



Questionnaire

Information requested by the European Commission
to the Government of the Republic of Moldova
for the preparation of the Opinion on the application of the
Republic of Moldova for membership of the European Union

Part I

April 2022

Questionnaire

Information requested by the European Commission
to the Government of the Republic of Moldova
for the preparation of the Opinion on the application of the
Republic of Moldova for membership of the European Union

Part I

April 2022

INTRODUCTORY REMARKS

On 03 March 2022 the Republic of Moldova (hereinafter ‘Moldova’) presented its application for membership in the European Union. On 7 March 2022, the Council invited the European Commission to submit to the Council its Opinion on this application for membership.

In its Opinion, the Commission will analyze Moldova’s application on the basis of its capacity to meet the criteria set by the Copenhagen European Council of 1993, which require:

- "that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aim of political, economic and monetary union."

At the same time, as defined by the 1995 Madrid European Council, applicant countries are expected to develop their administrative structures and the EU needs to be able to integrate new members.

In order to provide the Commission with the necessary information to conduct this analysis, a list of questions is hereby handed over to the Government of Moldova.

The following guidelines are provided to assist the Government of Moldova in preparing its reply:

- The Government of Moldova is asked to present the replies in a concise, transparent, and clear form, covering all essential aspects of the subject.
- The Government of Moldova is invited to specify, where relevant, measures are taken to implement obligations arising from the Association Agreement (AA) and the Deep and Comprehensive Free Trade Area Agreement (DCFTA).
- The replies should be sent to the Commission in English. Where a translation into English of one of the requested pieces of legislation is not yet available at the time of transmission, a note on that should be included and the text provided as quickly as possible.
- As is the case with the Association Agreement and Deep and Comprehensive Free Trade Area Agreement, the European Commission will interact with the Government of Moldova. Contributions from any level of authority or administration within the country, which are not formally submitted through the government of Moldova, will not be considered by the Commission.
- If the Government is not in a position to deliver data covering the entirety of the territory of Moldova, please specify in your replies.

The Commission is at the disposal of the Government of Moldova to give supplementary explanations and clarifications about the Questionnaire. Meetings to review progress and resolve possible problems related to replying to the Questionnaire will be organized on an ad hoc basis.

The replies of the Government of Moldova should be addressed to the Commissioner responsible for Neighbourhood Policy and Enlargement Negotiations. An additional copy of the replies should be addressed to the Director-General of DG NEAR.

The Commission may request additional information, statistics, or clarifications if the need arises.

POLITICAL CRITERIA

DEMOCRACY AND THE RULE OF LAW

I. Constitution

- 1. Please provide a brief description of the constitutional and institutional set-up in Moldova. How is the constitutional system of check and balances between the three powers (executive, legislative, judiciary) implemented?**

The current Constitution of the Republic of Moldova was adopted on 29 July 1994¹. The Constitution is the highest legal act of the state. All laws and other general acts adopted in the Republic of Moldova have to be compliant with the Constitution. The Constitution established the Republic of Moldova as a sovereign, independent and neutral state, based on the rule of law and governed by a set of principles including the **separation and cooperation of powers**, political pluralism, human rights and freedoms, observance of international law and international treaties. Article 1 para. (2) of the Constitution of Republic of Moldova states that the form of government is the republic. It delineates the formation and function of the state's main institutions: Parliament, Government, President and Judiciary. Given the division of competences established by the Constitution, the Republic of Moldova is a parliamentary republic, with three branches of power: legislative, executive and judiciary. According to Article 6 of the Constitution, all three branches are separate and cooperate in the exercise of their prerogatives, according to the provisions of the supreme law.

Legislative power

According to Article 60 para. (1) of the Constitution, the Parliament is the only legislative authority of the state. Article 66 of the Constitution lists the main competences of Parliament as follows:

- a) to adopt laws, resolutions and motions;
- b) to call referendums;
- c) to interpret laws and ensure the unity of legislative regulations throughout the country;
- d) to approve the main directions of the domestic and foreign policy of the State;
- e) to approve the military doctrine of the State;
- f) to exercise control over the executive power, in the manner and within the limits prescribed by the Constitution;
- g) to ratify, denounce, suspend and cancel the action of international treaties concluded by the Republic of Moldova;
- h) to approve and exercises control over the State budget;
- i) to exercise control over the granting of state loans, economic and other aid to foreign states, the conclusion of agreements on state loans and credits from foreign sources;
- j) to elect and appoint state officials, in cases provided for by law;

¹ Constitution of the Republic of Moldova, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

- k) to approve orders and medals of the Republic of Moldova;
- l) to declare partial or general mobilization;
- m) to declare a state of emergency, siege and war;
- n) to initiate the investigation and hearing of any matters concerning the interests of society;
- o) to suspend the activity of local public administration bodies, in cases provided for by law;
- p) to adopt acts on amnesty;
- q) to perform other duties established by the Constitution and laws.

The competences of the Parliament as well as other details concerning the functioning thereof are reflected extensively in the Law No.797/1996 on the adoption of the Rules of Procedure of the Parliament².

Executive power

According to Article 96 para. (1) of the Constitution, the Government ensures the implementation of the domestic and foreign policy of the state and exercises the general management of public administration. The Constitution does not provide an exhaustive list of the competences of the Government, these and other aspects regarding the functions thereof are set out in detail in the Law No. 136/2017 on the Government³.

According to Law No. 136/2017, the government has the following competences:

- a) to exert the general management of the public administration;
- b) to ensure the implementation of the internal and external policy of the State;
- c) to ensure the execution of normative acts of the Parliament and decrees of the President of the Republic of Moldova, adopted in accordance with constitutional norms, and of the provisions of international treaties to which the Republic of Moldova is party;
- d) to carry out its Programme of Activities;
- e) to submit legislative initiatives to Parliament;
- f) to approve, by decision, and submit to the President of the Republic of Moldova draft decrees in accordance with the law;
- g) to endorse legislative initiatives, including draft laws, and examine legislative proposals;
- h) to approve policy documents and normative acts;
- i) to prepare and submit the state budget, the state social insurance budget and the compulsory health insurance funds budget to Parliament for adoption and ensure the execution thereof;
- j) to ensure the access, provision, verification, quality assessment and modernisation of public services;
- k) to ensure efficient and transparent management of public property;
- l) to monitor and analyse the effectiveness of the implementation of regulatory acts;
- m) to ensure the administrative control of the activity of local public administration authorities;

² Law No. 797/1996 on the adoption of the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro#

³ Law No. 136/2017 on the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125861&lang=ro#

- n) to perform other tasks provided for by the regulatory framework or arising from the role and functions of the Government.

The President

According to Article 77 para. (1) and (2) of the Constitution, the President of the Republic of Moldova is the head of state. The President represents the state and is the guarantee of the sovereignty, national independence, unity and territorial integrity of the country. The Constitution grants the President competences such as: to convene the Parliament no later than 30 days after the elections; to initiate legislation; to take part in the work of Parliament. The President shall address messages to the Parliament on the main problems of the nation, promulgate laws and is entitled, if he or she has objections to a law, to return it to Parliament for reconsideration within a maximum of two weeks. If Parliament upholds its earlier decision, the President promulgates the law. The President may dissolve the Parliament in cases strictly prescribed by the Constitution. The President nominates the candidate for Prime Minister and appoints the government, as well as another member of the Government as interim Prime Minister in case the Prime Minister is unable to perform his or her duties. The President is responsible for foreign policy and is the supreme commander of the armed forces. The President appoints the judges of the courts of law following the proposal of the Superior Council of Magistracy.

The judiciary

According to Article 114 of the Constitution, Justice is carried out in the name of the law only by the judiciary. The organization of the courts, their jurisdiction and the court procedure are established by Law No.154/1995 on the organization of the judiciary, which in Article 1 para. (1) expressly states that the judiciary is independent, separate from the legislative and executive branches, has its own competences, exercised through the courts, in accordance with the principles and provisions of the Constitution and other laws⁴. The independence of the judiciary is also ensured by the self-administration thereof, exerted by the Superior Council of Magistracy.

The Constitution provides for several mechanisms that can implement the system of checks and balances between the three powers (executive, legislative, and the judiciary). For example, Chapter VII of the Title III of the Constitution regulates the relations between the Parliament and the Government, and prescribes the obligation of the Government to provide information requested by the Parliament, the right of the Parliament to dismiss the Government with a majority vote, the right of the Parliament to enact a law to delegate, under certain conditions, some law-making powers to the Government. The acts enacted by the Government under legislative delegation require approval by the Parliament.

With regard to the judiciary system, Article 116 para. (2) of the Constitution (the version in force from 1 April 2022) states that judges are appointed until the age limit by the President of the Republic upon the proposal of the Superior Council of Magistracy. The President of the Republic may reject only once the candidacy proposed by the Superior Council of Magistracy. The executive or the legislative branch may not

⁴ Law No. 514/1995 on the organization of the judiciary, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127868&lang=ro#

terminate the mandate of judges or give instructions regarding particular pending cases. At the same time, Article 134 para. (3) of the Constitution states that the Constitutional Court has the competence to ensure the realization of the principle of separation of state power into legislative power, executive power, and judicial power. In this context, the Court issued several judgments relating to alleged violations of principle of separation of powers (see Judgment No. 13 of 27 April 2021⁵; Judgment No. 17 of 23 June 2020⁶; Judgment No. 32 of 5 December 2017⁷).

2. What is the relation between domestic and international law according to the Constitution? Would the Constitution allow the primacy of EU law over domestic law upon accession?

The Constitution of the Republic of Moldova contains two articles that deal with the relation between domestic and international law. Article 4 of the Constitution [Human Rights and Freedoms] establishes in para. (1) that constitutional provisions on human rights and freedoms shall be interpreted and enforced in accordance with the Universal Declaration of Human Rights, with the conventions and other treaties to which the Republic of Moldova is a party.

Para. (2) of the same Article prescribes that whenever disagreements appear between the conventions and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic laws, priority shall be given to international regulations.

The second Article which deals with the relation between domestic and international law is Article 8 [Observance of International Law and International Treaties]. According to para. (1) of this Article, the Republic of Moldova commits to observe the Charter of the United Nations and the treaties to which it is a party, to ground its relationships with other states on the unanimously recognized principles and norms of international law.

In this regard, the Constitutional Court, in its Judgment No. 55 of 14 October 1999, ruled on the interdependence between national legislation and international treaties and noted that the unanimously recognized rules and principles of international law are enforceable for the Republic of Moldova to the extent that it has expressed its consent to be bound by the international treaties in question. Therefore, the implementation of the provisions of the international treaties that the Republic of Moldova has ratified is indisputable⁸. This consideration was reiterated in Judgment No. 24 of 9 October 2014⁹.

⁵Constitutional Court Judgment No. 13 of 27 April 2021, available in Romanian at: <https://constcourt.md/ccdocview.php?tip=sesizari&docid=1537&l=ro>

⁶ Constitutional Court Judgment No. 17 of 23 June 2020, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=738&l=ro>

⁷Constitutional Court Judgment No. 32 of 5 December 2017, available in Romanian at: <https://constcourt.md/ccdocview.php?tip=hotariri&docid=643&l=ro>

⁸ Constitutional Court Judgment No. 55 of 14 October 1999, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=273&l=ro>

⁹ Constitutional Court Judgment No. 24 of 9 October 2014, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=511&l=ro>

Therefore, the Constitution of the Republic of Moldova enshrines the primacy of international law over domestic law.

As regards the eventual primacy of EU law over domestic law, in its case-law, the Constitutional Court has based a number of its judgements and decisions on EU law, on the case-law of the Court of Justice of the European Union and on the Association Agreement between the Republic of Moldova and the European Union: Judgment No. 30 of 23 December 2010¹⁰; Judgment No. 13 of 22 May 2014¹¹, paras. 57-58 and 78; Judgment No. 6 of 16 April 2015¹², paras. 60 and 73; Judgment No. 11 of 11 May 2016¹³, para. 49, Judgment No. 14 of 16 May 2016¹⁴, para. 91; Judgment No. 17 of 10 May 2017¹⁵, paras. 84, 116, 120, 128, 129; Judgment No. 29 of 10 November 2017¹⁶, paras. 49 and 65; Judgment No. 38 of 14 December 2017¹⁷, para. 108; Judgment No. 40 of 21 December 2017¹⁸, paras. 62-64; Decision No. 122 of 15 December 2017¹⁹, para. 22; Judgment No. 4 of 20 February 2018²⁰, para. 60, Judgment No. 8 of 26 April 2018²¹, paras. 31 and 70; Judgment No. 27 of 30 October 2018²², para. 79; Decision No. 57 of 11 June 2018²³, paras. 19-20; Decision No. 73 of 9 July 2018²⁴, para. 14; Decision No. 89 of 24 July 2018²⁵, paras. 17-18 and 22; Decision No. 139 of 14 December 2018²⁶, para. 27; Decision No. 149 of 29 November 2018²⁷, paras. 18-19;

¹⁰ Constitutional Court Judgment No. 30 of 23 December 2010, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=43&l=ro>

¹¹ Constitutional Court Judgment No. 13 of 22 May 2014, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=503&l=ro>

¹² Constitutional Court Judgment No. 6 of 16 April 2015, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=533&l=ro>

¹³ Constitutional Court Judgment No. 11 of 11 May 2016, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=577&l=ro>

¹⁴ Constitutional Court Judgment No. 14 of 16 May 2016, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=578&l=ro>

¹⁵ Constitutional Court Judgment No. 17 of 10 May 2017, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=621&l=ro>

¹⁶ Constitutional Court Judgment No. 29 of 10 November 2017, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=636&l=ro>

¹⁷ Constitutional Court Judgment No. 38 of 14 December 2017, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=644&l=ro>

¹⁸ Constitutional Court Judgment No. 40 of 21 December 2017, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=647&l=ro>

¹⁹ Constitutional Court Judgment No. 122 of 15 December 2017, available in Romanian at: <https://www.constcourt.md/public/ccdoc/decizii/ro-d1222017150gro7dd2e.pdf>

²⁰ Constitutional Court Judgment No. 4 of 20 February 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=650&l=ro>

²¹ Constitutional Court Judgment No. 8 of 26 April 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=654&l=ro>

²² Constitutional Court Judgment No. 27 of 30 October 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=673&l=ro>

²³ Constitutional Court Decision No. 57 of 11 June 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=473&l=ro>

²⁴ Constitutional Court Decision No. 73 of 9 July 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=511&l=ro>

²⁵ Constitutional Court Decision No. 89 of 24 July 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=508&l=ro>

²⁶ Constitutional Court Decision No. 139 of 14 December 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=568&l=ro>

²⁷ Constitutional Court Decision No. 149 of 29 November 2018, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=551&l=ro>

Decision No. 3 of 14 January 2019²⁸, paras. 20-22 and 27-29; Judgment No. 20 of 30 September 2019²⁹, para. 43; Decision No. 125 of 25 November 2019³⁰, para. 27; Judgment No. 3 of 4 February 2020³¹, para. 61; Decision No. 103 of 24 September 2020³², para. 29; Decision No. 189 of 22 December 2021³³, paras. 25-28.

Based on the above, the Constitutional Court of Moldova already resorts to EU law when delivering its acts. Thus, the Constitutional Court laid the foundations for the accession of the Republic of Moldova to the European Union. Therefore, the Constitution would allow the primacy of EU law over domestic law upon accession. If a possible EU accession treaty is challenged before the Constitutional Court before its entry into force, the Court will be obliged to take into account its own settled case-law. If a possible EU accession treaty enters into force for the Republic of Moldova, it will not be able to be reviewed by the Constitutional Court. The theory shared by the Court is that of the primacy of international law over national law: "Therefore, the international treaties that have become enforceable for the Republic of Moldova cannot be verified in terms of constitutionality, because the state could not fulfill its commitments resulting from the treaty, contrary to the *pacta sunt servanda* principle."³⁴

3. How are the judges of the Constitutional Court appointed and how is its independence guaranteed?

According to Article 136 of the Constitution, the Constitutional Court is composed of six judges, appointed for a term of six years. Constitutional Court judges may hold the same office for two terms. The competent authorities for the appointment of Constitutional Court judges are the Parliament, the Government, and the Superior Council of Magistracy, each of them designating two judges. Should a position become vacant following the expiration or revocation of the term, the dismissal or death of the judge, the President of the Court notifies the competent authority within 3 days with a request to appoint a new judge. The competent authority appoints a new judge within 15 days of the request of the President of the Constitutional Court.

To become a judge of the Constitutional Court, the candidate must have higher legal education, high professional competence, and a professional experience of at least 15

²⁸ Constitutional Court Decision No. 3 of 14 January 2019, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=588&l=ro>

²⁹ Constitutional Court Judgment No. 20 of 30 September 2019, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=708&l=ro>

³⁰ Constitutional Court Decision No. 125 of 25 November 2019, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=716&l=ro>

³¹ Constitutional Court Judgment No. 3 of 4 February 2020, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=722&l=ro>

³² Constitutional Court Decision No. 103 of 24 September 2020, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=850&l=ro>

³³ Constitutional Court Decision No. 189 of 22 December 2021, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=decizii&docid=1111&l=ro>

³⁴ Constitutional Court Decision No. 12 from 7 May 2020, available in Romanian at: https://www.constcourt.md/public/ccdoc/hotariri/h_12_2020_56a_57a_58a_2020_rou.pdf

years of legal activity, legal education, or scientific activity, must be a citizen of the Republic of Moldova residing in the country, the age limit for the appointment as judge of the Constitutional Court being 70 years old. The appointment can be made only with the prior written consent of the candidate. The judge takes his/her office after taking the oath of office.

During their tenure, the judges of the Constitutional Court are irremovable, independent and abide only by the Constitution. The judges of the Constitutional Court shall examine the case files under conditions that preclude any influence from outside. The judges of the Constitutional Court shall not be held responsible for their votes and opinions during, as well as after the cessation of their mandates. The mandate of the Constitutional Court judge shall be suspended or withdrawn only in cases and in the manner provided for by the Law on the Constitutional Court³⁵.

The judges of the Constitutional Court cannot be apprehended, arrested, or searched except for the cases of a flagrant offense, nor can they be sent to trial for criminal or petty offenses, without the prior approval by the Constitutional Court. The institution which has undertaken the arrest of the Constitutional Court judge caught in a flagrant felony shall immediately notify the Court, whose final decision thereupon shall be issued within 24 hours.

Article 137 of the Constitution prescribes that the judges of the Constitutional Court are irremovable and independent and are subject only to the Constitution. Immovability implies the impossibility of removal, revocation, or replacement. At the same time, there is not and cannot be the possibility of revoking the judges of the Constitutional Court by the authorities who appointed them, the judges being immovable, which is a guarantee of their independence in the exercise of their mandate. This principle protects judges primarily from outside influence in the performance of their judicial duties.

4. Please describe the functioning of the Constitutional Court, including its key decisions in recent years and how these are implemented/taken into account.

The Constitutional Court is the only authority of constitutional jurisdiction in the Republic of Moldova. It is independent of any other public authority and is subject only to the Constitution. Its stated purposes are to guarantee the supremacy of the Constitution, to ensure the realization of the principle of the separation of state power between the legislative, executive, and the judiciary branches, and to guarantee the responsibility of the state towards the citizen and of the citizen towards the state.

The attributions of the Constitutional Court are the following:

- a) it exercises, upon notification, the control of the constitutionality of the laws and decisions of the Parliament, of the decrees of the President of the Republic of Moldova, of the decisions and ordinances of the Government, as well as of the international treaties to which the Republic of Moldova is a party;
- b) it interprets the Constitution;
- c) it decides on initiatives to revise the Constitution;
- d) it confirms the results of the republican (national-level) referendums;

³⁵ Law No. 317/1994 on the Constitutional Court, available in English at: https://www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/Law_on_CC_EN.pdf

- e) it confirms the results of the election of the Parliament and of the President of the Republic of Moldova;
- f) it ascertains the circumstances that justify the dissolution of the Parliament, the dismissal of the President of the Republic of Moldova or the interim of the office of President, as well as the impossibility of the President of the Republic of Moldova to exercise his/her competences for more than 60 days;
- g) it resolves the exceptions of unconstitutionality raised by the parties to a trial or by the ordinary courts;
- h) it decides on matters concerning the constitutionality of a political party.

The Constitutional Court carries out its activity only if it is notified.

The laws and other normative acts or some parts thereof become null and void, from the moment of the adoption of the corresponding judgement of the Constitutional Court.

The Court issues judgements, decisions, and opinions, which are final and cannot be challenged. They are compulsory for all the authorities of the Republic of Moldova. Sometimes, the Court announces the Parliament or the Government, as a result of delivering some judgments or decisions, about the need to modify some normative acts, in order to conform them to the judgements or decisions of the Court.

In 2014, the Court delivered judgment No. 24³⁶ where it reviewed the constitutionality of the Association Agreement between the Republic of Moldova and the European Union, the European Atomic Energy Community, and their Member States. The Constitutional Court held that Moldova's aim to establish relations in all fields of shared interest with European countries and the orientation of the state towards European democratic values are enshrined in the founding act of the State.

The Declaration of Independence states the fundamental elements that define the constitutional identity of the new State and its population. They include the aspiration towards freedom, independence and national unity, linguistic identity, democratization, rule of law, market economy, history, rules of morality and of international law, European orientation, social, economic, cultural, and political rights for all citizens, including persons belonging to minority national, ethnic, linguistic and religious groups.

The Declaration of Independence marks Moldova's break with the totalitarian Soviet values and the reorientation of the newly independent State towards European democratic values.

Thus, in line with the Declaration of Independence and Article 1 of the Constitution, the orientation towards European democratic values is a defining element of the constitutional identity of Moldova.

In 2018³⁷, the Court delivered a judgment where it held that restricting the admission of children who are unvaccinated, but who could be vaccinated, to communities, educational and recreational institutions does not amount to an extreme and drastic measure in terms of the right to education and the right to respect for private life.

³⁶ Constitutional Court Judgment No. 24 of 9 October 2014, available in English at: [http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/mda/mda-2014-3-008?f=templates\\$fn=document-frameset.htm\\$g=%5Bblank%3A%5Bdomain%3A%5Bcategory%3Afilter_country%2Fmoldova%232c%20republic%20of%5D%5D%5Bsum%3A%5Bstem%3Aeuropean%5D%5D%5D\\$x=server\\$3.0#LPHit1](http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/mda/mda-2014-3-008?f=templates$fn=document-frameset.htm$g=%5Bblank%3A%5Bdomain%3A%5Bcategory%3Afilter_country%2Fmoldova%232c%20republic%20of%5D%5D%5Bsum%3A%5Bstem%3Aeuropean%5D%5D%5D$x=server$3.0#LPHit1)

³⁷ Constitutional Court Judgment No. 26 of 30 October 2018, available in English at: <http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/EUR/MDA/MDA-2019-3-009>

In 2021⁴³, the Court confirmed that the rejection by the Parliament of at least two requests for the investiture of the Government together with the impossibility to form a Government within the three-month time limit justify the dissolution of the Parliament. After the Court delivered its opinion, the Parliament was dissolved, and snap elections followed.

