



Questionnaire

Part II

**Information provided by the Government of the Republic of Moldova
to the Questionnaire of the European Commission**

CHAPTER 8: COMPETITION POLICY

May 2022

The competition *acquis* covers both anti-trust, merger and State aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), to scrutinise mergers between undertakings, and to prevent governments from granting State aid which distort competition in the internal market. Generally, the competition rules are directly applicable in the whole Union and Member States must co-operate fully with the Commission in enforcing them. The Competition *acquis* is based on Article 37 (State monopolies of a commercial character), Articles 101-106 (Rules on competition applying to undertakings) and Articles 107-109 (Rules applicable to state aid) of the Treaty on the Functioning of the European Union (TFEU).

In the field of **anti-trust**, national competition authorities must closely co-operate with the Commission in European Union (EU) competition procedures. Since 1 May 2004, all national competition authorities are also empowered to apply fully the provisions of the TFEU in order to ensure that competition is not distorted or restricted. National courts may also apply directly EU anti-trust rules so as to protect the individual rights conferred to citizens by the TFEU.

In the field of **Merger control**, national competition authorities must have the necessary guarantees of independence, resources, and enforcement and blocking powers to be able to effectively control concentrations.

In the field of **State aid**, the decision as to whether or not aid granted by Member States is compatible with the internal market can be taken only by the European Commission.

The term **liberalisation** refers to Protocol No 27¹, in which it is stated that the internal market as set out in Article 3 of the Treaty on European Union includes a system ensuring that competition is not distorted. For this purpose, there is a specific surveillance system in the case of public undertakings and undertakings to which Member States grant special or exclusive rights. With respect to the liberalisation of specific sectors, reference is made to the relevant sector specific negotiating chapters.

It is important to determine the compatibility of Moldova's competition law and implementation capacity with the following essential parameters of the EU system. You are invited to provide a copy of the relevant legislative texts (in an EU working language). When responding to the specific questions below, please elaborate your reply.

¹ Annexed to the Treaty on European Union and TFEU

I. ANTITRUST INCLUDING MERGERS

1. Please describe the legislation concerning antitrust and mergers. Which authorities are responsible for the issue? Does the competition law reflect the contents of Article 101 and 102 of TFEU?

In the Republic of Moldova, the Competition Law No. 183/2012² establishes the legal framework in the field of competition and regulates the protection of competition, including the prevention and counteracting of anti-competitive practices, such as:

- anti-competitive agreements prohibited by Art. 5, 7 contain the provisions of Art. 101 of the TFEU;
- the abuse of a dominant position prohibited by Art. 11 contain the provisions of Art. 102 of the TFEU;
- the unfair competition prohibited by Art. 15-19,
- carry out mergers on the market as a tool to protect, maintain and stimulate competition in order to promote the legitimate interests of consumers.

The law also establishes the legal framework for the Competition Council activity and competences, and the liability for competition law infringements. The Competition Council has exclusive competence in making decisions, regulating, prohibiting, intervening, inspecting and sanctioning infringements of competition, state aid and publicity legislation, within the limits established by law.

The Competition Council activity is exercised on the entire territory of the Republic of Moldova.

The Competition Law No. 183/2012 transposes the EU rules and regulations on market competition, contains the legal framework for the protection of competition based on Art. 101 and 102 of the TFEU.

The Competition Law No. 183/2012 provides for the mergers notification procedure, investigation and evaluation in order to establish the compatibility with the competitive environment. This law transposes the provisions of the Council Regulation (EC) No. 139/2004 as of January 20, 2004 on the control of merger between undertakings.

In order to apply the Competition Law No. 183/2012, the following normative acts were adopted:

² Competition Law No. 183/2012, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=128125&lang=ro

- Regulation on the Competition Council organization and functioning, approved by the Competition Council Decision No. 8/2012³
- Regulation on the assessment of vertical anticompetitive agreements, approved by the Competition Council Decision No. 13/2013⁴
- Regulation on the assessment of horizontal anticompetitive agreements, approved by the Competition Council Decision No. 14/2013⁵
- Regulation on the assessment of anticompetitive technology transfer agreements, approved by the Competition Council Decision No. 15/2013⁶
- Regulation on establishing the dominant position on the market and assessing the abuse of dominant position, approved by the Competition Council Decision No. 16/2013⁷
- Regulation on economic concentrations, approved by the Competition Council Decision No. 17/2013⁸
- Regulation on the commitments acceptance proposed by undertakings, approved by the Competition Council Decision No. 2/2015⁹
- Regulation on the Competition Experts Council, approved by the Competition Council Decision No. 1/2016¹⁰

A. Scope of application

2. As to the scope of application of competition law :

a) Does the law cover all sectors of the economy?

³Regulation on the Competition Council organization and functioning, approved by the Competition Council Decision No. 8/2012, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=86297&lang=ro

⁴ Regulation on the assessment of vertical anticompetitive agreements, approved by the Competition Council Decision No. 13/2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=39777&lang=ro

⁵ Regulation on the assessment of horizontal anticompetitive agreements, approved by the Competition Council Decision No. 14/201, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=13452&lang=ro

⁶ Regulation on the assessment of anticompetitive technology transfer agreements, approved by the Competition Council Decision No. 15/2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=5530&lang=ro

⁷ Regulation on establishing the dominant position on the market and assessing the abuse of dominant position, approved by the Competition Council Decision No. 16/2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=39780&lang=ro

⁸ Regulation on economic concentrations, approved by the Competition Council Decision No. 17/2013, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=39781&lang=ro

⁹ Regulation on the commitments acceptance proposed by undertakings, approved by the Competition Council Decision No. 2/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=60301&lang=ro

¹⁰ Regulation on the Competition Experts Council, approved by the Competition Council Decision No. 1/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=93621&lang=ro

Provisions of the Competition Law No. 183/2012 (Art. 2) apply to deeds - actions and inactions that have or may have as an object or effect the restriction, prevention or distortion of competition, as well to acts of unfair competition, committed by:

- **legal persons**, registered in the Republic of Moldova or registered in foreign states and natural persons;
- **local or central public administration authorities**, to the extent they, by the decisions issued or the enactments adopted, interfere in the market, influencing the competition directly or indirectly, except for the situation when such measures are taken with regard to the enforcement of other laws or for the defense of a major public interest.

The Competition Law No. 183/2012 applies to actions and inactions that have or may have as an object or effect the restriction, prevention or distortion of competition, as well as to unfair competition acts committed on the territory of the Republic of Moldova, or those committed outside the country when they produce or may produce effects on the territory of the Republic of Moldova.

b) Does the law cover both public and private enterprises?

Yes, provisions of the Law apply to both public and private undertakings (Art. 2) i.e. local or central public administration authorities, companies, and other undertakings, performing the activities of public interest, or those that have been given the fiscal monopoly, through the act of the state authority in charge, except if through the application of this law, either lawfully or factually, they are prevented to perform these activities or tasks assigned by the public authority.

c) Does the law cover goods and services?

Yes, the Competition Law No. 183/2012 Art. 4 broadly covers goods and services, including financial services, intended for sale, exchange or other ways to include in the civil circuit that are generically defined products.

d) Does the law incorporate the principles of Article 106(2) TFEU?

Yes, the Law incorporates the principles of Art. 106(2) TFEU (Art. 2, para. (2)) the undertakings entrusted with the operation of services of general economic interest and the undertakings having the character of fiscal monopoly are subject to the provisions of the Competition Law, and in particular, to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them.

B. Restrictive agreements

3. Does the law cover agreements between undertakings, decisions by associations of undertakings and concerted practices?

Yes, the Competition Law No. 183/2012 in Art. 5 para (3) covers the anticompetitive agreements which are or deemed to:

- directly or indirectly fix purchase or selling prices or any other trading conditions;
- limit or control production, commercialization, technical development, or investment;
- share markets or sources of supply;
- bids rigging or any other forms of competitive tendering;
- limit or prevent access to the market and the free exercise of competition between other undertakings, as well as agreements not to buy or sell to certain undertakings without reasonable justification;
- apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial practice, have no connection with the subject of such contracts.

4. Does the law contain a general prohibition of restrictive agreements?

Yes, all agreements between undertakings or associations of undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition on the market of the Republic of Moldova or part of it, are prohibited, no prior decision to the effect being required

5. Does the law lay down the nullity of restrictive agreements, i.e. are they unenforceable before the courts?

Yes, the agreements prohibited under the Art. 5 are automatically void.

Agreements concluded between dependent undertakings shall not qualify as anticompetitive agreements.

6. Does the law provide for an exception from the prohibition of restrictive agreements, or how are exceptions provided for?

Yes, the Competition Law No. 183/2012 in Art. 6 exempts certain categories of anticompetitive agreements which fulfill cumulatively the following conditions:

- a) contribute to improving the production or distribution of goods or to promoting technical or economic progress;
- b) allow consumers a fair share of the resulting benefit;
- c) do not impose on the undertakings concerned restrictions which are not indispensable to the attainment of the objective mentioned in let. a) and b);
- d) do not afford the undertakings the possibility of eliminating competition in respect of a substantial part of the products at issue.

Certain categories of agreements can be directly exempted from the interdictions established in Art.5 by adopting by Competition Council of the guidelines. Thus, there were adopted:

- The Regulation on assessment of vertical anticompetitive agreements, approved by the Competition Council Decision No. 13/2013
- The Regulation on assessment of horizontal anticompetitive agreements, approved by the Competition Council Decision No. 14/2013

Where the Competition Council states that the agreements covered by one of the exempted categories have or may have effects which are incompatible with the conditions set up above, this may, ex officio or upon complaint, withdraw the benefit of exemption set up for the agreements at issue. In this case, the Competition Council shall demonstrate that the agreements at issue breach the provisions of Competition Law and do not fulfill the conditions. Withdrawal of an exemption applies prospectively and does not have a retroactive effect.

As well as the provisions on the prohibitions of the anticompetitive agreements shall not apply to the agreements which are of a minor importance, except for those provided for by the Competition Law

7. Does the law provide for the possibility of block exemptions to be established (based on EU principles)?

The general provisions on exemptions are covered in:

- Art. 6. The exemption of anticompetitive agreements

- The Regulation on assessment of vertical anticompetitive agreements
- The Regulation on assessment of horizontal anticompetitive agreements

8. Do the conditions for exceptions from the prohibition of restrictive agreements (both individual and group) correspond to Article 101(3) TFEU?

Yes, the conditions for exceptions from the prohibition of restrictive agreements are the same as mentioned in Article 101(3) TFEU.

C. Abuse of dominant position

9. Does the law contain a general prohibition of abuse of dominance?

Yes, the Competition Law No. 183/2012 in Art. 11 para. (1) contains a general prohibition of any abusive use of the dominant position within the relevant market, to the extent it may affect the competition or damage the collective interests of the final consumers on the relevant market. The abusive practices may consist in:

- directly or indirectly imposing unfair purchase or selling prices, or other unfair trading conditions;
- limiting production, distribution or technical development to the prejudice of consumers;
- applying, in the relationship with trading partners, dissimilar conditions to equivalent transactions, thereby placing them at a competitive disadvantage;
- making the conclusion of contracts subject to acceptance by the partners of supplementary obligations which, by their nature or according to commercial practice, have no connection with the subject of such contracts;
- charging excessive or predatory prices, with the aim of driving competitors out;
- the unjustified refuse to contract with certain providers and/or supply to certain beneficiaries;
- the cessation of a commercial relationship established previously on the relevant market for the single reason that the partner refuses to obey to some groundless commercial conditions.

10. Does the law contain an exemption or defence for abuse, in line with the ones accepted in EU law under Article 102 TFEU?

Yes, the Competition Law No. 183/2012 transposes the provisions of the art 101-106 of the Treaty on European Union Functioning as of 25 March 1957, Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and partially Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation).

The situations when the abusive practices of undertakings in a dominant position can be justified are provided by the provisions of Art. 11 para. (4) - (7)

Thus, the dominant undertakings shall not be penalized for some *ex post* losses, where the *ex ante* decision of applying the alleged abusive practices was taken in good faith, in particular, whether they are able to provide conclusive evidence pursuant to which they could reasonably estimate that the activity shall be profitable.

The interdiction set up in the Competition Law shall not apply whether the dominant undertaking proved that its practices are reasoned, being necessary objectively or producing significant efficiency increase, which compensate any anticompetitive effects on consumers, upon the condition that the practices at issue are indispensable and proportionate in relation to the alleged goal followed by the dominant undertaking.

Also, in the case of invoking the reasons of efficiency increase which are sufficient in order to guarantee there is no risk of causing a net prejudice to consumers, the dominant undertaking shall have to prove, with a rather increased degree of probability and based on some verifiable evidence, that the following conditions are cumulatively fulfilled:

- the efficiency increase was implemented, or it is likely to be implemented, as a result of the respective practices, such as technical improvement of goods' quality or reducing the production or distribution cost;
- the respective practices are indispensable for that efficiency increase: there must not exist less anticompetitive alternatives for these practices which shall be capable to determine to the same extent the efficiency increase;
- the likely efficiency increase determined by the respective practices compensate any likely negative effects on the competition and consumers' welfare on the affected markets;
- the respective practices do not eliminate effective competition, by suppression of the majority of all the existent sources of effective or potential competition.

11. To what extent does the legislation reflect the EU regulations, guidelines and communications adopted for the implementation of Article 102 TFEU?

