS

- According to external evaluations, among the main obstacles for a qualitative civil and criminal justice are government interference, corruption and courts' low efficiency<sup>24</sup>;
- Independent evaluations indicate many problems in the activity of the courts<sup>25</sup>: unsatisfactory infrastructure, insufficient automation of auxiliary processes, lack of efficient policies and human resources specialists, limited access to information, permanent budget reduction etc.

<sup>24</sup> „Rule of Law Index”, <http://worldjusticeproject.org/country/moldova>.

- Heavy workload of cases, insufficient technical equipment, auxiliary staff high turnover, inadequate offices and courts;
- Prosecutor's Office and National Anticorruption Center are accused of persecuting certain lawyers<sup>26</sup>;
- Polls show that the level of public trust in the judiciary decreased reaching the lowest level in the last 10 years<sup>27</sup>, the justice system continues to be perceived as corrupt and with a low level of trustworthiness<sup>28</sup>;
- There are allegations of external pressures on the Prosecutor's Office from the political authorities, and that the principle of collaboration and separation of powers is being infringed<sup>29</sup>;
- The transfer of judges from the Supreme Court of Justice was made using procedures which raised allegations about the lack of objective criteria or performance evaluations<sup>30</sup>;
- Alternative dispute resolution mechanisms are practically not applicable (mediation) or have limited applicability (arbitration)<sup>31</sup>;
- The reform of the Prosecutor's Office is very slow and this situation is considered an obstacle in the overall reform of the justice sector.
- The level of wages and social security of the main actors in the justice sector remains at the same level, there were no real increases<sup>32</sup>;
- Many of the activities foreseen in the Action Plan for Justice Sector Reform Strategy implementation have not been accomplished or only partially accomplished<sup>33</sup>.
- The overall process of reforming the justice sector continues to be poorly coordinated; the National Council for the reform of the law enforcement institutions began functioning late and in a formal manner<sup>34</sup>.

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<sup>25</sup>Conclusion from the "Evaluation Report on Moldovan Courts", USAID-ROLISP, 2012.

<sup>26</sup>Press conference of Lawyers' Union representatives, <http://www.privesc.eu/Arhiva/12758/Conferinta-de-pres-a-cu-tema--Reactie-dura-a-Uniunii-Avocatilor-impotriva-presiunilor-si-persecutarii-avocailor-care-participa-la-examinarea-dosarelor>.

<sup>27</sup>The Barometer of Public Opinion (November 2012) recorder the lowest level of trust in justice (14.8%) in the last 10 years, compared with May 2012 data – the level of confidence in the justice system decreased almost twice.

<sup>28</sup>Interview <http://www.allmoldova.com/ro/int/interview/vitalie-nagacevschi-151012.html>.

<sup>29</sup>Prosecutor's Office press-release regarding the publication of interpellation and questions <http://procuratura.md/md/news/1211/1/4883/>

<sup>30</sup>Ex-President of Supreme Court considers as arbitrary and unconstitutional, the actions of the SCM regarding the transfer of 6 judges from Supreme Court of Justice to the Chisinau Court of Appeal, <http://tv7.md/ro/news/muruianu-csm-ia-hotarari-arbitrare-i-neconstitu-ionale-18138.html>

<sup>31</sup>A new law on mediation is under development, there is no information on the enforcement of the existing law.

<sup>32</sup>Throughout 2012 there were statements regarding a substantial increase in judges' salaries, but only at the end of the year, a draft bill in this regard was registered that has not been yet examined by the Parliament and has no clear financial coverage.

<sup>33</sup>See the analysis of the outstanding commitments for Q IV, 2012.

<sup>34</sup>Council Regulation limits its activity hearings and monitoring actions without possibilities of intervention and reforms stimulation, at its only meeting during 2012, the Council only heard general information, without setting any key priorities and actions.

## COMBATTING CORRUPTION

### REFORM OBLIGATIONS ASSUMED BY THE REPUBLIC OF MOLDOVA

Several intervention areas were selected to be periodically evaluated as main priorities for combating corruption:

- *Institutional reform of anti-corruption bodies (National Anticorruption Center)*<sup>35</sup>;
- *Development of the national integrity system and ensuring transparency of the governance*;
- *Implementation of GRECO recommendations for Moldova.*

### MAJOR DEVELOPMENTS

- External evaluations shows a decrease in the perceived level of corruption in Moldova<sup>36</sup>;
- Internal research points to a decrease in the levels of corruption tolerance, but population continues to perceive corruption as one of the most important barriers for economic development<sup>37</sup>;
- A series of laws on the National Anticorruption Center reform have been adopted<sup>38</sup>;
- There is ongoing investigation of several corruption cases involving senior state officials<sup>39</sup> as well as local public administration officials<sup>40</sup>. There are cases when former representatives of law enforcement institutions were sentenced to imprisonment<sup>41</sup>;
- The laws regarding conflicts of interest disclosure and promotion of ethics policies are implemented at the level of public authorities through internal mechanisms<sup>42</sup>;
- Innovative legislative amendments are being developed on preventing and sanctioning corruption acts and related phenomena<sup>43</sup>;
- National Integrity Committee (NIC) management has been designated; the institution became operational and began its activity.

#### *Due commitments during the monitoring period (4<sup>th</sup> quarter, 2012)*<sup>44</sup>

PLANNED ACTION/ DUE BY Q IV, 2012	DEGREE OF IMPLEMENTATION (IMPLEMENTED/NOT IMPLEMENTED) <sup>45</sup>
Conducting research on the perception of corruption and its occurrence in the Ministry of Defense and its subordinated agencies	Partially implemented

<sup>35</sup> CCECC - Center for Combating Economic Crimes and Corruptions, MIA – Ministry of Internal Affairs.

<sup>36</sup> Corruption Perception Index (CPI) shows that Moldova has moved up 18 positions (13 actual), <http://transparency.org/cpi2012>.

<sup>37</sup> "Corruption in Moldova: perceptions and experiences of businessmen and households" survey - <http://www.transparency.md>.

<sup>38</sup> The following documents were adopted: Parliament Decision (PD) No.230 of 25.10.2012 on approving the staff structure of the National Anticorruption Center (NAC), PD No.232 of 25.10.2012 approving the Strategy for institutional strengthening of the National Anticorruption Center, PD No. 227 of 25.10.2012 on appointing the director of the National Anticorruption Center;

<sup>39</sup> The Department for Economic and Financial Investigation of the General Prosecutor Office ordered the opening prosecution on that actions committed by Ministry of Education public servants, that have prejudiced the educational system and the state budget. <http://procuratura.md/md/news/1211/1/4988/>.

<sup>40</sup> Criminal cases against former mayors of Drochia, and Cotul Morii;

<sup>41</sup> A former prosecutor was sentenced to 7 years in prison for passive corruption.

<sup>42</sup> Transparency International Moldova press-release "Monitoring conflicts of interest policy in central public authorities", <http://www.transparency.md/content/blogcategory/16/48/lang.ro/>.

<sup>43</sup> The law on professional integrity testing was adopted, as well as a set of amendments on combating and preventing corruption in the judiciary system (polygraph testing, ban of non-compliant communication, extended confiscation)

<sup>44</sup> According to the Action Plan for the implementation of the Justice Sector Reform Strategy for the period 2011-2016 (PD No. 6 of 16.2.2012) by the end of the fourth quarter of 2012 a number of specific actions and research activities were to be executed.

<sup>45</sup> "Not implemented" means that the document (information) is not developed or published (in the Official Gazette; on the website of responsible institutions; and on the website of MJ – responsible for PA monitoring) and there is no public access to information about the content of that act.