[http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/mda/mda-2021-1-009?f=templates\\$f=document-frameset.htm\\$q=%5Bcategory%3Afilter_country%2Fmoldova%232c%20republic%20of%5D\\$x=server\\$3.0#LPHit1](http://www.codices.coe.int/NXT/gateway.dll/CODICES/precis/eng/eur/mda/mda-2021-1-009?f=templates$f=document-frameset.htm$q=%5Bcategory%3Afilter_country%2Fmoldova%232c%20republic%20of%5D$x=server$3.0#LPHit1)

5. Please describe which institutions are defined as independent under the Constitution. How are their constitutional guarantees of independence ensured?

The Constitution defines as independent the following state institutions: the Ombudsman (Article 59¹); court judges, including judges of Courts of Appeals and judges of the Supreme Court (Article 116); the Superior Council of Magistracy (Article 121¹); the Superior Council of Prosecutors (Article 125¹); and the Constitutional Court (Articles 134 and 137).

With regard to the Ombudsman, Article 59¹ of the Constitution provides several guarantees of independence. The third paragraph of the Article provides the condition that the Ombudsman must be appointed by the Parliament through a “transparent procedure”. The same paragraph provides that the term of office is seven years, which is thus longer than the mandate of the Parliament. It also establishes that the term of office cannot be renewed. Paragraphs 4 and 5 provide that the Ombudsman is not legally liable for the opinions expressed in connection with the exercise of the mandate and cannot be a member of a political party. Paragraph 7 provides a high threshold of votes in case of removal from office (2/3 of the elected MPs).

With regard to the lower court judges, judges of Courts of Appeals and judges of the Supreme Court, Article 116 para. (2) of the Constitution provides that judges are appointed until the age limit. The Law No. 544/1995 on the status of the judge⁴⁴ establishes a transparent procedure for the career of judges. Also, the Law No.178/2014 on the disciplinary liability of judges⁴⁵ establishes the procedure and conditions under which the judge may be disciplinary liable.

With regard to the Superior Council of Magistracy, Article 121¹ of the Constitution provides several guarantees of independence. Firstly, ex officio members of the Council were excluded by the constitutional amendment that entered into force on 1 April 2022. Secondly, judges and non-judicial members of the Council cannot be members of political parties. Thirdly, non-judiciary members are selected through a transparent procedure by the Parliament with a high threshold of vote (3/5 of elected MPs). Fourthly, the term of office of Council members is six years, longer than the mandate of the Parliament. Fifthly, the term of office cannot be renewed.

With regard to the Superior Council of Prosecutors the Law No.3/2016 on the Prosecutor's Office⁴⁶ establishes guarantees of independence, term of office, appointing procedure etc.

⁴⁴ Law No.544/1995 on the status of the judge, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=16243&lang=ro

⁴⁵ Law No.178/2014 on the disciplinary liability of judges, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130335&lang=ro#

⁴⁶ Law No.3/2016 on the Prosecutor's Office, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=117461&lang=ro

With regard to the Constitutional Court, the Law No.317/1994 on the Constitutional Court⁴⁷ establishes guarantees of independence, term of office, appointing procedure etc.

The People's Advocate (hereinafter Ombudsman)

Article 59¹ of the Constitution and the Law No. 52/2014 on the Ombudsman⁴⁸ establishes the position and the competences of the Ombudsman. The Ombudsman ensures the protection of all human rights and freedoms by the public authorities, by organizations and companies, regardless of the property type and the legal organizational form, by non-commercial organizations and by decision-makers at all levels. The Ombudsman institution is autonomous and independent from any public authority, legal entity, regardless of the property type and legal organization form and any individual in the decision-making position at all levels. The Ombudsman cannot be subject to an imperative or representative mandate. No one can oblige the People's Advocate to comply with one's instructions or provisions. The Ombudsman cannot be obliged to explain cases reviewed or being reviewed, except for situations when they are in the interest of the represented party or contain information of public interest.

For the selection of the candidates for the position of Ombudsman a Special Parliament Commission is created, composed of members of the Human Rights and Interethnic Relationships Committee and the Legal, Appointments and Immunities Committee. The Special Parliament Commission organizes the selection of the candidates for the position of Ombudsman in conformity with the regulations approved by it. The Special Parliament Commission selects the candidates who scored the highest number of points at the evaluation, two for each position of Ombudsman and presents them within the plenary session of the Parliament for appointment. The Parliament appoints two Ombudsmen (one of whom is charged with children's rights protection) with a vote of the majority of MPs. Each Ombudsman is appointed for a 7-year mandate, which cannot be renewed. The Ombudsman may be removed from office with the vote of 2/3 of the MPs, according to the procedure established by Article 14 of the Law.

The Ombudsman and their deputies' positions are incompatible with any public or private position, except academic, scientific, or creational activities. The Ombudsman and their deputies do not have the right to undertake political activity and are not allowed to be members of a political party.

The Constitutional Court

Articles 134 to 140 of the Constitution and the Law No.317/1994 on Constitutional Court of the Republic of Moldova establish the status and competence of the authority of constitutional jurisdiction, as well as the election, immunity, and termination of the mandate of a Constitutional Court judge.

There are two sides to the independence of the Constitutional Court: independence of the Constitutional Court as the authority of constitutional jurisdiction and independence of judges. In both cases, the source of law guaranteeing independence is the

⁴⁷ Law No.317/1994 on the Constitutional Court, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=88279&lang=ro

⁴⁸ Law No. 52/2014 on the Ombudsman, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121241&lang=ro

Constitution of the Republic of Moldova, guarantees which are defined in Law No.317/1994 on Constitutional Court of the Republic of Moldova and Law No.502/1995 regarding Constitutional Jurisdiction Code.⁴⁹

According to Article 134 of the Constitution, the Constitutional Court is independent in relation to any other public authority and shall abide only by the Constitution and it guarantees the supremacy of the Constitution, ensures the enforcement of the principle of separation of powers – the legislative, the executive and the judiciary and it guarantees the responsibility of the State towards the citizen and of the citizen towards the State.

The functional independence guarantee and autonomy of the Constitutional Court is reflected in Article 140 of the Constitution, stating the character and effects of the Constitutional Court decisions: the judgments of the Constitutional Court are final and cannot be appealed against.

Article 135 of the Constitution provides for the following competencies of the Constitutional Court: exercising, upon appeal, the review of constitutionality over laws and decisions of the Parliament, decrees of the President, decisions and ordinances of the Government, as well as over international treaties to which the Republic of Moldova is a party; interpretation of the Constitution; confirming the results of republican (national-level) referenda; confirming the results of parliamentary and presidential elections in the Republic of Moldova; ascertaining the circumstances justifying the dissolution of the Parliament, the removal of the President of the Republic of Moldova or the interim office of the President, as well as the impossibility of the President of the Republic of Moldova to fully exercise their functional duties for more than 60 days.

The independence of the judges is guaranteed by the Article 137 of the Constitution “throughout their entire mandate the judges of the Constitutional Court are irremovable, independent, and only obey the Constitution” and the Article 8 of the Law No.502/1995 regarding the Constitutional Jurisdiction Code, according to which the judges of the Constitutional Court shall examine the case files under the conditions that exclude any outside influence and they shall not be held liable for their votes and opinions expressed while exercising their office, as well as after the ending of their mandates.

The Constitutional Court consists of six judges who are appointed for a 6-year term of office. Two judges are appointed by the Parliament, two - by the Government and two - by the Superior Council of Magistracy. Article 139 of the Constitution establishes that the position of Constitutional Court judge is incompatible with any other remunerated public or private position, except for academic and scientific activity, which excludes a possible conflict of interests. Under Article 11 para. (3) of the Law No.317/1994 on the Constitutional Court of the Republic of Moldova, if a candidate holds an office incompatible with that of judge of the Constitutional Court, or he or she is a member of a political party or another political organization, the candidate’s statement committing to resigning from all incompatible positions as well as and to suspend all activity within the political party or other political organization is needed for the appointment.

A judge of the Constitutional Court enjoys immunity, as Article 10 para. (1) of the Law No.317/1994 on the Constitutional Court establishes. The Constitutional Court judge cannot be detained, arrested, or searched, except for the cases of flagrant offenses, nor

⁴⁹ Code of Constitutional Jurisdiction No. 502/1995, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122076&lang=ro

can they be sent to trial for criminal or minor offenses without the prior consent of the Constitutional Court.

The Courts of Law

Justice is exercised by the Supreme Court of Justice, Courts of Appeal and courts of law. According to Article 116 of the Constitution, judges sitting in the courts of law are independent, impartial and irremovable in compliance with the law. Judges sitting in the courts of law are appointed, according to the law, until reaching the legally prescribed age limit, by the President of the Republic of Moldova, upon the proposal submitted by the Superior Council of Magistracy. The President of the Republic of Moldova may reject the same candidature proposed by the Superior Council of Magistracy just once. The office of judge shall be incompatible with the exercise of any other public or private remunerated position, except for academic and scientific activity.

According to Article 114 of the Constitution, justice shall be administered in the name of the law only by the courts of law.

Under Article 19 of the Law No.544/1995 on the Status of the Judge, a judge shall not be held liable for their opinions expressed within the judiciary process and for their rulings unless they are found guilty of criminal abuse through a final sentence.

Article 8 of the Law No.544/1995 on the Status of the Judge establishes that a judge may not hold any other public or private positions, except for academic and scientific activity; be an MP or a councillor in local public authority; be members of any parties or carry out activities of a political nature,, carry out entrepreneurial activities, limits that are supposed to ensure the independence of judges. A judge may be subject to criminal prosecution only by the request of the Prosecutor General or the first deputy thereof, and in their absence by a deputy under the order issued by the Prosecutor General, with the consent of the Superior Council of Magistracy, under the Code of Criminal Procedures⁵⁰. If the judge commits offenses specified in 243, 324, 326 and 3302 of the Criminal Code of the Republic of Moldova⁵¹, as well as in the case of flagrant crimes, the Superior Council of Magistracy consent to initiate the criminal investigation is not necessary.

The Law No.178/2014 on the disciplinary liability of judges⁵² establishes the procedure and conditions under which the judge may be disciplinary liable.

The Superior Council of Magistracy

The Superior Council of Magistracy is the safeguard for the independence of the judicial authority, according to Article 121¹ of the Constitution. Article 122 of the same act states that the Superior Council of Magistracy consists of 12 members: six judges elected by the General Assembly of Judges, representing all levels of courts of law and six persons of high professional reputation and personal integrity, with experience in

⁵⁰ Criminal Procedures Code No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro

⁵¹ Criminal Code No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁵² Law No.178/2014 on the disciplinary liability of judges, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130335&lang=ro

the field of law or in another relevant field, who do not work within the bodies of legislative, executive or judicial power and are not politically affiliated. The candidates for the position of Superior Council of Magistracy members who are not judges, are selected via a merit-based transparent competition and appointed by Parliament with the votes of 3/5 of the elected MPs. Council members are elected for a single term of six years which cannot be renewed.

The Superior Council of Prosecutors

Under Article 125¹ of the Constitution, The Superior Council of Prosecutors is the safeguard for the independence and impartiality of individual prosecutors. The Superior Council of Prosecutors is composed of the prosecutors elected by prosecutor's offices of all levels, and of the representatives of other authorities, public institutions or civil society. The prosecutors are the most important members within the Superior Council of Prosecutors. The Superior Council of Prosecutors ensures the appointment, transfer, promotion and enforcement of disciplinary sentences against prosecutors.

The Law on the Prosecutor's Office No. 3/2016 establishes in a more detailed manner guarantees of independence, terms of office, competencies and other aspects regarding the activity of the Superior Council of Prosecutors.

6. Is there a body in charge of checking draft laws on their constitutionality? Please specify/clarify its role and the procedure in practice.

The Constitutional Court of the Republic of Moldova is the sole authority of constitutional jurisdiction in the Republic of Moldova. However, it exercises its constitutional review of adopted laws, and not of draft laws.

As a result, there is no body expressly in charge of checking draft laws on their constitutionality in the Republic of Moldova. The only indication in this sense is offered by Law No.100/2017 on normative acts⁵³. This Law states in Article 3 para. (1) letter a) that when drawing up a normative act, the principle of constitutionality is to be respected. Moreover, the mentioned Law establishes a set of analyses that need to be carried out, including the ex-ante analysis. The ex-ante analysis comprises several steps, including identification of options in order to solve an issue by way of law-making. These options have to be based, inter alia, on constitutional provisions and the case-law of the Constitutional Court (Article 26 para. (2) of the Law No.100/2017 on normative acts).

Moreover, Article 37 para. (1) of the same Law states that a legal expertise carried out by the Ministry of Justice is mandatory for all draft laws prepared by the specialized central public administration authorities and autonomous public authorities. Based on the results of the legal expertise, a legal expertise report is drawn up. Article 37 para. (3) letter a) of the mentioned Law states that the legal expertise carried out by the

⁵³ Law No.100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

Ministry of Justice has to ensure, inter alia, concordance between the draft law and the case-law of the Constitutional Court.

Thus, the only types of review of draft laws as regards their constitutionality are the ones mentioned above, which are carried out by lawmakers and the Ministry of Justice.

7. Please describe the procedure needed to revise the Constitution. Have there been already revisions of the Constitution? If so, please explain relevant amendments, procedure, scope and changes made.

According to Article 141 of the Constitution, the revision of the Constitution may be initiated by:

- a number of at least 200,000 citizens of the Republic of Moldova with voting rights. The citizens initiating the revision of the Constitution must cover at least half of the territorial-administrative units of the second level, and in each of these units at least 20000 signatures in support of the said initiative must be registered;
- at least one third of the members of Parliament;
- the Government.

Draft Constitutional laws shall be submitted to Parliament only alongside with the advisory opinion of the Constitutional Court adopted by a vote of at least four judges.

According to Article 142 of the Constitution, the provisions regarding the sovereignty, independence, and unity of the state, as well as those regarding the permanent neutrality of the State may be revised only by referendum with the vote of the majority of the registered citizens with voting rights.

According to Article 143 of the same act, Parliament is entitled to pass a law on amending the Constitution following at least six months from the date when the corresponding initiative has been submitted. The law shall be adopted by a vote of two-thirds of the MPs.

The Constitution of the Republic of Moldova was amended 12 times.

By Law No. 957/1996 on constitutional amendments⁵⁴, the provisions regarding the appointment of judges were amended, so that after a first five-year term of appointment, the judges were to be appointed until reaching the age limit. Before that Law, judges used to be appointed for a first five-year term, then for another ten-year term, and then they were appointed a third time until reaching the age limit. Also, the principle of immovability had to apply to judges who had at least five years' service in the judiciary, and not 15 as provided before.

By Law No. 1115/2000 on constitutional amendments⁵⁵, the Constitution has been supplemented with provisions concerning the procedure of adoption of laws and

⁵⁴ Law No. 957/1996 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=11741&lang=ro

⁵⁵ Law No. 1115/2000 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=63880&lang=ro#

decisions. Also, these amendments changed the procedure for electing the President of the Republic of Moldova, set a limit of two consecutive terms for the President, established provisions on the dismissal of the President, limited the possibility of the dissolution of Parliament in certain situations, established provisions regarding the assumption of responsibility by the Government and regarding legislative delegation and excluded the President as a subject who could initiate the revision of the Constitution.

By Law No. 351/2001 on constitutional amendments⁵⁶, the Constitution abolished the death penalty (except for acts committed in times of war or imminent danger of war and only under the conditions of the law), the period of detention in custody was changed from 24 to maximum 72 hours and an exception was introduced regarding the privacy of correspondence.

By Law No. 1469/2002 on constitutional amendments⁵⁷, the restriction on citizenship according to which citizens of the Republic of Moldova may be citizens of other states only in cases provided for by international agreements to which the Republic of Moldova is a party was excluded.

By Law No. 1470/2002 on constitutional amendments⁵⁸, an exception was introduced to the prohibition of the Member of Parliament from exercising any other remunerated function (the exception being didactic and scientific activity).

By Law No. 1471/2002 on constitutional amendments⁵⁹, the term of office of the members of the Superior Council of Magistracy was changed (from five to four years) and the President of the Court of Appeal, the President of the Economic Court were excluded as ex officio members of the Council.

By Law No. 344/2003 on constitutional amendments⁶⁰, the Constitution was supplemented with provisions related to the Autonomous Territorial Unit of Gagauzia. Also, the People's Assembly of the Autonomous Territorial Unit of Gagauzia was granted the right of legislative initiative.

By Law No. 185/2006 on constitutional amendments⁶¹, the exception on the prohibition of the death penalty (when acts were committed in time of war or imminent danger of war) was excluded.

By Law No. 256/2016 on constitutional amendments⁶², amendments were introduced concerning the procedure for the appointment and dismissal of the Prosecutor General and a new Article was introduced concerning the Superior Council of Prosecutors.

⁵⁶ Law No. 351/2001 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=2989&lang=ro

⁵⁷ Law No. 1469/2002 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=28931&lang=ro

⁵⁸ Law No. 1470/2002 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=12462&lang=ro

⁵⁹ Law No. 1471/2002 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=1977&lang=ro

⁶⁰ Law No. 344/2003 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=13081&lang=ro

⁶¹ Law No. 185/2006 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=25459&lang=ro

⁶² Law No. 256/2016 on constitutional amendments, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=96427&lang=ro

By Law No.70/2017 on constitutional amendments⁶³, a new Article was introduced, referring to the statute and the role of Ombudsman.

By Law No.255/2018 on constitutional amendments⁶⁴, the wording of the term used to refer to a disabled person was changed.

By Law No.120/2021⁶⁵, amendments were introduced concerning the appointment, career and immunity of judges, the financing of the judicial system, the role and composition of the Superior Council of Magistracy and the appointment of members of the Superior Council of Magistracy.

8. Are there constitutional provisions which could prevent Moldova from aligning with European standards and/or EU *acquis* and require amending the Constitution? Please provide a list of such provisions, if applicable.

No such provisions exist in the Constitution of the Republic of Moldova. The basis for this rationale can be found in the Judgment of the Constitutional Court of Moldova No. 24 of 9 October 2014⁶⁶ and Advisory Opinion of the Constitutional Court of Moldova No. 5 of 11 December 2017⁶⁷.

In the said Judgment, the Court held that the Declaration of Independence marked the detachment from the totalitarian Soviet area of values and the reorientation of the new independent state towards the European area of democratic values. The aspirations of the Republic of Moldova to establish relations in all areas of common interest with European countries and its orientation towards the European area of democratic values were enshrined in the act of statehood.

The Court further held that in the sense of the Declaration of Independence and Article 1 of the Constitution, the orientation towards the European area of democratic values is a defining element of the constitutional identity of the Republic of Moldova.

Examining the provisions of the Association Agreement between the Republic of Moldova and the European Union, the Court concluded that it promotes political association and economic integration between the Republic of Moldova and the European Union on the basis of common values, such as respect for and the promotion of the principles of sovereignty and territorial integrity, inviolability of borders and independence of the Republic of Moldova, democracy, respect for human rights and freedoms.

⁶³ Law No. 70/2017 on constitutional amendments, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=99138&lang=ro

⁶⁴ Law No. 255/2018 on constitutional amendments, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=109802&lang=ro

⁶⁵ Law No. 120/2021 on constitutional amendments, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=127960&lang=ro

⁶⁶ Constitutional Court Judgment No. 24 of 9 October 2014, available in Romanian at:

<https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=511&l=ro>

⁶⁷ Constitutional Court Judgment No. 5 of 11 December 2017, available in Romanian at:

<https://www.constcourt.md/public/ccdoc/avize/ro-a511122017rof2339.pdf>

In this respect, the aim and objectives of the Agreement are fully in line with the provisions of Article 1 para. (3) of the Constitution, which establishes that the Republic of Moldova is a democratic state governed by the rule of law, in which human dignity, rights and freedoms, the free development of the human personality, justice and political pluralism are supreme values and are guaranteed.

As regards the said Advisory Opinion, some MPs requested the opinion of the Court on a Law on amending and supplementing the Constitution in order to include a new Article entitled “European Integration” and to enshrine the aspirations of European integration of the country in the Constitution. The Court held, *inter alia*, that bearing in mind the previous case-law of the Constitutional Court, which is binding on all public authorities and directly applicable without any further formal requirement, irrespective of the outcome of the examination of these amendments, the orientation towards the European area of democratic values constitutes a principle with constitutional value⁶⁸.

Therefore, the constitutional provisions do not prevent Moldova from aligning with European Standards and/or EU *acquis*. It follows that no constitutional amendment is/would be required in this regard.

9. What is/are the official language(s) of Moldova?

The official language of the Republic of Moldova is the Romanian language. The Court stated that, under Article 13 para. (1) of the Constitution, the state language of Moldova is “Moldovan, used based on Latin alphabet” (JCC No. 36 of 05.12.2013, §106)⁶⁹. On the other hand, the Declaration of Independence⁷⁰ uses the term “Romanian” for the official language of the newly created state the Republic of Moldova (JCC No. 36 of 05.12.2013, §107). Therefore, the reference to “Romanian” as the official language is a factual situation stipulated in the very text of the Declaration of Independence, which is the founding act of the Republic of Moldova. Regardless of the glotonyms used in legislation prior to the proclamation of independence, the Declaration of Independence made a clear distinction, expressly opting for the term “Romanian language” (JCC No. 36 of 05.12.2013, §108).

The principal value of the Declaration of Independence derives from the general popular consensus that legitimated it and from its contents defining the new state. This gives the Declaration of Independence, in the constitutional order of the Republic of Moldova, a crossing function [...] in relation to other constitutional provisions (in a manner similar to general principles of the rule of law, fundamental rights and freedoms, justice and political pluralism, etc.), as the core of the block of constitutionality (JCC No. 36 of 05.12.2013, §118).

Based on a historical and teleological interpretation of the Preamble of the Constitution, the Court concluded that the Declaration of Independence had been used as the basis

⁶⁸ Constitutional Court Opinion of 11 December 2017, available in Romanian at: <https://www.constcourt.md/public/ccdoc/avize/ro-a511122017rof2339.pdf>

⁶⁹ Constitutional Court Judgment No. 36 of 5 December 2013, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=476&l=en>

⁷⁰ Law No. 691/1991 on the Declaration of Independence of the Republic of Moldova, available in Romanian at: <http://presedinte.md/eng/declaration>

for the adoption of the Constitution in 1994 [...] (JCC No. 36 of 05.12.2013, §120). Therefore, in application of the principles set out in the Judgment No. 4 of April 22, 2013 (§ § 56, 58, 59)⁷¹, any interpretation of the Constitution is to be operated from the original objectives of the Constitution, which are set out in the Preamble and implicitly in the Declaration of Independence, and from which the text of the Constitution itself derives. Thus, when there are several interpretations, the option according to the Preamble and thus the Declaration of Independence prevails (JCC No. 36 of 05.12.2013, §122). Therefore, no legal act, regardless of its power, including the Basic Law, can be inconsistent with the text of the Declaration of Independence.