The Competition Law No. 183/2012 transposes the provisions of the art 101-106 of the Treaty on European Union Functioning as of 25 March 1957, Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and partially Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation).

The Competition Council uses a set of established principles when assessing and establishing the abuse of a dominant position in a relevant market, including Regulation on establishing dominant position on the market and assessing the abuse of dominant position, which partially transposes the Communication from the Commission — Guidance on the Commission's enforcement priorities in applying Article 82 (102) of the EC Treaty to abusive exclusionary conduct by dominant undertakings (2009/C 45/02). At the same time, in comparison with the provisions of art. 102 of the TFEU, Art. 11 of the Competition Law No. 183/2012 which establishes the prohibition of the abuse of a dominant position, at para. (2) in addition to the 4 abusive practices established in art. 102 of the TFEU provides 3 more forms of abusive practices, for a total of 7 practices, which consist in:

- directly or indirectly imposing unfair purchase or selling prices, or other unfair trading conditions (as in art. 102 TFEU);
- limiting production, distribution or technical development to the prejudice of consumers (as in art. 102 TFEU);
- applying, in the relationship with trading partners, dissimilar conditions to equivalent transactions, thereby placing them at a competitive disadvantage (as in art. 102 TFEU);
- making the conclusion of contracts subject to acceptance by the partners of supplementary obligations which, by their nature or according to commercial practice, have no connection with the subject of such contracts (as in art. 102 TFEU);
- charging excessive or predatory prices, with the aim of driving competitors out (in addition to art. 102 TFEU);
- the unjustified refusal to contract with certain providers and/or supply to certain beneficiaries (in addition to art. 102 TFEU);
- the cessation of a commercial relationship established previously on the relevant market for the single reason that the partner refuses to obey to some groundless commercial conditions (in addition to art. 102 TFEU).

D. Mergers

12. Does the definition of mergers cover the establishment of control (including de-jure and defacto control) and joint ventures?

Yes, an economic concentration (Art. 20 para. (2)) shall take place where the change in the duration of the control results from:

- the merger of two or more previously independent undertakings or several parts of previously independent undertakings; or
- the taking over, by one or more persons already controlling at least one undertaking or by one or more undertakings, either by the acquisition of securities (shares) or assets, or by contract or by other means, direct or indirect control over one or more undertakings or parts thereof, including the creation of a joint venture which sustainably performs all the functions of an autonomous economic entity.

Control (Art. 4) is the possibility of exercising decisive influence over an undertaking, arising from rights, contracts or any other means, separately or in combination, taking into account relevant legal and factual circumstances, in particular:

- the right of ownership or full or partial use over the assets of an enterprise;
- rights or contracts that confer a decisive influence on the structure, votes or decisions of the management bodies of an enterprise.

Control is acquired by persons or undertakings who are holders of rights or beneficiaries of rights under the contracts in question or who, although not holders of such rights or beneficiaries of rights under these contracts, have the power to exercise the rights arising therefrom.

13. Does the law provide for an obligation of prior notification?

Yes, pursuant to Art. 22. until the declaration of the economic concentration as being compatible with the competition environment, pursuant to a decision issued by the Plenum of the Competition Council, or based on a presumption, the enforcement of an economic concentration is prohibited.

Enforcing the concentration, it is deemed to be, if needed, the conclusion of the agreement, public offer announcement or the acquiring of the controlling interest.

The economic concentrations carried out through the merger of two or several undertakings shall be notified jointly by the parties to concentration, those which are carried out by obtaining joint control, shall be notified jointly by the persons or undertakings acquiring joint control. In the other cases, the notification must be made by the individual or the undertaking which obtains control over one or

several undertakings or over parts of one or more undertakings. Each party which initiates the notification is liable for the exact and full nature of the information provided.

14. What are the criteria for notification (e.g. turnover)?

Concentration operations are evaluated and reported to the Competition Council prior to their implementation, when the cumulative turnover of the involved enterprises exceeded 25 000 000 MDL for the year preceding the operation, and there are at least two enterprises involved in the operation that on the territory of the Republic of Moldova, each one, realized a cumulative turnover in excess of 10 000 000 MDL for the year preceding the operation.

The total turnover of the concerned enterprises is calculated by adding together the total turnover of (Art. 24 para. (4)):

- the enterprises involved;
- the undertakings, in which the involved enterprises directly or indirectly
 - hold more than half of the capital; to or
 - have the power of exercise more than half of the voting rights; or
 - have the power to appoint more than half of the company's board, of the executive body, or of the bodies with legal capacity to represent the enterprises; or
 - have the right to manage the enterprises' activities;
- the enterprises that hold in the enterprise involved the rights or competencies specified in let. b);
- enterprises in which an enterprise referred to in letter c) holds the rights or powers specified in letter b);
- enterprises in which two or more enterprises referred to in letter a) –d) hold together the rights or powers specified in letter b).

The total turnover achieved by the enterprises involved does not include the value of the sales of products between any of the enterprises mentioned above.

15. Does the notification have a suspensive effect?

Concentration operations shall be subject to evaluation and shall be notified to the Competition Council before implementation, when the total cumulative turnover of the undertakings involved, recorded in the year preceding the operation, exceeds 25 000 000 MDL and there is at least two enterprises involved in the operation

which achieved on the territory of the Republic of Moldova, each one, a total turnover higher than 10 000 000 MDL in the year prior to the operation.

The total turnover of the undertakings concerned shall be calculated by adding together the total turnover of:

- the enterprises involved;
- the undertakings in which the undertaking is involved, directly or indirectly
 - holds more than half of the capital; to
 - has the power to exercise more than half of the voting rights; to
 - has the power to appoint more than half of the members of the board of the company, of the executive body or of the bodies that legally represent the enterprises; to
 - has the right to manage the activities of enterprises;
- to the enterprises that hold in the enterprise involved the rights or competencies specified in letter b);
- enterprises in which an enterprise referred to in letter c) holds the rights or competencies specified in letter b);
- enterprises in which two or more enterprises referred to in letter a) –d) hold together the rights or competencies specified in letter b).

The total turnover achieved by the enterprises involved does not include the value of the sales of products between any of the enterprises mentioned in Art. 24 para. (4).

16. Describe the steps in the investigation procedure. Is there a preliminary phase? An in-depth investigation phase for potentially problematic mergers? Do these phases have to be completed within prescribed deadlines?

The mergers that meet the conditions of the Competition Law No. 183/2012, are subject to evaluation and reporting to the Competition Council prior to their implementation.

In order to establish the compatibility with the competitive environment, the notified mergers are evaluated based on the following criteria:

- the necessity to maintain and develop the competition on the relevant market, taking account of the structure of all the markets affected by the concentration and the existent or potential competition on behalf of the undertakings located on the territory of the Republic of Moldova or outside of it;

- the market position held by the undertakings involved, their economic and financial power;
- the alternatives available for the providers and users, their access to markets and supplying resources, as well any other legal or other barriers raised at the entry on the market;
- the tendency of supply and demand for the relevant products;
- the interests of intermediate and final consumers;
- evolution of the economic and technical progress.

Within 30 working days from the receipt of the complete notification of a merger, the Competition Council adopts in plenary a decision declaring the notified merger as compatible with the competitive environment, if it finds that, although the notified merger falls within the scope of this law: there is no serious doubts as to its compatibility with the competitive environment, and the doubts about compatibility with the competitive environment have been removed by stakeholders involved in the notification process.

The Plenum of the Competition Council may establish by decision the conditions and obligations to ensure the commitments compliance the stakeholders have assumed in order to achieve the merger compatibility with the competitive environment; or decides in plenary to initiate an investigation, if it finds that the notified merger falls under the scope of this law and presents serious doubts regarding the compatibility with the competitive environment, and these could not be removed.

Within 90 working days from the initiation of the investigation, the Plenum of the Competition Council issues a decision declaring:

- the merger incompatible with the competitive environment;
- the merger compatible with the competitive environment;
- the merger compatible with the competitive environment, conditioned (commitments).

The time limits foreseed above shall be extended by 30 working days, where the undertakings involved offer to make commitments pursuant to the provisions of the Competition Law for the purpose of compatibility of the merger with the competitive environment.

In case the Plenum of the Competition Council does not take a decision within the time limit set, the concentration is deemed to be tacitly authorized.

Additionally, the Competition Council may initiate an ex officio procedure of ascertaining the merger if the involved undertakings have not notified the merger to the Competition Council. For this phase, there is no a prescribed deadline.

17. What are the criteria for prohibition (e.g. Significant Impediment of Effective Competition – "SIEC") or the creation or strengthening of dominance)? Is there an exemption for reasons of public interest in order to take into account a specific national interest in line with the provision of Articles 63 and 64 TFEU? To what extent does the legislation reflect the EU regulations, guidelines and communications adopted for the implementation of Article 102 TFEU?

The Competition Law allows concentrations of undertakings, unless they would significantly restrict, distort, or prevent competition on the market of the Republic of Moldova, or its share, and particularly if they would result in establishing, or strengthening of dominant position.

In order to establish the compatibility with a competition environment, the economic concentrations are assessed based on the following criteria:

- the necessity to maintain and develop the competition on the relevant market, taking account of the structure of all the markets affected by the concentration and the existent or potential competition on behalf of the undertakings located on the territory of the Republic of Moldova or outside of it;
- the market position held by the undertakings involved, their economic and financial power;
- the alternatives available for the providers and users, their access to markets and supplying resources, as well any other legal or other barriers raised at the entry on the market;
- the tendency of supply and demand for the relevant products;
- the interests of intermediate and final consumers;
- evolution of the economic and technical progress.

There is no exemption of the grounds of public interest.

The Competition Law No. 183/2012 transposes the provisions of the art 102 TFEU as it was described in the answer to question No. 11 of this Chapter.

18. Do the Parties to a transaction have the possibility to offer commitments to address competition concerns in relation to a transaction? Are there provisions on divestitures or other remedies?

Yes, the undertakings involved in the notification of the merger have the possibility to assume commitments in order to achieve their compatibility with the competitive environment based on the Regulation on acceptance of commitments

proposed by undertakings, approved by the Competition Council Plenum Decision No. 2 /2015¹¹.

The main types of commitments provided by the Regulation on acceptance of commitments proposed by undertakings, are:

- assignment of a viable and competitive business to a suitable buyer;
- assignment of assets, including trademarks and licensing;
- brand change.

The Plenum of the Competition Council adopts decisions declaring a merger compatible with the competitive environment following the changes made by the undertakings involved in phase I (merger evaluation) and phase II (merger investigation).

E. General procedures

19. Please describe the authority entrusted with implementing competition law, including the institutional set-up and information on the staffing situation (organisational structure, number of staff, etc.).

The Competition Council is an autonomous public authority liable towards the Parliament, which ensures the observance of the enforcement of the legislation regarding the competition, state aid and advertising in the limits of its competence. For this purpose, the Competition Council is entitled with power of decision, regulation, prohibition, intervention, inspection and sanctioning, in the limits set up by the legislation.

The Competition Council consists of the administration, executive body consisting of specialized and operational subdivisions, and territorial branches. The administration consists of the Competition Council's Plenum.

As of 07.02.2019 by the Decision No. 8¹², the Parliament of the Republic of Moldova approved the new organizational structure and the staff-limit of the Competition Council.

According to the new structure, the Competition Council consists of the administration, executive body consisting of 11 specialized and 7 operational subdivisions, and 3 territorial branches (operating in the North, South, Gagauzia region). In total the limit number is 130 staff units.

¹¹ Regulation on acceptance of commitments proposed by undertakings, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=60301&lang=ro

¹² Parliament Decision No. 8/2019 on the approval of the organizational structure and the staff limit of the Competition Council, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112669&lang=ro

Within competition divisions there are 45 personnel units approved, of which only 22 units are covered with staff, which is 49%.

Within state aid divisions there are 25 personnel units approved, of which only 12 units are covered with staff, which is 48%.

Within territorial offices divisions, with competences in both competition and state aid, there are 12 personnel units approved, of which only 9 units are covered with staff, which is 75%.

For operational divisions there are 42 personnel units approved, of which only 21 units are covered with staff, which is 50%.

Out of the total number of 130 personnel units approved, 68 units are covered with staff, which constitutes 52%.

Staff structure by functional unit (% of total), 2022

Functional units	Number of positions as provided for by the organisational structure	Actual member of positions filled as of April 2022	Employment rate %
Competition Council's Plenum	5	4	80%
Competition Divisions			
Anti- cartel Division	8	4	50%
Abuse of dominant position Division	8	4	50%
Merger Investigations Division	8	6	75%
Employment rate Division	6	2	33%
Anticompetitive Conduct of Public Authorities Division	6	3	50%
Research and Analytical Division	9	3	33%
State Aid Divisions			
Sectoral State Aid Division	6	3	50%
Horizontal State Aid Division	6	3	50%
Regional Development State Aid Division	6	4	67%
State Aid Monitoring and Reporting Division	7	2	29%
Competition and State Aid Divisions			
Territorial Offices Division	12	9	75%
Legal Division	8	2	25%
Operational subdivisions			
Operational Divisions	35	19	54%
Total	130	68	52%

The Competition Council faces challenges in terms of hiring and keeping employees manifested by the low level of employment of vacant public positions, which is due to the low level of remuneration compared to the complexity of the tasks and competences required by the activity to be carried out.

a) By whom and according to which procedure and criteria are its board members appointed?