Reviewing the common crime evidence mechanism, including cases of corruption and those related corruption, from the registration of notification till final decision by the prosecutor or the court	Not implemented
Developing and publishing a thematic study regarding the establishment, in accordance with art.216-218 of the Criminal Procedure Code of the Republic of Moldova No. 122-XV of March 14, 2003, of the causes and conditions that led to corruption offenses and related, investigated by CCECC, and regarding the measures taken to eliminate them	Not implemented
Developing and publishing a thematic study regarding the analysis of the final court rulings in cases of corruption crimes and related	Not implemented
Publishing reports of public authorities on measures taken towards implementing the National Anticorruption Strategy	Partially implemented
Developing and publishing on the Ministry of Justice's official webpage, the reports regarding the number of conviction or acquittal verdicts on corruption or related cases, number of convicted or acquitted persons and the sentences applied	Not implemented
Creating the website of the National Integrity Commission	Not implemented
Creating one-stop shops in specific areas foreseen in the Law No.161 of July 22, 2011 regarding the implementation of one-stop shop for entrepreneurial activity	Partially implemented
Implementing the automated system for road traffic monitoring, equip the road patrol cars with digital cameras and vehicles speed measuring devices	Partially implemented
Carry out a pilot-activity regarding the identification of corruption risks corruption in three local communities and elaborate strategic plans for the treatment and prevention of these risks	Partially implemented
Establishing an effective risk management system in central public authorities	Not implemented

## MAJOR PROBLEMS

- The persistence of political and interest groups influence on public offices and law enforcement institutions contributes to the endurance of corruption practices, which are stimulated by a sentiment of impunity generated by political backing applicable on all levels;
- External assessments emphasize the fact that government accountability and efficiency are diminished by widespread corruption and impunity of guilty government officials<sup>46</sup>. Corruption is also significantly affecting economic freedom<sup>47</sup>. Representatives of EU institutions mention that the uncompromising fight against corruption is an extremely important and challenging endeavor for Moldova<sup>48</sup>;
- Independent studies show that the strong institutional and political barriers, high protectionism and corruption prevent the reduction of shadow economy which is continuously growing<sup>49</sup>;
- Negative phenomena persisting in local public administration generates corruption risks and acts of corruption<sup>50</sup>;

<sup>46</sup> „Rule of Law Index”, <http://worldjusticeproject.org/country/moldova>.

<sup>47</sup> Index of Economic Freedom 2013”, <http://www.heritage.org/index/country/moldova>

<sup>48</sup> Interview with the Head of EU Delegation to Moldova, Ambassador Dirk Schuebel regarding the totals of the 2012 year, [www.infotag.md](http://www.infotag.md).

<sup>49</sup> Findings of the study "Moldova: victim of the underground economy and tax evasion", <http://viitorul.org/doc.php?l=ro&idc=294&id=3985&t=STUDII-IDIS/Economie/Moldovaprada-a-economiei-subterane-si-a-evaziunilor-fiscale>.

<sup>50</sup> Data from the evaluation "Reserves and perspectives on combating corruption risks in LPA", [www.descentralizare.gov.md](http://www.descentralizare.gov.md).

- The issue of declaring conflict of interest is addressed superficially, there have been virtually no reports of cases of conflict of interest within the central authorities, the public is not aware of the penalties applicable to public officials for violations of ethical norms<sup>51</sup>;
- There is a decrease in the level of citizens' satisfaction with corruption fighting activities, reaching the lowest level so far according to some opinion polls; while people's concern with the persistence of the corruption have remained about the same<sup>52</sup>; Most citizens believe that corruption has increased in the last 12 months, and this category of respondents is increasing; people consider as main causes of corruption the criminals' impunity and lack of government officials determination in fighting corruption<sup>53</sup>.
- Poor functioning of the mechanism for the disclosure and control of assets, incomes and personal interests of officials and civil servants, inefficiency of the National Integrity Commission (NIC), excessive control exerted on NIC members<sup>54</sup>, arbitrary rejection, apparently based on political or subjective criteria, of the candidatures proposed by the civil society<sup>55</sup>;
- Delayed implementation of certain reforms affected the overall corruption fighting activities<sup>56</sup>;
- The anticorruption component is not given proper attention in the activity of the agencies coordinating the justice sector reform<sup>57</sup>.

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<sup>51</sup>Data from the survey "Monitoring the conflict of interest policy in central public authorities", <http://www.transparency.md/content/blogcategory/16/48/lang.ro/>.

<sup>52</sup>Barometer of Public Opinion (November 2012) has recorded the smallest percentage of satisfaction with corruption fighting measures (5,9 %), [http://ipp.md/public/files/Barometru/BOP\\_11.2012\\_anexa.pdf](http://ipp.md/public/files/Barometru/BOP_11.2012_anexa.pdf).

<sup>53</sup>The sociological survey "Corruption in Moldova: perceptions and experiences of businessmen and households" shows that most of the representatives of households (49.6%) and business (41.9%) believe that the corruption phenomenon has increased in the last 12 months, the percentage of these respondents has increased compared with 2008 <http://www.transparency.md/content/blogcategory/16/48/lang.en/>

<sup>54</sup>See the Opinion on multiple violations in the appointment of the NIC President (29.10.2012)

<sup>55</sup>Statement of 20 NGOs representatives regarding the rejected candidature nominated by the civil society for NIC <http://www.info-prim.md/?a=14&id=3123>.

<sup>56</sup>Delays in the nomination of the NAC management and personnel employment generated serious deficiencies in the corruption combating activity and diminished the institution's credibility.

<sup>57</sup>NAC director was not included in the National Council for the reform of the law enforcing institutions; the NAC reform was not examined in the Council.



## **TRANSNISTRIAN CONFLICT SETTLEMENT**

### **OBJECTIVES AND PRIORITIES**

The Republic of Moldova Government's policy documents for the sustainable settlement of the Transnistrian issue, supported by external partners, include:

- Identifying a solution within the negotiation format “5+2”, respecting the sovereignty and territorial integrity of Republic of Moldova;
- Creating conditions for reintegrating the Transnistrian region in the economic, informational, political, social and cultural space of the Republic of Moldova;
- Mobilizing the efforts of foreign partners to promote Transnistrian conflict settlement process.

To achieve these objectives, in the "5 +2" negotiation format, priority actions are considered to be the ones that aim at:

- Developing a strategy for country's reintegration;
- Implementing confidence-building measures through enhancing interpersonal relations; removing existing barriers to the free movement of people, goods and services between the two sides; development and implementation of joint projects that would contribute to an increase of welfare on both banks of the Nistru River;
- Transformation of the current peacekeeping mission in a multinational civilian mission under international mandate;
- Securing the Transnistrian segment of the Moldovan-Ukrainian border through cooperation with EUBAM;
- Maintaining the Transnistrian issue on the agenda of external partners and relevant international organizations; increasing the role of the EU and U.S. in the settlement process.

### **ACTIVITIES AND ACHIEVEMENTS**

#### ***Negotiations in the “5+2” format***

In the period of November 28 – 30, in Dublin, a regular round of "5 +2" negotiations on the Transnistrian settlement took place. During the negotiations a wide range of issues were discussed:

- social economic topics;
- cooperation of the sides in the banking sector, the establishment of a working group to tackle the most difficult problems in this domain, removing restrictions on foreign economic activity of the Transnistrian entrepreneurs;
- cooperation in the field of telecommunications and use of radio frequencies;
- opening traffic circulation on the bridge over the Nistru River near Bacioc and Gura Bacului villages, free movement of people, permits for international vehicle transport of goods;
- resumption of passenger train connections through the territory of Transnistrian region.