As long as the Republic of Moldova functions based on the same political order as established by the Declaration of Independence on August 27, 1991, the constituent legislature cannot adopt regulations that contradict it. At the same time, if the constituent legislator admitted certain contradictions to the text of the Declaration of Independence in the Basic Law, the text in the Declaration of Independence remains to be the authentic one (JCC No. 36 of 05.12.2013, §123).

In the light of the above, examining the cumulative effect of the two provisions on the name of the official language, the Court concluded that a combined interpretation of the Preamble and Article 13 of the Constitution was targeting the uniqueness of the official language, the name of which is given by the primary imperative provision of the Declaration of Independence.

Therefore, the Court found that the provision contained in the Declaration of Independence on Romanian language as the official language of the Republic of Moldova prevailed over the rule concerning the Moldovan language contained in Article 13 of the Constitution (JCC No. 36 of 05.12.2013, §124)⁷².

⁷¹ Constitutional Court Judgment No. 4 of 22 April 2013, available in Romanian at: <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=443&l=en>

⁷² Constitutional Court Judgment No. 36 of 5 December 2013, available in Romanian at: https://constcourt.md/public/files/file/actele_cc_en/raport_CC_2013_eng.pdf

II. Parliament

10. Please provide a description of the structure and functioning of the Parliament including the competences of the speaker of the Parliament, the prerogatives and competences of the Parliament with respect to ensuring parliamentary oversight of the government and executive institutions. How are such mechanisms implemented in practice?

The Moldovan legislature is built on a party-list proportional representation system. The Parliament is a unicameral structure consisting of 101 MPs, elected every 4 years. It is the supreme representative body and the only legislative body in Moldova, led by a President and two Vice-Presidents, elected with a minimum of 52 MPs votes.

The competences of the Speaker of the Parliament

The President of the Parliament is the first person in line to take over as interim President of the Republic of Moldova in case of vacancy. The Parliament's President main competences include:

- a) to preside over the parliamentary and Standing Bureau hearings;
- b) to call for ordinary, extraordinary, and special hearings;
- c) to make sure parliamentary hearings are held in compliance with the Rules of Procedure of the Parliament;
- d) to receive and assign draft laws and Committees' reports;
- e) to call the voting results and the legal documents that are adopted;
- f) to sign the laws, decisions and other documents adopted by the Parliament;
- g) to represent the Parliament in its relations with the Presidency, the Government, as well as in front of other domestic and foreign institutions;
- h) after consulting the parliamentary factions, to appoint MPs to the parliamentary delegations, other than the permanent parliamentary delegations;
- i) to assign the fields of activity of the Vice-Presidents.

After the election of the Parliament's President and Vice-presidents the MPs vote for the creation of the Parliament's Standing Bureau – the Parliament's working body, which ensures and exercises control over the good functioning of the legislative body. It consists of 15 MPs, delegated by their respective parliamentary factions, based on the principle of proportional representation thereof. The President of the Parliament alongside their two Vice-presidents are ex officio members of the Standing Bureau.

In order to ensure the framework for the Parliament's orderly activity, the Standing Bureau:

- a) prepares the parliamentary hearings' schedule;
- b) proposes the lists of the parliamentary delegations assigned to international bodies;
- c) drafts the Standing Committees' lists, based on the proposals received from the parliamentary factions;
- d) coordinates the Standing Committees' activity;
- e) drafts the parliamentary hearing order of business, in cooperation with the factions' presidents, as well as with the Standing Committees presidents;
- f) manages the storage and review of and debate on the draft legislation;

- g) exercises oversight over and ensures the publicity of draft laws, parliamentary hearings' order of business and minutes, as well as other information of public interest, posted on the Parliament's web page;
- h) approves the regulation describing the accreditation of mass-media representatives, covering parliamentary events;
- i) approves the Parliament's secretariat's structure and the staff number limits, its functioning regulation, as well as the Secretariat's development strategy plans;
- j) proposes the budget of the Parliament for governmental approval.

The Parliamentary factions are formed within 10 days after the legal constitution of the Parliament, which is normally its first hearing, called constitution hearing. Each faction has at least 5 MPs. Independent and unaffiliated MPs can also join one of the factions.

The work of the Moldovan legislature is divided into two sessions: the winter session and the summer session. The Parliament's main working bodies are the parliamentary committees. There are three types of committees described by Moldovan law: a) Standing Committees, b) Special Committees and c) Investigation Committees.

The current legislature is organized in 11 Standing Committees:

- 1) Committee for Legal matters, Appointments and Immunities;
- 2) Committee for Economy, Budget and Finance,
- 3) National Security, Defense and Public Order Committee;
- 4) Foreign Policy and European Integration Committee;
- 5) Human Rights and Interethnic Relations Committee;
- 6) Committee for Public Administration;
- 7) Committee for Culture, Education, Youth, Sport and Media;
- 8) Agriculture and Food Industry Committee;
- 9) Committee for Social Security, Health and Family;
- 10) Committee for Environment and Regional Development; and
- 11) Public Finance Control Committee.

Besides its law-making competence, the Parliament exercises oversight to make sure that the laws are being correctly implemented, public finance is spent accordingly, and public institutions function in compliance with the law.

There are a couple of ways the Moldovan Parliament exercises its constitutional attribute of parliamentary oversight.

Motions. There are two possible types of motions

A simple motion – can be initiated by a number of at least 15 MPs and if passed (with a simple majority) expresses the Parliament's position regarding a given domestic or foreign problem.

Motion of no confidence – can be initiated with the signatures of at least one quarter of the total number of MPs and represents the withdrawal of confidence towards the government, hence its removal. If the vote of no confidence passes, the Prime Minister

will hand in their resignation to the President of Moldova within 3 days. The motion of no confidence can pass with a simple majority.

Interpellations – are written requests for explanations directed at the Government, regarding a specific activity, be it of domestic or foreign policy. Every MP is entitled to issue interpellations, to which the Government has to respond within 15 days. Respective government members are thus summoned to appear in the interpellations parliamentary hearing.

Questions – every Thursday session order of business reserves time for questions from MPs directed towards Government members and other public authorities, except for the President, the judiciary, and local public authorities.

Examinations and reports – the Parliament will invite representatives of the Government to report on and answer questions about their activity. The Parliament can organize examination hearings on other major public interest matters every time it deems necessary. The extraordinary examination hearings are proposed by either the Standing Bureau, a Standing Committee, or a parliamentary faction.

Every year, in April, the Prime minister is invited to a plenary hearing to present an annual activity report and answer questions.

There are other executive and non-executive institutions that have the obligation to issue annual reports to the Parliament, such as the National Anticorruption Center, the National Agency for Contestations, the National Bank of Moldova, the National Committee for Financial Markets, the Court of Accounts, the Prosecutor General's Office.

There are some institutions which are required to provide annual reports only upon request.

Petitions – are written requests from citizens, asking for support in a matter of public interest or reporting abuses. Petitions are analysed by the competent Committee or by the MP – if the petition is directed personally at them.

11. Please provide a list of authorised proponents of legislative initiatives and laws and explain the procedures for the adoption of legislation (including an explanation of existing fast track procedures, if any).

Authorized proponents of legislative initiatives

Pursuant to Article 73 of the Constitution of the Republic of Moldova, the right of legislative initiative belongs to the members of Parliament, the President of the Republic of Moldova, the Government, and the People's Assembly of the Autonomous Territorial Unit of Gagauzia. In the exercise of the right of legislative initiative, the MPs and the President of the Republic of Moldova present to the Parliament draft legislative acts and legislative proposals, while the Government and the People's Assembly of the Autonomous Territorial Unit of Gagauzia present draft laws and decisions (pursuant to Article 47, para. (2) of the Rules of Procedure of the Parliament).

Procedures for the adoption of legislation

The draft legislative act and the legislative proposal are submitted for parliamentary debates, alongside the statement on the objective, purpose and concept of the act, its place within the legislation in force, socio-economic impact, and other effects. By order of the President of the Parliament, the draft legislative acts that fulfill all legislative requirements are shared with relevant standing committees, the Legal Department of the Secretariat of the Parliament and, as the case may be, the Government and other relevant institutions.

The responsible standing committee ensures that the draft legislative acts and legislative proposals undergo public consultation. These are also taken for discussion to other relevant standing committees, which receive the draft legislative acts and legislative proposals for approval. These committees must present their legal opinion to the responsible standing committee within a maximum time frame of 30 working days.

Members of the Parliament, standing committees and parliamentary factions have the right to submit written proposals and pertinent amendments to the draft legislative act, which are then forwarded to the responsible standing committee. After the responsible standing committee finalizes the report (along with the legal opinions of other committees that reviewed the draft legislative act or the legislative proposal, the results of the public consultation and the opinion of the Legal Department of the Secretariat of the Parliament), the draft legislative act or the legislative proposal is included on the agenda of the plenary sittings/sessions of the Parliament, where it undergoes a general debate.

As a rule, the bills are debated in two readings. According to the Rules of Procedure of the Parliament⁷³. However, the draft ordinary laws can be adopted after their first debate during the first reading, while the draft organic laws can be adopted only after their debate in the second reading. It should be noted that draft constitutional laws, draft organic laws on matters related to budgetary, financial, and economic issues that require substantial financial costs and expenses, as well as international treaties, may be debated in the third reading, at the decision of the Parliament. The debate of the draft law in the third reading will also take place if important amendments were proposed during the debates of the draft in the second reading and they lead to a substantial increase in the financial costs and expenses associated with the process of the making of the law.

During the first reading, the draft law is presented by its author, followed by the hearing of the report prepared by the responsible standing committee. Following the debate of the draft law in the first reading, the bill can either be rejected, sent back to the responsible standing committee or another relevant standing committee for final revision, approved as a draft law in the first reading to be debated in the second reading or adopted.

For draft laws that are prepared for debate in the second reading, they are forwarded back to the responsible standing committee or another relevant standing committee. The said committee is responsible for examining the deputies' amendments, any objections and proposals put forward by the parliamentary factions and other standing committees, the Government's opinions, and legal opinions of the Legal Department of the Secretariat of the Parliament, as well as proposals coming from civil society organizations. The said standing committee is also responsible for presenting the report

⁷³ Law No. 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro#

on the draft law. The debate of the draft law in the second reading consists in the hearing of the report on the draft law, the debate on the articles of the draft law (starting with amendments) and the vote of the Parliament. The Parliament votes on each amendment, as well as on the articles of the draft law and, as the case may be, on the draft law as a whole.

For more complex draft laws and codes, the final reading is mandatory.

Moldova's constitutional provisions stipulate that organic laws are adopted with the vote of the majority of elected MPs, while the ordinary law and decisions – with the vote of the majority of MPs present.

After the law is debated and adopted, the law is signed by the President of the Parliament and sent for promulgation to the President of the Republic of Moldova.

Fast track procedures for the adoption of legislation

Pursuant to Article 44 of the Rules of Procedure of the Parliament⁷⁴, there is an emergency procedure for the examining of draft legislative acts, by the request of the Government. The emergency procedure must receive the approval of the Standing Bureau of the Parliament. If approved, the Standing Bureau will establish the timeframe for the submission of the report on the draft legislative acts, which may not exceed 10 working days. After the report is received by the responsible standing committee, the Standing Bureau will prioritize the draft legislative act on the draft agenda for the upcoming plenary sitting/session. The draft legislative acts requested to be examined as part of the emergency procedure are presented to the plenary of the Parliament by the Prime-Minister or, in case of absence, by the Deputy Prime Minister.

Applicable to the emergency procedure for the adoption of legislation is also the declaration of the state of emergency, siege, or war by a decision of the Parliament (under the Law No.212/2004 on the state of emergency, siege and war)⁷⁵.

Pursuant to Article 60, para. 5 of the Rules of Procedure of the Parliament⁷⁶, at the request of the President of the plenary sitting/session or of a parliamentary faction certain draft laws may be submitted for emergency debate and adoption. This requires the vote of the majority of the elected MPs.

12. Please describe the Parliament's rules of procedure and provide information concerning their implementation. When were they amended last? Is there any plan to amend them?

⁷⁴ Law No. 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro#

⁷⁵ Law No. 212/2004 on the state of emergency, siege and war, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=27024&lang=ro

⁷⁶ Law No. 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111777&lang=ro

Currently, the legislative process in the Republic of Moldova is regulated by the Law No. 797/1996 on the Rules of Procedure of the Parliament.⁷⁷ The Rules of Procedure regulate the following issues:

- The establishment and functioning of the Parliament - the constituent sitting of the Parliament, formation of the parliamentary factions, election of the President and Vice-Presidents of the Parliament, the establishment of the Standing Bureau of the Parliament and its competences, the establishment of the Standing Committees and their duties, Special Committees, Investigation Committees.
- Organization of parliamentary work - sessions of the Parliament, parliamentary sittings.
- Legislative procedure - conditions to exert the right of legislative initiative and the subjects of this right, registration of the draft law, organization of public consultation, submission of amendments, debate of bills in different readings, voting procedure by categories of law, submitting the law to the President of the Republic of Moldova for promulgation.
- Parliamentary oversight - oversight of legal acts implementation, simple motion, motion of no confidence, questions to members of the Government or to officials from other public authorities, interpellations, parliamentary hearings over Governments activity.
- Parliamentary ethics and conduct - non-attendances of MPs, interdictions, sanctions for infringement of the Rules of Procedure by MPs.
- Relations between the Parliament and the President of the Republic and the Government.

The Rules of Procedure of the Parliament have undergone multiple changes since their adoption, and the institutions regulated by it have been subject to constitutional review several times.

The changes and additions made have contributed to increasing the quality of the Rules and have targeted parliamentary institutions and practices which have been strengthened. These concerned in particular the parliamentary majority, the institution of promulgation, the formation of parliamentary factions, the duties of the President and Vice-Presidents of Parliament, the duties of the Standing Bureau, the rights and responsibilities of Members, disciplinary violations, the procedure for lifting parliamentary immunity, etc.

Previous amendments to the Rules of Procedure of the Parliament

The provisions of the Rules of Procedure of the Parliament have been amended several times. The latest amendments are the following:

1. According to the Law nr.164/2021,⁷⁸ the provisions of the Rules of Procedure of the Parliament were supplemented with Article 89¹ which describes the mechanism of e-

⁷⁷ Law No. 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro#

⁷⁸ Law No.164/2021 on amending the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128618&lang=ro

voting. The provisions of the Law describe the actions of the chairman of the sitting and the MPs during the e-voting procedure, as well as following the occurrence of a technical failure of the electronic devices, the verification procedure by electronic means of the quorum at the plenary sessions, the obligations of the users of the electronic nominal cards.

The use of electronic devices improves the voting procedure of the normative acts of the Parliament in the plenary sessions, ensures the correctness of counting the results of the vote cast by facilitating the activity of the Parliament.

2. Law nr.58/2022⁷⁹ improves the Rules of Procedure of the Parliament in order to give the Parliament's Secretary-General the task of managing Parliament's budget and hiring/relieving civil servants of the Parliament's Secretariat in order to streamline the management of resources. The Secretary-General shall be required to report to the Permanent Bureau every six months or as required on expenses incurred.

Plans to amend the Rules of Procedure

The President of the Parliament, by the decision No. DGD/C-1 No. 4 of 14.03.2022, created the working group, consisting of members of the Legal Committee, officials of the General Legal Directorate and Standing Committees, to analyze national and international good practice in order to draft a new Code of Parliamentary Rules and Procedures, including a new chapter on parliamentary ethics.

The working group has the task to harmonize the draft law with the multiple recommendations of the European Commission for Democracy through Law (Venice Commission), the recommendations of civil society and the media, the aim of which is opening transparency and accessibility to the legislative process.

The working group studied best international practices regarding the legislative procedure, proposing several new institutions and elements like:

- To ensure the regulation of all areas of social relations, the organization of parliamentary hearings, parliamentary scrutiny and other activities, Parliament shall adopt the annual legislative program, which shall be drawn up considering the Government's action plan.
- Strengthening the institution of admissibility in the legislative procedure of the draft normative act.
- Strengthening the transparency of the law-making process and the cooperation with civil society.
- A separate section is dedicated to the relation Parliament-Government in the process of European integration of the Republic of Moldova. Within the annual report of the Government, a separate chapter will be reserved to describe the process of European integration of the Republic of Moldova, the progress made, and the priorities set.
- In the case of a draft legislative act pertaining to the Republic of Moldova's EU integration process, the report of the Committee on Foreign Policy and European Integration is mandatory.

⁷⁹ Law No. 58/2022 on amending the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130458&lang=ro

- Parliament's relations with local public administration authorities.
- Regulation of relations between the majority and the parliamentary opposition in order to harmonize the views and divergences.
- Establishes general rules of conduct within the Parliament, the conduct of the MP in the exercise of his/her mandate, conduct restrictions during meetings, the conduct of the MP abroad, the conduct of the MP towards the staff of the Secretariat of the Parliament of the Republic of Moldova, the conduct of the MP towards the public and the media. A new element is the establishment of the position of Commissioner for Ethics.

Concluding on the draft Code of Parliamentary Rules, Procedures and Ethics, it is necessary to mention that the proposals to improve the legislative framework are based on the experience of activity of the Parliament and are called to strengthen the organization and functioning of the Parliament, while also boosting the accountability and integrity of legislators.

13. How does the Parliament exercise its legislative functions? Is there a system of verifying, at Parliament level, the compatibility of new legislation and amendments proposed in parliamentary procedure with the EU *acquis*? Explain and provide information and examples. Does the Parliament request accompanying documents when assessing draft laws, such as impact assessments, evidence of public consultations?

The Parliament exercises its legislative functions in accordance with the Constitution of the Republic of Moldova, the Rules and Procedures of the Parliament adopted by Law nr.797/1996⁸⁰. The work of the Parliament and its working bodies is performed at sittings.

The Parliament holds two ordinary sessions per year. The spring session begins in February and must finish by the end of July. The autumn session begins in September and must finish by the end of December.

The Parliament meets for an extraordinary or special session upon the request of the President of the Republic of Moldova, the President of the Parliament or one third of the MPs.

The Parliament organizes its activity in the form of plenary sittings and meetings of the standing committees. Plenary sittings are considered deliberative if the majority of the elected MPs are present.

According to art.73 of the Constitution of Republic of Moldova and art. 47 of the Rules of Procedure, the right to legislative initiative belongs to MPs, the President of the Republic of Moldova, the Government, and the People's Assembly of the Autonomous Territorial Unit of Gagauzia. An MP can exercise the right to legislative initiative individually or together with other MPs.

The author of the draft law submits the draft in the form in which the law is adopted, with a statement. The statement contains the constitutional basis for adopting the

⁸⁰ Law No. 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111777&lang=ro

regulation, reasons for adopting the regulation, explanation of the basic legal institutions, an estimate of the funds necessary for the implementation of the regulation, reasons for adopting the draft law by an urgent procedure, if an urgent procedure has been proposed. The statement may also contain the analysis of the regulation effect, with detailed explanations.

The draft law is debated together with the statement of the objective, the purpose, the concept of the future legal act, its place in the legislation in force, as well as its social-economic and other effects, according to the requirements of the Law on legal acts No. 100/2017. An economical and financial rationale shall be attached if the fulfillment of the new regulations requires financial, material, and other kinds of expenses, and also the results of the expertise and research carried out during the preparation.

The President of the Parliament shall submit the draft legislative act or legislative proposal to be considered in the responsible Standing Committee under the competence of which it falls. Before being discussed at a plenary sitting of the Parliament, draft laws are discussed by the Standing Committees and the Government, if the latter is not the draft law initiator. The responsible Standing Committee and the Government in their opinion/reports may propose to the Parliament to accept or not to accept the draft law in principle.

The MPs, standing committees and parliamentary factions shall be entitled to present, as a rule in writing, conceptual proposals and reasoned amendments to the draft legislative act that shall be submitted to the responsible standing committee within a 30-day term after the receipt of the law.

The draft law is considered by the Parliament under a regular or an urgent procedure. The responsible Standing Committee initially puts to a debate in principle the draft law and in their report, may propose to the Parliament to accept or not to accept the draft law in principle.

The author of the draft law/the initiator may withdraw the draft law or proposal at any time up to the final enactment in the plenary sitting.

The system of verifying the compatibility of new legislation and amendments proposed with the EU acquis was established by the Law No.100/2017⁸¹ on normative acts and according to the provision of art. 33, 36, 39,40:

Approximation of national legislation with the legislation of the European Union is done in accordance with the commitments assumed by the Republic of Moldova based on the international agreements concluded with the European Union, legislative programs of the Parliament and action plans of the Government.

Draft legislative acts that have the purpose to approximate the national legislation with legislation of the European Union are marked on the first page on the top right corner with the EU logo and contain approximation clauses.

For draft legislative acts that have the purpose to approximate the national legislation with the legislation of the EU, the author of the draft must draft the Table of concordance that assesses the transposition degree of the legislation of the European Union into the national legislation. In compliance with the provision of art. 21 of

⁸¹ Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

the Law No.100/2017 on normative acts, at the stage of the drafting of law it is necessary to prepare the table of concordance with European legislation. The compatibility of the laws with the EU acquis is checked, by the Center for Legal Approximation, which issues, at the same time, the Statement of compatibility.

Draft legislative acts pertaining to the European Integration process are sent to the Center for Legal Approximation for a compatibility review with the EU legislation. Based on the results of the compatibility review, the Center for Legal Approximation drafts the Statement of compatibility. In case of draft legislative acts presented by the President of the Republic of Moldova, an MP or the People's Assembly of ATU Gagauzia, which have the purpose to approximate the national legislation with the EU legislation, these are sent for endorsement to the Government, accompanied by the table of concordance.

After the draft law is introduced in the Parliament, it was verified by the relevant Standing Committee, and the General Legal Department. The General Legal Department compares the draft law with EU legislation, analyzes if the EU acts were transposed partly or completely, verifies the existence and correctness of the table of concordance. According to the Law No.100/2017 on normative acts, the informative note/the statement includes the level of compatibility for the draft laws that are aimed to approximate national legislation with the European one.

In the context of ensuring the compatibility of amendments with the EU legislation (EU acquis), the relevant Standing Committees also check amendments and table of compliance in their field. If necessary, a Committee may request a legal opinion of the General Legal Department.

The Committee for Foreign Policy and European Integration prepares the co-report for the draft laws pertaining to the European Integration process.

According to Article 40 of Law No.100/2017 on normative acts, the draft normative act shall be submitted to public authorities with powers to adopt, approve or issue the accompanying file, which consists of:

- a) an explanatory note;
- b) depending on the case, an ex-ante assessment report or regulatory impact analysis;
- c) notices and recommendations, in original, received during the endorsement and public consultations;
- d) expert review reports, in original;
- e) a summary of objections and proposals of public authorities and a summary of the recommendations of representatives of civil society, if any, by indicating the acceptance thereof or presenting the arguments to reject the proposals, objections, and recommendations;
- f) a statement of compatibility of the Center for Legal Approximation, as well as the updated table of concordance for draft laws pertaining to the European Integration process;
- g) the comparative table shall reflect the regulations in force and suggested amendments for drafts that contain amendments to normative acts in force;

h) other materials, depending on the case, used to draft the normative act.