The Competition Council Plenum is a collegial body and consists of 5 members, including one President of the Plenum of the Competition Council, two Vice Presidents of the Competition Council Plenum, and two members of the Competition Council Plenum who are respectively President and Vice presidents and members of the Competition Council. The members of the Competition Council Plenum fulfill public dignity functions and are appointed by the Parliament decision, at the proposal of the Speaker of the Parliament with the endorsement of the relevant parliamentary commission for a five year term. The Speaker of the Parliament proposes, as well, the candidature of the Competition Council President. Each member of the Competition Council is entitled to two consecutive mandates.

As a member of the Plenum of the Competition Council can be appointed the person holding the citizenship of the Republic of Moldova, having higher education, professional competence, good reputation, has not in the last 5 years, in the professional integrity record, registered the negative result of the test of professional integrity for violation of the obligation stipulated in the Law No. 325/2013 on the assessment of institutional integrity, and has at least 10 years' work experience in economic, competition or legal activities.

b) On the basis of which internal procedures and voting mechanisms are decisions reached?

The administrative acts of the Competition Council shall be adopted during the Competition Council Plenum meetings, which may be ordinary or extraordinary. The meetings' minutes shall be signed by the President of the Competition Council, present members and the secretary of the meeting.

The meetings of the Competition Council shall be deliberative where at least 3 members participate at them, out of which one is the president or the vice president, and they are chaired by the President of the Competition Council, and in his/her absence, by the appointed Vice president.

The administrative acts of the Competition Council shall be adopted in the Plenum by the vote of the majority of the members present at the meeting. Each member has one vote. In case of equal votes, the vote of the President, or in his/her absence, of the Vice president who chairs the Plenum meeting is decisive.

The members of the Competition Council Plenum do not have the right to abstain from voting. The members who voted against, may record their separate opinion in the minutes of the meeting concerned.

The decisions, dispositions and prescriptions of the Competition Council shall entry into force at the date or their adoption, if the decision, disposition or prescription does not provide for a later date.

c) Is this authority able:

(i) to take decisions independently, free from political interference and to neither seek nor take instructions from any government, or other institution, body, or office;

The Competition Council's organization and activity is based on the principle of autonomy, independence and collegiality.

(ii) to exercise its powers transparently and impartially, with appropriate rules on conflict of interests;

The members of the Competition Council Plenum and the employees of the Competition Council in the exercise of their function, the members of the Competition Council Plenum and the employees shall exclude any personal interest which would influence the fulfillment of the duty tasks.

The members of the Competition Council Plenum and the employees of the Competition Council shall observe strictly the legal regime of the conflict of interests provided for in the legislation on conflict of interests, as well as the provisions of the Law No. 325/2013 on the assessment of institutional integrity¹³.

(iii) to have adequate and stable human, financial and technical resources.

The Competition Council is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law, including from the collected revenues. The budget of the Competition Council is elaborated, approved and administered according to the principles, rules and procedures provided by the Law No. 181/2014 on public finances and budgetary-fiscal responsibility¹⁴.

Regarding the human resources, the Competition Law (art 36 para (2) provides that the organizational structure and the staff limit of the Competition Council are approved by the Parliament at the motivated proposal of the president of the Council. In this sense the Competition Council President organizes and conducts competitions for filling vacancies.

¹³ Law No. 325/2013 on the assessment of institutional integrity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129219&lang=ro

¹⁴ Law No. 181/2014 on public finances and budgetary-fiscal responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

20. Can the competition authority act on its own initiative? Or only on the basis of a complaint?

The Competition Council is entitled to initiate ex officio the procedure for examining the alleged case of infringement of competition law, except for infringements of unfair competition or upon complaint of a natural person or undertakings affected by the alleged infringement. The Competition Council may initiate the ex officio examination, on the basis of the materials at its disposal relating to the alleged infringement.

21. Which investigative powers does the law provide to the competition authority? How do they compare to the investigative powers laid down in Regulation 1/2003/EC and Regulation 139/2004/EC?

The investigation powers set out in Chapter VII "Preliminary examination, investigation and decision-making" of the Competition Law are transposed from the Regulation 1/2003/EC.

The Competition Law No. 183/2012 in Art. 54 provides for the possibility to request and obtain the necessary documents and information from undertakings, associations of undertakings and public authorities. At the same time, the Competition Council has the right to interview any natural or legal person who agrees to be interviewed in order to obtain information on the investigation object.

Art. 56 provides for the possibility to carry out all the necessary inspections at the undertakings and associations of undertakings. The inspection shall be ordered by the ordinance issued by the President of the Competition Council, stipulating the goal and the object of the inspection, date of starting the inspection and the sanctions provided for in Art. 68–70 and 76, as well as the right to appeal the ordinance in the court. The inspection is exerted by the Competition Council's employees, except for the beginners.

Art. 57 provides for the possibility to conduct inspections in case of a substantiated suspicion that books or other documents related to the business and the inspection object, which may be relevant to prove a severe infringement such as abuse of a dominant position and anti-competitive agreements are kept in any other premises, lands and transport means of the natural persons, including the private places of the members of the administration bodies or the members of the staff of the undertakings or associations of undertakings concerned, the Competition Council Plenum may order by a decision the conduct of inspections within these premises, lands or transport means. The access of the Competition Council's representatives on the lands or transport means of natural persons, without their consent, shall be allowed only based on the judicial conclusion (mandate) issued under the conditions of the present paragraph and submitted to the person subject to the inspection.

The Regulation 1/2003/EC provides for the investigation procedure before the European Commission and its cooperation with the national competition authorities. Chapter VII "Preliminary examination, investigation and decision-making" of the Competition Law does not regulate these issues. The Regulation 139/2004/EC, Art. 11-13 provides for the procedure for requesting and presenting information, the inspection powers carried out by the European Commission and its cooperation with the national competition authorities. These issues are not transposed into the Competition Law 183/2012.

22. Which fining powers does the law provide for in case of violations (e.g. a percentage of the turnover)?

The base level of the fine for the competition law infringement is determined according to the gravity and duration of the deed. The base amount is calculated by multiplying the per cent determined based on the amount of gravity by the factor related to the infringement duration. In order to determine the basic level of the fine, the total turnover of the undertaking in the year preceding the sanction is taken as the basis for calculation. If the total turnover in the year preceding the sanction cannot be determined, the last year preceding the sanction in which the undertaking or the association of undertakings have achieved a turnover shall be taken into account.

The Competition Law No. 183/2012 provides for sanctions for violating the procedure rules and material norms of the competition law.

While evaluating the infringement gravity, is taken into account the action's character, in particular if the requested information could have had a significant impact on the case resolution due to its character, importance and utility of these.

Upon the gravity, the deeds are divided into three categories:

- small gravity infringements: basic amount is set up in the quantum up to 0,15% from the total turnover;
- medium gravity infringements: basic amount is set up in the quantum from 0,15% to 0,25% from the total turnover;
- high gravity infringements: basic amount is set up in the quantum from 0,25% to 0,45% from the total turnover.

When, following the application of the individualization criteria, the maximum level is exceeded, the fine will be reduced to a maximum of 0.5% of the total turnover.

The basic level of the fine calculated for the gravity of the deed which represents the violation of the material norms constitutes:

- up to 1% from the total turnover, for the deeds of small gravity;

- from 1% to 2% from the total turnover, for the deeds of medium gravity;
- from 2% to 4% from the total turnover for high gravity deeds.

In case of an association of undertakings commits an infringement related to its members' activity, the basic level of the fine shall be calculated out of the total turnover of each member active on the market affected by the infringement committed by the association.

Based on the duration of the infringements, these are divided into three categories:

- short term infringements (less than 1 year) or with immediate consumption: factor 1;
- medium term infringements (from 1 to 5 years): factor 1,2;
- long term infringements (over 5 years): factor 1,4.

In the case of a newly established undertaking that did not achieve a turnover in the financial year prior to the sanction, the fine is set up in quantum up to MDL 5.000.000.

The maximum level of the fine may not exceed 5% of the total turnover achieved in the year prior the sanction.

At the same time, for committing the unfair competition acts prohibited by Art. 15–19, the Competition Council shall apply a fine of up to 0.5% of the total turnover achieved by the undertaking in the year prior to the sanction.

The Competition Council Plenum may apply, by decision, penalties in the amount of up to 5% of the average daily turnover realized by the undertaking or the association of undertakings at issue in the year prior to sanctioning, for each delay day, calculated at a date subsequently set up in the decision.

23. Is there a policy of immunity from fines or reduction of fines in cartel cases (leniency)?

Leniency is the reward given by the Competition Council for the cooperation of undertakings and association of undertakings with the Competition Council, if they are or have been part of an anti-competitive agreement. The leniency policy does not apply to horizontal or vertical agreements which, according to the law, may be exempted from the prohibition provided by law. The procedure for granting immunity from fines is provided in Art. 91 of the Competition Law.

The Competition Council may, by decision, grant immunity from a fine which is an exemption from the fine or a reduction in the amount of the fine. In order to benefit from the reduction of the fine, the undertaking or association of undertakings must provide the Competition Council with evidence of the alleged infringement, which will make a significant additional contribution in relation to

those already in its possession and must meet the general conditions for granting leniency.

24. Is there a settlement procedure in cartel cases?

No, the Competition Law No. 183/2012 does not provide a settlement procedure in cartel cases.

25. Is there a commitment procedure in abuse of dominance cases?

Yes, the Competition Law No. 183/2012 provides for the undertakings concerned in a Competition Council investigation for the possibility to propose commitments.

The procedure for applying to commitments the mechanism for assuming and accepting commitments proposed by undertakings are set out in the Regulation on the acceptance of commitments proposed by undertakings, which transposes the provisions of the Commission notice on remedies acceptable under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation) and under Commission Regulation (EC) No 802/2004 of 7 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings.

26. Does the law provide for interim measures?

The Competition Council is responsible if, after a preliminary examination of the complaint, it considers that there are sufficient grounds for initiating an investigation into the alleged infringement of competition law, state aid and advertising, to act ex officio and to, in case of urgency determined by the risk of a serious and irreparable damage caused to the competition, by a prescription, interim measures. Such a prescription may be renewed to the extent that it is necessary and appropriate.

The Competition Council has the right to adopt, by a prescription, appropriate interim measures to restore or maintain the conditions of effective competition in case that an economic concentration:

- has been implemented in breach of competition law and a decision on the compatibility of the concentration with the competitive environment has not yet been taken;
- has been implemented in breach of one or more of the conditions set out in a decision adopted;

- has already been implemented and is declared incompatible with the competitive environment.

27. Does the law contain prescription periods? What is their duration?

Yes, the Law provides the prescription periods for the application of fines of the procedural rules violation and for violation of the Law substantive rules.

The prescription periods for the application of sanctions are the following:

- one year, in case of infringements related to unfair competition;
- three years, in case of deeds deemed to be infringement of the procedural norms of competition legislation
- five years, in case of all other violations of the Competition Law provisions.

The prescription period shall begin to run on the date on which the infringement is committed. In the case of continuous or repeated infringements, the prescription period shall run from the date on which the infringement ceases.

Competition law does not provide for prescription periods for the enforcement of fines. The Competition Council applies in a subsidiary manner the provisions of the Administrative Code of the Republic of Moldova No 116/2018¹⁵. The term begins to run from the day on which the administrative act becomes enforceable.

28. Does the law contain limitation periods? What is their duration?

Art. 82 provides the rules applicable to the interruption of the limitation period for the application of sanctions, and Art. 83 provides the rules applicable to the suspension and interruption of the limitation period for the execution of sanctions.

29. Does the law provide for the right to be heard, including the right of access to files?

Yes, the Competition Law provides for the right to be heard, ensures the right of access to the file and establishes the modalities of access to the file. The parties to whom the investigation report has been transmitted are entitled to request hearings. Hearings are requested by the parties in writing with the submission of comments

¹⁵ Administrative Code of the Republic of Moldova No 116/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129135&lang=ro#

on the investigation report. The hearings may also be arranged ex officio by the President of the Competition Council.

Undertakings and associations of undertakings subject to the procedures carried out by the Competition Council have the right of access to the Competition Council's file, subject to the legitimate interest of the undertakings to protect their trade secrets. The right of access to the file does not include access to confidential information and internal documents of the Competition Council, to the correspondence of the Competition Council with the competition authorities from other states. Access to the file will be provided, upon written request, only once following the submission by the Competition Council of the investigation report for the submission of comments.

30. Does the law lay down the rights of third parties?

Art. 58 para. (3) of the Competition Law regulates the right of interested third parties to submit comments within a set time limit in cases where the Plenum of the Competition Council intends to adopt a decision accepting the binding commitments for the company.

Art. 64 para. (3) of the Competition Law provides that, where it is considered appropriate, the President of the Competition Council Plenum may order or admit the hearing of other legal or natural person. The requests of hearing these persons shall be approved in the event they prove adequate interest. Where these persons' requests are approved, they shall be passed on, if appropriate, upon request, a copy of the non-confidential version of the investigation report.

31. Does the law provide for judicial review of the competition authority's decisions? If yes, how many decisions of the competition authority have been upheld and annulled by the courts?