#### ***Annual OSCE Ministerial Council in Dublin***

At the 19<sup>th</sup> Meeting of the OSCE Ministerial Council held on 6-7 December 2012 in Dublin, a Ministerial Declaration regarding the "5 +2" negotiations for the settlement of the Transnistrian conflict was adopted. The Ministerial Declaration, adopted unanimously in Dublin referred to:

- expressing the support of OSCE member states for a comprehensive, fair and sustainable settlement of the conflict, respecting the sovereignty and territorial integrity of the Republic of Moldova, and developing a special status of the Transnistrian region, which would ensure complete protection of humanitarian, political, economic and social rights of its population;
- welcoming the five official meetings of the Permanent Conference on Political Affairs within the "5 +2" negotiation process for the Transnistrian settlement, held in 2012, following the

- decision of September 22, 2011 in Moscow to resume official negotiations in this format, and the first meeting in Vilnius during November 30-December 1, 2011;
- welcoming the adoption in 2012 of the "Principles and Procedures of Negotiations" and the rich agenda of negotiations, expressing hope regarding the progress of negotiations on the three topics included in the 5 +2 format agenda, namely: social-economic subjects; humanitarian and human rights issues; comprehensive settlement of the conflict, including institutional, political and security issues;
  - expressing satisfaction that the resumption of negotiations in the "5 +2" format was accompanied by resumption of the work of expert groups and direct contacts of the parties, which led to concrete achievements in the benefit of the local population, as is the resumption of railroad traffic through the Transnistrian region;
  - expressing satisfaction on the complementary role of civil society and mass-media in the regulatory process;
  - urging the parties to strengthen their efforts to develop and implement confidence-building measures, including the removal of obstacles to the free movement of people, goods and services.
  - calling upon the mediators and observers in the negotiation process to intensify their efforts and make use of the available potential in order to promote the advancement of the Transnistrian conflict settlement.

According to the press release of the Ministry of Foreign Affairs and European Integration, the Moldovan delegation "welcomed the adoption of Ministerial Council Declaration expressing a consolidated position of the 57 OSCE member states on developments in negotiations for solving the conflict on the basis of Moldova's sovereignty and territorial integrity. The Ministerial Declaration reconfirmed OSCE key role in the settlement of the Transnistrian conflict, being seen as an important step in creating a favorable international climate for the settlement of this conflict"<sup>58</sup>.

At the same session of the Ministerial Council the Moldovan delegation has stated that:

- Transnistrian settlement process takes place in a political context marked by Russian failure to fulfill the obligations to withdraw its military forces from the Republic of Moldova;
- it is necessary to transform the present peacekeeping mechanism into a multinational, civil and compact peacekeeping mission with an appropriate international mandate;
- the mentioned subjects continue to stay on the agenda of the security dialogue between relevant actors within the OSCE and hopes that the solution of respective problems will take place in accordance with the OSCE norms, principles and commitments.

### ***Tensions in the relations between Chisinau-Tiraspol***

During the reporting period a series of new problems emerged, straining the relations between Chisinau and Tiraspol. Among the most difficult issues were:

- The activity of Transnistrian commercial banks. On various occasions the Transnistrian representatives accused the Moldovan authorities of deliberately undermining the Transnistrian banking system, referring to statements of the Moldovan Information and Security Service (SIS) representative about "money laundering" activities conducted by Transnistrian banks. Transnistrian representatives confirmed that beginning with November 1, 2012, U.S. and EU banks have banned foreign currency operations of the Transnistrian banks. Because of that, Transnistrian operators have been forced to find alternative solutions for making payments using currencies other than the U.S. dollar and Euro. In its turn, Moldovan officials insisted that Transnistrian banks must meet "all EU and U.S.

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<sup>58</sup> <http://www.gov.md/libview.php?l=ro&idc=436&id=5880>.

recommendations on banking regulation, with the inter-bank operations supervised by the National Bank of Moldova”;

- The Moldovan proposal regarding the resolution of the banking problem through the affiliation of the Transnistrian central bank with the Moldovan banking system, followed by the harmonization of Transnistrian legal framework with the Moldovan laws, and possibly the Transnistrian region joining the MDL zone, fact considered unacceptable by the Transnistrian side. As a result Tiraspol has tried to obtain Russia's support on this subject. The Chairman of the Property Committee in the Russian State Duma, also coordinating the MPs' group for the collaboration with Transnistria, promised help for overcoming the economic difficulties and strengthening of financial stability through the implementation of a set of common projects regarding the housing and public utilities services, road infrastructure, road traffic, agricultural complex, modernization of industry, support for the Transnistrian companies entering Russian markets;
- The interruption of transmission of Moldovan TV stations: Moldova-1 and Publika TV through the cable TV network in Transnistrian region. According to representatives of Transnistrian administration, the Moldovan TV channels transmission was accepted based on a promise from the part of the Moldovan authorities to similarly allow Transnistrian TV stations in Moldova. As by December 1, 2012 Moldovan authorities have not honored their promises, the Transnistrian authorities ceased the broadcasting of Moldovan TV channels;
- National Regulatory Agency for Electronic Communications and Information Technology granting licenses for the use of frequencies for broadband electronic communications services (4G) to "MOLDCELL" and "Orange" companies. According to Transnistrian administration representatives the fact that this action was not coordinated with them might infringe the interests of over 100 thousand families in the Transnistrian region receiving services on those frequencies.

### ***Guarantees influence in the Transnistrian conflict settlement process***

During the reporting period, a series of events related to the Transnistrian conflict settlement took place, where the guarantee countries had an important role, events which generated some tensions in the bilateral Moldovan-Russian relations:

- Russia's involvement in the modernization of the Tiraspol military airport and the Transnistrian authorities' statement about beginning the construction of a civilian airport. The Moldovan Minister of Defense Vitalie Marinuta responded, saying that Russia does not fulfill its duties as a guarantor and mediator in the Transnistrian settlement. In this context, Minister Vitalie Marinuta accused Russia of bringing in the Transnistrian region weapons not needed for peacekeeping operations as well as of participating in military applications together with the Transnistrian forces. In addition, the Defense Minister has described the activity of the Russian peacekeeping mission as follows: "Russian peacekeepers do nothing else than to guard the illegal Transnistrian regime, unrecognized by anyone, and contribute more to the conflict development, than to its resolution. This is the main reason why there is no desire to change the format of the so-called peacekeeping mission and also why Tiraspol officials are trying to develop as much conflict potential"<sup>59</sup>;
- Moldovan authorities' refusal to accept the proposal of the Russian Deputy Prime-Minister, co-president of the Moldovan-Russian inter-governmental commission for economic cooperation, Dmitry Rogozin, regarding the opening of a Russian Consulate General in Tiraspol. According to Moldovan prime minister: "a consulate can only be opened in accordance with the conditions imposed by national and international law. At this time the conditions set out in the Treaty of Vienna and national law are not fulfilled". Rogozin insisted that the opposing arguments presented by Moldovan authorities are not founded

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<sup>59</sup>INFOTAG press agency, „Vitalie Marinuta: Russian peacekeepers guard the illegal Transnistrian regime”, December 24, 2012

given the fact that "since in Tiraspol there is an OSCE office operating safely, there can be also a Russian Consulate General";

- European Court of Human Rights (ECHR) decision finding the Russian Federation guilty in the "Catan and others vs. Moldova and the Russian Federation" case. In this context, the Russian Foreign Ministry issued a statement mentioning the following: a preconceived character of the ECHR decision; disregard of the Russian Federation arguments regarding its active participation in the Transnistrian settlement process, the politicization of the decision by appealing to the so-called "effective control of Russian Federation on Transnistria" formula also used in the decision on the case "Ilascu and others vs. Republic of Moldova and Russian Federation (July 2004) ". The ECHR decision clearly undermines Russian Federation's status of guarantor and mediator in the Transnistrian settlement, especially in the context of Russian multilateral support to Transnistrian region, which owes its viability exclusively to this support.