If the accompanying file of the draft law is not complete, Parliament will forward the draft law to the author requesting the supplement of the accompanying file.

The relevant Standing Committee of the Parliament ensures the public consultation on draft laws with the stakeholders by organizing debates and public hearings through other consultation procedures established by Law No. 239/2008 on transparency in decision making⁸².

Standing Committees may organize public hearings for the purpose of obtaining information, or professional opinions on proposed acts which are in parliamentary procedure, clarification of certain provisions from an existing or proposed act, clarification of issues of importance for preparing the proposals of acts or other issues within the competences of the committee, as well as for the purpose of monitoring the implementation and application of legislation.

Proposals for organizing public hearings, with the topic of the public hearing and list of persons who would be invited, may be submitted by any committee member, and the decision thereupon is made by the committee.

14. Please specify what percentage of law were adopted by fast-track procedure over the past 5 years.

From 2017 to 2021, 11.13% of laws were adopted by fast-track procedure.

Year	Number of adopted Laws	Urgent	Priority	%
2017	324	-	52	16,05
2018	342	-	45	13,16
2019	202	-	12	5,94
2020	259	1	24	9,65
2021	248	1	18	7,66
TOTAL	1375	2	151	11,13

15. Please specify the competences of the Parliamentary Committees.

⁸² Law No.239/2008 on transparency of the decision-making, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

The Parliamentary Committees are specialized bodies of the Parliament, where their members and assigned staff work on and prepare the legal acts which are subsequently debated and voted on in the plenary sittings.

The Standing Committees have the following legal competences:

- a) examination of draft laws and draft legal proposals, issuing reports and reviews, initiate and carry out parliamentary investigations, discuss and decide upon other issues, including matters referred to by the President or Vice-presidents of the Parliament;
- b) the Standing Committees can undertake sessions to advise public authorities and other state institutions on matters of their competence;
- c) issue consultative reports on the uniform application of the law; these reports are not binding for the courts of law;
- d) form working groups consisting of specialized experts to solve an issue delegated to them or work on a draft law;
- e) in order to improve the public consultation process, the committees will map all stakeholders and interested parties within the Committee's area of activity. The stakeholder mapping is updated regularly;
- f) form sub-committees, in which MPs from the original Committee can participate.

The Rules of Procedure of the Parliament provide for two mandatory sub-committees: one to exercise oversight regarding the Security and Intelligence Service activity and one for exercising of parliamentary oversight regarding the execution of ECHR rulings, as well as rulings of the Constitutional Court.

The Investigative Committees are created for research purposes into a specific problem; they have the competence to issue subpoenas regarding any person who knows relevant information concerning the given problem, except for representatives of the judiciary, prosecution service and other criminal investigative bodies.

Special Committees are usually created to work on a specific, complex legislative matter, or for other reasons specified in the decision on the constitution thereof. Special and investigative committees are created with the vote of the simple majority of MPs.

16. How many political parties are registered in Moldova? How many of these are represented in Parliament?

There are currently 71 political parties registered in Moldova⁸³, 24 of which participated in the last snap parliamentary elections (2021), 29 – in the last local elections (2019) and 7 – in the last presidential elections (2020). Only four of them are represented in Parliament:

- 1) Action and Solidarity Party (63 MPs)

⁸³Agency of Public Services, List of Political Parties from the Republic of Moldova, available in Romanian at: <https://www.asp.gov.md/en/informatii-utile/lista-partidelor-politice-din-republica-moldova>

- 2) Party of Communists of the Republic of Moldova (22 MPs)
- 3) Party of Socialists of the Republic of Moldova (10 MPs)
- 4) Sor Party (6 MPs)

The Communists and the Socialists formed an electoral block prior to the parliamentary elections and now sit in the same parliamentary faction.

17. Please provide a breakdown of Members of Parliament according to (a) gender; (b) belonging to national minorities.

Out of 101 MPs:

a) Gender representation:

61 men (60,4%) and 40 women (39,6%) out of 101 MPs.

b) MPs belonging to national minorities (ethnic groups):

Majority: Moldovan/Romanian – 81 MPs (80.2%).

Other ethnic groups: Ukrainian – 6, Russian – 5, Gagauz – 3, Jewish – 3, Bulgarian 2, Romany – 1. Total – 20 MPs (19.8%).

18. Please describe the provisions in place defining the persons having the right to vote in elections and the arrangements regarding voters' registers.

Provisions defining persons entitled to vote in elections

The constitutional right to vote and to express by vote the attitude towards the most important issues of the state and of the society as a whole and/or on local issues of special interest, is enshrined in the Constitution of the Republic of Moldova⁸⁴ and stipulated in the Electoral Code⁸⁵.

The Constitution guarantees universal suffrage for all citizens aged 18 and above by election day, except those deprived of the right to vote by a court decision. The criteria for disenfranchisement are provided by the art.308/11 of the Code of Civil Procedure of the Republic of Moldova⁸⁶.

Citizen of the Republic of Moldova participate in elections which are:

⁸⁴ Constitution of the Republic of Moldova, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro

⁸⁵ Electoral Code of the Republic of Moldova No. 1381/1997, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

⁸⁶ Code of Civil Procedure of the Republic of Moldova, No.225/2003, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=130805&lang=ro#

- a) **universal** - citizens of the Republic of Moldova may choose and be elected without distinction of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin.
- b) **equal** - in any election, each voter is entitled to only one vote. Each vote has equal legal power.
- c) **directly** - the voter votes personally. Voting in place of another person is prohibited.
- d) **secret** - voting in elections and/or referendums is secret, thus excluding the possibility of influencing the will of the voter.
- f) **freely expressed** - no one is entitled to exert pressure on the voter to make him/her vote or not to vote, as well as to prevent him/her from expressing his/her will independently⁸⁷.

Citizens of the Republic of Moldova residing abroad and in the Transnistrian region also enjoy full electoral rights. Diplomatic missions and consular offices are obliged to create conditions for citizens to freely exercise their electoral rights⁸⁸. Since 2010, voting abroad is also possible in polling stations opened outside the premises of Moldovan diplomatic missions and consular offices and their number has steadily increased, up to 150 polling stations in the early parliamentary elections of 11 July 2021. The Central Election Commission's decision on the number of polling stations abroad is to be taken based on the proposal of the Moldovan Ministry of Foreign Affairs and European Integration (hereinafter - MFAEI) and the voter turnout in the last election in a given country, the number of voters who pre-registered to vote there, and data on Moldovan citizens residing in a foreign country obtained by the MFAEI. The voters residing in the Transnistrian region can vote at designated polling stations established in the localities under the constitutional control of Moldovan authorities.

The right to vote is applied in accordance with the European Convention on Human Rights, with the pacts and other treaties to which the Republic of Moldova is a party, as well as with the Code of good practice in electoral matters.

Arrangements to the voters' registry

The system of voter registration is passive and is based on the data extracted from the State Registry of Population, held by the Public Service Agency. The centralized State Registry of Voters (SRV) is maintained by the Central Electoral Commission.

The State Registry of Voters is an unique integrated information system for recording voters from the Republic of Moldova. It is designed to collect, store, update and analyze the information on the citizens of the Republic of Moldova who have reached the age of 18 and have no legal prohibition to vote.

⁸⁷ Electoral Code of the Republic of Moldova No. 1381/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

⁸⁸ Electoral Code of the Republic of Moldova No. 1381/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro
<https://a.cec.md/storage/ckfinder/files/Electoral%20Code%20of%20RM.pdf>

The legal framework ensures the transparency and accessibility of voters' lists, ensuring their public display for a 20-day period, at the electoral bureau office, and their access in an on-line format, ensuring confidentiality of personal data.

According to the provisions of the Regulation on the State Registry of Voters, approved by CEC Decision No. 2974/2014⁸⁹, the information system "State Registry of Voters" is elaborated according to point 2, 7 and 9 of the State Automated Information System "Elections" (hereinafter - SAIS "Elections") Concept, approved by Law No. 101/2008⁹⁰, art. Art.18, 22 letter c), s), Art. 381, 39, 40 of the Electoral Code No. 1381/1997⁹¹, Law No. 71/2007 on Registries⁹²; Law No. 133/2011 on personal data protection⁹³ and Government Decision No. 1123/2010 "on the approval of the requirements to ensure the security of personal data when processing them in personal data information systems"⁹⁴.

The registry is a module of the State Automated Information System, but it is independent, as its functionality does not depend on the functionality of the SAIS "Elections". The voters' personal data is automatically updated on a daily basis importing data from the State Registry of Population. Registrars (people from the local public authority who, based on authorized access, process data contained in the registry) are responsible for allocating voters to a polling station. If the voters have changed their place of residence after the last elections, they have the right to inform the local authorities of the new place of stay, at least 30 days before the next elections, to be included in the voter list according to the place of residence. These changes are also recorded in the State Registry of Voters, which is used for drawing up the voter lists before elections.

On the Election Day, before signing in the voter lists, the voters are identified through the SAIS "Elections", thus preventing multiple voting.

19. Please describe the overall framework for party and campaign financing, the rules guaranteeing its transparency and provide details on the monitoring of its implementation. How are the GRECO recommendations on "Transparency of Party Funding" addressed? Do the existing reporting obligations under the Electoral Code for public parties during elections also cover private funding sources? Please explain what mechanisms are in place for reporting private and public party financing funding.

⁸⁹ CEC Decision No. 2974/2014 on the Regulation on the State Voters Registry, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=78097&lang=ro

⁹⁰ Law No. 101/2008 on the Concept of the State Automated Information System "Elections", available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=14495&lang=ro

⁹¹ Electoral Code of the Republic of Moldova No. 1381/2997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

⁹² Law No. 71/2007 on Registers, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122742&lang=ro

⁹³ Law No. 133/2011 on Personal data protection, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110544&lang=ro

⁹⁴ Government Decision No. 1123/2010 on the approval of the requirements to ensure the security of personal data when processing them in personal data information systems, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=16012&lang=ro

Overall framework for party and campaign financing

Political parties and electoral campaigns financing is regulated by the Electoral Code, Law No. 294/2007 on Political Parties⁹⁵, Regulation on financing the activity of political parties, approved by CEC Decision No. 4401/2015⁹⁶, Regulation on financing of electoral campaigns, approved by CEC Decision No. 3352/2015⁹⁷ and Regulation on financing the initiative groups, approved by CEC Decision No. 114/2016⁹⁸.

According to Art. 29 of the Law on Political Parties, political parties shall submit half-yearly and annual financial reports to the Central Electoral Commission (hereinafter - CEC), that is responsible also for their verification and analysis. Political parties that receive public subsidies, should also submit these reports to the Court of Accounts. The reports include data on political parties' sources of funding, such as party membership fees, donations, state budget subsidies and other legally obtained revenues, as well as incurred expenses. The Electoral Code (Art. 22 para. (2), letter j)) gives the CEC, in its capacity as an independent oversight and control body of the political parties and election campaigns financing, the right to access information held by public authorities at all levels and state registries, including personal data, as well as may request the submission of other information on the financing of political parties and election campaigns.

All the financial reports submitted both by the political parties and electoral competitors, within 48 hours from their reception and acceptance, are published on the CEC website, under the section "Financing" – in case of political parties⁹⁹ or "Elections and Referenda", heading "Financial support" – in case of electoral campaigns¹⁰⁰.

Implementation of GRECO recommendations on "Transparency of Party Funding"

Republic of Moldova became a member of GRECO in 2001. In 2015, GRECO conducted the third round of evaluation and appreciated the compliance of the Republic of Moldova in terms of transparency of the financing of political parties. In the Evaluation Report, GRECO addressed 9 recommendations to the Republic of Moldova regarding the II Topic: Transparency of party funding. In the last compliance report of 2015, GRECO concluded that most of the recommendations have been implemented satisfactorily.

One of the basic principles that guides the CEC in its daily work is the transparency of the electoral process. Facilitated public access to information on the financing of

⁹⁵ Law No. 294/2007 on Political Parties, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=25035&lang=ro

⁹⁶ CEC Decision No. 4401/2015 on the Regulation on financing the activity of political parties, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=108281&lang=ro

⁹⁷ CEC Decision No. 3352/2015 on the Regulation on financing of electoral campaigns, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=95689&lang=ro

⁹⁸ CEC Decision no 114/2016 on the Regulation on financing the initiative groups, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=95133&lang=ro

⁹⁹ CEC, online registry of Reports on financing of Political Parties, available in Romanian at: https://a.cec.md/ro/finantarea-partidelor-6519_96312.html

¹⁰⁰ CEC, information about elections and referendums, available in Romanian at: <https://a.cec.md/index.php/ro/alegeri-si-referendumuri-2830.html>

political parties and election campaigns is ensured on the CEC web page, observing the protection of personal data.

the CEC has implemented the recommendations as follows:

- To update the legal framework on political parties and electoral campaigns financing, in terms of transparency of party funding.

After the adoption by the Parliament of Law No. 36/2015 on amendment and completion of legislation on the financing of political parties, the Republic of Moldova strengthened the legal framework to ensure the transparency of financing of political parties, electoral competitors and entities related to a political party, bringing it in line with relevant articles from the Recommendation Rec (2003) 4 on common anti-corruption rules for the financing of political parties and election campaigns. Since 2015, the legal framework has been continuously amended to enhance the transparency of election campaign funding, which was appreciated by domestic and international election observation missions.

To ensure the enforcement of the amended legislation, the CEC elaborated and adopted CEC through its own normative framework: Regulation on financing of electoral campaigns, approved by the CEC Decision No. 335/2015; Regulation on financing the political parties, approved by the CEC Decision No. 4401/2015; Regulation on financing the initiative groups, approved by the CEC Decision No. 114/2016; Regulation on financing of electoral campaigns, approved by the CEC Decision No. 2704/2019. All CEC Regulations are published on the official CEC website, section “Regulatory Framework”, under the heading “Regulations”¹⁰¹.

- To make it obligatory for political parties' annual financial reports destined for publication and submission to the supervisory authorities to include more precise information, guaranteeing a full overview of the party's assets and its income and expenditure.

CEC designs and approves the templates of financial reports submitted by political parties and electoral competitors which shall include the following information:

- a) the assets and revenues of the political party, disaggregated by types of revenues.
- b) all donations received by a political party, including the amount, the donor identity (full name/surname, denomination and organizational form), domicile/headquarters and occupation/place of work or type of activity.
- c) the obligations and expenses of the political party, other than those used for the electoral campaign, grouped on operational expenses and goods management expenses.
- d) the accounting information, for the corresponding period, of the legal persons founded or otherwise controlled by the respective political party.

The political party must fill out all sections of the financial report. The failure to complete any section of the report entails gradual liability, such as a warning or the initiation of a contravention procedure.

¹⁰¹ CEC Regulations, available in Romanian at: <https://a.cec.md/ro/regulamente-3155.html>

- To require that all donations received by political parties outside election campaigns that exceed a given amount, as well as the identity of the donors, are disclosed to the supervisory authorities and are made public.

The legislation provides that absolutely all donations, regardless of their size, shall be declared and included in the financial reports that are published on the CEC webpage. Moreover, over time, the donation ceiling has been continuously reduced, and the cash donation ceilings have been drastically reduced.

Thus, donations made by an individual to one or more political parties during a budget year may not exceed a total of six monthly average wages for that year. The donations from citizens of the Republic of Moldova with incomes obtained from abroad should not exceed three monthly average wages for the respective year. During a budget year, cash donations by individuals to one or more political parties should not exceed three monthly average wages set for that year. Donations exceeding this limit will be made exclusively through banking operations.

Donations made by a legal entity to one or more political parties during a budget year should not exceed 12 monthly average wages for that year and should be made exclusively through banking operations.

- To take appropriate measures to limit the risk that members' subscriptions received by parties may be used to circumvent the transparency rules applicable to donations.

According to the legislation in force, absolutely all contributions, regardless of their size, shall be declared and included in the financial reports that are made public by CEC on its webpage. The size and manner of payment of membership fees shall be regulated by the political party in its statute. When collecting the membership fee, it is mandatory to register the name, surname, year of birth, domicile, and amount in the Membership Fees Registry.

- To take appropriate measures (i) to ensure that all donations and services provided to parties or candidates in kind or on advantageous terms are properly identified and recorded in full, at their market value, in both parties' annual reports and campaign funding reports; and (ii) to clarify the legal situation regarding loans.

The legislation requires that absolutely all donations regardless of their form (property, goods, free services or provided on advantageous terms) are to be declared and included in the financial reports submitted to CEC. The donations are assessed by the competitor or the political party at their market price, by drawing up the valuation document.

Under Art. 40 of the Electoral Code¹⁰², the state grants interest-free loans to electoral contestants. For each national or local election, the Central Electoral Commission approves separate decisions establishing the amount of these credits.

- To promote the use of means of payment for donations to political parties and for political party spending involving, notably, recourse to the banking system in order to make them traceable.

All payments to political parties are made by bank transfer. The political party has to open a bank account where all the offered financial contributions are to be deposited or transferred, including donations and membership fees, except for the public subsidies, which will be transferred to a separate bank account. The bank account

¹⁰²Electoral Code of the Republic of Moldova No. 1381/2997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

details are placed on the party's website (if any), are indicated in the financial reports and communicated to the Central Electoral Commission. Only individuals are allowed to make cash donations to one or more political parties, not exceeding three average wages during a budget year. Donations exceeding this limit will be made exclusively by bank transfer.

- To explore the possibilities of consolidating political parties' annual reports and campaign funding reports so as to include entities which are directly or indirectly related to them or otherwise under their control.

All financial reports are published on the webpage of the Central Electoral Commission under the "Financing" section – in case of political parties financing¹⁰³ and under the section "Elections and Referenda", heading "Financial support" – in case of electoral campaigns financing¹⁰⁴. Information on entities affiliated to political parties can be obtained by analyzing the published financial reports.

- To introduce independent auditing of party accounts by certified experts.

The Law No. 36/ 2015 on amendment and completion of certain acts revised the art. 31 of the Law No. 294-XVI/2007 on political parties by obliging political parties, whose annual income or expenses exceed one million MDL, to carry out an independent audit of the financial reports at least once in every 3 years.

The political party must send the audit report, together with the annual financial report, to the Central Electoral Commission, and to the Court of Accounts, if it is a beneficiary of public subsidies.. The auditor is selected by the political party. He/she must not have been a party member or treasurer in the election campaign for the past 5 years, accountant or responsible for financial management within the political party for which the audit is conducted. It is prohibited for the same auditor to hold audit missions on the financial reports of political parties, for two consecutive periods. The audit of the financial reports of political parties shall be conducted in accordance with relevant national legislation and national and international auditing standards.

- To mandate an independent central body, endowed with sufficient powers and resources and assisted by other authorities where necessary, so as to allow the exercise of effective oversight, the conduct of investigations and the implementation of the regulations on political funding.

The Central Electoral Commission approved the creation of a special Division on the Oversight and Control of Political Parties and Election Campaigns Funding¹⁰⁵. The division, which is going to become operational by the end of this year, has the goal to contribute to the Commission's tasks of overseeing and controlling the political parties and election campaign financing.

However, the legislation grants the CEC certain competences to investigate violations of the rules on the political parties and election campaign financing. These were fully applied during the autumn 2021 new local elections. CEC created an inter-institutional working group, the task of which was to carry out the oversight and control of the

¹⁰³ CEC, online registry of Reports on financing of Political Parties, available in Romanian at: https://a.cec.md/ro/finantarea-partidelor-6519_96312.html

¹⁰⁴ CEC, information about elections and referendums, available in Romanian at: <https://a.cec.md/index.php/ro/alegeri-si-referendumuri-2830.html>

¹⁰⁵ CEC Decision No.261 of 30.12.2021, available in Romanian at: https://a.cec.md/ro/cu-privire-la-aprobarea-efectivului-limita-structurii-organizatorice-si-organigr-2751_101057.html

election campaign financing. As a result, the CEC applied 28 sanctions to electoral competitors, respecting the principles of graduality and proportionality: 18 warnings to 9 electoral competitors; 10 notices to 5 electoral competitors; complementary sanctions of deprivation of public subsidies to 3 political parties; annulment of registration for 2 electoral competitors. Thus, despite the limited capacity to detect independently potentially illicit and/or dubious funding, due to the collaboration with other law enforcement institutions, the CEC succeeded in implementing this recommendation. However, in order to carry out a substantial and deep control, additional staff invested with such tasks is required.

- To ensure that (i) all infringements of the rules on party funding in general and financing of election campaigns are clearly defined and made subject to effective, proportionate and dissuasive sanctions, which can, if necessary, be imposed after the Constitutional Court has validated the elections; and (ii) the limitation periods applicable to these offenses are sufficiently long to allow the competent authorities effectively to supervise political funding.

Art. 31² para. (1) of Law on Political Parties refers to the types of violations of the legislation on political party financing:

- a) violation of the procedure of evidence and use of the political parties' patrimony, including failure to present the donors identification data.
- b) failure of political parties to submit the annual financial report to the Central Electoral Commission, to observe the deadline and format established by law, including the presentation of incomplete data.
- c) the misuse of the public subsidies received by political parties.

In line with Art. 31² para. (2) of Law on Political Parties, the facts regulated in para. (1) are considered contraventions liable under the Contravention Code.

According to Art. 423⁷ of the Contravention Code of the Republic of Moldova, the Central Electoral Commission, ex officio or upon notification, ascertains offenses stipulated in the following articles¹⁰⁶:

Art.48 Using in elections or in referenda of funds from abroad or undeclared funds.

Art.48¹ Violation of legislation on the management of financial means of political parties and election funds.

Art.51 Registration in several lists of candidates.

Art.52 Electoral propaganda.

Art. 53 Violation of the electoral legislation by the members of the electoral body.

The Chair of the Central Electoral Commission or the Deputy Chair of the Commission (for the period when he/she replaces the Chair) have the right to ascertain offenses and to conclude minutes. The minutes on the offenses shall be sent for substantive examination to the competent Court. The limitation period for the prosecution of contravention, is a general one, the same as for most contraventions - one year, but sometimes it is insufficient for a full investigation, under all the aspects of deviations that refer to funding.

¹⁰⁶ Contravention Code of the Republic of Moldova No. 218 of 24.10.2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro#

In conclusion, most of the GRECO recommendations have either been fully or largely implemented.

Reporting obligations under the Electoral Code

According to the provisions of Art. 43 of Electoral Code, the electoral competitors, within 3 days after opening the account “Election Fund” and on a weekly basis afterwards have to submit the report on the accumulated financial means and expenditures incurred during the electoral campaign to the Central Electoral Commission. Absolutely all funding sources shall be disclosed in the financial report, regardless of where they come from – both from their own sources and from private sources. The transparency of the reports is ensured by publishing them on the official webpage of the Central Electoral Commission. In case of electoral campaigns financing, the reports are published under the compartment “Elections and Referenda”, heading “Financial support”¹⁰⁷.