Yes, the decisions and provisions of the Competition Council and the orders to carry out inspections may be appealed within 30 days from the date of receipt by the parties in the competent administrative court, without prior application.

The courts may reduce or increase the fines or penalty payments enforced, and in the event they find that the decision on establishing the infringement and/or fine or penalty payment enforcement is groundless and/or is made with the procedure infringement, these may cancel the enforced fines or penalty payments.

Information on the number of decisions of the Plenum of the Competition Council maintained and annulled by the national courts during the years 2020-2021

Year	Decisions of the Plenum of the Competition Council maintained	Decisions of the Plenum of the Competition Council annulled
2020	12	4
2021	11	0

32. Does the law provide for the publication of the decisions of the competition authority?

Yes, the decisions and the prescriptions of the Competition Council Plenum shall be published on the web page of the Competition Council. The decisions and the prescriptions shall be published taking account of the legitimate interest of the undertakings as to the protection of the commercial secrets.

33. Can third parties bring cases before domestic courts on a possible breach of competition rules that affects their interests?

No, the Competition Council has exclusive competence in taking decisions regarding the finding and sanctioning of competition Law infringements.

34. Does the law foresee the possibility of private damages actions in cases of infringement of competition rules?

The Competition Law provides the prejudice repairing caused by prohibited anticompetitive practices. Independently of the applied sanctions in compliance with the provisions of the present law, the right to action of the natural and/or legal persons for the integral repairing of the prejudice caused by an anticompetitive practice prohibited by the present law, shall remain reserved.

The natural and/or legal persons, considering themselves prejudiced by an anticompetitive practice prohibited by the present law, shall be able to submit request for compensation within one year from the date on which the decision of the Competition Council, on which the action is grounded, remained final or was maintained, entirely or in a part, by a final and irrevocable court decision.

35. Is the competition authority consulted on draft laws that may affect competition?

The Competition Council Plenum issues opinions on the drafts of legislative acts and other normative acts which may have anti-competitive impact and

recommends the amendment of those which have or may have anti-competitive impact.

Also, Art. 32 para. (2) of Law No. 100/2017 on the normative acts, stipulates that the drafts of the normative acts that regulate the economic activity are sent for approval to the Competition Council.

36. Please provide information on the enforcement record of the authority charged with implementing competition law. In particular, for the years 2020 and 2021, indicate the number of negative decisions or decisions imposing remedies in cases concerning restrictive? agreements, abuses of dominant position and mergers. For each year, specify the number of decisions imposing fines and the amount of the fines.

In 2020, the Competition Council completed 14 cases of investigation of the abuse of dominant position, anticompetitive agreements and mergers, of which in 10 cases was found the violation of the Competition Law provisions and sanctions were applied.

In 2021, 12 cases of investigation of the abuse of dominant position, anticompetitive agreements and mergers, were completed, of which in 8 cases was found the violation of the Competition Law provisions and sanctions were applied.

No commitments were proposed in any investigation. The table with the systematized information is presented below:

Infringement of art. 11 - abuse of dominant position

Reference year	Total completed cases	Completed cases with finding of infringement of art. 11	Cases completed with the finding of the lack of infringement of art. 11	Total amount of imposed fines mln/MDL
2020	5	3	2	286,405 mln.
2021	1	-	1	-

Infringement of art. 5 – anticompetitive agreements

Reference year	Total completed cases	Completed cases with finding of infringement of art. 5	Cases completed with the finding of the lack of infringement of art. 5	Total amount of imposed fines mln/MDL
2020	-	-	-	-
2021	2	1	1	129,6 mln.

Infringement of art. 20 și 22 - mergers

Reference year	Total completed cases	Completed cases with finding of	Cases completed with the finding of the lack of	Total amount of imposed fines mln/MDL
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		infringement of art. 20, 22	infringement of art. 20, 22	
2020	9	7	2	37, 293 mln.
2021	9	7	2	1, 0526 mln.

II. STATE AID

37. Which authorities are competent on State aid control issues? Is there a law on State aid control which reflects Article 107 and 108 TFEU? Under the State aid legislation, what is the definition given to State aid? Under the State aid legislation, is there a general prohibition of State aid? What are the criteria laid down in the legislation for compatibility of State aid?

The Competition Council of Moldova is the only authority responsible for State aid control issues. According to Article 2 of the Law on State Aid, the authority holding the authorization, monitoring and reporting of state aid is the Competition Council.

The Law on State Aid No.139/2012¹⁶ reflects Articles 107 and 108 TFEU as given in the next chart:

<i>The Treaty of the Functioning of the European Union</i>	<i>Law No. 139/2012 on State Aid</i>
<p>Art. 107</p> <p>1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market. 2. The following shall be compatible with the internal market: (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned; (b) aid to make good the damage caused by natural disasters or exceptional occurrences; (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point. 3. The following may be considered to be compatible with the internal market: (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation; (b) aid to promote the execution of an important project of common European interest or to remedy a serious</p>	<p>Art. 4 Compatible State Aid</p> <p>The following categories of state aid are considered to be compatible with the normal competitive environment and are exempted from the obligation to notify the Competition Council:</p> <ul style="list-style-type: none"> a) Social aid granted to individual consumers provided that such aid is granted without discrimination related to the origin of the products concerned; b) aid to make good the damage caused by natural disasters or exceptional occurrences; <p>Art. 5 State aid that may be compatible</p> <p>The following categories of State aid may be considered to be compatible with the normal competitive environment:</p> <ul style="list-style-type: none"> a) Aid intended to remedy a serious disturbance of the economy; b) Aid for employee training and creation of new jobs; c) Aid for small and medium enterprises; d) Aid for research, development, and innovation; e) Aid for environmental protection; f) The aid granted to the beneficiaries that provide services of general economic interest; g) The aid granted for rescuing the beneficiaries in difficulty; h) Aid for the establishment of enterprises by women entrepreneurs; i) Sectorial aid depending on the sectors of activity of the national economy; j) Aid for regional development.

¹⁶ The Law on State Aid No 139/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121239&lang=ro

<p>disturbance in the economy of a Member State; 26.10.2012 Official EN Journal of the European Union C 326/91 (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest; (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest; (e) such other categories</p>	<p>(3) Granting the state aid, except for the derogations established in Article 4 and this article is considered incompatible with the normal competitive environment.</p>
<p>Art. 108 The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market. 2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the internal market having regard to Article 107, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission. If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 258 and 259, refer the matter to the Court of Justice of the European Union direct. On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from the provisions of Article 107 or from the regulations provided for in Article 109, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known. If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall give its decision on the case. 3. The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the internal market having regard to Article 107, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its</p>	<p>Art. 12 Measures on existing state aid If, as a result of the monitoring activity of the existing state aid, the Competition Authority establishes that the existing aid shall not be any more deemed compatible with the present law, it shall request the state aid provider or/and initiator to undertake necessary measures in order to remove incompatibilities at issue.</p> <p>Art. 13 The procedures regarding the abusively used and illegal aid (1) If holding information regarding the granting of an illegal or abusively used aid, the Competition Authority shall initiate the procedure of examining the competition protection legislation infringement and shall request the state aid provider or/and initiator to submit all the necessary information in order to make a decision on the aid at issue. (2) The Competition Authority may approve within a time limit of 30 working days a prescription by which requests the state aid provider and/or initiator to suspend granting the state aid at issue until the decision on its compliance with the present law is made. (3) Where the Competition Authority issues a negative decision, the initiator or/and supplier, shall undertake the necessary measures regarding the 10 annulment/amendment of the act by which the state aid was granted, respectively regarding the recuperation or reimbursement of the granted state aid including the interest related to its sum;</p>

<p>proposed measures into effect until this procedure has resulted in a final decision. C 326/92 EN Official Journal of the European Union 26.10.2012</p> <p>4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article 109, determined may be exempted from the procedure provided for by paragraph 3 of this Article.</p>	
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According to Art. 3, para (1) of the Law No. 139/2012, State aid represents any support measure that fulfills cumulatively the following conditions:

- Is granted by the provider from the state resources or resources of administrative/territorial units, in any form;
- Gives an economic advantage to its beneficiary which would not be possible to gain under normal market conditions;
- Is given on a selective basis;
- Distorts or is likely to distort competition.

Any state aid, other than the existent aid or the one exempted from the obligation of notification pursuant the present law, which was granted without the Competition Authority's authorization or which was granted under the conditions in which the Competition Authority was notified but it has not adopted a decision on it within the legal time limit is considered an illegal aid according to Art. 3 of the Law No. 139/2012 on state aid.

The assessment of the compatibility with the regular competition environment, for each category of state aid, is carried out based on the normative acts of the Competition Authority, prepared pursuant to the observance of the provisions of the Law No. 235/ 2006 on fundamental principles of regulating the entrepreneurial activity¹⁷ and refers to: a) The goal and the scope of the state aid; b) The conditions for granting aid; c) The categories of beneficiaries of the aid; d) The thresholds, expressed either as the intensity of the state aid in comparison with the total eligible costs, or a maximum value of the state aid; e) The conditions regulating the state aid accumulation; f) Monitoring conditions.

¹⁷ Law No. 235/2006 on fundamental principles of regulating the entrepreneurial activity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107358&lang=ro

38. To what extent does the legislation reflect the EU regulations, guidelines and communications adopted for the implementation of Articles 107 and 108 and Article 106 TFEU (e.g. on certain State aid instruments, or on State aid to certain sectors or for certain objectives)?

Table of the compliance of the legislation on state aid of the Republic of Moldova with the EU legislation

No.	Legal act of the Republic of Moldova	Transposes EU Regulations/guidelines/Communications (fully/partial)
1	Law No.139/2012 on state aid	<ul style="list-style-type: none"> - Transposed: Art.87 and 88 of the TCE ; - Partially transposed: Council Regulation (EC) No.659/1999 of 22 March 1999 laying down detailed rules for the application of Art.93 of the TEU; - Council Regulation (EC) No.1407/2002 of 23 July 2002 on state aid to the coal industry; - Commission Regulation (EC) No.800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Art. 87 and 88 of the Treaty; - Commission Regulation (EC) No.1998/2006 of 15 December 2006 on the application of Art. 87 and 88 of the TEU to de minimis aid; - Commission Regulation (EC) No.1628/2006 of 24 October 2006 on the application of Art. 87 and 88 of the TEU to national regional investment aid; - Commission Regulation (EC) No.2204/2002 of 5 December 2002 on the application of Articles 87 and 88 of the TEU to State aid for employment; - Commission Regulation (EC) No.68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the TEU to training aid, , as later amended by Commission Regulation 363/2004 of 25 February 2005; - Commission Decision of 28 November 2005 on the application of Article 86(2) of the TEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest; - Community framework for State aid in the form of public service compensation (2005/C 297/04); - Community Framework for State aid for Research and Development and Innovation (2014/C 198/01); - Community framework for State aid measures to support access to finance in the current financial and economic crisis (2009/C 83/01); - Guidelines on regional aid for 2007-2013; - Guidelines on State aid for Environmental Protection; - Commission Green Paper of 21 May 2003 on services of general interest (COM (2003) 270); - Communication (CE) Rescue and restructuring aid and closure aid for the steel sector (2002/C 315);

		<ul style="list-style-type: none"> - Commission Guidelines on state aid to promote risk capital investments in small and medium sized enterprises (2006/C 194/02); - Communication from the Commission concerning the State aid assessment criteria of the Commission communication on certain legal aspects relating to cinematographic and other audiovisual works (Cinema Communication) of 26 September 2001 (Text with EEA relevance) (2009/C 31/01); - Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to Small and Medium-sized Enterprises.
2	Regulation on de minimis aid (<i>the Competition Council Plenum Decision No.01/2020</i>) ¹⁸	<p>Partially transposed:</p> <ul style="list-style-type: none"> - Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Art.107 and 108 of the Treaty on the Functioning of the European Union (hereinafter – TFEU) to de minimis aid
3	Regulation on state aid for regional development (<i>the Competition Council Plenum Decision No.02/2020</i>) ¹⁹	<p>Partially transposed:</p> <ul style="list-style-type: none"> - Art.107 TFEU - Commission Regulation (EC) No. 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty Text with EEA relevance - Communication (CE) Guidelines on regional state aid for 2014-2020 (2013/C 209/01)
4	Regulation on state aid for environmental protection (<i>the Competition Council Plenum Decision No.03/2020</i>) ²⁰	<p>Partially transposed:</p> <ul style="list-style-type: none"> - Commission Regulation (EU) No.651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Art.107 and 108 of the TFEU - Communication (CE) Guidelines on state aid for environmental protection and energy 2014-2020 (2014/C 200/01)
5	Regulation on state aid granted for the beneficiaries which provide services of general economic interest (<i>the Competition Council Plenum Decision No.11/2013</i>) ²¹	<p>Partially transposed:</p> <ul style="list-style-type: none"> - Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest;

¹⁸ Regulation on de minimis aid, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123789&lang=ro

¹⁹ Regulation on state aid for regional development, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125024&lang=ro

²⁰ Regulation on state aid for environmental protection, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125402&lang=ro

²¹ Regulation on state aid granted for the beneficiaries which provide services of general economic interest, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=10463&lang=ro