In this context, it is worth noting the Moldovan-Russian consultations with the participation of Moldovan Deputy Prime Minister for Reintegration, Eugene Carpov and Russian President's special representative for the Transnistrian settlement Sergey Gubarev. Following that the Department of Information and Press of the Russian Foreign Ministry reiterated that the Russian position on the Transnistrian settlement has not changed:

- final conflict settlement must be accomplished while respecting the sovereignty and territorial integrity of the Republic of Moldova and the neutral state status, enshrined in its Constitution;
- the political settlement must be comprehensive and ensure a well-defined special status guaranteed for Transnistria;
- the final solution can be identified only by Chisinau and Tiraspol, and the international community, including Russia, will support such a decision.

The demarcation of the Moldovan-Ukrainian border on the Transnistrian segment carried out by the respective authorities of Ukraine triggered a strong reaction of the Transnistrian Supreme Soviet, which issued a statement in this regard. The declaration states that:

- Ukraine is ignoring the international practices, by unilaterally demarcating the borders on the Transnistrian segment, without participation of Transnistrian representatives;
- the existence of approximately 17 litigious sectors along the entire length of the Transnistrian segment of the Moldovan-Ukrainian border requires the participation of Transnistrian representatives in the demarcation process;
- the fact that Transnistria is recognized as a part of the Transnistrian conflict settlement process, requires it to accept the legal-organizational dimension of demarcation process.

In this context, the deputy chair of the Foreign Affairs Committee of the Verkhovna Rada of Ukraine, Taras Cernovil, stated that Ukraine has the right to coordinate its border demarcation activities only with the Moldovan authorities. According to the Ukrainian official, in case the Moldovan authorities do not control part of their borders, the responsibility for this control belongs to Ukraine and EUBAM, which is jointly supported by both Republic of Moldova and Ukraine.

## **CONCLUSIONS AND RECOMMENDATIONS**

- Transnistrian conflict settlement process in 2012 had a sinuous nature. A series of positive events linked to the resumption of official "5 +2" negotiations in February, was followed by a period of uncertainties rein setting the negotiation agenda. With the Transnistrian part categorical refusal to include in the agenda key issues regarding the legal status of the region resulted in phasing the discussion of this problem. The decision to approach the Transnistrian

settlement through the OSCE instruments – gradual negotiations of social-economic, humanitarian and political problems, allowed unblocking the negotiations by delaying the discussion of political issues. In the second half of 2012, the relations between Chisinau and Tiraspol have worsened significantly, indicating to the exhausted potential of the "small steps" strategy.

- Problems related to the functioning of the banking system, telecommunications etc., have demonstrated the fragility of the settlement process. Another set of problems related to the demarcation of the Transnistrian segment of the Moldovan-Ukrainian border, Russian Federation attempts to open a Consulate General in Tiraspol as well as the attempts to modernize military infrastructure in the region without the agreement of Moldovan authorities have revealed the influence of the guarantors and mediators in the conflict settlement process.
- Moldovan authorities do not have yet an alternative or complementary approach for convincing the Transnistrian leaders to accept discussing substantive issues for a sustainable settlement of the conflict. From this point of view the settlement process returns to the status of a "frozen conflict", a positive difference compared to the situation in previous years because of a decreased intensity of disagreements. Nevertheless, the disagreements have not yet disappeared, as shown by the incidents in the Security Zone, the adoption of the military as well as the foreign policy doctrines of the Transnistrian separatist regime, which are in contradiction with the goals and efforts of the Moldovan authorities.
- Representatives of Moldovan authorities should have coordinated actions and messages on the Transnistrian settlement. Contradictory messages regarding the Transnistrian problem, coming from the President, Prime Minister and Minister of Defense may create confusion among public in Moldova as well as the guarantors and mediators in the Transnistrian settlement process.
- Dublin Ministerial Declaration on the "5 +2" negotiations on the Transnistrian conflict settlement was a reasonable compromise, specifying a common position of OSCE member countries in the present context.

## SECTION II. REFORMS IN KEY AREA (ECONOMIC)

### SUMMARY

**Markets and financial policies.** The most important actions taken by the authorities during the reporting period are related to the adoption of the Strategic Plan of the National Bank of Moldova (NBM) for 2013-2017, the adjustment of regulatory rules to the International Financial Reporting Standards applied by financial institutions since the beginning of 2012, automation of routine reporting and monitoring processes, and expanding NBM access to additional information on commercial banks activities. The main unsolved issues are linked to the transparency of financial institutions shareholdings structure, the complicated situation at the "Banca de Economii" commercial bank, and failure to complete in due time some actions from the Development Strategy of the nonbank financial sector for years 2011-2014.

**Market regulatory institutions.** After being discussed for two years, the main laws on competition were finally adopted in the second quarter of 2012: the law on competition and the law on state aid. To ensure the operation of these laws, in the fourth quarter of 2012 four draft regulations were developed. In order to exclude unfair competition and to avoid consumers' discrimination, in October the Government approved the draft amendment to the law regarding the oil market, this draft providing a significant liberalization of activities. A National Strategy on Intellectual Property up to year 2020 and an Action Plan for Strategy implementation for 2012-2014 were adopted. Progress is very limited on a "technical" level, such as creating infrastructure for quality insurance; low transparency of public procurements, the difficult dialogue between policy making institutions further complicate the process of consolidating the market regulation institutions.

**Trade policies.** The fourth round of DCFTA negotiations were held in November 20 – 23, 2012 in Brussels. According to the latest estimates, the effective implementation of this agreement would increase Moldovan exports to the EU by about 16% and the GDP will grow by an estimated 5.6%. In the fourth quarter the negotiations with EU advanced in a speedy pace. The main difficulties were again related to the involvement of Transnistrian region in the dialogue. Passive involvement of the breakaway region authorities could negatively affect the Transnistrian entrepreneurs that plan to export to the EU.

Failing to take part in the negotiations, and especially failing to adjust the legal framework could eventually result in customs duties applied to the main exports from the region, including textiles and other industrial products. A general overview of year 2012, shows a significant progress in the Moldova – EU negotiations on the DCFTA, as part of the future Association Agreement with the EU, which is planned to be signed in late 2013.

**Sustainable development and social dialogue.** Traditionally this is a domain that does not register any extraordinary progresses. The draft law on access to environmental information has not yet been approved by the Government, although it was on its agenda for 2012. Its approval in the Parliament may happen in the best case around mid 2013. Meanwhile there has been no progress in the establishment of the Social-Economic Committee, which is an objective in Government's Action Plan.