Mechanisms for reporting private and public party financing funding

The financial report of the political party is submitted to the Central Electoral Commission both in electronic form, through the SSI "Financial Control" platform and on paper. The printed report shall be signed by the leader and treasurer of the political party. Upon receipt of the report, the CEC shall indicate on the submitted documents the date and time of receipt and hand a copy to the political party. Along with the report, the political party presents information on real estate owned. The reports are published by CEC on its webpage 48 hours after their receipt.¹⁰⁸ The financial reports must include absolutely all sources of funding, regardless of the nature of their origin – from their own sources or from private sources.

The Central Electoral Commission checks the accuracy of the financial reports. The statistical data held by the Central Electoral Commission from 2016 to date shows that 89 contravention minutes (84 - between 2016-2021 and 5 - between January-February 2022) have been drawn up and submitted for examination to the competent court.

20. Please describe the progress achieved to date in addressing the recommendations of the Office for Democratic Institutions and Human Rights in terms of the regulatory framework for campaign finance.

Following the OSCE/ODIHR election observation missions from the last three national elections held in the Republic of Moldova, a total of 7 recommendations were made on the topic of campaign financing. Out of them, 3 have been fully implemented and 4 -

¹⁰⁷ CEC, information about elections and referendums, available in Romanian at: <https://a.cec.md/index.php/ro/alegeri-si-referendumuri-2830.html>

¹⁰⁸ CEC, online registry of Reports on financing of Political Parties, available in Romanian at: https://a.cec.md/ro/finantarea-partidelor-6519_96312.html

partially implemented. Further explanations regarding each recommendation are provided below.

1. In its observation report on the parliamentary elections of 24 February 2019, OSCE/ODIHR Observation Mission *mentioned that the CEC must remain the competent supervisory body, it should have sufficient authority, human and technical resources to carry out an effective oversight of campaign funding.* This recommendation was reiterated in the final ODIHR report, issued after the early parliamentary elections of 11 July 2021, namely: *“In order to increase the transparency and accountability of campaign funding, the supervisory body must have adequate authority, resources and technical expertise to exercise its functions effectively.”* The ODIHR observation report on the presidential elections of 1 November 2020 concluded that *“CEC should be equipped with resources and adequate capacities, including rules and procedures for significant surveillance”*.

In order to accomplish this recommendation, during the new local elections in autumn 2021, CEC created an inter-institutional working group aimed to carry out the oversight and control of the election campaign financing. As a result, the CEC applied 28 sanctions to electoral competitors. Moreover, on 30 December 2021, by the Decision No. 261/2021¹⁰⁹, Central Electoral Commission approved the creation of a new subdivision. The Division for Oversight and Control of Political Parties and Election Campaigns Funding, with 8 staff members, is going to contribute to the Commission's tasks of overseeing and controlling the financing of political parties and election campaigns.

In this regard, this recommendation was partially implemented.

2. Following the new parliamentary elections of 24 February 2019, the OSCE/ODIHR recommended that *in order to ensure that independent candidates are fairly treated in the allocation of state resources, they should receive public funding.*

Under the Art. 40 of the Electoral Code¹¹⁰, the state offers independent candidates interest-free loans. For each national or local election, the Central Electoral Commission approves the amount of these credits. Additionally, the independent candidates enjoy free of charge airtime, in a fair and non-discriminatory manner, based on the principles of transparency and objectivity¹¹¹.

During the parliamentary elections, independent candidates benefit from equal financial guarantees as political parties registered as electoral competitors in the part related to the ceiling of the financial means that can be transferred to the bank account.

In conclusion, we consider that this recommendation was appropriately accomplished.

3. In line with previous recommendations, in order to increase the transparency and oversight of campaign finances, *previously identified gaps and shortcomings in legislation should be addressed, including those relating to the regulation of third-party activities and the prohibition of donations from incomes obtained from abroad.*

¹⁰⁹ CEC Decision nr. 261/2021 on the approval of the staff-limit, the organizational structure and the organizational chart of the Central Electoral Commission, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129995&lang=ro

¹¹⁰ Electoral Code of the Republic of Moldova No. 1381/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

¹¹¹ Electoral Code of the Republic of Moldova No. 1381/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

The prohibition of donations from income from outside the country, was repealed by the Law No. 113/2019 on the amendment of some legislative acts¹¹² Currently, such a form of party and election campaign funding is allowed. The presidential elections of November 1, 2020 were the first when citizens living abroad could make donations within the set ceiling limit (Art. 41 para. (2) letter e) of the Electoral Code).

As for the regulation of the third-parties activity in election campaigns, the Parliament adopted the Law No. 86/2020 on non-commercial organizations¹¹³ which regulates the activity of non-commercial organizations during the electoral period, including the explicit prohibition of free of charge services and/or material support to electoral competitors (Art. 6 para. (3) – (5) of the above-mentioned Law).

In conclusion, this recommendation was appropriately accomplished.

4. In order to increase the transparency of campaign funding and improve accountability, *it was recommended to revise the legislation and practice in order to provide for gradual, timely and proportionate sanctions for violations of the law on campaign financing.*

With reference to this aspect, Parliament adopted the Law No. 347/2021 on the amendment of some normative acts, aimed at increasing the sanctions for the illegal financing of political parties or election campaigns, as well as for the violation of electoral funds management. The law is awaiting promulgation by the President and publication in the Official Gazette. In this regard, the recommendation was partially realized.

5. Following the monitoring of the early parliamentary elections of 11 July 2021, the OSCE/ODIHR noticed *that the final cumulative financial report must be submitted by the electoral competitor no more than two days before Election Day, which may not allow sufficient time for full reporting.* The electoral legislation provides for additional time to the electoral competitors for presenting to the electoral body the missing information from the report, without applying sanctions¹¹⁴. Moreover, in 2022 the CEC initiated a process of amending the electoral legislation¹¹⁵. In particular, CEC proposes that the final financial reports shall be presented after the Election Day. The proposals formulated by the CEC will be sent to the Parliament for examination in June 2022.

In this regard, we consider that this recommendation was partially realized.

6. As it was recommended after the monitoring of the early parliamentary elections of 11 July 2021, *the legal framework for campaign financing must provide the supervisory body with the ability to investigate the sources of donations and the potential discrepancies between the actual and reported expenses. The introduction of the legal requirement for donors to declare that donations comply with the law should be*

¹¹² Law No. 113/2019 amending the Electoral Code, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115816&lang=ro

¹¹³ Law No. 86/2020 on non-commercial organizations, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129338&lang=ro

¹¹⁴ NOTE: For example: p. 33 of the Regulation on the financing of electoral campaigns of electoral contestants, approved by the decision of the Central Electoral Commission No. 2704/2019, with following amendments, provides that, if the report is incomplete, the Central Electoral Commission / District Electoral Council has the right to request the electoral contestant to submit additional data (available in Romanian at: <https://a.cec.md/ro/regulamete-3155.html>).

¹¹⁵ CEC monitor of the transparency of the decision-making process, available in Romanian at: <https://a.cec.md/ro/procesul-decizional-3379.html> NOTE: here a listed all draft proposals formulated by CEC regarding the amendment of the electoral legislation,

considered, subject to an established penalty. According to previous recommendations, the legislation must address funding from third-party sources.

In this context, the process of examining the financial reports of electoral competitors, including the sources of donations, as well as the identification of "fake donors" was intensified by the CEC at the last elections in 2021. Electoral legislation allows the electoral body to request any kind of information it considers necessary, in the process of verifying the incomes and expenses of electoral competitors. According to art. 41 para. (9) of the Electoral Code, the public authorities and institutions have the obligation to provide support to the Central Electoral Commission and the District Electoral Councils in the activity of oversight and control of the observance of the legislation on the financing of electoral campaigns¹¹⁶.

As for the requirement for donors to declare that the donations follow the law, according to the regulations in force¹¹⁷, such procedure is provided only for legal entities. They can make donations only by transfer, directly to the "Electoral Fund" account, also submitting a Declaration on their own responsibility¹¹⁸.

However, during the new local elections in autumn 2021, an inter-institutional working group was created within the CEC, which had the task of carrying out the oversight and control of the election campaign financing. As a result, the CEC applied 28 sanctions to the electoral competitors. Out of these, in at least 4 cases, the sanction was applied either for the use of undeclared financial funds in the campaign, or for diminishing the declared amount of incurred expenses.

In this regard, we consider that this recommendation was partially realized.

7. According to the OSCE/ODIHR recommendation, *in order to discourage breaches, proportionate sanctions should be applied for established regulatory violations*. In this aspect, the electoral bodies continue to intensify their activity in order to prevent and combat violations of the legislation on the election campaign financing, including by collaborating with other competent authorities of the state.

Thus, we reiterate the experience of new local elections in autumn 2021, when an interinstitutional working group was created within the CEC to ensure the supervision and control of the election campaign funding. As a result, the CEC applied 28 sanctions to electoral competitors. Regarding the graduality and proportionality of the sanctions, we can mention that the CEC applied: 18 warnings to 9 electoral competitors; 10 notices to 5 electoral competitors; complementary sanctions of deprivation of budget allocations to 3 political parties; sanction in the form of annulment of registration for 2 electoral competitors.

In 2021 the Ministry of Justice initiated a legislative proposal to amend the Electoral Code and related legislation. Parliament adopted Law No. 347/2021 on amending normative acts aimed at increasing sanctions for illegal funding of political parties or election campaigns, as well as for the violation of the electoral funds' management. At

¹¹⁶ NOTE: For example, the cooperation between the competent authorities on the control part of the financing of electoral campaigns was increased, in 2021 an inter-institutional working group was created to examine and verify the reports on the financing of the activity of initiative groups and on the financing of the electoral campaign of electoral contestants. The group included representatives of the Central Electoral Commission, the General Police Inspectorate, the State Tax Service and the Financial Inspection. The Group acted from October 20, 2021 to December 10, 2021.

¹¹⁷ Item 18 of the Regulation on the financing of electoral campaigns of electoral contestants, approved by the decision of the Central Electoral Commission No. 2704/2019.

¹¹⁸ Item 23 sub-item. 1) letters (e), (g) and (h) of the Regulation.

this stage, the law is awaiting promulgation by the President and publication in the Official Gazette in order to be implemented.

In conclusion, this recommendation was appropriately accomplished.

21. Is there a Constitutional or ordinary legal framework for the use of instruments of direct democracy, including referendum? What is their scope of applicability and the procedure to be followed? Do they have binding and direct legal effects or are they merely consultative? Can international treaties be subject to a referendum?

Constitutional or ordinary legal framework for the use of instruments of direct democracy, including referendum

In the Republic of Moldova there are constitutional provisions that regulate the organization of referenda. They are stipulated in the Art. 75, 89, 141, 142 from the Constitution¹¹⁹. Subsequently, the legal framework that describes how the referenda are organized and conducted, as well as the types of the referenda regulated under Title VI of the Electoral Code¹²⁰ (Art. 152-212). The Electoral Code defines two types of referenda:

- a) Republican – organized on the territory of the whole country
- b) Local – organized on the territory of one administrative-territorial unit.

Republican referenda can be one of four categories:

- Constitutional (to amend the existing or adopt a new Constitution);
- Legislative (to adopt/repeal or amend an organic or ordinary law);
- Regarding the dismissal of the President of the Republic of Moldova (initiated exclusively by the Parliament with the vote of 2/3 of elected MPs, under the Art. 89 of Constitution);
- Consultative.

Local Referenda can be one of two categories:

- on consulting citizens on important issues for the specific locality, which fall under the legal competence of the local public administration authorities.
- on recalling a mayor.

Scope of applicability and the procedure

A Constitutional Republican Referendum¹²¹, may be initiated by Parliament with the vote of the majority of MPs (51) or by citizens (200,000 Moldovan citizens eligible to

¹¹⁹ Constitution of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro

¹²⁰ Electoral Code of the Republic of Moldova No. 1381/2997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

¹²¹ The provisions regarding the sovereign, independent and unitary character of the state, as well as those regarding the permanent neutrality of the state, can be revised only after their approval by referendum, with the vote of the majority of the

vote that must cover at least half of the territorial-administrative units of the second level, and in each of these units at least 20,000 signatures in support must be registered).

For holding a Constitutional Referendum, it is mandatory to have an advisory opinion of the Constitutional Court issued within 10 days. A republican referendum may not be held if the country is under a state of emergency, siege or war, nor within 120 days after the respective state was lifted. Also, a republican referendum may not be held within 60 days before or after the day of parliamentary, presidential, or local general elections, except if they are being held on the same day. It is prohibited to conduct two Republican referenda on the same day. The restrictions established for the Constitutional Referendum are applicable for all types of referendums.

The **Legislative Republican Referendum** can be initiated by at least 200,000 Moldovan citizens eligible to vote (without the binding condition on territorial-administrative units' coverage, as established in case of Constitutional Referendum), by Parliament with the vote of the majority of MPs (51), as well as by the Government.

According to the Art 158 of Electoral Code, complementary to the restrictions established for the Constitutional Referendum, the following issues cannot be subject to Republican Referenda:

- a) related to the state taxes and budget.
- b) regarding amnesty or mercy.
- c) extraordinary or emergency measures for ensuring public order, people's health or security.
- d) electing, appointing, or dismissing persons for/on/from positions which fall under the jurisdiction of Parliament, President and Government of the Republic of Moldova.
- e) issues falling with the jurisdiction of judicial and prosecutorial bodies.

The decision shall be adopted with the majority of voters who participated in the referendum, under the Art. 178 align. (1) of the Electoral Code.

Referendum on the dismissal of the President of the Republic of Moldova, can be initiated exclusively by the Parliament, in case the President committed serious offenses infringing upon constitutional provisions. The motion requesting the suspension from office may be initiated by at least 1/3 of the MPs and must be approved by 2/3 of MPs. Under Art. 89 para. (3) of the Constitution, within 30 days, the referendum to dismiss the President from office has to be organized.

In line with Art.178 align. (1) of Electoral Code "The decision regarding the dismissal of the President of the Republic of Moldova shall be considered as adopted through the republican referendum if the number of voters was equal or higher than the number of voters who elected the President of the Republic of Moldova, but not less than half of the number of voters who have participated in the referendum".

citizens registered in the voters' lists.

A Consultative Republican Referendum is initiated under the same conditions as established for the legislative referendum. In addition, the right to initiate a consultative referendum is granted to the President of the Republic of Moldova. The Referendum is considered invalid if less than 1/3 of registered voters participated. The results of the Consultative Referendum don't have legal effects.

According to the Code of Good Practice on Referendums: "When a text is put to the vote at the request of a section of the electorate or an authority other than Parliament, Parliament must be able to give a non-binding opinion on the text put to the vote. In the case of the popular initiatives, it may be entitled to put forward a counterproposal to the proposed text, which will be put to the popular vote at the same time. A deadline must be set for Parliament to give its opinion: if this deadline is not met, the text will be put to the popular vote without Parliament's opinion."

Thus, the legislation of the Republic of Moldova, expressly states the Parliament's competence in setting the date of the referendum, which implicitly leads to presenting the Parliament's position on the addressed issues.

Local Referenda can be initiated by the Local Council or by citizens from a specific locality, only on issues that fall under the jurisdiction of local public authorities. The exact conditions for initiating Local Referenda are provided by the Art.190 of the Electoral Code¹²². A local referendum proposal shall be considered adopted if it gained the majority of votes cast by voters who participated in the referendum. The decision on the revocation of the mayor is considered adopted through a local referendum, if it received the same number of votes or more votes than the votes received by the mayor when he/she was elected, but not less than half of votes of persons who participated in the referendum.

The referendum shall be declared invalid if less than 1/3 of voters included in the voters' lists have voted.

It should be noted that according to the Art. 35 of Law No. 436/2006 on Local Public Administration¹²³, the state offers the possibility to the residents of a locality, where local councilors haven't been elected, to elect a village delegate that will defend and represent the interests of the community in the local public administration authorities, as well as in other authorities.

Legal effects of referendums

The results of referenda, except the consultative ones, which are validated under the legal provisions in force, have a mandatory character.

Referenda and international treaties

National provisions do not establish any requirements regarding the obligation to organize a referendum for the approval of international treaties, except the cases that

¹²² Electoral Code of the Republic of Moldova No. 1381/2997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

¹²³ Law No. 436/2006 on local public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130401&lang=ro#

relate to the sovereign, independent and unitary character of the State, as well as those relating to the permanent neutrality of the State.

It should be noted that according to the Decision of the Constitutional Court No. 24/2014 “For the control of the constitutionality of the Association Agreement between the Republic of Moldova, on the one hand, and the European Union, the European Atomic Energy Community, their Member States on the another hand and of the Law No.112/2014 on the ratification of the Association Agreement”¹²⁴, the orientation towards the European democratic value space is a defining element of the constitutional identity of the Republic of Moldova.

In the point 162 of the above-mentioned decision, the Court stated that “...the aspirations of the Republic of Moldova to establish political, economic, cultural relations, as well as in other fields of common interest with the European countries and the orientation towards the European democratic value space were enshrined in the act of constitution of the state - the Declaration of Independence”.

The Court has also concluded at point 149, that the decision on the participation of the Republic of Moldova at the European Union operations shall be adopted by the Parliament, at the proposal of the President of the Republic of Moldova, that implicitly leads to the inapplicability of the obligation to approve such treaties through the referendum.

22. Overall transparency. To what extent is the Parliament open to public scrutiny and is transparent in the conduct of its business, in terms of information and accessibility to the public and the media?

The issue relating to the openness of the Parliament activities to the public are defined by the Rules of Procedure of the Parliament of the Republic of Moldova¹²⁵.

Pursuant to Article 24, the meetings of the committees shall be public. Representatives of the mass media accredited to the Parliament may be present at the public meetings of the committees. Official information on the work of the committees is published and posted on Parliament's official website.

Under Article 99, (1) the sittings of the Parliament shall be public, unless, at the request of the President of the Parliament, a parliamentary faction, or a group of at least 5 members, it is decided, by a majority vote of the members present, that they be closed. (2) the plenary sittings of the Parliament, except for the closed ones provided in paragraph (1), may be broadcast live on the national public radio and television channels in accordance with the provisions of the Audiovisual Code of the Republic of Moldova, as well as at the initiative of the Parliament, with the vote of the majority of the members present. The transcripts of public sittings are posted on Parliament's official website. Official notices of Parliament's sittings are made public through Parliament's press service.

¹²⁴ Law No. 112/2014 on the ratification of the Association Agreement between the EU and Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=83489&lang=ro

¹²⁵ Law No. 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=89041&lang=ro

The Parliament of the Republic of Moldova has committed itself to the principle of transparency, support, and involvement of civil society in the decision-making process by adopting Law No.982/2000 on access to information¹²⁶, the Concept on cooperation between the Parliament and civil society, approved by Parliament Decision No.373/2005¹²⁷, Law No. 239/2008 on transparency in the decision-making process, as well as other normative acts.¹²⁸ Under Article 7 of the Law on transparency in the decision-making process, the transparency of the decision-making process in the case of the Parliament is ensured in accordance with its Rules of Procedure.

The Concept on cooperation between the Parliament and civil society lays down various mechanisms (expert councils, permanent consultations, public hearings, ad-hoc meetings, annual conferences) for collaboration with the associative sector and the consultation of draft legislative acts. At the same time, under Article 49¹ of the Rules of Procedure of the Parliament, the Standing Committee shall ensure public consultation of draft legislative acts and legislative proposals with interested parties through the organization of public debates and hearings, through other consultation procedures established by the legislation on transparency in the decision-making process. The Standing Committee has to order, in accordance with the law, to place on the Parliament's official website the summary of the recommendations received during the public consultation, to ensure transparency in the decision-making process.

In 2021, the Standing Committees organized 112 consultative meetings, including 24 public consultations, 23 public hearings, 25 working meetings, 10 round tables, 8 working visits in the context of parliamentary control and others.

Representatives of civil society, participating in the legislative process, offer expertise in various fields. For example, in 2021, 117 contributions were received from non-governmental organizations, 55 of the recommendations were considered and included in the draft normative acts. Most of these concerned the legal, economic and security fields.

Even though 2021 was a year marked by the COVID-19 pandemic, which required the establishment of a state of emergency in the country and, respectively, assembly restrictions, the Parliament of the Republic of Moldova faced these challenges and did not undermine the legislative process and the participatory one. Public hearings and other events with the participation of civil society representatives (round tables, working meetings, etc.) took place in online format, with physical presence or mixed.

The access to the official documents of the Parliament is ensured through the web page¹²⁹, where all the information related to the legislative process is stored (draft laws with their additional documents, information about the meetings of the standing committees, of the investigation committees, about the meetings plenary sessions, public consultations, and hearings on draft laws etc.), as well as other processes specific to the legislative institution. Also, the official page reflects the information about the press conferences, the informative and cultural events, the high-ranking meetings etc.

¹²⁶ Law no 982/2000 on the access to information, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

¹²⁷ Parliament Decision No.373/2005 on the Concept of cooperation of the Parliament with Civil Society, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=20911&lang=ro

¹²⁸ Law No.239/2008 on transparency in the decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

¹²⁹ www.parlament.md

These events are broadcast live on the official channels of the Parliament, on the platforms YouTube, Telegram, Twitter, Flickr and others.

To facilitate access to information, several web platforms have been created and developed:

Multimedia¹³⁰ - a platform that integrates all the resources necessary for prompt and efficient communication with the media and the public. In 2021, 54 files were received from the media, international and regional institutions, and 200 permanent accreditations were completed.

Visits¹³¹ - the platform acts as a tool for scheduling an online visit to the Parliament of the Republic of Moldova.

There were 38 guided tours organized in 2021, attended by 539 visitors.

¹³⁰ <https://multimedia.parlament.md/>

¹³¹ <https://vizite.parlament.md/>

III. Government

23. Please provide a description of the structure and functioning of the government. Which is the legal basis for the structure and functioning of the government?

General legal framework

The organization and functioning of the Government, its fields of activity, competence, structure and legal relations with other public authorities are regulated by the Constitution of the Republic of Moldova¹³², Law No. 136/2017 on the Government¹³³, Law No. 98/2012 on the specialized central public administration¹³⁴, Government Decision No. 610/2018 for the approval of the Government Regulation¹³⁵ and Government Decision No. 595/2017 for the approval of the Standard Structure of the Regulation on the organization and functioning of the ministry¹³⁶.

The investiture of the Government is regulated by the provisions of art. 98 of the Constitution and art. 9 of Law No. 136/2017 regarding the Government. After consulting the parliamentary factions, the President of the Republic of Moldova nominates a candidate for the position of Prime Minister, who will request, within 15 days from the nomination, the vote of confidence of the Parliament on the activity program and Cabinet of Ministers. The work program and the proposed Government members are debated in a sitting of the Parliament. Based on a vote of confidence given by the Parliament, the President of the Republic of Moldova appoints the Government.