		<ul style="list-style-type: none"> - Decision of Court of Justice of the European Union, Cause C-280/00 - Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest (2012/C 8/02) - Communication from the Commission on European Union framework for State aid in the form of public service compensation for the public service obligation (2012/C 8/03)
6	Regulation on the assessment of culture and heritage conservation (<i>the Competition Council Plenum Decision No.3/2016</i>) ²²	Partially transposed: <ul style="list-style-type: none"> - Art.107 of TFUE - Commission Regulation (EU) No.651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Art.107 and 108 of the TFUE - Commission Notice on the notion of State aid as referred to in Art.107(1) of the TFUE (2016/C 262/01)
7	Regulation on the assessment of state aid granted to the public service broadcasting (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: <ul style="list-style-type: none"> - Commission Decision of 20 December 2011 on the application of Article 106(2) of the TFUE to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU) - Communication from the Commission on the application of State aid rules to public service broadcasting (2009/C 257/01)
8	Regulation on the assessment of state aid granted to sport infrastructures and multifunctional recreational infrastructures (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: <ul style="list-style-type: none"> - Art. 107 TFUE - Commission Regulation (EU) No.651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Art.107 and 108 of the TFUE
9	Regulation on the assessment of state aid granted for the rapid deployment of broadband networks (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: Communication from the Commission - Community Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01)
10	Regulation on the assessment of state aid granted to the steel sector (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: Communication from the Commission — Rescue and restructuring aid and closure aid for the steel sector (2002/C70/05)
11	Regulation on the assessment of state aid granted to films and other audiovisual works (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: Communication from the Commission on state aid for films and other audiovisual works (2013/C 332/01)
12	Regulation on the assessment of state aid granted to public passenger transport services by rail and by road (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: <ul style="list-style-type: none"> - Regulation (EC) No.1370/2007 of the European Union and the Council of 23 October 2007 on public passenger transport services by rail and by road - Communication from the Commission on the application of the European Union State aid rules to

²² Regulation on the assessment of culture and heritage conservation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=100262&lang=ro

		compensation granted for the provision of services of general economic interest (2012/C 8/02)
13	Regulation on the assessment of state aid granted to ship management companies (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: Communication from the Commission providing guidance on State aid to ship management companies (2009/C 132/06)
14	Regulation on the assessment of the state aid granted to the postal services (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services (98/C 39/02)
15	Regulation on the assessment of state aid granted for railway undertakings (<i>the Competition Council Plenum Decision No.3/2016</i>)	Partially transposed: - Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area - Communication from the Commission Community guidelines on State aid for railway undertakings (2008/C 184/07)
16	Regulation on the notification form, procedure of examination and approval of decisions on state aid (<i>the Competition Council Plenum Decision No.1/2013</i>)	Partially transposed: - Commission Regulation (EC) No.800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Art. 87 and 88 of the Treaty - Commission Regulation (EC) No.1998/2006 of 15 December 2006 on the application of Art. 87 and 88 of the TEU to de minimis aid - Commission Regulation (EC) No.794/2004 as of 21 April 2004 implementing Council Regulation (EC) No.659/1999 laying down TEU - Council Regulation (EC) No.659/1999 of 22 March 1999 laying down detailed rules for the application of Art.93 of the TEU - Common Principles for an economic assessment of the compatibility of state aid under art. 87.3
17	Regulation on state aid register (<i>the Competition Council Plenum Decision No.3/2013</i>) ²³	Partially transposed: Commission Regulation (EC) No.794/2004 of Commission of 21 April 2004 implementing Council Regulation (EC) No. 659/1999 lying down detailed rules for the application of Art. 93 of the TEU
18	Regulation on state aid for training employees and jobs creation (<i>the Competition Council Plenum Decision No.5/2013</i>) ²⁴	Partially transposed: - Commission Regulation (EC) No.794/2004 of Commission of 21 April 2004 implementing Council Regulation (EC) No. 659/1999 lying down detailed rules for the application of Art. 93 of the TEU - Commission Regulation (EC) No.800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Art. 87 and 88 of the Treaty

²³ Regulation on state aid register, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=97726&lang=ro

²⁴ Regulation on state aid for training employees and jobs creation, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=39769&lang=ro

19	Regulation on state aid for the creation of enterprises by women entrepreneurs (<i>the Competition Council Plenum Decision No.7/2013</i>) ²⁵	Partially transposed: Commission Regulation (EC) No.800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Art.87 and 88 of the TEU
20	Regulation on State rescue aid for beneficiaries in difficulty (<i>the Competition Council Plenum Decision No.6/2013</i>) ²⁶	Partially transposed: - Commission Regulation (EC) No.794/2004 as of 21 April 2004 implementing Council Regulation (EC) No.659/1999 laying down detailed rules for the application of Art.93 of the TEU - Community Guidelines on state aid for rescuing guidelines on state aid for rescuing and restructuring firms in difficulty (2004/C 244/02)
21	Regulation on state aid for research, development and innovation (<i>the Competition Council Plenum Decision No.8/2013</i>) ²⁷	Partially transposed: - Commission Regulation (EC) No.800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Art. 87 and 88 of the TEU - Commission Regulation (EC) No.794/2004 as of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Art. 93 of the TEU - Community framework for state aid for research and development and innovation (2006/C 323/01)
22	Regulation on state aid granted to small and medium-sized enterprises (<i>the Competition Council Plenum Decision No.10/2013</i>) ²⁸	Partially transposed: - Commission Regulation (EC) No.800/2008 as of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Art. 87 and 88 of the TEU - Commission Regulation (EC) No.794/2004 as of 21 April 2004 implementing Council Regulation (EC) No.659/1999 laying down detailed rules for the application of Art. 93 of the TEU - Commission Guidelines on state aid to promote risk capital investments in small and medium sized enterprises (2006/C 194/02)
23	Regulation on state aid intended to remedy a serious disturbance in the economy (<i>the Competition Council Plenum Decision No.12/2013</i>) ²⁹	Partially transposed: - Communication from the Commission on the treatment of impaired assets in the Community banking sector (2009/C 72/01) - Communication from the Commission on the Recapitalization of financial institutions in the current financial crisis: limitation of aid to the minimum

²⁵ Regulation on state aid for the creation of enterprises by women entrepreneurs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=39770&lang=ro

²⁶ Regulation on State rescue aid for beneficiaries in difficulty, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=10443&lang=ro

²⁷ Regulation on state aid for research, development and innovation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=40454&lang=ro

²⁸ Regulation on state aid granted to small and medium-sized enterprises, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=56571&lang=ro

²⁹ Regulation on state aid intended to remedy a serious disturbance in the economy, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=10465&lang=ro

		<p>necessary and safeguards against undue distortions of competition (2000/C 10/03)</p> <ul style="list-style-type: none"> - Communication from the Commission on the Temporary framework for state aid measures to support access to finance in the current financial and economic crisis (2009/C 83/01) - Communication from the Commission on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules (2009/C 195/04) - Communication from the Commission on the application of state aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis (2008/C 270/02)
24	Regulation on the assessment of the state aid for financing of airports and start-up aid to airlines (<i>the Competition Council Plenum Decision No.4/2014</i>) ³⁰	<p>Partially transposed:</p> <p>Communication from Commission – Community Guidelines on financing of airports and start-up aid to airlines departing from regional Airports (2005/C 312/01)</p>

39. Please describe the State aid authority, including the institutional set-up and information on the staffing situation (organisational structure, number of staff, etc.). By whom and according to which criteria and procedure are its board members appointed? To what extent is this institution independent from State aid granting authorities? Is it attached to or part of another administration, e.g. a ministry? Is this authority able (i) to take decisions independently, free from political interference and to neither seek nor take instructions from any government, or other institution, body, or office; (ii) to exercise their powers transparently and impartially, with appropriate rules on conflict of interests; (iii) to have adequate and stable human and financial resources.

According to the Art.2 of the Law No. 139/2012 on state aid, Competition Council is the authority entitled with functions of authorizing, monitoring, and reporting of the state aid.

Competition Council is an autonomous public authority, liable towards the Parliament of the Republic of Moldova, which ensures the application and enforcement of the legislation regarding state aid, in the limits of its compliance.

Competition Council is independent in exerting its functions.

The Competition Council consists of the administration, executive body consisting of specialized and operational subdivisions, and territorial branches.

Within state aid divisions there are 25 personnel units approved, of which only 12 units are covered with staff, which is 48%.

³⁰ Regulation on the assessment of the state aid for financing of airports and start-up aid to airlines, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=61438&lang=ro

Within territorial offices divisions, with competences in both competition and state aid, there are 12 personnel units approved, of which only 9 units are covered with staff, which is 75%.

Staff structure on state aid by functional unit (% of total), 2022

Functional units	Number of positions as provided for by the organisational structure	Actual member of positions filled as of Aprilie 2022	Employment rate %
State Aid Divisions			
Sectoral State Aid Division	6	3	50%
Horizontal State Aid Division	6	3	50%
Regional Development State Aid Division	6	4	67%
State Aid Monitoring and Reporting Division	7	2	29%
Territorial Offices Division	12	9	75%
Total	37	21	57%

The administration consists of the Competition Council's Plenum.

The Competition Council Plenum is a collegial body and consists of 5 members, including one President of the Plenum of the Competition Council, two Vice Presidents of the Competition Council Plenum, and two members of the Competition Council Plenum who are respectively President and Vice presidents and members of the Competition Council. The members of the Competition Council Plenum fulfill public dignity functions and are appointed by the Parliament decision, at the proposal of the Speaker of the Parliament with the endorsement of the relevant parliamentary commission for a five year term. The Speaker of the Parliament proposes, as well, the candidature of the Competition Council President. Each member of the Competition Council is entitled to two consecutive mandates.

As a member of the Plenum of the Competition Council can be appointed the person holding the citizenship of the Republic of Moldova, having higher education, professional competence, good reputation, has not in the last 5 years, in the professional integrity record, registered the negative result of the test of professional integrity for violation of the obligation stipulated in the Law No. 325/2013 on the assessment of institutional integrity, and has at least 10 years' work experience in economic, competition or legal activities.

The organization and activity of the Competition Council is grounded on the principles of autonomy, independence and collegiality.

To such a degree, organised as an independent institution, the Competition Council is independent of the state aid providers.

Within its remit, the Plenum of the Competition Council takes decisions finding whether the notified measures do not constitute state aid, decisions on authorization of the state aid, conditional authorization, and prohibition of state aid and recovery of abusively used or illegal state aid.

The decisions approved by the Plenum of the Competition Council in the field of state aid are published on the website of the Competition Council. And, the operative part of the decisions are published in the Official Monitor of the Republic of Moldova, taking into account the interest of the parties and ensuring the protection of information that constitutes a state secret or a commercial secret.

Concurrently, the reports on the state aid granted in the Republic of Moldova are published on the website of the competition authority, as well as in the Official Monitor.

The Competition Council holds the Automated Information System State Aid Register, on the public side of which are presented the support measures reported annually by the suppliers.

40. What are the competences of the State aid authority? How do they compare to the powers laid down in Council Regulation (EU) 2015/1589?

Pursuant to Article 39 of the Law of competition № 183/2012, the Competition Council, which is the only State aid authority in Moldova, has the next competencies:

- drafting the necessary normative acts for enforcing the competition legislation, legislation on state aid and advertising, in the limits of its competence;
- addressing to competent bodies on the incompatibility of the legislative and normative acts adopted with the competition legislation, legislation on state aid and advertising, in the limits of its competence;
- investigation of anticompetitive practices, unfair competition and other infringements of the legislation regarding the competition legislation, legislation on state aid and advertising, in the limits of its competence, provided for by the present law;
- investigation of anticompetitive practices, unfair competition and other infringements of the legislation regarding the competition legislation, legislation on state aid and advertising, in the limits of its competence, provided for by the present law;
- by decision of the Competition Council, ascertains the infringements of the legislation regarding the protection of competition, advertising and state aid, applies interim measures as to the termination of the

infringements denounced and enforces sanctions for the commitment of the infringements, within its competence;

- exercise the authorization, monitoring and reporting of the state aid;
- carries out other tasks in compliance with the competition legislation, legislation on state aid and advertising, in the limits of its competence.

Thus, the Competition Law No. 183/2012 transposes the powers laid down in Council Regulation (EU) 2015/1589 in the part related to monitoring and reporting the state aid, investigation of infringements of the legislation on state aid and addressing to competent bodies on the incompatibility of the legislative and normative acts adopted with the competition legislation, legislation on state aid and advertising, in the limits of its competence.

41. To what extent are the State aid authority's decisions binding?

The decisions of the Competition Council made in compliance with the Law on State Aid are final and binding for all parties. In accordance with Article 17 of the Law on State Aid the decisions of the Competition Council made in compliance with the Law on State Aid can be appealed in court by the interested person pursuant to the Law on Administrative Contentious. The appeal of a decision does not suspend the obligation to comply with it unless the court decides otherwise.

42. Can the State aid authority ask for the recovery of unlawful and incompatible State aid, with interests?

In accordance with Articles 13 and 14 of the Law on State Aid, the Competition Council has competence to decide on the recovery of the granted unlawful and incompatible state aid with interest. The initiator and/or provider of the state aid, as a result of the Competition Council's decision, shall amend/repeal the legal act by which the illegal or abusively used state aid was granted, and respectively, shall decide upon the recovery of the granted state aid, as well the related interest, and the beneficiary shall be obliged to return the granted state aid.

43. Can the State aid authority investigate measures ex officio? Can the State aid authority proceed to market investigations into sectors and aid instruments?