## **FINANCIAL MARKETS AND POLICY**

### **REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA**

The modernization of the country's economy, attracting foreign investment and strengthening its competitiveness depends largely on the reform of both banking and non-banking financial sector. Currently the main problems in this domain are related to creditors' limited rights, poor operation of the credit history bureau, low popularity of cashless payments, limited transparency regarding real structure of financial institutions' shareholders and stagnation of capital market. Most of these problems are known by the authorities in Chisinau and their resolution will be achieved through implementation of international standards and practices. The main commitments undertaken by the authorities are:

- Initiate the amendment of legislation and regulatory acts of the National Bank of Moldova (NBM) in the context of implementation of BASEL norms;
- Compliance of regulatory acts of the National Bank of Moldova with amendments of the Law on financial institutions;
- Strengthen the 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 financial and banking systems;
- Establish and ensure effective implementation of independent supervisory bodies, in accordance with the internationally recognized standards;
- Combat counterfeiting and money laundering;
- Implementation of community acquis in the banking sector;

### **MAJOR DEVELOPMENTS**

- After being subjected to public consultation, the Strategic Plan of the National Bank of Moldova for 2013-2017 was approved by its Board on October 1, 2012. The document includes 10 strategic objectives to be achieved in the next five years. Overall, they refer to enhancing corporate culture within the NBM, the transparency, credibility and effectiveness of its policies through the adoption of the international best practices in this domain.
- The integration of the National Securities Depository into the Automated Interbank Payments System is one of the preconditions for the establishment of the DCFTA with the European Union. Thus, NBM approved several amendments to the Regulation on the automated interbank payment system and the Regulation on the automated interbank payment system oversight in order to ensure a regulatory framework to achieve this precondition. The central bank hopes that the new regulations will increase the popularity of cashless payments as a result of the reduction of the fees associated with these operations.
- At the NBM Board meeting of October 29, 2012, the Concept on implementing the single currency and monetary instruments trading platform was approved. Consequently, on January 23, 2013, the Regulation on interbank foreign exchange operations in Moldova was approved, according to which it is expected that the implementation of the single platform for trading foreign exchange instruments will begin on March 1, 2013. In this context, NBM has come up with the initiative to adjust the Regulation on the establishment of the official MDL exchange rate against other foreign currencies. The document will specifically provide that the Bloomberg platform will be the main source of information on foreign currencies cross-rates against the U.S. dollar. In the same time an optimization of drafting procedures of the Report on foreign exchange market bank operations will be carried out. Regarding the Monetary operations the platform implementation will be gradual over the period of July 1, 2013 to April 1, 2014. The main objective of these measures is the modernization and

increased efficiency of currency and monetary instruments trading platforms, which will allow NBM to exert a better monitoring of these activities.

- As a result of World Bank recommendation on establishing the Payments Council of Republic of Moldova, NBM has developed and submitted to public discussion the draft Agreement establishing the respective Council. This Council will provide a professional forum for cooperation and consultation that will include representatives of public and private institutions. The main purpose of the Council is to support NBM objective of promoting cashless payments and reducing the amount of cash in circulation, this goal being in accordance with the international best practices.
- The January 1, 2012 switch of commercial banks to the International Financial Reporting Standards (IFRS), followed by the amendment of the Chart of accounts in banks in Moldova, determined the banks to adjust the reports submitted to NBM to the new international requirements. In this context, the central bank launched a series of public consultations regarding the new instructions for the reporting on monetary statistics, interest rates as well as the transition to electronic reporting for a number of prudential indicators. In parallel, NBM has developed a draft resolution aimed at updating and optimizing the list and the number of electronic reports submitted by the banks.
- In order to improve NBM's commercial banks surveillance methods, there have been proposed for consideration several amendments to the Instruction on the methods of drafting and submitting the reports for prudential purposes. The main provisions refer to the inclusion of additional reports on the people affiliated with the banks, large deposits, loan commitments portfolio and the guarantees issued, tangible assets taken in banks' possession in exchange for repayment of loans. However, in addition to quarterly reports, banks will have to submit to NBM monthly information about the loan portfolios structure. These measures will expand central banks' access to information about the commercial banks' prudential indicators.
- NBM continued the adjustment of the regulatory framework to the IFRS requirements that entered into force in early 2012 for licensed banks in Moldova. Thus, it developed and publicly debated a project of the Instruction on the FINREP consolidated financial statements. This document will require banks to submit FINREP reports if they are in control of an entity in which they have invested, have investments in associates or joint ventures.
- In the context of aligning to the European Central Bank standards on monetary policy instruments, a requirement mentioned in the Strategic Plan of the NBM for 2013-2017, the central bank prepared the draft of Board Decision "On amending and supplementing the Regulation on NBM open market operations with state securities". This will allow the NBM to conduct open market operations with state securities with maturity of more than 180 days, and respectively will facilitate banks' access to a wider liquidity range which will allow the development of the internal state securities market. On the other side, this could fuel banks interest for longer term state securities, providing a more stable and advantageous financing the budget deficit.
- According to the Decision no. 50/8 of November 30, 2012 of the National Financial Market Commission (NFMC), beginning with February 1, 2013, the mandatory insurance policies of civil liability of motor vehicles - RCA and Green Card will only be issued electronically through the state automated information system called - "RCA Data". This measure aims to modernize the Moldovan mandatory insurance market infrastructure, with the insurers being able to determine more precisely the insurance premiums thanks to more accurate risk assessments. Besides this, it will allow the NFMC to better monitor the insurance system and will facilitate the process of coordinating with the traffic police authorities when verifying the possession of RCA insurance policy which is mandatory for all car owners.



## MAJOR PROBLEMS

- Although the NBM Strategic Plan for 2013-2017 mentions clearly the main objectives to be achieved during the respective period, the actions required for achieving these objectives are missing or are vaguely described. Actually, the document is missing an action plan describing the set of measures needed to achieve each objective individually, the time-frame, responsible institutions or resources required. The absence of these details could have a negative impact on credibility of the involved actors and civil society, hindering the achievement of the set objectives. Another problem is the available time-frame (5 years), which is quite short, given the high volume of tasks to be accomplished. However, some objectives tend to be more permanent, persisting even after the implementation of the Plan (e.g. corporate culture development, ensuring the stability of prices, increasing the credibility of national currency etc.).
- The issue of transparency of the real shareholder structure of banking and non-banking financial institutions remained unresolved by the end of 2012, and it is one of the main drawbacks on the public authorities' agenda. Consequently, the IMF extended with several months the sixth revision of its program in Moldova, and has thus postponed the disbursement of SDR 49.6 million tranche for the consolidation of currency reserves. The delayed process of increasing the transparency in such a key area as is the financial sector reveals a strong influence of certain interest groups which, most likely, have penetrated deep into some of the most important state institutions in Moldova.
- A number of actions from the Development Strategy of the non-banking sector for 2011-2014 and planned for 2012 remained unaccomplished or only partially accomplished. Most of them are related to the development of the Guideline for monitoring and controlling the financial market based on the risk levels estimation; the development of licensing procedures for professional participants on the non-banking financial market under the provisions of the community acquis; the development and implementation of internal control and audit system; the development of the regulatory framework under the Law on voluntary pension funds; the takeover of the records keeping function by the National Securities Depository.

## CONCLUSIONS

- During 2012, NBM made quite good progress in aligning the regulatory framework of the financial and banking system to the international standards. One of the main achievements is the adjustment of the banking system monitoring and reporting infrastructure to the International Financial Reporting Standards which entered into force for the financial institutions at the beginning of the year. Thus, a large part of central bank activity was aimed at the optimization of the reporting procedures and the introduction of new forms in line with the international provisions. In this regard, after being subjected to public consultations the Chart of accounts in banks and other financial institutions was modified and completed. Another important development of 2012 is the approval of the Strategic Plan of the National Bank for 2013-2017. The Plan sets the 10 key objectives and provides the general framework for achieving them. Even if the document is too general and is not supported by a detailed action plan, it provides the Bank's long-term development vector which fits with the international best practices. If at least half of the undertaken tasks are to be reached, the NBM will move to a qualitatively new stage of modernization in the next 5 years. Other important actions accomplished by the central bank this year were aimed at capacity building in monitoring and supervision of the banking system, including changes in shareholder structure as well as the adjustment of monetary policy instruments to the European standards. A major failure is the inability to effectively ensure the transparency of property relations in the banking sphere, which hinders Moldova's relations with its major partners, including the EU and IMF.