The structure of the Government is regulated by art. 97 of the Constitution and art. 10 of Law No. 136/2017 on the Government. The government is made up of the Prime Minister, the First Deputy Prime Minister, Deputy Prime Ministers, Ministers and other members as established by law. The Government nomination is presented to the Parliament by the candidate for the position of Prime Minister in order to obtain the vote of confidence. When preparing the list of candidates for the position of member of the Government, the candidate for the position of Prime Minister must take into account the legislation in the field of ensuring equal opportunities between men and women, correlated with the criteria of professionalism and merit. The current structure of the Government includes members of the government, such as the Deputy Prime Minister for Reintegration, the Deputy Prime Minister for Digitization, was approved by the Parliament Decision No. 88/2021 for the approval of the Government activity program and the granting of the vote of confidence to the Government¹³⁷. The Governor (Bashkan) of the Gagauzia Autonomous Territorial Unit is confirmed as a member of

¹³² Constitution of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

¹³³ Law No. 136/2017 on the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125861&lang=ro

¹³⁴ Law No. 98/2012 on the specialized central public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129125&lang=ro

¹³⁵ Government Decision No. 610/2018 for the approval of the Government Regulation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119333&lang=ro

¹³⁶ Government Decision No. 595/2017 for the approval of the Standard Structure of the Regulation on the organization and functioning of the ministry, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115422&lang=ro

¹³⁷ Parliament Decision No. 88/2021 for the approval of the Government Activity Program and the granting of the vote of confidence to the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127269&lang=ro

the Government of the Republic of Moldova by a decree of the President of the Republic of Moldova.

The list of ministries is contained in the Parliament Decision No. 89/2021 for the approval of the list of ministries)¹³⁸ and consists of:

Ministry of Infrastructure and Regional Development

Ministry of Foreign Affairs and European Integration

Ministry of Justice

Ministry of Finance

Ministry of Economy

Ministry of Agriculture and Food Industry

Ministry of Defence

Ministry of Interior

Ministry of Education and Research

Ministry of Culture

Ministry of Health

Ministry of Labour and Social Protection

Ministry of Environment

The role of the Government, according to art. 96 of the Constitution, consists in ensuring the implementation of the internal and external policy of the state and the exercise of the general management of the public administration.

Law No. 136/2017 on the Government also regulates constitutional aspects regarding the competence of the Government - the functions, attributions and powers of the Government; the status of the members of the Government - the Prime Minister, the First Deputy Prime Minister, the Deputy Prime Minister and the Minister; activity organization of the Government - Government meetings, permanent working bodies of the Government, planning and monitoring the activity of the Government; Government documents; and the Government's relations with other public authorities.

Government competence

The government operates in *the fields* of economics; foreign affairs and European integration; health care, social protection and employment, family; justice, home affairs, public order and civil protection; territorial reintegration; public finances, fiscal and customs relations; education, science, innovation, culture, youth and sport; regional development, construction, landscaping and urbanism; protection of the environment and natural resources; agriculture, rural development and food security; defence and national security; security and energy efficiency; information technology, transport and infrastructure; public administration and public services; demography, migration and asylum; consumer protection, quality of products and services; reporting, evidence and statistics; other fields of activity in which the intervention of the Government is necessary, as a representative of the executive power in the state, in accordance with

¹³⁸ Parliament Decision No. 89/2021 for the approval of the list of ministries, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127270&lang=ro

the provisions of the Constitution of the Republic of Moldova and of the normative acts regulating the fields in which the intervention is necessary.

According to articles 5 and 6 of Law No. 136/2017 on the Government, in order to carry out its Activity Program, the Government exercises the *following basic functions*:

- a) organization and strategic planning, which ensures the development and approval of policy documents, including those necessary for the implementation of the Government's work program;
- b) regulation, which ensures the development and approval of the normative and institutional framework necessary for the achieving the activity program of the Government and the organization of the execution of the laws;
- c) administration of public property and finances;
- d) management and provision of public services for which the Government is responsible;
- e) represents the state internally and externally, within the limits established by the constitutional norms and normative acts;
- f) ensures the application and observance of the regulations in the fields of activity;
- g) other functions deriving from the role of the Government to represent and exercise the executive power in the Republic of Moldova or from the provisions of normative acts.

In carrying out its functions, the Government has the following attributions:

- a) exercises the general management of the public administration;
- b) ensures the accomplishment of the internal and foreign policy of the state;
- c) ensures the execution of normative acts of the Parliament and decrees of the President of the Republic of Moldova, adopted in accordance with the constitutional norms, and of the provisions of the international treaties to which the Republic of Moldova is a party;
- d) carries out its activity program;
- e) submits legislative initiatives to the Parliament;
- f) approves, by decision, and submits to the President of the Republic of Moldova draft decrees in accordance with the law;
- g) approves legislative initiatives, including draft laws, and examines legislative proposals;
- h) approves policy documents and normative acts;
- i) elaborates, presents to the Parliament for adoption and ensures the execution of the state budget, the state social insurance budget and the compulsory health insurance funds;
- j) ensures access, provision, verification, quality assessment and modernization of public services;
- k) ensures the efficient and transparent administration of public property;
- l) monitors and analyzes the efficiency of the implementation of normative acts;

- m) ensures the accomplishment of the administrative control of the activity of the local public administration authorities;
- n) fulfils other attributions provided by the normative framework or deriving from the role and functions of the Government.

Organizing the activity of the Government

According to art. 28 of the Law No. 136/2017 on the Government, the Government shall be convened in ordinary session and in extraordinary session. Government meetings are chaired by the Prime Minister. By decision of the Prime Minister, the meetings of the Government may be chaired by the Prime Minister, one of the Deputy Prime Ministers or one of the Ministers, respecting this order in the absence of the respective member of the Government. Ordinary meetings are usually convened weekly. Extraordinary meetings shall be convened whenever necessary by decision of the Prime Minister. During the holiday or holiday period, the period between ordinary meetings cannot exceed 21 calendar days. Other requirements regarding the organization and conducting of Government meetings are established in the Government Regulation approved by Government Decision No. 610/2018 for the approval of the Government Regulations.

Permanent working bodies of the Government

The State Chancellery is the public authority that ensures the organization of the Government's activity, establishes the general framework for defining the Government's policy priorities, provides methodological, organizational and coordination support for the system of planning, elaboration and implementation of public policies at the level of ministries and other central administrative authorities. the implementation of the Government's work program, presents the analytical and informational materials, prepares the draft decisions, ordinances and dispositions of the Government and verifies their execution. The State Chancellery is headed by the Secretary General of the Government, appointed and removed from office by the Government and directly subordinated to the Prime Minister.

The control body of the Prime Minister is a structure without legal personality, organized within the State Chancellery, which is directly subordinated to the Prime Minister. The Prime Minister's control body is headed by a chief, appointed and dismissed by the Prime Minister. The control body of the Prime Minister controls the accomplishment by the State Chancellery, ministries, other central administrative authorities and organizational structures within their sphere of competence of the attributions provided by the normative framework and of the tasks established in the Government acts, in the Government activity program and in other public policy documents, as well as in the instructions of the Prime Minister.

The Prime Minister's Office is a separate subdivision within the State Chancellery, whose mission is to provide organisational and information assistance to the Prime Minister's work, consisting of advisers in different areas and is headed by the Chief of Staff.

Planning and monitoring the activity of the Government

In order to carry out its activity program, the Government approves the action plan and ensures its execution in the manner established by the Government Regulation. The action plan of the Government is elaborated based on the criterion of priority and consecutiveness of the planned activities, in order to implement the normative acts of the Parliament and the activity program of the Government. The government monitors the implementation of the action plan and prepares activity reports.

Government acts

According to art. 102 of the Constitution, the Government adopts decisions, ordinances and provisions. Decisions are taken to organise the execution of laws. The ordinances are issued under the conditions of article 1062. The dispositions are issued by the Prime Minister for the organisation of the internal activity of the Government.

Decisions, ordinances and provisions shall be signed by the Prime Minister. Decisions and ordinances are countersigned by the ministers who have the obligation to implement them and / or who are responsible for the areas of activity that fall in part or in full within the object of regulation of the countersigned act.

As for Government relations with other public authorities, see question 57 of the Accountability section.

24. What mechanisms exist for inter-ministerial coordination? Specifically, what mechanisms exist to link strategic planning and budgeting, in each Ministry?

At the level of the Government, the main platform ensuring the inter-ministerial coordination is the **Interministerial Committee for Strategic Planning** (described below), but also the State Chancellery, which is a permanent working body of the Government responsible for organizing the activities of the Government, establishing a common basis and the process for determining the priorities of the Government; providing methodological, organizational and coordination support for the system of planning, developing and implementing state policies at the level of ministries and other central administrative bodies; monitoring the implementation of the Government Program, the analytical and informational materials; preparing draft resolutions, ordinances and orders of the Government and verifying their implementation.

The mechanism for ensuring the linkage between the strategic planning and budgeting process is ensured during the development of the **Medium-Term Budgetary Framework (MTBF)**, which is also currently used **as a pillar** (partially) for the medium-term policy planning process (see the question 47 Political Criteria, Democracy, and Rule of Law).

Thus, the **MTBF** is an instrument that ensures the correlation of the allocation of the financial resources with the policy priorities on a medium-term basis. The medium-term sector policy priorities derive from the Association Agreement between the Republic of Moldova and the European Union, the National Development Strategy and the Government Activity Program. They are also based on sectoral strategic documents, which provide the public entities with the needed flexibility necessary to determine the most appropriate structure and possible levels of funding to achieve these objectives.

The MTBF ensures that the overall framework of resources available to finance public expenditure is top-down estimated, in combination with a bottom-up estimation of the undertaken/planned policies' costs.

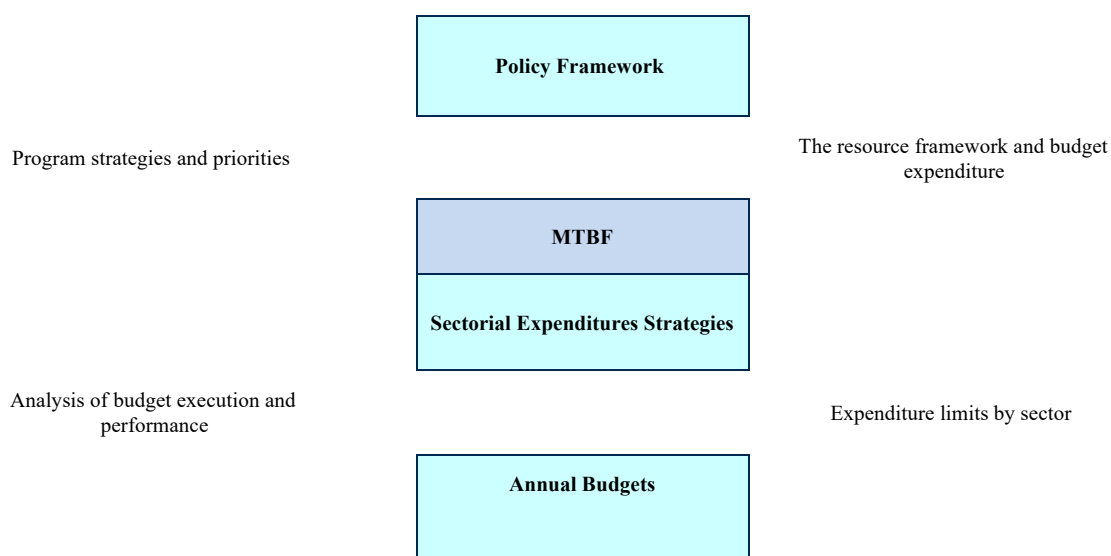
Annually, in accordance with the Law on Public Finance and Fiscal Responsibility No. 181/2014 and in accordance with the budgetary timetable, the Government approves the MTBF, which contains the objectives of the budgetary and fiscal policy, the forecast for the Public National Budget' (PNB) resources and expenditures and its components for the medium-term period, expenditures limits from the state budget for each public entity. The MTBF forecasts are annually updated, maintaining the three-year perspective in the budget planning. The first year of the MTBF is the next budget year, for which the draft budget is being prepared.

The policy priorities and expenditures limits contained in the MTBF document serve as the basis for public authorities to develop budget proposals/projects in the next budget year.

The sectoral policy priorities are annually updated at the same time as the sectorial expenditures strategies development, a process which allows to ensure the correlation between budgetary allocations with the policies priorities at the sectoral level.

The MTBF drafting represents a complex process, which implies the **contribution of different public entities** and is carried out according to a properly coordinated decision-making mechanism.

The linkage between the policy and budgetary planning processes



Institutional roles in the MTBF process

Referring to the institutional roles in the MTBF process, the following entities and platforms are worth to be pointed out:

The **State Chancellery** is responsible for the coordination and monitoring of the public policies development and implementation process at the national level. At the same time, in the process of drafting the MTBF, the State Chancellery has the following competencies and responsibilities: (i) participation in working groups and presentation of proposals to strengthen the link between the policy-making and resource allocation

processes in the context of the MTBF; (ii) monitoring the establishment and implementation of sectoral policy priorities in accordance with the priorities set out in the national strategic planning documents.

The **Ministry of Finance** is responsible for the organization and general coordination of the MTBF elaboration process, as well as providing methodological assistance throughout the whole process. At the same time, the Ministry of Finance ensures the leadership of the MTBF process and the intersectoral working groups for the MTBF elaboration, providing the necessary support for the organization of their activity. Representatives of the Ministry of Finance also participate in sectoral working groups.

The **Ministry of Economy** is responsible for developing, jointly with the National Bank of Moldova and the Ministry of Finance, the macroeconomic forecast for the MTBF period and participation in the working group responsible for the macroeconomic framework, fiscal policy and the resources framework and other working groups, in particular in the economic fields.

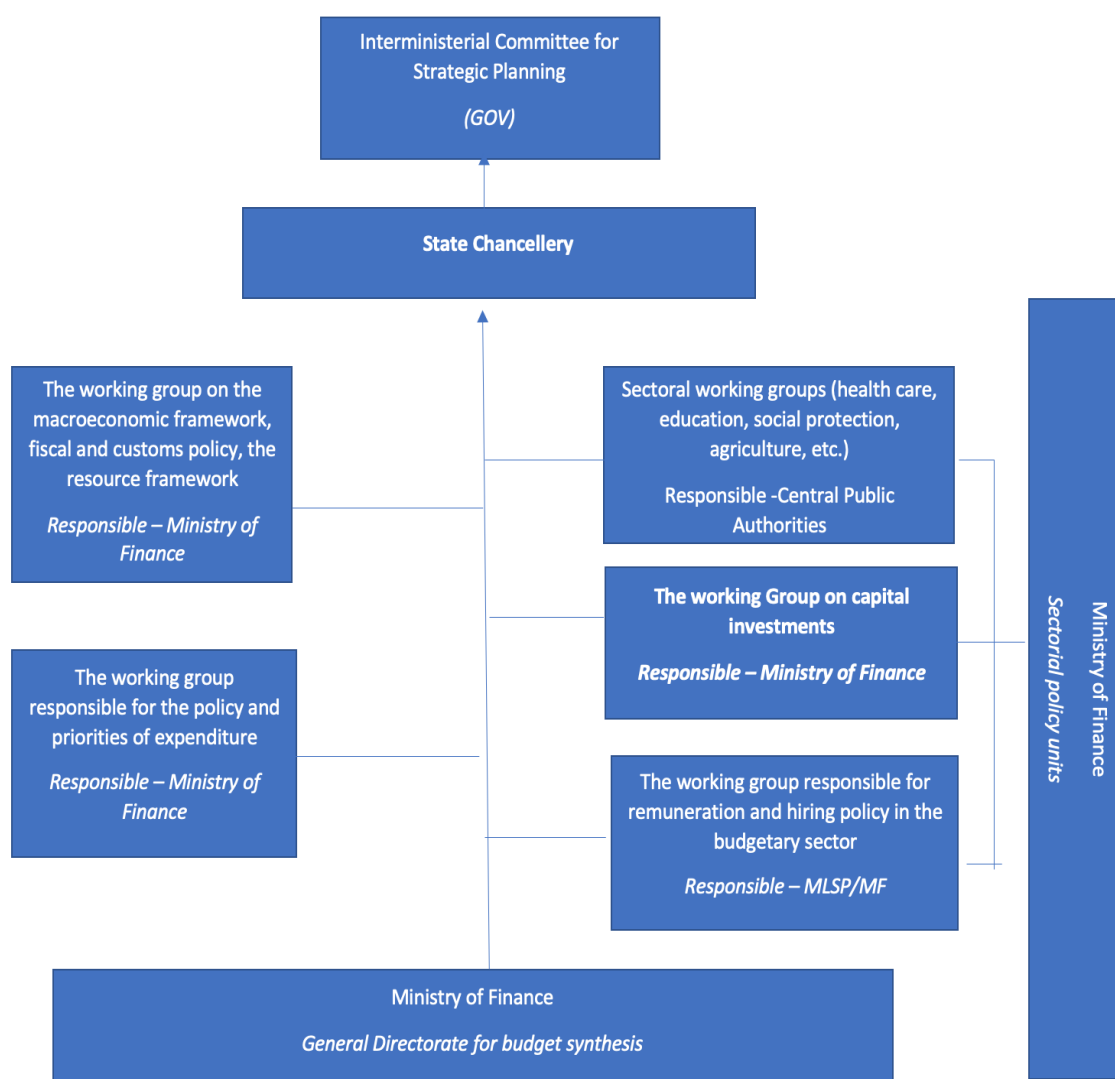
The **central public authorities (CPA)** in the MTBF elaboration process are responsible for the elaboration and presentation of the sectoral expenditure strategies. In order to facilitate cooperation and consultation with other relevant entities, the specialized CPA shall establish and coordinate sectoral working groups.

Sectoral Expenditure Strategies (SESs) are tools for ensuring that policy priorities are properly aligned with sectoral resource allocations. The SESs sets out the sectoral policy objectives and priorities related to the amounts of forecasted/planned medium-term budgetary resources, as well as analyses their implications for medium-term resource allocations. SESs are annually reviewed and updated and, extended by one year to maintain a three-year outlook in the budget planning.

The development of SESs requires complex analysis and an integrated approach regarding expenditure planning. In this process, the following general requirements and rules have to be ensured:

1. be consistent with national policy priorities - sectoral objectives and medium-term policy priorities must arise from the Government's activity program and other strategic planning documents;
2. reflect sectoral policy priorities - actions planned in the expenditures strategy must be prioritized based on ex-ante analysis of the impact of policy proposals and cost-benefit analysis, as well as taking into account the possibilities of redirecting resources from low priority programs to those with a higher level of priority;
3. be comprehensive - to reflect the whole sector with the involvement of all authorities managing resources in the sector without being limited to only a part of the branch managed by the specialized public authority, to include all the resources of the national public budget for that sector, both in terms of recurrent expenses and capital investments.
4. be realistic - take into account the available resource framework and be developed in accordance with the established spending limits and the time required to implement the policies.

MTBF coordination structures



The Interministerial Committee for Strategic Planning is an operational body of general competence, established to coordinate the strategic planning process, carried out by the Government. The Committee is chaired by the Prime Minister and includes members of the Government and representatives of the State Chancellery. The basic function of the committee in the MTBF process is to set policy priorities for the respective budget cycle and to monitor the work of the Coordinating Group for the development of the MTBF.

The sectoral working groups are set up by the central public authorities to ensure the collaboration and co-operation between different public entities in the process of MTBF developing. At the same time, working groups play an important role in the policy planning process in the context of strategic planning documents at the national level. Including policy-makers and budget planners in working groups helps to improve policy alignment with available resources.

25. What structures exist to ensure the coordination of European Integration issues? How is the compatibility of planned legislation with the EU *acquis* and with international obligations been verified and monitored? Which body is responsible for such verification?

Responsible institutions

The institutional mechanism in charge of the implementation of the European integration agenda is composed of:

- the **Ministry of Foreign Affairs and European Integration (MFAEI)** oversees and coordinates European integration as an overall process;
- the **Ministry of Economy** is responsible for the coordination of the transposition and implementation of the EU *acquis* set out in the DCFTA;
- the **State Chancellery through the Center for Legislative Harmonisation (CLH)** is in charge of the coordination and monitoring of the process of legal approximation to the EU legislation and ensures the compatibility of national legislation to the EU legislation and conducts the EU compatibility expertise of national legal acts.
- the **Governmental Commission for European Integration** is the main decision-making and monitoring platform, responsible for coordination of the implementation of commitments deriving from the Moldova-EU documents and agreements. It is composed of all ministries and is headed by the Prime Minister of Moldova;
- the **Parliamentary Committee on Foreign Affairs and European Integration** ensures the parliamentary control over the Government's foreign and European integration policy.

The **Governmental Commission for European Integration (GCEI)**¹³⁹, since 2009 is the main political body in charge of steering and monitoring Moldova's European Integration process, chaired by the Prime Minister and includes members of the Government, Parliament and independent regulators¹⁴⁰. Its role is to ensure the overall political guidance and support, as well as to discuss issues, problems and needed interventions to solve EU integration issues or handle backlogs in AA implementation. GCEI is the body that validated before official approval of the two previous NAPIAAs (for 2014-2016 and for 2017-2019). MFAEI is the secretariat for the GCEI, thus GCEI meetings are convened by the Prime Minister, usually upon the MFAEI's initiative. Paragraph 3 of GD 679/2009 states that the GCEI shall meet at least once a month or more frequently, as necessary, when convened by the Prime-Minister/President of the Commission. The GCEI meetings have been organised when the need arises, often scheduled just before or after a Government Cabinet meeting, and the frequency of meetings has varied over time, depending on the situation.

The **Ministry of Foreign Affairs and European Integration (MFAEI)** is the specialised central public administration body that ensures the realisation of the

¹³⁹ Government Decision No. 679/2009 on the approval of the nominal composition of the Governmental Commission for European Integration of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=22706&lang=ro#

¹⁴⁰ Such as the Governor of the National Bank of Moldova.

governmental policy in the European integration process¹⁴¹. The MFAEI has been positioned as the main coordinating authority for Moldova's implementation of the EU-Moldova Association Agreement (AA) and the Association Agenda since the 2014 AA signing. It holds the institutional memory for this process, as it has been the main coordinator for EU integration issues since the beginning of Moldova's institutionalised relations with the EU. MFAEI has coordinated the preparation of the National Action Plan for Implementation of the Association Agreement (NAPIAA), planning documents as well as the monitoring and reporting of Moldova's implementation of NAPIAA and the Association Agenda. Its responsibilities include the everyday coordination and policy planning regarding these documents. Additionally, MFAEI is the main body responsible for communications with the EU on matters pertaining to the European integration of the country. The main MFAEI unit for coordination of EU integration is the Directorate for EU Integration. The Directorate is also linked with Moldova's Permanent Mission to the European Union in Brussels.

The **Ministry of Economy (MoE)** has the primary coordination role in fulfilling Moldova's responsibilities under the Deep and Comprehensive Free Trade Area (DCFTA). The MoE is also participating in the work of all the sectoral working groups that are dealing with transposition and implementation. They report on a quarterly basis on progress achieved to the MFAEI. In case of problems, the MoE convenes ad hoc meetings on appropriate level.

The **Parliamentary Committee on Foreign Affairs and European Integration** ensures the parliamentary control over the Government's foreign and European integration policy.