Pursuant to Article 13 paragraph (1) of the Law on State Aid if holding information regarding the granting of an illegal or abusively used aid, the Competition Council shall initiate the procedure of examining the competition protection legislation infringement and shall request the state aid provider or/and initiator to submit all the necessary information in order to make a decision on the aid at issue. Also in accordance with article 20 paragraph (2) of the Law on State Aid the cases of

infringement of the legislation on the state aid shall be examined by the Competition Council at referral or ex officio, grounded on the materials it hold regarding the infringement of current legislative and normative enactments. Taking into account those mentioned, the Competition Council can proceed to market investigations into sectors and aid instruments.

44. Is there a system in place to examine complaints by third parties?

According to Article 18 of the Law on State Aid, the Competition Council publishes, including on its own website, information on the notifications received and the decisions to initiate the examination procedures and makes the requested information available to interested parties.

Anyone interested may inform the Competition Council of any allegedly unlawful State aid or misuse of State aid.

A person who has given his or her opinion or who has informed the Competition Council of any allegedly unlawful or allegedly misused State aid may request that his or her identity be kept secret.

In accordance with points 91 and 92 of the Decision of the Competition Council No. 1 of 30.08.2013 on the approval of the Regulation on the form of notification, examination procedure, and adoption of decisions on state aid:

- A person who considers that his or her interests have been affected by the granting of State aid alleged to be illegal or misused may lodge a complaint with the Competition Council.
- The complaint form is provided in annex No. 4 to this Regulation. The form should be completed by the complainant and truthful information regarding the granting of unlawful State aid should be provided.

45. Is the State aid authority subject to certain deadlines to adopt decisions? Which ones?

Pursuant to Article 10 paragraph 3 of the Law on state aid, the Competition Council is obliged to make a decision on the notification for State aid within a maximum of 45 days from the day of receipt of the complete notification.

Pursuant to Article 11 paragraph 1 of the Law on state aid, the procedure of examination of cases of infringing the state aid legislation shall be carried out in compliance with the Competition Law No. 183/2012 and shall not exceed the duration of 120 working days.

46. How many decisions on aid measures were adopted in 2020 and 2021? How many negative or conditional decisions were adopted in each of these two years? Have there been any decisions ordering the recovery of unlawful aid since the law on State aid control came into force?

In 2020-2021 the Competition Authority adopted 36 decisions, namely 11 decisions – in 2020 and 25 decisions – in 2021. None of these decisions relates to non-notified aid measures, but in a number of cases, due to unawareness of rules, the grantors have firstly granted State aid and afterwards apply for its approval. Such applications were approved by the Council ex post.

In the previous two years, the Competition Council did not issue any negative or conditional decision.

Since the entry of the Law on state aid in force in 2013, the Competition Council has not issued any decision of recovery of unlawfully granted State aid.

47. Has an inventory of the existing State aid schemes (i.e. instituted before the establishment of the State aid authority) been established? What is the state of play regarding the alignment of these schemes?

According to Article 341 of the Association Agreement, one of the commitments assumed by the Republic of Moldova is the alignment of state aid schemes established before 16.08.2013 to the EU acquis on state aid, within 8 years from the date of entry into force of the Association Agreement. The exception is the state aid schemes established under Law No. 440/2001³¹ on free economic zones for which the period has been extended up to 10 years from the date of entry into force of the Association Agreement.

The alignment of the existing state aid schemes represents the bringing in line with the support measures implemented until the entry into force of the Law on state aid with the provisions of the legislation in the field. Thus, in aligning the existing state aid schemes, the Competition Council in collaboration with the suppliers was to identify whether the reported support measures are in place and whether they fall within the provisions of the state aid legislation. In case of identification of the incompatibility of a support measure related to the provisions of the legislation in the field of state aid, it is to be compatible with the regulations in the field or to stop its implementation.

In accordance with the commitments assumed in the Moldova-EU Association Agreement, on 31.12.2021, 142 schemes (82%) were aligned, out of the total of 173 existing state aid schemes until the entry into force of the Law on state aid.

³¹ Law No. 440/2001 on free economic zones, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111437&lang=ro

A. Liberalisation General aspects

48. Is the competition and State aid legislation fully applicable to public undertakings and undertakings with special or exclusive rights, in accordance with Article 106 TFEU?

Competition legislation of the Republic of Moldova is applied to all enterprises invested with exclusive rights, regardless of their legal status and method of financing. It has to be remarked that the notion of exclusive rights provided in the Competition Law includes also aspects related to special rights.

When it comes to companies entrusted with the performance of services of general economic interest, Art. 5, Para (1) (f) of the Law 139/2012 on state aid stipulates that the state aid for these services may be considered compatible with the regular competition environment, which fact is in accordance with article 106 of the TFEU.

49. Which public or private undertakings have been granted exclusive or special rights?

In order to execute the action provided by the Action Plan regarding the implementation of the National Program in the field of competition and state aid for the years 2017–2020, approved by Law No. 169/2017³², the Competition Council has identified the following companies invested with exclusive rights:

- “Center of Information Technologies in Finance” Public Institution
- “State Chamber for Marking Supervision” Public Institution
- “Public Service Agency” (PSA) Public Institution
- “State Service for Verification and Expertise of Projects and Constructions” State Enterprise
- National Research and Design Institute “Urbanproiect”
- “Design Institute for Territorial Organization” State Enterprise
- “Institute of Geodesy, Technical Prospections and Cadastre “Ingeocad” State Enterprise
- “Termoelectrica” Joint Stock Company
- “Moldovagaz” Joint Stock Company
- “Energocom” Joint Stock Company
- “Moldelectrica” State Enterprise
- “Information Technology and Cyber Security Service” Public Institution
- “Radiocommunication” State Enterprise

³²Law No. 169/2017, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=105708&lang=ro

- “Moldtelecom” Joint Stock Company
- “Poșta Moldovei” State Enterprise
- “Mărculești International Airport” State Enterprise
- “Ungheni River Port” State Enterprise
- “Moldaeroservice” State Enterprise
- “Moldatsa” State Enterprise
- “Railway of Moldova” State Enterprise
- “Security Services” State Enterprise
- “Energy Shield” State Enterprise
- “State Station for Testing Machines” State Enterprise
- “National Accreditation Center of the Republic of Moldova” Public Institution
- “National Lottery of Moldova” Joint Stock Company

50. What are the subject, scope and duration of the relevant exclusive or special rights?

Regarding the duration for which the exclusive rights are granted, it is worth mentioning the lack of clear provisions in the national legislation, which would regulate the way of establishing the exclusive rights, such as: the granting procedure, duration, purpose, granting necessity.

Center of Information Technologies in Finance Public Institution

The Center of Information Technologies in Finance (CITF) is a public institution, whose founder is the Ministry of Finance, formed after the reorganization of SE "Fintehinform" with the absorption of SE "Fiscservinform" and SE "Vamservinform" operates in accordance with the statute's provisions, approved by the Government Decision No. 125/2018³³.

The institution has the following exclusive rights:

- The manufacture and sale to the State Fiscal Service of the standardized forms of primary documents with special regime.
- The process of producing and providing the services concerned contains elements of security and confidential data, the process of producing and providing the services concerned contains elements of security and confidential data, which pursues the interests of the state and imposes the need to ensure an adequate level of security.

³³Government Decision No. 125/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=118001&lang=ro

- The manufacture and sale of detailed customs declaration forms

The Customs Code³⁴ (Art. 174) and the Government Decision No. 294/1998³⁵ (Art. 3) establishes: “the Customs Service is entrusted with the centralized printing of the standardized forms of primary documents with special regime - Customs declaration in detail”. At the same time, in order to ensure all the purchase formalities, through art. 4 of the Government Decision No. 294/1998 the task of printing the forms mentioned on the basis of tenders was delegated to (CITF).

The maintenance of exclusive rights is justified by the fact that these services are of state importance, for which it is necessary to ensure security, quality and safety. The detailed customs declaration forms are of strict evidence, and the generation of the award series (single verified series) is carried out exclusively by the Customs Service.

- Assurance, development, maintenance and administration services of the functioning of the Public Finance Management Information System of the Ministry of Finance granted to SE “Fintehinform” (until reorganization), according to point 5 of the Government Decision No. 516/2005³⁶.
- The manufacture and sale with exclusive right of excise stamps for alcoholic production and the sale of excise stamps for tobacco articles, according to point 6 of the Government Decision No. 1427/2007³⁷ for the approval of the Regulation on the application and procurement manner of excise stamps on tobacco articles, and point 6 and point 7 of the Government Decision No. 1481/2006³⁸ on the marking of alcohol production.
- Technical and technological administrator services of the State Fiscal Service information system according to point 1 of the Government Decision No. 344/2009³⁹.
- The services of administration and ensuring the functioning of the management of external assistance platform (AMP), according to the provisions of point 6 of the Government Decision No. 377/2018⁴⁰.
- Operation, development, maintenance and administration services of the central data unit of the Automated Information System “State Register of

³⁴Customs Code of the Republic of Moldova No. 1149/2000, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129327&lang=ro#

³⁵Government Decision No.294/1998, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113005&lang=ro

³⁶Government Decision No. 516/2005, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=27235&lang=ro

³⁷Government Decision No. 1427/2007, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=126173&lang=ro

³⁸Government Decision No. 1481/2006, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125329&lang=ro

³⁹Government Decision No. 344/2009, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=31935&lang=ro

⁴⁰Government Decision No. 377/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=117564&lang=ro

Public Procurement” (MTender), according to point 3 of the Government Decision No. 705/2018⁴¹ on the approval of the Technical Concept of the Automated Information System "State Register of Public Procurement" (MTender).

State Chamber for Marking Supervision Public Institution

The Public Institution “State Chamber for Marking Supervision” (SCMS) is the successor of rights and obligations of the SE “State Chamber for Marking Supervision attached to the Ministry of Finance”, reorganized, by transformation, by Government Decision No. 112/2019⁴². SCMS is a public institution, within which the Ministry of Finance acts as the founder.

According to Art. 8 para. 3 lit. b) of Law No. 282/2004⁴³, establishes the state monopoly on the testing and marking of jewelry and other articles of precious metals and stones manufactured in the Republic of Moldova and those imported for sale, as well as on the expertise of marking fingerprints on precious metals and stones articles.

Thus, according to point 6 of the statute of the public institution "State Chamber for Marking Supervision", the SCMS has the following functions:

- the testing and marking of all articles of precious metals manufactured in the territory of the Republic of Moldova and / or introduced in the country for sale;
- the expertise of fingerprint markings on articles made of precious metals and precious stones;
- the expertise of precious metals and diagnosis of precious stones;
- the expertise of museum and archive values, made of precious metals and precious stones, etc.

Public Service Agency (PSA) Public Institution

It is a public institution established by Government Decision No. 314/2017⁴⁴, through the reorganization of the State Information Resource Center (SIRC) “Registry”, with the subsequent merger of the “Cadastru”, the “State Registration Chamber”, the Civil Status Service and the Licensing Chamber, within which the State Chancellery has the quality of founder.

⁴¹Government Decision No. 705/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113731&lang=ro

⁴²Government Decision No. 112/2019, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112990&lang=ro

⁴³ Law No. 282/2004 on the regime of precious metals and precious stones, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107543&lang=ro

⁴⁴Government Decision No. 314/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128920&lang=ro

- In accordance with points 6-7 of the STATUTE of the public institution "Public Services Agency", the PSA has the mission to coordinate and organize activities aimed at ensuring the implementation of public policies in the following areas of competence:
- information technology, state records and state information resources, including the creation, operation and registration of state information resources, state information systems, state records of the population, means of transport and drivers, as well as, production of strict blank forms and state signs;
- state registration of civil status documents and possession of the national archival fund;
- the creation and maintenance of the real estate cadastre, other information systems and domain registers, execution of cadastral and real estate valuation works, administration of the central real estate cadastre database, state registration of real estate and rights over them
- the regulation by licensing of the entrepreneurial activity in accordance with the legislation;
- state registration of legal entities, their subsidiaries and their representatives and of natural persons, individual entrepreneurs;
- other fields assigned by the normative acts in the competence of the Public Services Agency.

Consequently, PSA aims to facilitate and streamline the process of providing public services, acting in a public power regime in order to achieve public interests.

State Service for Verification and Expertise of Projects and Constructions State Enterprise

Thus, according to Art. 7 para. (3) of Law No. 721/1996 on quality in constructions⁴⁵, are entitled to carry out activities of construction design, management and verification of construction works, laboratory tests, internal quality control and management of the built fund by specialists certified as natural persons in their own name or as employees of economic operators carrying out these activities.

According to Art. 13 para. (2) of Law No. 721/1996, the verification and expertise of the projects regarding the observance of the normative documents regarding the essential requirements is carried out by the certified project verifiers from the authorized institutions in project verification.

At the same time, point 5 of Annex No. 1 to the Government Decision No. 361/1996⁴⁶ regarding the constructions quality assurance, verification and expertise of the project documentation for the construction objectives, financed from the state budget and from the budgets of the local public administration

⁴⁵Law No. 721/1996 on quality in constructions, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120454&lang=ro

⁴⁶Government Decision No. 361/1996, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94798&lang=ro

authorities, performed mainly by the State Service for Verification and Expertise of Projects and Constructions.