- NFMC activity during 2012 has produced some results. After nearly two years of public consultations, the new law on capital market was completed and adopted by the Parliament and will come into force in 2013. This aims to facilitate the access of EU foreign investors on the capital market in Moldova; eliminate many bureaucratic barriers related to trading shares and listing of companies on the market; and will eliminate the need for investors to turn to intermediaries for any transaction. Another important result in aligning the regulatory framework of the non-banking financial market to the international standards is the finalizing of the draft law on non-banking financial institutions. This will fill in the legal gaps governing these institutions by clearly stipulating the types of permitted and prohibited activities, as well as the minimum capital required to ensure the system stability. However, the maximum of 120,000 MDL for micro-credits to be granted by non-banking financial institutions is too restrictive, even if compared to European practices. Despite these developments, a number of actions from the Development Strategy of the non-banking sector for 2011-2014 and planned for 2012 were not accomplished or only partially accomplished, which makes us qualify NFMC progress for this period as being moderate.

### **FORECASTS FOR 2013**

- Although there is resistance from certain interest groups who want to delay the process of ensuring the transparency of the shareholdings structure in the financial institutions, the Moldovan authorities will have no other options than to adjust the relevant legal framework possibly already in the first half of 2013. Obliging commercial banks and other financial institutions to disclose the individuals controlling the companies holding shares is in fact a prerequisite for maintaining good relations between our country and international partners, IMF in particular. Given this, ensuring the transparency of the financial sector will be one of the main objectives on the agenda of the relevant public authorities in the near future.
- Another priority is the quick restructuring of bad loans accumulated by the only state-owned bank "Banca de Economii". Its systemic importance, both economically (12% of banking system assets) and socially (the largest network of branches in country wide), forces the authorities to take urgent action to solve this issue without causing negative effects on other banks. In this regard the NBM, Ministry of Finance, the Financial Stability Committee and other institutions will undertake a series of consolidated actions aimed at: (i) facilitating the collateral enforcement for borrowers in bankruptcy and repayment of remaining nonperforming loans, (ii) optimization of operating expenses in order to boost bank profitability, (iii) more active involvement in the internal restructuring of the bank, and (iv) ensuring a sufficient level of liquidity to avoid disruption of the bank activity.
- The case of the "Banca de Economii" commercial bank has brought to light a number of shortcomings in terms of the National Bank supervision of banking activities. Therefore, it has to be expected that a series of actions will follow aimed at strengthening the capacity of the central bank in this area. Specifically, they will be focused on expanding NBM access to commercial banks prudential indicators, while the initiatives for increasing the transparency of shareholdings structure will positively contribute to this process.
- Given the entry into force in 2013 of the new Law on capital market, NFMC efforts in the near future will be focused on adjusting the regulatory framework to the new law. In particular, to ensure efficient implementation of the new law, there have to be new rules specified for the activity of investment firms. According to the NFMC experts, this will involve the development of some 40 regulations, which will require a significant effort from the institution.

## **MARKET REGULATORY INSTITUTIONS**

### **REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA**

Since the beginning of cooperation between Moldova and the EU significant attention was given to the efficient functioning of Moldovan market regulatory institutions that is understandable, given their early stage of development and the lack of an adequate legal framework for their activity. With the advance in the EU – Moldova relations and the beginning of negotiations on the DCFTA, this issue became even more important, since, as the EU is offering fair competition conditions on its market for Moldovan companies, it requires the same treatment for the European companies on the Moldovan market. Thus, the EU-Moldova Action Plan and the Action Plan on fulfillment of the EU recommendations for the establishment of DCFTA between the Republic of Moldova and the European Union put a strong emphasis on the legal framework and functioning of the market regulatory institutions, namely: National Agency for the Protection of Competition (NAPC), National Agency for Energy Regulation (NAER), National Regulatory Agency for Electronic Communications and Information Technology (NARECIT), Public Procurement Agency, State Agency on Intellectual Property (SAIP), National Institute of Metrology etc.

Actually, most of these agencies had to be already functioning according to a legal framework modified and harmonized in line with EU principles, further having as main concern the implementation of new laws and regulations. However, things moved much slower; only some agencies were more disciplined in promoting legislative and regulatory changes, usually in areas where political interests were smaller, other agencies were even slower.

### **MAJOR DEVELOPMENTS**

In the last quarter of 2012 there were several events, by which the market regulatory institutions have either accomplished new tasks undertaken in the Action Plan or have completed some earlier unfulfilled activities, meant to ultimately bring Republic of Moldova closer to the European standards or to improve the functioning of these institutions:

- After adopting in second quarter the main competition laws - the law on competition and on state aid - in the fourth quarter the Competition Council continued its work to develop regulations that will complement these laws. Thus public consultation was launched on the draft regulations of four projects: 1) draft Regulation on the assessment of vertical anticompetitive agreements, 2) draft Regulation on mergers, 3) draft Regulation on the notification form, the review and approval procedure of state aid, and 4) draft Regulation on establishing market dominance and assessing the abuse of a dominance position.
- In the course of the Twinning Project "Support to the implementation and enforcement of competition and state aid policy", the Competition Council held discussions on state aid with local public administration representatives from the Central Development Region of Moldova (with the participation of rayon chairs and vice-chairs, mayors and deputy mayors).
- NAER also got more involved in some issues connected with competition. To exclude unfair competition and consumers discrimination, in October Government approved the draft amendment to the law on oil market. The draft excludes the obligation for oil companies to have storage capacity of 5000 tons and equity capital of 8 million MDL, in order to obtain a business license, these provisions being earlier proposed and supported by NAER. However, NAER does not support the proposal to amend the pricing mechanism and to allow the large fuel consumers, such as farmers, to import petroleum products for their own use without the need for an import license (without the right to sell). According to NAER position, capping prices does not correspond to market economy principles, could endanger the security of fuel supply in the country and generates high risk that large importers will eliminate small companies off the market.

- NAER Board developed a draft Regulation on procurement of goods, works and services used in the regulated activities from the energy sector, to establish uniform and transparent rules on procurement of goods, works and services for all companies in the energy sector. The project was placed on the web for public consultation. It contains provisions on the need to organize transparent auctions, allowing the participation of all potential suppliers of goods, works and services.
- The Administration Board of NAER approved in December two new methodologies for calculating electricity tariffs (the Methodology of calculation, approval and adjustment of tariffs for electricity distribution and the Methodology of calculation, approval and adjustment of regulated tariffs for power supply to final consumers) to be applied in 2013. It has to be noted that the new methodologies are based on recommendations of the World Bank, European Commission and the Secretariat of the Energy Community Treaty.
- According to the findings of two studies conducted by NARECIT, published in the fourth quarter, "Moldtelecom" S.A. continues to have significant market power on wholesale access to network infrastructure at a fixed location and wholesale broadband access market. Thus, "Moldtelecom" S.A. will be qualified by the NARECIT Administration Board as a provider with significant power on these markets and thus previously imposed obligations<sup>60</sup> shall be maintained: (i) ensuring access to specific elements of its network, (ii) ensuring transparency, (iii) price controls, including prices substantiation based on costs, (iv) refraining from discrimination; (v) separate bookkeeping.
- In December, the Parliament of Republic of Moldova and the European Parliament have ratified the Agreement between the European Union and the Republic of Moldova on the protection of geographical indications of agricultural products and foodstuffs included in the future DCFTA, this being a precondition for continuing trade negotiations. Under the agreement, Moldova and the EU undertake to provide mutual protection of geographical indications for food products, wines and spirits, but Moldova will benefit from a 5 years transition period. State Agency on Intellectual Property will develop an action plan for implementation of this agreement together with the Ministry of Agriculture and Food Industry as well as the Customs Service.
- In November 2012 it was decided to initiate negotiations on the Agreement between the Government of Moldova and the European Patent Organization regarding the validation of European patents. Given Moldova's European aspirations and the process of national legislation harmonization regarding the protection of inventions, this agreement is a priority that will especially benefit the national patent system users. But long-term benefits are more important because it can help stimulate innovation, technology transfer and the creation of a favorable investment climate if other RDI and business regulation policies are favorable.
- Also in November, the Government approved the National Intellectual Property Strategy until 2020 and the Action Plan for the Strategy implementation for 2012-2014. The objectives listed in the Strategy also include continuous improvement of the legal framework on intellectual property, including its harmonization with EU legislation and implementation of international treaties in this area.
- In the area of public procurements there was developed the Timetable of implementing the measures for increasing the efficiency of the public procurements system, which provides a number of measures planned for 2013 for improving the regulatory framework, including the adoption of several regulations currently missing: (i) Regulation on public procurements through the dynamic purchasing system (ii) Regulation on the implementation of public procurements through electronic auction, (iii) Regulation on public procurements through

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<sup>60</sup> Obligations imposed through NARECIT Decision No. 05/2011 and NARECIT Decision No. 06/2011;

competitive dialogue, (iv) Rules on public procurements through negotiated procedures, (v) Regulation on public procurements through limited tender.