The State Chancellery through the **Center for Legislative Harmonisation (CLH)** has an important role in the EU integration of the country. For the approximation of the RM legislation to the EU legislation, pursuant to article 7, letter h¹) of the Governmental Decision No. 657 from 6 November 2009 on the approval of the Regulation on organisation, functions and structure of the State Chancellery (SC) is responsible for the „coordination and monitoring of the process of legal approximation to the EU legislation and insure the compatibility of national legislation to the EU legislation and conducts the EU compatibility expertise of national legal acts”.

The CLH has the status of a general directorate within the SC. The CLH is led by the Head of the Centre, who is responsible to the Secretary General of the Government and the Deputy Secretary-General. The Head of the CLH attends the meetings of the Government, of the Secretaries General and of the Government Commission for European Integration, when the issues on the agenda are of interest to the CLH and the process of legal approximation. The Head signs, on behalf of the SC, the Statement of compatibility and the opinions on draft normative acts and approves the methodology for legal approximation, as well as the methodological instructions regarding the conducting of the compatibility expertise and the evaluation of legal conformity.

The CLH has the following duties:

- Coordination and monitoring the approximation process of legislation at national level;

¹⁴¹ Government Decision No. 697/2017 on the organization and operation of the Ministry of Foreign Affairs and European Integration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115496&lang=ro

- Ensuring the compatibility of national legislation with European Union legislation;
- Ensuring the legal conformity of the draft normative acts to be approved by the Government, issued by the Prime Minister, as well as of the draft normative acts of the SC;
- Ensuring the cooperation of the Government with the Parliament and other public authorities involved in the legislative process, as well as with the constitutional jurisdiction authority in the process of examination of acts subject to constitutional review, including in the process of enforcement of Constitutional Court acts;
- Ensuring the preparation and formulation of the point of view of the SC regarding the announced drafts to be registered and/or examined during the meetings of the Secretaries General of State;
- Ensuring methodological and specialised support, in the legal field, in European Union law as well as in the process of legal approximation.

Since the CLH has also duties that are not linked to EU *acquis* and approximation, its main role in approximation can be summarised as coordinating the harmonisation process, performing compatibility assessment of normative acts with the EU *acquis* according to the commitments taken by Moldova in the process of European integration and providing methodological and expert support in this process.

As coordinating institution of legal harmonisation, CLH:

- Has developed in 2007 and is maintaining its own Data Base of Approximated National Legislation (tracking tables run in Excel format) which is regularly updated by CLH through communication with the line ministries and is accessible to the public on the web page of SC. The database provides all necessary information about the harmonized national legal acts from 2007 till nowadays and reflects the progress in achieving set goals. Also, CLH is managing and regularly updating internal monitoring tools of AA/DCFTA and Common Aviation Area Agreement that are also in Excel format.
- Presents to the MFAEI the results of its coordination activity regarding the implementation of Moldova's transposition obligations as to the degree of compatibility with the EU legislation through PlanPro which is a Web-based application used to track the implementation progress of strategic goals and projects of the Republic of Moldova. PlanPro is used by the MFAEI to monitor the implementation of the AA/DCFTA and by the SC to manage Government action plans.
- Regularly (quarterly and on demand) reports to the Government on the situation regarding the approximation process and monitors and signals to the Government or, if necessary, to the Parliament, about the delays in the legislative process for the draft normative acts aimed at EU legislative harmonisation.

As institution responsible for the ensuring the compatibility of national legislation to the EU legislation, the CLH:

- Performs its mandatory expertise of all draft normative acts with EU relevance, that are drafted by the central public administration authorities, members of the

Parliament and other interested institutions, issuing the Statements of Compatibility;

- Provides mandatory endorsement for all draft normative acts, including those amending the approximated legislation, which do not aim at the direct approximation of national legislation, but are limited to EU policies and areas of cooperation with the EU, issuing Opinions;
- Monitors the quality of transposition of EU-related legislation by verifying the validity of the EU legislation transposed;
- Formulates proposals to supplement with provisions of the EU legislation or to eliminate the provisions contrary to it;
- Verifies the observance of requirements of the submitted draft normative acts that aim at legal approximation and the content of their accompanying documents.

As institution responsible for providing methodological and specialized support, the CLH provides methodological guidance to line ministries, drafters and all other interested people regarding the approximation process.

The process of approximating Moldova's legislation with the specified EU *acquis* is a key instrument for achieving the goals of the AA. The legal approximation process in RM is defined through two main normative acts, namely, Law No. 100/2017 on normative acts and Government Decision No. 1171/2018 for the approval of the Regulation on harmonisation of the legislation of the Republic of Moldova with the legislation of the European Union.

Law No. 100/2017 on normative acts¹⁴² defines the categories and the hierarchy of normative acts, the principles of legal drafting (drafting of normative acts), the stages and procedure of legal drafting, the stages of the legislative process, the basic requirements regarding the structure and content of normative acts, the procedure for entry into force and loss of force of normative acts, the procedures for interpretation of normative acts, monitoring of the implementation of normative acts, and the revision of normative acts. It establishes clear procedures and determines the responsibilities of all institutions involved in the legal approximation process and sets requirements for the transposition process. It also defines the obligations for interinstitutional consultations and conflict resolution. The Law defines in Article 3, par. (3) that the EU legislation is one of the parameters which national legislation should meet, after meeting the Constitution, international treaties to which Moldova is a party to and principles of international law. This puts the EU law in the highest rank of importance for legal drafters.

The provisions especially dedicated to the approximation process are reached in **article 31, article 36** and article 44 of Law No. 100/2017.

Article 31 of Law No. 100/2017 prescribes the general conditions that are mandatory for the draft normative acts that aim to harmonise the national legislation with legislation of the EU: shall be marked with the EU logo, shall contain a clause on harmonisation, shall be accompanied by the Table of concordance (ToC), which analyses the modality of transposition of the EU legislation in national legislation.

¹⁴² The Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

Article 36 of Law No. 100/2017 is the main article as it establishes the essence of the compatibility review. It defines that all draft normative acts with the EU logo shall be subject of the compatibility review with EU legislation, including those acts from specialised central public administration authorities and from autonomous public authorities, which were developed to approximate the national legislation with that of the EU. The compatibility review is conducted by the CLH. The compatibility review with the EU legislation is done in accordance with the procedure set forth by the Government and in accordance with the methodology approved by the CLH. Draft normative acts developed by the President of the Republic of Moldova, Members of Parliament and the People's Assembly of ATU Gagauzia are also sent for endorsement to the Government, accompanied by the ToC. This means that CLH also gives an opinion on all acts coming from the Parliament, within the Government procedure. Article 36 of the Law No. 100/2017 prescribes that CLH is issuing the Statement of compatibility and describes the elements to be covered by it.

In general, subject of compatibility review are not only drafts which transpose EU legislation, are marked with EU logo and are accompanied by a ToC, but also the drafts which do not transpose directly the EU acts, but are related to the main cooperation fields with EU or are modifying some lately harmonised national acts (not marked with EU logo and not accompanied by a ToC).

Article 44 of Law No. 100/2017 defines the use and the substance of the harmonisation clauses of the normative act. The harmonisation clause indicates the type, number and official name of the EU acts that are transposed in the normative act, including the series, number and date of the Official Journal of the EU which published these respective EU acts, as well as the measure where these are being transposed. This is compulsory for all draft normative acts with the EU logo. The text of the harmonisation clause is defined by Annex 2 to GD No. 1171/201

Government Decision No. 1171/2018 for the approval of the Regulation on harmonisation of the legislation of the Republic of Moldova with the legislation of the European Union¹⁴³ thoroughly regulates the organisation and functioning of the harmonisation process of Moldova's legislation with EU legal acts. GD No. 1171/2018 repealed the Government Decision No. 1345/2006 on harmonisation of the legislation of the Republic of Moldova with the Community legislation. GD No. 1171/2018 applies to all draft normative acts which are aimed at approximating the national legislation with EU legislation (having the EU logo) and establishes the principles, conditions and stages, criteria, methods and instruments of legislative harmonisation (Explanatory Note and Tables of Concordance), as well as the national-level coordination and monitoring of the harmonisation process.

Article 3 of this GD defines the principles of the harmonisation process: progressive harmonisation (achieved through the gradual harmonisation of national legislation), dynamic harmonisation (considering the evolution of the EU legislation) and irreversibility (maintaining the achieved level of harmonisation). This GD prescribes that the progressive approximation shall be achieved through the gradual harmonisation of national legislation with the EU legislation, in accordance with the approximation obligations and deadlines set out in bilateral agreements with the EU. Article 10 of the GD defines the way in which approximation will be implemented including the

¹⁴³ Government Decision No. 1171/2018 for the approval of the Regulation on harmonization of the legislation of the Republic of Moldova with the legislation of the European Union, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=109962&lang=ro

negative harmonisation, namely the elimination of Moldovan rules, procedures, practices or other measures which are incompatible with EU legislation or other harmonised Moldovan legislation. This article also includes the efficient implementation and enforcement of harmonised legislation as elements of the process. The GD provides practical guidance and explanations for practitioners regarding the approximation process and is directly linked to the Law No. 100/2017 (Articles 11 and 12). Article 13 prescribes that the ToC is updated after the approval and the final adoption of the draft normative act, to provide for the correct reflection of the degree of accomplishment of the legislative harmonisation obligations. Article 53 defines that the responsible authority sends to the SC (CLA), within 20 days from the moment of final approval/adoption of the draft normative act, the electronic version of the ToC, updated in accordance with the text of the approved/adopted draft, to be included in database of harmonised national legislation, run by the CLA. Article 21 defines the methods of harmonisation that can be used by drafters. For a more detailed elaboration, Article 23 of the GD refers to the Methodology for harmonisation of legislation (published in 2010).

Articles 25-28 define the elements of the Explanatory Note tackling the approximation process and the ToC and the assessment qualifiers to assess the compatibility of the draft act. GD defines the use of ToCs, how they are completed and when they are required. Annex 3 to the GD defines two models/templates of the ToC. The compatibility assessment is performed on the basis of ToCs and if it does not meet all criteria set out by the GD, the draft normative act, together with the materials annexed to it, shall be returned to the author for amendment or completion of the ToC (Article 43).

The Methodology for harmonisation of legislation was published in 2010 as a practical guide and tool for Moldova's legal drafters about the approximation process, which elaborates the theoretical concepts important for the legal approximation process such as the delineation of certain terms important for the process, provides basic facts on EU legislation and the different sources of EU legislation and the methods of approximation. Today, The Methodology is in process of updating and revision.

Regarding the planning of the approximation process, at the moment, the Governmental Action Plan for 2021-2022, approved by the Governmental Decision No. 235 from 13 October 2021 is the only programming document in force that establishes the implementation of commitments from AA, including, the legal approximation obligations.

26. What are the structure of local self-government and the competences of the local self-government bodies? Please specify.

In exercising their powers, the local public authorities have autonomy, enshrined and guaranteed by the Constitution of the Republic of Moldova, and respecting the principles enshrined in the European Charter of Local Self-Government (ratified by the Republic of Moldova in 1997).

The public administration in the administrative-territorial units is based on the principles of local autonomy, decentralisation of public services, eligibility of local public authorities and consultation of citizens on local issues of special interest.

The local public authorities through which local autonomy is achieved in villages (communes) and cities (municipalities) are the local councils - acting as deliberative authorities, and the mayors - acting as executive authorities. These are the first level authorities.

The district councils act as deliberative authorities, and the district presidents, as executive authorities. These are the second level authorities.

First level local public administration	Second level local public administration
<ul style="list-style-type: none"> • Local councils • Mayors 	<ul style="list-style-type: none"> • District councils • District presidents

The mayors and councillors, who make up the local councils, are elected under the Electoral Code. The number of councillors is established according to the number of inhabitants of the administrative-territorial unit on January 1 of the year in which the elections take place, according to the statistical data, as follows:

Number of inhabitants of the administrative-territorial unit	Number of counselors
up 1500	9
between 1501 și 2500	11
between 2501 și 5000	13
between 5001 și 7000	15
between 7001 și 10000	17
between 10001 și 20000	23
between 20001 și 50000	27
between 50001 și 100000	33
between 100001 și 200000	35
over 200000	43.

By way of derogation from the above rule, the Chisinau Municipal Council consists of 51 councilors.

The manner of setting up and functioning of local and district councils is regulated by Law No. 457/2003 for the approval of the Framework Regulation on the establishment and functioning of local and district councils¹⁴⁴.

Competences of first and second level public administration authorities

According to art. 10 of Law No. 436/2006 on local public administration¹⁴⁵, local public authorities carry out their activity in the fields established by Law No. 435/2006 on

¹⁴⁴ Law No. 457/2003 for the approval of the Framework Regulation on the establishment and functioning of local and district councils, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125216&lang=ro#

¹⁴⁵ Law No. 436/2006 on local public administration, available in Romanian at:

https://www.legis.md/search/getResults?doc_id=130401&lang=ro#

administrative decentralization¹⁴⁶, having for this purpose full competencies that cannot be questioned or limited by any public authority, except under the law.

The competences of the local public authorities are delimited in the conditions of the Law No. 436/2006 regarding the local public administration between the competences of the deliberative and executive public authorities of the first and second levels. Thus, the competencies of the local councils and district councils, the attributions of the mayor and of the district president are expressly established in art. 14, respectively, 43, 29 and 53 of Law No. 436/2006.

The own fields of activity of the local public authorities of both levels are provided by art. 4 of Law No. 435/2006 on administrative decentralization.

The own fields of activity for the local public authorities of the first level are:

- urban planning and landscaping at the local level, management of green spaces of local interest;
- collection and provision of conditions for separate collection and transportation of waste, including sanitation and maintenance of land for storage;
- distribution of drinking water, construction and maintenance of sewerage and wastewater treatment systems;
- construction, maintenance and lighting of local public streets and roads;
- local public transport;
- arrangement and maintenance of cemeteries;
- administration of local public and private goods;
- construction, management, maintenance and equipment of preschool and extracurricular institutions (nurseries, kindergartens, art schools, music schools);
- development and management of urban gas and heat distribution networks;
- cultural, sports, recreation and youth activities, as well as the planning, development and management of the necessary infrastructures for these types of activities;
- set up of agricultural markets, commercial spaces, carrying out other measures necessary for the economic development of the administrative-territorial unit;
- the establishment and management of municipal companies and the organization of any other activity necessary for the economic development of the administrative-territorial unit;
- construction of housing and provision of other types of facilities for the socially vulnerable, as well as for other categories of the population;
- organization of territorial services (posts) of rescuers and firefighters;
- contributing, in accordance with the law, to the protection of the cultural heritage and public monuments on the administered territory.

¹⁴⁶ Law No. 435/2006 on administrative decentralization, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125085&lang=ro#

- ensuring the access of the population to library services on the administered territory, within the limits of the competencies assigned by Law No. 160/2017 regarding libraries.

Own areas of activity for second level local public authorities are:

- administration of public and private goods of the district;
- planning and administration of construction works, maintenance and management of public objectives of district interest;
- construction, administration and repair of roads of district interest, as well as road infrastructure;
- organization of passenger car transport, administration of bus stations and car stations of district interest;
- urban planning and landscaping at the district level, protection of forests of district interest;
- supporting and stimulating the initiatives regarding the economic development of the administrative-territorial unit;
- elaboration and implementation of construction projects for interurban gas pipelines (including medium pressure gas pipelines), other thermo-energetic objectives with local destination;
- maintenance of kindergartens, primary schools, gymnasiums and high schools, vocational secondary education institutions, boarding schools and special boarding schools, other educational institutions serving the population of the district, as well as methodical activity, other activities in domain;
- administration of cultural, tourism and sports institutions of district interest, other cultural and sports activities of district interest;
- administration of municipal enterprises;
- administration of social assistance units;
- development and management of community social services for socially vulnerable categories, monitoring the quality of social services;
- contributing, in accordance with the law, to the protection of the cultural heritage and public monuments on the administered territory;
- ensuring the access of the population to library services on the administered territory, within the limits of the competencies assigned by Law No. 160/2017 regarding libraries.

According to the Law No. 435/2006 on administrative decentralization, the local public authorities of the first and second levels, within the limits of the law, have full freedom of action in regulating and managing any matter of local interest that is not excluded from their competence and is not assigned to another authority. Other powers of local public authorities may be assigned to them only by law. The specific peculiarities of the organisation and functioning of the local public authorities of Chisinau municipality are regulated by Law No. 136/2016 on the status of Chisinau municipality.

The public administration of Chisinau is carried out by the Chisinau Municipal Council, the city and village councils (communal), as representative and deliberative authorities of the population of Chisinau, and by the Mayor of Chisinau, the mayors of cities, villages (communes), as representative and executive authorities.

The municipal council and the mayor general exercise specific competencies and responsibilities to the local public authorities of the first level in the territory of the city of Chisinau and of the second level - in the relations with the cities, villages (communes/suburbs) of the municipality.

The competencies of the municipal council and the responsibilities of the general mayor are established in art. 6, respectively, art. 15 of Law No. 136/2016 on the status of Chisinau municipality.

Gagauzia (Gagauz-Yeri) is an autonomous territorial unit with a special status which, being a form of self-determination of the Gagauz, is a component part of the Republic of Moldova. Gagauzia independently solves, within the limits of its competence, in the interest of the entire population, issues of political, economic and cultural development. The special legal status of Gagauzia is regulated by Law No. 344/1994¹⁴⁷.

The governor (Bashkan) is the supreme official of Gagauzia. All the public administration authorities of Gagauzia are subordinated to him. The Governor of Gagauzia is elected by universal, equal, direct, secret and free vote for a term of 4 years, on an alternative basis.

The People's Assembly is the representative authority of Gagauzia, vested with the right to adopt normative acts, within the limits of its competence. The People's Assembly exercises the powers provided by Law No. 344/1994 on the special legal status of Gagauzia (Gagauz-Yeri), as well as those in the fields of activity established for local public administration authorities in Law No. 436/2006 on local public administration.

The permanent executive body of Gagauzia is the Executive Committee, which ensures:

- observance and respect of the Constitution and the laws of the Republic of Moldova, as well as of the normative acts of the People's Assembly;
- participation in the activity of the specialized central public administration authorities of the Republic of Moldova in matters related to the interests of Gagauzia;
- regulation, in accordance with the law, of property relations throughout the territory, administration of the economy, social-cultural construction, local financial-budgetary system, social assistance, labor remuneration, local fiscal system, environmental protection and rational use of natural resources;
- determining the structure and priority directions of economic development and technical-scientific progress;
- elaboration of the programs for economic, social and national-cultural development, for the protection of the environment and their realization after the approval by the People's Assembly;

¹⁴⁷Law No. 344/1994, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=86684&lang=ro#

- elaboration and presentation of the Gagauzia budget for approval by the People's Assembly and its execution;
- addressing issues related to ecological security, rational use, protection and regeneration of natural resources, establishing quarantine and declaring areas of natural disasters;
- development and implementation of programs in the field of education, culture, health care, physical culture and sports, social assistance, as well as the protection and capitalization of monuments of history and culture;
- equality in the rights and freedoms of citizens, national and civic conciliation, protection of legality and public order;
- development and promotion of the scientifically substantiated demographic policy, creation of urbanization and development programs of the communal and housing household;
- functioning and development of national languages and cultures on the territory of Gagauzia.

27. Please describe the electoral system for municipalities. Are regular elections held for municipalities throughout the country? What are the eligibility requirements and the grounds for ineligibility?

Local elections for the position of councilor are held according to a proportional electoral system, with councilors' mandates distributed according to the d'Hondt methodology.

Mayors are elected according to the majoritarian system; if needed, the second round is organized. The mandate of the mayor/councillor is for a 4 years period.

Chapter V (Articles 129-151) of the Electoral Code regulates the way of organizing and conducting local elections.

For the organization and conduct of local elections, electoral districts are established, corresponding to the second level of administrative-territorial units (Rayons, Chisinau and Balti Municipalities and ATU Gagauzia) and to the first level (first level municipalities, towns, communes, villages), as well as polling stations, electoral bureaus.

In the local elections in a first-level electoral constituency, usually three local public authorities are chosen: the mayor and the local council of the first level administrative-territorial unit and the local council of the second level administrative-territorial unit. At the same time, in Chisinau and Balti Municipalities, four authorities are elected (mayors and local councillors of the first and second level administrative-territorial units), and for ATU Gagauzia - two authorities (the mayor and the local administrative-territorial unit of the first level). Thus, in the local elections a person can run for councillor in the council of the administrative-territorial unit of the first level of the Republic of Moldova, as well as in the second level administrative-territorial unit. A

person can also run at the same time for the mayor and position of the local councillor, but cannot run for these positions in several electoral constituencies of the same level.

In local elections both candidates nominated by parties, other socio-political organizations and electoral blocks, as well as independent candidates can participate. In order to be registered, independent candidates will collect the signatures of supporters domiciled or with temporary valid residence on the territory of the locality where the local elections is held. Thus, in order to register an independent candidate for the position of councillor, he/she will collect and present 2 percent of the number of voters in the respective constituency, divided by the number of mandates for the respective council, but not less than 50 people, and for the position of mayor – 5 percent of the number of voters from the constituency, but not less than 150 people and no more than 10000 people.

For local elections one can run if they are a citizen of the Republic of Moldova with the right to vote, have reached the age of 18 (for local councils) or 25 years (for the office of mayor, including on the Election Day. According to the provisions of Art. 13 para. (2) those who cannot run for in elections are: active duty military personnel; individuals who are sentenced to prison (deprivation of liberty) by a final Court decision and who serve their sentence in a penitentiary institution, as well as individuals who have active criminal records for deliberately committed crimes; persons deprived of the right to hold public positions by definitive Court decision.

At the same time, in accordance with the provisions of Law No. 344/1994 on the special legal status of Gagauzia (Gagauz-Yeri), on the territory of the Autonomous Territorial Unit Gagauzia, is organized the election of the People's Assembly of Gagauzia, representing the deliberative authority of the region and the elections of the governor (Bashkan) - the region's executive authority. These elections are organized on the basis of the autonomous normative acts of self-administration bodies and in accordance with the national legal framework.

General local elections in which the mayors of cities (municipalities), sectors, villages (communes) and councillors in the district councils, town (municipal), sector and village (communal), through universal, equally, directly, secret and free expressed vote, are held once in every 4 years, this being the term of office of local elected representatives.

Also, in the event of the prior cessation of the term of office of the mayor or dissolution of the local council, new local elections are being organized. In this way, the principle of local autonomy is respected: the eligibility of the local public administration authorities, enshrined in the Constitution of the Republic of Moldova.

The mandate of the councillors and mayors obtained in the new local elections lasts until the next general local elections are being held.

Local elections are validated if more than 1/4 of the persons included on the voter lists cast their ballots and no breaches of the Electoral Code that could influence the results of the elections and the assignment of mandates have been committed. In the case of mayors, is considered elected the candidate who obtained, in the first round, more than half of the valid votes. If these conditions are not met, a second round is being organized in two weeks, with the first two candidates with the most votes after the first round. In the second round, the candidate who has obtained the highest number of votes is elected, regardless of the voter turnout.