According to point 12 of the Regulation on technical expertise in constructions, approved by Government Decision No. 936/2006⁴⁷, the technical expertise of the constructions financed from the state budget and from the budgets of the local public administration authorities is mainly performed by the State Service for Verification and Expertise of Projects and Constructions.

National Research and Design Institute "Urbanproiect"

Government Decision No. 1170/2016⁴⁸ regarding the approval of the Regulation on the manner of transmission, change of destination and change of land (art. 27 para. (2) lit. d) of Annex No.1), the layout of the building and the urban networks, must be approved by the chief architect, the supervisory bodies, the National Research and Design Institute "Urbanproiect" (for all localities, except Chisinau municipality), the Municipal Design Institute "Chisinau Project" (for Chisinau municipality) and, as the case may be, the environmental agreement, issued by the competent authority in accordance with the provisions of Law No. 86/2014⁴⁹.

According to point 20 of the Regulation on the sale-purchase and lease/rent of the related lands, approved by Government Decision No. 1428/2008⁵⁰, the mayor and, respectively, the Agency for Land Relations and Cadastre, if necessary, will request opinions on the possibility of selling the related land from the environmental protection bodies, the Forestry Agency "Moldsilva", the institutes "Urbanproiect", "Industrialproiect", "Chişinăuproiect" and other interested bodies.

Design Institute for Territorial Organization State Enterprise

The enterprise was created based on the Government Decision No. 383/1990 and transferred to the subordination of the National Agency for Geodesy, Cartography and Cadastre by Government Decision No. 166/1997⁵¹, which was subsequently reorganized by Government Decision No. 357/2005⁵² in the Agency for Land Relations and Cadastre.

The enterprise provides exclusively the following services: identification works, quantitative and qualitative inventory, elaboration of cadastral plans of state-owned agricultural lands, services related to the completion of cadastral files on

⁴⁷Government Decision No. 936/2006, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=94798&lang=ro

⁴⁸Government Decision No. 1170/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=118977&lang=ro

⁴⁹Law No. 86/2014 on environmental impact assessment, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106006&lang=ro

⁵⁰Government Decision No. 1428/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113298&lang=ro

⁵¹Government Decision No. 166/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=51098&lang=ro

⁵²Government Decision No. 357/2005, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=13981&lang=ro

assignment, change of destination, transmission and exchange of land, in cases where the action falls within the Government's competence, as well as services that involve pedological investigations with the release of the conclusion, in case of land use change.

Institute of Geodesy, Technical Prospections and Cadastre "Ingeocad" State Enterprise

The legal acts that offer exclusive rights on the territory of the Republic of Moldova SE "Ingeocad" are:

- - Government Decision No. 567/2003⁵³ on the organization and technical-material assurance of the state border demarcating works between the Republic of Moldova and Ukraine - state border demarcation between the Republic of Moldova and Ukraine;
- - Government Decision No. 458/2017⁵⁴ for approving the public entities responsibilities regarding spatial data sets - responsible for spatial data sets.

Termoelectrica Joint Stock Company

JSC "Termoelectrica" provides services based on the Electricity License production Series AC No. 000653 as of 10.06.2008 and the Thermal Energy Supply, Distribution and Production License no.000654 as of 02.10.2015.

JSC "Termoelectrica" is the main producer of cogeneration electricity, producer, distributor and supplier of thermal energy in Chisinau.

The exclusive right attributed to the enterprise concerns the production, supply and distribution of thermal energy to consumers, organizations of the municipal housing fund, state institutions, budgetary / social-cultural institutions, economic agents, etc. in Chisinau.

Moldovagaz Joint Stock Company

Gas companies operate in a single system. Transmission system operators, distribution system operators and the supplier of JSC "Moldovagaz" collaborate in accordance with the principle of unique operational-technological management of the natural gas system.

JSC "Moldovagaz" is one of the biggest companies in the energy sector of the Republic of Moldova.

⁵³Government Decision No. 567/2003, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=11429&lang=ro

⁵⁴Government Decision No. 458/2017, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=114061&lang=ro

12 of the 13 operators of natural gas distribution systems in the Republic of Moldova are companies affiliated to JSC "Moldovagaz".

The company carries out its activity of natural gas supply based on the License issued by The National Agency for Energy Regulation of the Republic of Moldova (NAER) series AC No. 001402 as of 06.11.2018, valid until 05.11.2043.

Energocom Joint Stock Company

Created by Government Decision No. 1467/2004⁵⁵ on the creation of the State Enterprise "EnergoCom" in order to ensure the efficient and transparent functioning of the domestic electricity market, to promote electricity exports, to increase the investment attractiveness of the electricity sector objects.

According to point 1 of the Government Decision No. 885/2017⁵⁶ regarding the designation of the central electricity supplier, starting with 01.04.2018 and until 01.01.2021 JSC "Energocom" is designated as the central electricity supplier (CES).

CES's exclusive right is to sell to other suppliers fairly (in proportion to market share) and at a regulated price the quantities of electricity purchased.

Moldelectrica State Enterprise

The enterprise was entirely founded from the state capital in accordance with the provisions of Government Decision No. 1000/2000⁵⁷ on the creation of state-owned enterprises in the electricity sector and of the Order of the Ministry of Industry and Energy No. 92/2000 by separating the corresponding functional assets of SE "Moldtranselectro".

The exclusive rights assigned to Moldelectrica are:

- electricity transportation;
- central dispatching activity.

Information Technology and Cyber Security Service Public Institution

In order to execute the Government's Decision No. 414/2018⁵⁸ on measures to consolidate data centers in the public sector and to streamline the administration of state information systems, was created the IP "Information Technology and

⁵⁵Government Decision No. 1467/2004, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=27073&lang=ro

⁵⁶Government Decision No. 885/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125049&lang=ro

⁵⁷Government Decision No. 1000/2000, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110620&lang=ro

⁵⁸Government Decision No. 414/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128904&lang=ro

Cyber Security Service" (successor to the rights and obligations of the "Special Telecommunications Center" and the "Agricultural Information Center").

According to the statute approved by Government Decision No. 414/2018, the institution aims to ensure the administration, maintenance and development of information technology infrastructure, telecommunications system of public administration authorities, as part of the special communications network and state information systems, management of the unique infrastructure of Government's public key, as well as the implementation of state policy in the field of cyber security.

On 30.08.2019, based on the Government Decision No. 425/2019⁵⁹, Information Technology and Cyber Security Service (ITCSS) merged, by absorption, with SE "MoldData".

Thus, as a result of the reorganization, ITCSS also obtained the following exclusive rights: registration and maintenance of domain names *.md*, as well as registration of domain names *gTLD* and *newTLD*. At the same time, the enterprise (formerly SE "MoldData") has exclusive rights in relations with "Park Avenue capital" LLC, USA.

Radiocommunication State Enterprise

The State Enterprise „Radiocommunications" provides with exclusive rights the following services:

- broadcasting services of audiovisual programs via electrical communications networks (radio and TV broadcasts retransmission of the TV and radio providers);
- leasing of antennas or other equipment for the installation, by the undertakings, of various transmitters;
- wireless or cable radio services.

Moldtelecom Joint Stock Company

JSC "Moldtelecom" as owner and administrator of the telephone poles physical infrastructure, as well as a national telephone provider with significant market power, carries out its activity based on the following acts:

- the registration certificate to the State Registration Chamber (currently, PI „Public Services Agency);
- the enterprise status;

⁵⁹Government Decision No. 425/2019, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=116725&lang=ro

- licenses, patents, trademarks; and
- the informative statement issued by The National Regulatory Agency for Electronic Communications and Information Technology (ANRCETI).

Moldova Post State Enterprise

According to the provisions of Art. 25 of the Law No. 36/2016⁶⁰ on postal communications, universal postal service provider is designated SE “Moldova Post”, and according to Art. 28 of the Law No. 36/2016, the right to provide postal services having as object domestic and international correspondence weighing less than 100 g is reserved to the universal postal service provider.

The purpose of granting the exclusive right is to maintain services that can be reserved and without prejudice to the competition rules application in order to ensure the operation of the universal service in conditions of financial equilibrium.

The justification for the need to maintain this right lies in the fact that the universal postal service provider has the obligation to provide services throughout the Republic of Moldova, at the same rates, including in hard to reach or sparsely populated geographical areas, where the amount of correspondence is small and for this reason the activity is not profitable.

Mărculești International Airport State Enterprise

Founded on the basis of Government Decision No. 444/2002⁶¹ regarding the reorganization of the Mărculești military aerodrome in the airport of common disposition of the military and civil aviation and of the Order of the Minister of Defense No. 18 /2004 regarding the founding of the “Mărculesti International Airport” SE, the enterprise includes two components: Mărculesti International Airport and the Free Economic Zone.

Pursuant to the Law No. 178/2008⁶² on the Free International Airport "Mărculesti", it was created in order to accelerate the development of air transport, aeronautical services, export-oriented industrial production and foreign trade. For the activity of the airport was granted a land with a total area of 265.2295 ha, on which is located all the airport infrastructure, and the land is managed by the state enterprise "Mărculesti International Airport" as a general investor.

Law No. 178/2008, Art. 2 para. (2) and (3), the general investor are:

⁶⁰Law No. 36/2016 on postal communications, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121211&lang=ro

⁶¹Government Decision No. 444/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=31706&lang=ro

⁶²Law No. 178/2008 on the Free International Airport "Mărculesti", available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106799&lang=ro

- as a resident - practices the activity of production and repair of aircraft, special equipment and installations, the provision of ground services and the performance of air transport, as well as auxiliary types of activities necessary to carry out activities in the Free Airport;
- as an aerodrome operator - performs the aerodrome operation, servicing international flights, ensures the safety of aircraft landing and takeoff, guarding and servicing them, public order and aviation security according to the operating and safety requirements in force.
- Therefore, in addition to the general investor status, the company also has the status of a resident of this airport, which according to the status, its main activity is the rental of unmanned aircraft.

Ungheni River Port State Enterprise

Ungheni River Port - an enterprise founded by the Ministry of Transport and Infrastructure, is part of the Giurgiulesti Port Complex and is the administrator of the Giurgiulesti Passenger and Freight Port (GPFP).

The company operates under the Law No. 176/2013⁶³ on the internal naval transport of the Republic of Moldova.

SE "Ungheni River Port" has two well-defined development and activity priorities: PPMG, waterway cleaning and sand extraction from the Prut River.

Thus, over the years, the enterprise has been carrying out extraction works of useful mineral substances (white sand) from the Prut river basin, which were later traded as construction material on the domestic market of the Republic of Moldova.

Moldaeroservice State Enterprise

Enterprise, founded by the Ministry of Transport and Communications on August 26, 1966 is a component part of the Civil Aviation of the Republic of Moldova, having a national importance.

It is the only airline in the Republic of Moldova, which operates the "Balti-Leadoveni" international airport and provides air services with helicopters type Mi-2, aircraft type An-2, both in the national household of the Republic of Moldova, before and abroad and (Egypt, Algir, Iraq, Romania, Bulgaria, Turkey, Indonesia, Singapore, South Korea).

The mission of "Moldaeroservice" is to provide general aviation and aerial work services for the needs of agriculture, forestry, medical aviation and other activities carried out in the interest of developing the national economy. It provides with the

⁶³ Law No. 176/2013 on the internal naval transport of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106278&lang=ro

exclusive right search-rescue services and aerochemical services based on the air operator authorization No. Md 001.

Moldavian Air Traffic Services Authority State Enterprise (S.E. MOLDATSA)

In the context of the implementation of international norms in the field of civil aviation following the accession of the Republic of Moldova to the Convention on International Civil Aviation in 1994, by Government Decision No. 3/1994⁶⁴, the Moldavian Air Traffic Services Authority, the State Enterprise "Moldatsa" was established.

The purpose of the establishment was to provide air navigation services (ANS) in the airspace of Republic of Moldova, in accordance with international and national recommended procedures, standards and practices of the International Civil Aviation Organization (ICAO), in order to ensure the safety, regularity and efficiency of air navigation.

S.E. "MOLDATSA" provides the following services exclusively: the air traffic services (ATS), communication, navigation, surveillance services (CNS), aeronautical meteorological services (MET), aeronautical information services (AIM).

The normative acts according to which S.E. Moldatsa has exclusive rights on the territory of the Republic of Moldova are:

- Aviation Code of the Republic of Moldova No. 301/2017⁶⁵, Art. 40 (in force since 23.03.2019);
- Law No. 143/2012⁶⁶ on airspace control, Art. 10;
- Government Decision No. 3/1994 the establishment of the Moldavian Air Traffic Services Authority "Moldatsa" for the purpose of ensuring flights, improving the use of airspace and directing air traffic, according to ICAO recommendations for the organization of air traffic services;
- Annex No. 3 to the Government Decision No. 582/1995⁶⁷ on the regulation of monopolies, which lists the list of natural monopolies and public administration bodies empowered to regulate them. "State Administration of Civil Aviation - airports, building complexes and technical means of

⁶⁴Government Decision No. 3/1994, available in Romanian at:

<https://cdn01.moldatsa.md/moldatsaprod/140de78484090cc66256b9df653a84a7.PDF>

⁶⁵Aviation Code of the Republic of Moldova No. 301/2017, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=79683&lang=ro

⁶⁶Law No. 143/2012 on airspace control, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=15378&lang=ro

⁶⁷Government Decision No. 582/1995, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=93341&lang=ro#

airports, air traffic control systems, communication between aircraft and ensuring the security of takeoff and landing of aircraft";

- CAA 002 authorization certificate as of 16.12.2017 by which S.E. "Moldatsa" is certified as a provider of air navigation services.