- On December 26, the Government approved the National Plan for legislation harmonization for 2013, including some actions regarding the activity of certain market regulatory institutions. Among these are: (i) preparing a new law on market monitoring, (ii) amending the law on public procurements, (iii) development of a law on the award of sectoral public procurement contracts, (iv) development of the law on distance marketing of consumer financial services.

## **MAJOR PROBLEMS**

Although in the last quarter of 2012 the activity of the market regulatory agencies was more intense, many problems mentioned in previous editions of Euromonitor still persist:

- The establishment and accreditation of all laboratories is slow, with a negative impact not only on DCFTA negotiations, but also on the current trade between Moldova and the EU. Because of the underdeveloped quality insurance infrastructure, Moldovan exports could not enter European markets even if the latter would remove all custom barriers for the Moldovan exports.
- Low transparency in public procurements continues to be a problem. Although the legal framework on public procurements was improved to some extent, there are many gaps remaining. The procurement process in many state institutions and local public administrations is very poor. Moreover, even if irregularities are detected by the Court of Auditors, these deficiencies are not removed and the responsible people remain unsanctioned.
- Communication between regulatory agencies and the government is often poor. Agencies' proposals are examined during Government meetings with delays and the disputes settlement can last even longer. This explains why monopolies in some sectors cannot be removed nor regulated accordingly. It is especially the case of state monopolies for whose removing there is not enough political will.

## **CONCLUSIONS**

Despite the fact that the actions planned for the creation of a fair legal framework for all businesses and the reforming of market regulatory institutions was slow, in year 2012 several important developments took place, including:

- The adoption of the law on competition and the state aid law after nearly two years since the drafting of the first versions of these bills. The former has already entered into force in September 2012 and the latter will come into force in the summer of 2013. This has to be considered a major development given the importance of respective domains, but in the same time controversial: the businesses were not satisfied by the laws' provisions and quality, although the impact of these laws also depends on the content of regulations that are currently under development as well as on the actual implementation. However, despite the progress in developing the legal framework in 2012, the competition on the market has not been ensured. At times both NACP and NAER remained passive to some market developments showing signs of alleged cartel agreements between oil companies. Although some of the blame can be attributed to the lack of legislation and adequate regulations, this should not have been a barrier in solving the problem or at least the involvement of these agencies.
- There was significant progress in the field of intellectual property rights, most deadlines for EC recommendations being respected: (i) part of the national legislation has been harmonized and there is a plan for its further harmonization, (ii) the National Strategy for Intellectual Property 2020 approved by the Government is based on EU principles and takes

into account other national documents and recommendations in this area, (iii) Moldova signed a series of agreements important for continuing DCFTA negotiations as well as for the international protection and promotion of intellectual property.

- Agriculture is still a sector that is not regulated with regard to the transparency of state aid. This sector actually benefits the most from state aid through subventions and their distribution over the recent years has been unfair. This will continue if the sector is not covered by the law on state aid and the lack of a separate legal framework for this sector.
- There has been no progress in creating, testing and accrediting laboratories, which has a negative impact on current trade, and may lengthen the negotiation process, and even may prevent Moldovan producers from benefiting of the potential advantages after DCFTA signing.
- In 2012 the Consumer Protection Agency was created. Even if it has no regulatory role, the Agency is essential in ensuring the protection of consumers' rights. But this agency needs support for its institutional, human, technical and financial consolidation. There is a need for modifying the existing legal framework on market monitoring, as well as an improved communication and cooperation with the Customs Service is required. At the moment there is methodology for planning market surveillance activities based on risk analysis. Above all the Agency activities are hindered by the insufficient capacity of laboratory tests.

### **FORECASTS FOR 2013**

- Although the laws on competition have already been adopted, their successful implementation will take time, mainly due to additional regulations, which were not included in the main text of the law and which are still under development. Additionally there are entrepreneurs' grievances regarding some penalties and excessive powers kept by the NAPC.
- The criteria for the agricultural subsidies are not clear and fair, and this sector is not covered by the state aid law, therefore the unfair practices in subsidizing this important sector will continue.
- It is unlikely that state monopolies will disappear soon if they are not privatized. Even the new legislation on competition will not solve this issue, given the political interests and the political of influence levers used in election campaigns that are already close.

## **TRADE POLICY**

### **REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA**

The reform commitments, especially in terms of adjusting the regulatory framework, undertaken by the Republic of Moldova have been largely met. This is demonstrated by the progress in negotiations with the EU. It is important to involve representatives of the private sector from both banks of the Nistru River, especially representing the agriculture and industry sectors, in the development of negotiating positions and the planning of trade defense instruments, especially if Moldova wants to resist competition from EU producers, increase its competitiveness and obtain real benefits from DCFTA in the future. The main objectives for international economic cooperation and trade set in the Activity Program of the Ministry of Economy for 2012 have been largely achieved.

### **DEVELOPMENTS**

- The most significant achievement in the fourth quarter of 2012 is the progress in the fourth round of DCFTA negotiations. During the negotiations there were discussed tariff barriers to market access for goods; an exchange offers regarding the access to services market were made; and the discussions on DCFTA chapters on intellectual property, sanitary and phytosanitary measures and technical barriers were continued.
- Another significant achievement was accomplished in the fifth round of negotiations held recently in Chisinau, in the period of 21 to 23 January 2013. The results obtained so far, are that Moldovan businesses will be able to export approximately 9700 categories of goods without being subject to import duties to the European Union. About 30 types of products will be exported based on quotas negotiated with regard to the estimated domestic production and export potential, these quotas being proposed for a period of at least 10 years. In the agricultural sector, active discussions involved quotas for meat, eggs, sugar, vegetables and fruits, grains, wines, cigarettes, a great emphasis being placed on the need to ensure their compliance with quality standards required for export to the EU market.
- Ministry of Economy made a commitment to adjust the national quality infrastructure to EU requirements by the end of 2013. In this order, approximately 30 million Euros from the European Structural Funds will be invested in the endowment of laboratories for products testing and certification during 2013. Another equally important area is the development of projects aimed at increasing the competitiveness of local products and their promotion on the international market.
- Speaking of certain categories of sensitive goods for the country, such as some construction materials, finished textiles, furniture and others, a transition period of 5-7 years was negotiated, depending on the specific product, anticipating that the companies from the respective fields will improve their competitiveness in the given period of time.
- In what concerns certain categories of goods sensitive for the country, such as some construction materials, finished textiles, furniture and others, a transition period of 5-7 years was negotiated depending on the specific product, on the premise that companies from these domains will increase the competitiveness of their products over this period of time.
- In the services domain several offers were discussed regarding the liberalizing of certain services sectors. The initial offers on services liberalization are based on Republic of Moldova and EU commitments under the WTO GATS. The delegations discussed the possibility of a new agreement with a higher degree of liberalization than the current one, but also taking on new commitments in sectors of interest to the parties. The next round of negotiations scheduled for March 2013, as estimated by the negotiating team could be the last round of this process, being accompanied by video conferences between the parties to finalize the agreement. The European Commission has welcomed the progress made by

Moldova with regard to the Action Plan on Fulfillment of the EU Recommendations for the establishment of DCFTA, which were reflected in the progress report.