State Enterprise Moldovan Railway

S.E. "Moldovan Railway" is the successor rights of the Moldovan Railway of the Ministry of Communications of the USSR, which came under the jurisdiction of the Republic of Moldova in accordance with the Decision of the Parliament of the Republic of Moldova No. 638/1991 on the transfer of enterprises, institutions and organizations of union subordination, located on the territory of the republic, in the jurisdiction of the Republic of Moldova and entered the system of the Ministry of Transport of the Republic of Moldova according to Government Decision No. 212/1992⁶⁸ on the approval of the list of ministries, departments and other state bodies, vested with functions of administration of state assets of enterprises, organizations and institutions, which were under union subordination.

CFM is a unique state-owned railway transport company, which occupies a strategic position in the transport sector in the Republic of Moldova with an impact on several economic sectors of the country.

Rail transport is a natural monopoly, which imposes special conditions for the development and operation of rail transport.

In accordance with Government Decision No. 582/1995 on the regulation of monopolies, the railways are considered a natural monopoly. In other words, the law treats the railway sector as a totally state-owned unit, without offering the possibility of private participation.

Thus, the S.E. "Moldovan Railway" provides exclusively the services for the transport of goods and passengers by rail, as well as services related to the use of wagons.

State Enterprise Security Services

In accordance with Art. 23 para. (10) of Law No. 283/2003⁶⁹ on the private activity of detective and security guard, the private security activity may not be practiced for the purposes of storage and storage of weapons, ammunition, explosive materials belonging to public authorities, for the purposes of storage and storage of toxic, radioactive substances and dangerous substances, narcotics, psychotropic

⁶⁸Government Decision No. 212/1992, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=86900&lang=ro

⁶⁹Law No. 283/2003 on the private activity of detective and security guard, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=129116&lang=ro

substances and precursors (except for medical institutions and private pharmacies), as well as at the National Bank of Moldova.

According to Art. 10 point 1 of the Law No. 845/1992⁷⁰ on entrepreneurship and enterprises, only state-owned enterprises are allowed to carry out private security activities for the purposes of storage and storage of weapons, ammunition, explosive materials belonging to public authorities, for the purposes of storage and storage of toxic substances, radioactive and hazardous substances, as well as narcotics, psychotropic substances and precursors (excluding medical institutions and private pharmacies); carrying out the private security activity at the National Bank of Moldova.

Also, at the moment S.E. "Security Services" has the obligations and exclusive rights regarding the security of the objectives of the judicial expertise established in Art. 79 of Law No. 68/2016⁷¹ on judicial expertise and the status of judicial expert, or, according to the invoked norm, "the guarding of the premises and assets of public institutions of judicial expertise is ensured, from the allocations from the state budget for that year for those institutions "Security services" or by the corresponding subdivision within the institution, if it has in its structure a specialized subdivision of security ".

At the same time, according to point 13 of the Plan of additional measures for centralized storage and subsequent neutralization of unusable and prohibited pesticides, approved by Government Decision No. 1543/2002⁷², the provision of centralized warehouses for the storage of obsolete pesticides with security was assigned to the SO "Guard Services", based on a contract, with the coverage of the expenses from the budgets of the administrative-territorial units.

State Enterprise Energy Shield

According to point 5 of the Statute, the company provides security for the objects of the energy system in the Republic of Moldova. In addition to the exclusive right provided, the company also provides services such as: investigative activities, protection of property and persons; private security activity; physical security of the premises as well as of the enterprises of other institutions.

State Enterprise State Station for Testing Machines

According to the provisions of the Government Decision No. 212/1992 on the approval of the list of ministries, departments and other state bodies, invested with functions of administration of state assets of enterprises, organizations and

⁷⁰ Law No. 845/1992 on entrepreneurship and enterprises, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=131113&lang=ro

⁷¹ Law No. 68/2016 on judicial expertise and the status of judicial expert, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129048&lang=ro

⁷² Government Decision No. 1543/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=71005&lang=ro

institutions, which were under union subordination, came under the jurisdiction of the Republic of Moldova.

The company exclusively provides services such as testing and technical expertise of tractors, agricultural machines for processing vineyards and orchards, machines for controlling diseases and pests of agricultural plants, machines for cultivating crops and tillage, machines for preparing fodder.

Public Institution National Accreditation Center of the Republic of Moldova

In the context of the commitments assumed by the Republic of Moldova at the signing of the Association Agreement, Regulation (EC) No 765/2008 of the European Parliament and of the Council of 09.07.2008 establishing the accreditation and supervision requirements was transposed into national law. According to the rules of point 4 of EU Regulation 765/2008 "each Member State shall designate a single national accreditation body".

Pursuant to Art. 14 of Regulation (EU) No. 765/2008, the country have to establish a single national accreditation body, which aims to implement the state policy in the field of accreditation and conformity assessment, giving confidence in technical competence, impartiality and integrity for conformity assessment bodies, as well as promoting the free movement of products, increasing the competitiveness of products and services, defending the rights and interests of consumers, ensuring the protection of life, health and safety of persons and the environment.

In order to recognize the supporting documents accompanying the product / service in the internal / external markets (certificate of conformity, certificate of inspection, test report, etc.), the National Accreditation Body (ONA) must be the signatory to the Recognition Agreement with the regional accreditation organization. In this sense, in order to demonstrate compliance with the criteria set out in Regulation (EC) No 765/2008, the ISO / IEC 17011 reference standard, ONA is subject to peer review, organized by the European Co-operation for Accreditation for Accreditation EA), recognized by the European Commission as the European Accreditation Infrastructure.

Law No. 235/2011⁷³ on accreditation and conformity assessment activities, Art. 7 para. (2), the Public Institution National Accreditation Center of the Republic of Moldova (Moldac) was established as a single national accreditation body.

Joint Stock Company National Lottery of Moldova

Moldovan National Lottery (MNL) is a state-owned enterprise with the necessary authorization to organize lottery and gambling activities.

⁷³Law No. 235/2011 on accreditation and conformity assessment activities, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127061&lang=ro

MNL was created to protect the consumer against gambling, fraud, money laundering, addiction or other financial crimes. MNL has the responsibility of controlling over the proper conduct of gambling on the territory of the Republic of Moldova, in order to combat illegal activities in this field.

The mission of the company is the responsible management of gambling, under established and controlled conditions, in the interest of the citizens of the Republic of Moldova.

The current state regulation of gambling in the Republic of Moldova is based on the state policy in the field of gambling, which according to the Art. 3 para. (5) of the Law No. 291/2016⁷⁴ on the organization and conduct of gambling, is based on the following 4 basic principles:

- the protection of the rights, legitimate interests, life and health of citizens;
- ensuring unique conditions for participation in gambling for all players;
- ensuring fairness and objectivity;
- ensuring the impossibility of outside influence on the results of gambling.
- Law No. 291/2016, Art. 3 para. (1), the management of the activity in the field of gambling, except for the “maintenance of casinos”, constitutes a state monopoly.

51. Is there an obligation for the companies with exclusive or special rights to fulfil tasks of a general economic interest? If so, please specify.

SE "Moldelectrica" is the only operator of the transmission system, performs the unique technological operational management of the power system and transportation of electricity through high voltage power grids, and performs the centralized management of the power system in the Republic of Moldova. The company exclusively provides services related to electricity transportation and operational leasing.

JSC "Energocom" is the Central Electricity Supplier (CES). CES purchases on the market electricity from eligible power plants that produce from renewable energy sources and electricity produced by urban district heating power plants and resells that electricity to suppliers at regulated prices approved by NAER, and suppliers are obliged to purchase from FCEE the quantities of electricity established by NAER, depending on the shares held by them on the electricity retail market.

⁷⁴Law No. 291/2016 on the organization and conduct of gambling, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129044&lang=ro

CES is a basic component of the mechanism for promoting renewable energy sources provided by Law No. 10/2016⁷⁵ on promoting the use of energy from renewable sources as well as by Law No. 107/2016 on electricity⁷⁶.

The CES activity is fully regulated, and the single price is determined according to the Methodology for calculating, approving and applying the regulated prices for electricity supplied by CES, approved by NAER Decision No. 483/2017⁷⁷

JSC "Termoelectrica" is the main producer of cogeneration electricity, producer, distributor and supplier of thermal energy in Chisinau. The object of enterprise activity aims at:

- electricity production
- production, supply and distribution of thermal energy to consumers, municipal housing fund organizations, state institutions, budgetary / social-cultural institutions, economic agents, etc.

The company ensures the thermal comfort of consumers by providing quality heat and domestic hot water, constantly increasing efficiency and meeting the demand for heat and electricity, at the most reasonable price, by complying with all safety conditions in the power supply, applying the criteria of quality, as well as reducing the negative impact on the environment.

JSC "Moldovagaz" is one of the biggest enterprise in the energy sector of the Republic of Moldova. JSC "Moldovagaz" is a natural gas supplier (licensee), which fulfills public service obligations regarding the supply of natural gas to final consumers (domestic and non-domestic) and which has legal relationships with other participants in the natural gas market (carriers and distributors) in order to provide consumers with reliable natural gas. The prices / tariffs for natural gas transmission, supply and distribution are established by the Decisions of the Board of Directors of the NAER and published in the Official Monitor of the Republic of Moldova.

Communication sector

SE „Radiocommunications" provides with exclusive rights the following services:

- broadcasting services of audiovisual programs via electrical communications networks (radio and TV broadcasts retransmission of the TV and radio providers);

⁷⁵Law No. 10/2016, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=130209&lang=ro

⁷⁶ Law No. 107/2016, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=129837&lang=ro

⁷⁷NAER Decision No. 483/2017, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=103985&lang=ro.

- leasing of antennas or other equipment for the installation, by the undertakings, of various transmitters;
- wireless or cable radio services.

Postal services

SE „Moldova Post”

According to the provisions of art. 25 of the Law No. 36 /2016 on postal communications⁷⁸, the universal postal service provider is designated SE “Moldova Post”, and according to art.28 of the Law, the right to provide postal services having as object domestic and international correspondence items whose weight is less than 100 g is reserved for the universal postal service provider. The general interest is reflected in the provision of services covering the entire territory of the Republic of Moldova, in the uniformity of the service provided to users in unique conditions and at an affordable price, in accordance with prescribed quality standards.

“Railway of Moldova” SE

According to Art. 4 of the Railway Transport Code No. 309/2003⁷⁹

Rail transport is a component part of the country's unitary transport system and, in its interaction with other types of transport, is intended to ensure in time and quality, in domestic and international rail traffic, the needs of the population in transport and other services, the activity of all economy branches and the state national security, the efficient development of the entrepreneurial activity of the enterprises in the branch, the formation of the transport services market.

Art. 5 of the Railway Transport Code provides as follows: the railway is a public structure of state interest. The main railway transport company in the Republic of Moldova is the “Railway of Moldova” SE, which manages the production and financial activity of the autonomous structural subdivisions that practice railway transport, as well as coordinates the work of other railway transport companies, organizations and institutions that ensures its functioning.

Public utility services

The unitary legal framework regarding the establishment and organization of public communal household services (public utility services) in the administrative-territorial units, their monitoring and control of their functioning, is provided by Law No. 1402/2002 for public communal household services⁸⁰

⁷⁸ Law No. 36/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121211&lang=ro

⁷⁹ Railway Transport Code No. 309/2003, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130025&lang=ro

⁸⁰ Law No. 1402/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=83605&lang=ro

The communal household public services ensure the provision of the following services:

- water supply;
- thermal energy supply;
- sewage and wastewater and stormwater treatment;
- sanitation;
- insurance with local public transport;
- administration of public and private housing.

Responsible enterprises for the provision of public utilities must perform the following tasks of public interest: the continuous provision of utility services; fully satisfying the needs of service users; satisfactory quality of services and utility products, in particular: adequate level of health and hygiene in accordance with existing standards and regulations, users safety regarding the use of services; developing and improving the quality and range of services, organizing operational efficiency, cost-effectiveness and other conditions for the quality of service delivery; safety and security measures for installations and equipment; maintenance of infrastructure and other facilities and equipment that are used to provide services.

52. Are there specific State aid rules on the financing of services of general economic interest?

The specific State aid rules on the financing of services of general economic interest are foreseen in the following Regulations:

- Regulation on State rescue aid for beneficiaries in difficulty, approved by the Competition Council's Decision No. 6/2013⁸¹
- Regulation on the assessment of state aid for public service broadcasting, approved by the Competition Council's Decision No. 3/2016⁸²;
- Regulation on the assessment of State aid for public rail and road transport passenger services, approved by the Competition Council's Decision No. 3/2016;
- Regulation on the assessment of State aid to postal services, approved by the Competition Council's Decision No. 3/2016.

⁸¹Competition Council's Decision No. 6/2013, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=10443&lang=ro

⁸² Competition Council's Decision No. 3/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=100262&lang=ro

53. Are there monopolies of a commercial character within the meaning of Article 37 TFEU?

The national legislation does not provide for such a form of monopoly.

Sectoral aspects

Sector-specific aspects are dealt with in the relevant chapters.