## **MAJOR PROBLEMS**

- Effective implementation of approved legislation continues to be a weakness given the limited institutional capacity of the respective authorities. Besides, it is yet unclear what impact a DCFTA will have on national agriculture. Changes and adjustments to the current legal framework, as a result of the negotiation process can lead to an overall diversification of exports and increase of competitiveness. However, up to this moment no quantitative or qualitative assessments or studies were conducted regarding the domestic agricultural producers and exporters' readiness to face competition. Furthermore, DCFTA will not eliminate the minimum prices applied for agricultural products on the EU market, and that is why the issue of the quality of exported goods has to remain a top priority.
- Another persisting issue is that of the Transnistrian region. As part of the negotiations, in the third round, a round table was held in Tiraspol to inform the entrepreneurs from the left bank regarding the priorities, benefits and obligations included in the DCFTA. However, organizing regular information meetings is not sufficient, this becoming obvious with the increased pace of the DCFTA negotiations. In the fourth round, the talks with the Transnistrian side did not benefit much the negotiation process, hence a status quo persists.
- The establishment and functioning of the National Agency for Food Safety has been deemed by the EU as a prerequisite for DCFTA establishment. Law No. 113 adopted in February 2012 includes the establishment of the Agency and defines its specific powers. However, there are signs that the creation of the Agency is delayed, the Director of the Agency being appointed only in January 2013. Besides, there is a need to strengthen the legal framework in this area.

## **CONCLUSIONS**

- DCFTA negotiations have advanced considerably in 2012, especially in the second half, when three negotiation rounds were carried out. Significant laws have been adopted to harmonize the national legislation on trade, standardization, customs administration etc. Agreements have been reached regarding the traded goods to be covered by tariff quotas and those for which there will be no tariffs or quantitative limits. Meanwhile, lack of involvement of business representatives from the Nistru River left bank in the negotiation process will have a negative impact on how the interests of Transnistrian region will be reflected in the Agreement.
- In 2012, there were some significant progresses with regard to the legal framework. The most important developments are:
  - Three laws governing the accreditation, metrology and standardization have been adopted – Law No. 235 on accreditation and conformity assessment; Law No. 233 amending the Law on metrology, and Law No. 32 amending the Law on standardization activity;
  - Approval of National Food Security Strategy of Republic of Moldova for 2011 – 2015;
  - Adoption of Law No. 113 on the general principles and requirements of food safety legislation;
  - Approval of the Government Decision No. 357 of June 1, 2012 concerning sanitary and veterinary rules of marketing and importing of chicken meat and eggs.
- Still, efficient implementation of adopted laws and regulations is difficult given the extremely low institutional capacities of the authorities concerned. Moreover, until now it is not yet clearly estimated what impact DCFTA will have on the agricultural sector or how it will be implemented in Transnistrian region.



## **FORECASTS FOR 2013**

The DCFTA negotiation's speed is impressive. Clearly, Moldovan authorities do not want to miss the geopolitical window of opportunity offered in 2013. However, amid the budget deficit and relatively pessimistic perspectives for economic growth in 2013, the implementation of legislative adjustments made in 2012 will involve significant costs and this should be carefully considered, especially given the internal as well as regional economic developments. An equally important aspect is the correct estimation of financial capacities for the implementation of legislative changes, identification of potential funding sources as well as the adequate and responsible management of the funds received. The information of business actors and decision makers in the Transnistrian region will continue to be a major challenge, which won't be solved in 2013.

At the political level the dialogue between the parties requires clear political will and common vision. Their absence could hinder the prospects for private sector involvement and collaboration of businesses on both sides; trade liberalization will bring substantial benefits, particularly in terms of competitiveness. In terms of the near future, especially taking into account the expectations for signing the Association Agreement in the autumn of 2013, the issue of involving Transnistrian entrepreneurs should be re-included in the negotiations agenda.

## **SUSTAINABLE DEVELOPMENT AND PROMOTION OF SOCIAL DIALOGUE**

### **REFORM OBLIGATIONS ASSUMED BY REPUBLIC OF MOLDOVA**

Within the Action Plan on Fulfillment of the EU Recommendations for the establishment of 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 following actions were identified as being priorities for ensuring sustainability and equity in public resources management:

- Establishment of the Social and Economic Council with European's Commission support in the framework of TAIEX program, and passing a law that would regulate its structure and activity;
- Increasing the access to environmental information and promoting public participation in environmental decisions making, including the implementation of the Aarhus Convention;
- Implementation of the community acquis on environmental protection.

### **DEVELOPMENTS**

- In the fourth quarter of 2012 there was no noteworthy progress and in accordance with the provisions of the Action Plan. The draft law on increasing the financial resources allocated from the National Environmental Fund for the protection of the forests and forest land expansion, submitted to Parliament has not been voted. In Euromonitor No. 26 we have expressed a negative attitude towards the objectives of these amendments and warned about the possible distorting effects the law will have.
- Ensuring public access to environmental information and the implementation of the commitments undertaken under the Aarhus Convention (and reiterated in the EU-Moldova Action Plan) regarding the access to information, justice and public participation in environmental decision-making have been on the legislative agenda of the Ministry of Environment for year 2012, and were planned to be examined by the Government in the fourth quarter of last year. However, this project has not yet been examined by the Government.
- Another "difficult" obligation undertaken by Moldova is the establishment of the Economic and Social Council. Ministry of Labor, Social Protection and Family (MLSPF) already in 2011 started a working group with the participation of development partners (employers, unions) in order to create a platform for representing all interests in public decision making, but again it appears that no effective measures have been taken in this regard. Although the tripartite working group agreed at the beginning of 2012 on the need for setting the Economic and Social Council, no draft law or regulation there were elaborated to regulate the work of the Council, its structure and status.

### **MAJOR PROBLEMS**

- As we saw in previous issues of Euromonitor, the areas of sustainable development and social dialogue promotion are hindered by the lack of political vision, group interests of policy makers that are not ready to ensure a wider participatory decision making process. In the domain of sustainable development, the existence of several very active NGOs allows the existence of a certain policy dialogue; however in the fourth quarter of 2012 we found that policy actors in this domain are vulnerable when it comes to transparent allocation of financial resources and the prevention conflict of interests.

## **CONCLUSIONS**

- There are no significant progresses to be mentioned in implementing Action Plan obligations in both fields of social dialogue and sustainable development. The social dialogue takes place in specific formats often involving one-sided information rather than a substantive dialogue and consideration of social partners' positions. The sustainable development area has been further affected by narrow policy approaches in which sustainable development is attributed to environmental policies and is not seen as a fundamental policy principle.

## **FORECASTS FOR 2013**

- It is possible that the Social and Economic Council will be formally created in 2013, given the Government's objective to accomplish as many of its commitments, before of a possible signature of the Association Agreement in November 2013. However, there is a risk that its structure and status will be drafted in such a way so that its advisory role would not diminish the benefits of those who are already part of the policy making process (government, trade unions, employers).
- It is expected that the deficiencies in the inter-ministerial coordination in the field of sustainable development will continue to reduce the impact of applying the Aarhus Convention. Sustainable development continues to be seen as a narrow policy area limited to the Ministry of Environment, and not as a horizontal concern to be reflected in all policy areas. Particularly, the policy dialogue between the Ministry of Environment, Ministry of Education and Ministry of Economy has to be improved.

## 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.