Elections can be declared null in accordance with the provisions of Art. 148 of the Electoral Code, the electoral process was compromised by violations of the electoral legislation that influenced the voting results and assignment of mandates. The decision on the declaration of null elections shall be adopted by the Central Electoral Commission based on the decisions of the respective Courts.

28. Are local self-government bodies subject to administrative and judicial control?

Administrative control

The art.109 paragraph (1) of the Constitution of the Republic of Moldova¹⁴⁸ guarantees the functioning of local public administration authorities based on the principle of autonomy, a principle enshrined in the Charter European Union of Local Autonomy, which was ratified by the Parliament of the Republic of Moldova, by Parliament Decision No. 1253/1997¹⁴⁹.

According to Law No. 136/2017 on Government¹⁵⁰, the Government's relations with local public authorities are based on the principles of local autonomy, decentralisation, collaboration and consulting citizens on local issues of particular interest, in order to ensure that the Government complies with the rule of law.

The exercise of the functions of the Government at local level is carried out by the representative of the Government in the field, who oversees the activity of the local public authorities according to the legislation in force.

In accordance with the provisions of art.111 paragraph (5) of the Constitution, the control over the observance of the legislation of the Republic of Moldova in the autonomous territorial unit Gagauzia (unit autonomous territory with a special status which, being a form of self-determination of the Gagauz, is an integral and inalienable part of the Republic of Moldova and solves independently, within its competence, according to the provisions of the Constitution of the Republic of Moldova, in the interest of the entire population , economic and cultural) is exercised by the Government, in accordance with the law.

The principles and procedure of administrative oversight of acts issued / adopted by local public authorities are regulated by the Law No. 436/2006 on local public administration¹⁵¹.

The administrative control mainly concerns the legality of the activity of the local public administration authorities, respecting the principle of not admitting the limitation

¹⁴⁸ The Constitution of the Republic of Moldova, available in Romanian at: https://www.legis.md/search/getResults?doc_id=128016&lang=ro#

¹⁴⁹ Parliament Decision No. 1253/1997 on the ratification of the European Charter for Local Self-Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=62293&lang=ro

¹⁵⁰ Law No. 136/2017 on Government, available in Romanian at: https://www.legis.md/search/getResults?doc_id=125861&lang=ro#

¹⁵¹ Law nr. 436/2006 on local public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130401&lang=ro#

of the right of the local public authorities to manage autonomously the affairs belonging to their own competence.

The State Chancellery is responsible for organising the administrative control of the activity of the local public administration authorities, which is directly exercised by the State Chancellery or its territorial offices, led by the representatives of the Government in the territory.

The acts of the local public administration authorities subject to the mandatory control of legality are:

- a) the decisions of the local councils of the first and second levels;
- b) the normative acts of the mayor, of the president of the rayon and of the praetor;
- c) the documents regarding the organisation of the auctions and the documents regarding the land allocation;
- d) acts of employment and termination of employment or employment of local public administration staff;
- e) the documents involving expenses or financial commitments of over 30 thousand lei - in the administrative-territorial unit of the first level and of over 300 thousand lei - in the administrative-territorial unit of the second level;
- f) the documents issued in the exercise of a state delegated attribution to the local public administration authorities.

The acts of the local public authorities may be subject to the control of legality, including at the request of the local public administration authority and / or the injured persons.

Mandatory control of legality is carried out through the State Register of local acts¹⁵² - state information resource containing electronic texts of acts of local government authorities and additional data, which ensures the registration, storage and centralised record of acts of local government authorities and materials related to these acts, and which is created in order to ensure the access of natural and legal persons to the documents issued / adopted by the local public administration authorities.

The manner of keeping the State Register of local acts, intended for the management of administrative acts of local public administration authorities, as well as the manner and conditions of evidence of administrative acts subject to legality control by the territorial offices of the State Chancellery are established by Government Decision No. 672/2017 on the approval of the regulations regarding the State Register of local acts¹⁵³.

According to the provisions of Law No. 436/2006 on local public administration, the local public administration authorities are obliged, within 5 days of signing, to include the administrative act in the State Register of local acts.

According to Law No. 344/1994 on the special legal status of Gagauzia¹⁵⁴, the laws and decisions of the People's Assembly of Gagauzia, as well as the decisions and provisions

¹⁵² State Register of local acts, available in Romanian at: <https://actelocale.gov.md/>

¹⁵³ Government Decision No. 672/2017 on "For the approval of the regulations regarding the State Register of local acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128145&lang=ro#

¹⁵⁴ According to Law No. 344/1994 on the special legal status of Gagauzia, available in Romanian at: https://www.legis.md/search/getResults?doc_id=86684&lang=ro#

of the Governor and of the Executive Committee of Gagauzia, within 10 days after its adoption, shall be sent to the Government of the Republic of Moldova for information.

The territorial office of the State Chancellery, depending on the territorial competence, established by the Government Decision No. 845/2009 on the territorial offices of the State Chancellery¹⁵⁵, within 30 days from the date of inclusion of the administrative act in the State Register of local acts, submits to the control of legality the administrative act of the local public administration authority and, if it considers that it contravenes the normative framework, notifies the local public authority issuing its illegality. The local public administration authority, within 30 days, is obliged to examine the notification and to complete / modify / repeal (depending on the requests of the territorial office of the State Chancellery) the notified administrative act. If the issuing public authority maintains its position or does not examine the notification received, the territorial office of the State Chancellery may refer the matter to the administrative court.

Judicial oversight

In accordance with art.83 of Law No.436/2006 on local public administration, mayors, deputy mayors, presidents and vice-presidents of districts, councillors, the secretaries and the staff of the town halls and the apparatus of the presidencies of the districts are legally responsible in accordance with the legislation in force for the illegal acts committed in the exercise of the function.

The councillors are also jointly and severally liable for the activity of the local council and for its decisions which they voted for. These provisions do not apply to the councillor whose separate opinion / disagreement with the decision taken was recorded in the minutes of the meeting.

According to the provisions of art.9 of Law No.768/2000 on the status of the local elected official¹⁵⁶, the local elected official cannot be persecuted or held accountable for contravention or criminality for the votes or political opinions expressed in the exercise of the mandate.

29. Is there a strategy on decentralisation and/or a policy for achieving a balanced organisation between responsibilities and resources across layers of government in line with the subsidiarity principle?

The creation, at all levels, of an efficient and citizen-centred public administration is a priority objective of the Government's Activity Program "Moldova of Good Times", approved by Parliament Decision No. 88/2021¹⁵⁷. The main activities provided and assumed by the current Government in the segment of good governance, central and local public administration, administrative decentralisation and consolidation of local

¹⁵⁵ Government Decision No. 845/2009 "on the territorial offices of the State Chancellery, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120440&lang=ro#

¹⁵⁶ Law No.768/2000 on the status of the local elected official, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125215&lang=ro#

¹⁵⁷ Parliament Decision No. 88/2021 on approving the Government's Activity Program "Moldova of Good Times", available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127270&lang=ro

autonomy, are defined in the Government Action Plan for 2021-2022, approved by Government Decision No. 235/2021.

The initiatives on the development of local and regional democracy have advanced with the signing by the Government of the Republic of Moldova and the Council of Europe on April 15, 2021 of the revised Roadmap on local and regional democracy in the Republic of Moldova.

The revised Roadmap provides for the continuation of the actions of the first Roadmap of 2016, which was developed following the process of post-monitoring of the Republic of Moldova by the Congress of Local and Regional Authorities of the Council of Europe. The document provides for multiple activities at the level of public authorities to be carried out in order to strengthen local autonomy and democratic processes at the territorial level. The roadmap is the reference document in the field of local public administration, the actions being taken over and transposed in the Government Action Plan for 2021-2022), in the Chapter of Public Administration and Local Autonomy.

At the same time, the Government has started the development of the new Public Administration Reform Strategy, which will provide an integrated approach to the reform of both central and local public administration. The Strategy will be developed in a participatory manner, through dialogue and communication with all stakeholders, so that in October-November 2022 the document will be launched for public consultations, before its final approval by the end of 2022. A wide-ranging consultative process was launched and cooperation mechanisms were created with the local public administration for a systematic approach to the decentralisation process, in particular mentioning the role of representative associations of local public authorities and directly the Congress of Local Authorities of Moldova, which meets on an associative platform member of local public authorities.

30. On fiscal management, how does Moldova ensure that local governments have the funds needed to fulfil their responsibilities?

The updated system on the formation of local budgets has been implemented in all local public authorities since 2015, and has focused on the area of financial decentralisation, namely: reforming the system of transfers and shared taxes and strengthening autonomy and financial management at the local level.

The main features of the the system are:

- the system of general purpose transfers (budget balancing) to local budgets is based on revenues, and not on average normative costs of per capita expenditure, estimated at the central level, as was the previous system of forming local budgets;
- general purpose transfers are allocated directly, on a formula basis, distinct for first-level and second-level territorial administrative units;
- local roads rehabilitation programme are financed from the state budget under the special purpose transfers, based on number of kilometres in administration and number of population in each territorial administrative unit;

- the pre-school, primary, secondary-general, special and complementary (extracurricular) education system, as well as the competences delegated to the local public administration authorities by law, are financed by special purpose transfers from the state budget;
- the norms of breakdown from state taxes and fees are established by law, distinctly by types of local budgets; the rest of the powers are financed within the limits and from own revenues, deductions from state taxes and fees, established by law, and general purpose transfers;
- setting priorities and using available financial resources belongs exclusively to local public authorities.

The objective of the current system is to:

- complete exclusion of the financial relations of subordination between the administrative-territorial units of level I (municipalities and communes) and level II (districts);
- have a predictable strategic planning (clarity in calculating balancing transfers), stability and transparency;
- ensure exclusion of the human and political factor in the calculation of transfers;
- increase the interest of local authorities to develop the local tax base, to collect much better local taxes and duties;
- create opportunities to allocate expenses according to local priorities.

The authorities of the local public administration benefit from decisional, organisational, managerial and financial autonomy. They have the full power in the administration of local public affairs, exercising their authority within the limits of the administered territory under the conditions of the law. Local budgets are independent elements that are developed, approved and executed under conditions of financial autonomy.

In addition to the opportunity for local public authorities to develop their local tax base, they have the opportunity to apply to different regional development funds financed from the State Budget to implement local development projects.

At the same time, the Government is committed to further increase the financial autonomy of the local public administration.

31. How are the administrative boundaries of the municipalities regulated and defined?

The administrative-territorial organisation of the Republic of Moldova and the establishment of the legal framework for villages (communes), cities (municipalities) and administrative-territorial units are carried out according to art.110 and 111 of the Constitution of the Republic of Moldova and are carried out according to economic and social needs, including cultural, respecting the historical traditions, in order to ensure an adequate level of development of all rural and urban localities.

According to the provisions of Law No. 764/2001 on the administrative-territorial organisation of the Republic of Moldova¹⁵⁸, the municipality is an urban locality with a special role in economic, social, cultural, scientific, political and administrative life of the country, with important industrial, commercial structures and institutions in the field of education, health care and culture.

The classification of the localities in the category of municipalities, the establishment and modification of the boundaries of their suburbs are decided by the Parliament upon the proposal of the respective local councils after consulting the citizens.

The administrative-territorial units are subject to registration in the State Register of administrative-territorial units and addresses, established by Government Decision No. 1518/2003 for the creation of the automated information system on State Register of administrative-territorial units and addresses¹⁵⁹. The register contains the identifier of the evidence objects and their basic characteristics (name, date of formation, date of liquidation, etc.), as well as the boundaries of the administrative-territorial units, the axes of the traffic arteries and the address points of the buildings.

The formation and abolition of administrative-territorial units and localities, including municipalities, the establishment and modification of their borders, is regulated by Law No. 741/1996 on the Regulation on the settlement of issues of administrative-territorial organisation of the Republic of Moldova¹⁶⁰.

Thus, when establishing and modifying the boundaries of municipalities (as administrative-territorial units), establishing and modifying the boundaries outside the municipalities, the decisions of the respective local councils, the decision of the general assembly of the inhabitants of the locality or of the assembly of their representatives, including schematic map with the proposed modifications are mandatory.

The status of municipality was assigned to 13 administrative-territorial units: Chisinau, Balti, Bender, Cahul, Ceadir-Lunga, Comrat, Edinet, Hincesti, Orhei, Soroca, Straseni, Tiraspol and Ungheni.

Chisinau is the capital of the Republic of Moldova. The status of Chisinau municipality is regulated by Law No. 136/2016 on the status of Chisinau municipality¹⁶¹.

32. Which institutions are responsible for local self-government reform?

According to articles 72 and 109 of the Constitution of the Republic of Moldova¹⁶², the Parliament adopts organic laws that regulate the organisation of the local

¹⁵⁸ Law No. 764/2001 on the administrative-territorial organization of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=62949&lang=ro

¹⁵⁹ Government Decision No. 1518/2003 for the creation of the automated information system "State Register of administrative-territorial units and addresses", available in Ro, at: https://www.legis.md/cautare/getResults?doc_id=31862&lang=ro

¹⁶⁰ Law No. 741/1996 on the Regulation on the settlement of issues of administrative-territorial organization of the Republic of Moldova, available at: <https://weblex.md/item/view/iddbtype/1/id/fc75d07cad2049f5ed860f4deb9314f>

¹⁶¹ Law No. 136/2016 on the status of Chisinau municipality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94998&lang=ro

¹⁶² Constitution of the Republic of Moldova, available in Romanian at:

administration, the territory, as well as the general regime regarding local autonomy. The public administration in the administrative-territorial units is based on the principles of local autonomy, decentralisation of public services, eligibility of local public administration authorities and consultation of citizens on local issues of special interest. Autonomy aims at both the organisation and functioning of the local public administration, as well as the management of the communities they represent, but without affecting the character of the unitary state.

By the Parliament Decision No. 72/2019¹⁶³, **the Public Administration Commission of the Parliament** is responsible for the fields of activity regarding the territorial organisation of the Republic of Moldova; organisation and functioning of local public administration authorities; local autonomy and democracy; the patrimony and public finances of the administrative-territorial units; parliamentary control over the activities of central and local public administration authorities in order to enforce legislation; monitoring and evaluating the implementation of national strategies in the field of activity.

The Government ensures the accomplishment of the internal and foreign policy of the state and exercises the general management of the public administration, being responsible also for the fields of regional development, public administration and public services. (art. 2 and art. 4 of Law No. 136/2017 on the Government¹⁶⁴)

Within the Government, according to the art. 46 of Law No. 136/2017 on the Government and point 7 letters o)-p) of the Regulation on the organisation and functioning of the State Chancellery approved by Government Decision No. 657/2009¹⁶⁵ **the State Chancellery** is responsible for coordinating decentralisation policies and exercising legal prerogatives in its relations with public administration authorities, including the organisation of the administrative control of the activity of the respective authorities. At the same time, the State Chancellery is responsible for developing public policies on local public administration reform and promoting draft regulations on sectoral decentralisation, strengthening local government capacity, local and regional development, modernising public services, etc. The Ministry of Finance, in coordination with the State Chancellery, is responsible for ensuring the process of ensuring financial, patrimonial decentralisation and streamlining the management of local public finances.

Decentralization is one of the key elements in the local public administration reform process. In the Republic of Moldova, Law No. 435/2006 on administrative decentralisation¹⁶⁶ establishes the general framework for regulating administrative decentralisation based on the principles of division of powers between public authorities.

According to the Government Decision No. 608/2010 for the implementation of some provisions of Law No. 435/2006 on administrative decentralisation, the composition of

https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

¹⁶³ Parliament Decision No. 72/2019 on the fields of activity of the standing committees of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119221&lang=ro

¹⁶⁴ Law No. 136/2017 on the Government, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125861&lang=ro

¹⁶⁵ Government Decision No. 657/2009 on the Regulation on the organization and functioning of the State Chancellery, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130631&lang=ro

¹⁶⁶ Law No. 435/2006 on administrative decentralization, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125085&lang=ro

the Joint Commission for Decentralisation¹⁶⁷, the Regulation of the Joint Commission for Decentralisation and the Model Regulation for the functioning of the working group for decentralisation were approved. The Joint Commission for Decentralisation, chaired by the Prime Minister, operates under the Government and is set up to study, promote and monitor the decentralisation process, being an advisory body to monitor and coordinate the decentralisation process.

33. Are regions/municipalities consulted in any formal way in the context of preparation of legislation, which will either affect them or in which they will be involved in the implementation?

In accordance with the provisions of Law No. 435/2006 on administrative decentralisation¹⁶⁸, the local public administration authorities are consulted in the process of drafting, adopting or amending laws or other normative acts regarding organisation and functioning of the local public administration. At the same time, Law No. 436/2006 on local public administration¹⁶⁹ expressly stipulates that the central public administration authorities consult the representative associations of local public administration authorities in matters related to public administration.

It should be noted that the central public administration authorities cannot establish or impose competencies on local public authorities without a prior assessment of the financial impact that these competencies could generate, without a consultation of local authorities and without local authorities being provided with the necessary financial means.

The consultation of the authorities/municipalities, as well as of the representative associations of the local public administration authorities is formalised and established both by Law No. 239/2008 on transparency in the decision-making process¹⁷⁰, as well as by Law No. 100/2017 on normative acts¹⁷¹.

The central public administration authorities have the obligation to publish the draft policy documents, draft normative acts, including information on the period and format of public consultations on the governmental platform for consultations and debates www.particip.gov.md, as well as on official institutional web pages.

In addition, the Government ensures the consultation of draft normative acts, initiated in areas of interest of local public authorities with the Congress of Local Authorities of

¹⁶⁷ Government Decision No. 608/2010 for the implementation of some provisions of Law No. 435/2006 on administrative decentralization, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110141&lang=ro

¹⁶⁸ Law No. 435/2006 on administrative decentralization, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125085&lang=ro

¹⁶⁹ Law nr. 436/2006 on local public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130401&lang=ro#

¹⁷⁰ Law No. 239/2008 on transparency in the decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

¹⁷¹ Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

Moldova (CALM), and ensures the representation of local authorities in commissions, committees, councils and working groups, relevant to local authorities.

In recognition of the substantial involvement of Moldovan local authorities in the decision-making process, the CALM representative is included in the list of permanent participants in the Government meeting, in accordance with the Government Decision No. 610/2018¹⁷².

It should be noted the status of member of the Government ex officio, held by the Governor of ATU Gagauzia, according to Law No. 344/1994 on the special legal status of Gagauzia¹⁷³ (Official Gazette of the Republic of Moldova No. 3-4/51 of 14.01.1995), which also provides information, consultation and participation in decision-making of the Gagauz community.

¹⁷² Government Regulation Decision No. 610/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119333&lang=ro

¹⁷³ Law No. 344/1994 on the special legal status of Gagauzia, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=86681&lang=ro

IV. Civil Society

34. Can all individuals and legal entities express themselves, assemble peacefully and establish, join and participate in non-formal and/or registered organisations?

Both individuals and legal entities enjoy the freedom of expression, peaceful assembly and association, as envisaged, *inter alia*, in human rights instruments ratified by Moldova.¹⁷⁴ At the national level, these human rights instruments are transposed through special laws: Law No. 26/2008 on assemblies¹⁷⁵; Law No. 64/2010 on freedom of expression¹⁷⁶ and Law No. 86/2020 on non-commercial organisations¹⁷⁷. Freedom of assembly is expressly recognized by Constitutional provisions (art. 40).¹⁷⁸

Both formal and informal associations are permitted. This right is enshrined in art. 1 and 3 of above-mentioned Law No. 86/2020 on non-commercial organisations. It expressly regulates the possibility for persons/entities to associate without formally registering as an organisation. By this provision, the law recognizes that both unregistered and formally registered associations may operate without this being considered illegal. Further on, everyone is free to decide whether to join or remain a member of an association. No one may be compelled to belong to a non-profit organisation or to be penalised for belonging to or not belonging to an organisation (art.3).

Previous restrictions on the establishment of organisations by some categories of public officials, non-residents, or foreign citizens were eliminated in the Law 86/2020 on non-commercial organisations.

35. Please provide an overview of Civil Society Organisations (CSOs), including associations or foundations, and their activities in your country.

There are around 13,000 registered CSOs (April 2022)¹⁷⁹, though less than half of them are active¹⁸⁰. From the total number of registered CSOs, around 11,000 are public

¹⁷⁴ Among others: Universal Declaration of Human Rights (UDHR), The International Covenant on Civil and Political Rights (ICCPR), art. 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

¹⁷⁵ Law No. 26/2008 on assemblies, available in English at:

[https://www.rightofassembly.info/assets/downloads/2008_Law_on_Assemblies_of_Moldova_\(as_amended_through_2014\).pdf](https://www.rightofassembly.info/assets/downloads/2008_Law_on_Assemblies_of_Moldova_(as_amended_through_2014).pdf).

¹⁷⁶ Law No. 64/2010 on freedom of expression, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=83916&lang=ro.

¹⁷⁷ Law No. 86/2020 on non-commercial organizations, available in Romanian at

https://www.legis.md/cautare/getResults?doc_id=129338&lang=ro.

¹⁷⁸ Constitution of Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro.

¹⁷⁹ NOTE: Information from the State registry of Law units on non-commercial organizations (last update 11 April 2022).

The count includes Public Associations, Religious Cults and components, Foundations, Private Institutions, Unions of legal persons (Public Associations). The count excludes: Patronages, Public Institutions, Political Parties, Syndicates and Periodical Papers.

¹⁸⁰ NOTE: According to a research paper commissioned in 2020, based on 2015 – 2019 data, only 70% of the registered non-profits submit tax form declarations and only 25% submit mandatory forms to National Bureau of Statistics, meaning they perform at least some kind of not-for profit activities. Source: http://old.crjm.org/wp-content/uploads/2020/11/2020-Doc-analitic-ONC-in-cifre_final.pdf (Romanian).

associations, 500 are foundations and 200 are private institutions. In the Autonomous Territorial Unit of Gagauzia (ATU Gagauzia), about 550 CSOs are registered of which only a few (20 – 25) are estimated to be active.¹⁸¹ In the break-away Transnistrian region, the most recent data available indicates there are over 600 registered CSOs, only about 100 are estimated to be active.¹⁸²

CSOs are important contributors to the country's development, with consistent inputs in developing democratic institutions, supporting human rights, and building the foundation for a progressive social and legal framework. In Gagauzia, the main goals and areas of activity of CSOs in the region are the consolidation of democracy, the promotion of human rights, civic education, the establishment of partnerships between civil society and authorities, and transparency of the decision-making process. The situation of civil society is entirely different in the Transnistrian region. CSO activities are concentrated in some fields (environment, education, health, sports, culture) and even encouraged in others (social affairs, vulnerable people), but they remain difficult in fields related to rule of law, human rights, media freedom, and related.¹⁸³

The most recent research (2019)¹⁸⁴ estimates that, in Moldova, about 40% of active CSOs implement activities in the fields of social protection and education. Consequently, the main target groups and beneficiaries are youth, children and citizens as a whole. In addition, people with disabilities, women, children and elderly people are among the most important groups targeted by the Moldovan CSOs. Approximately 24% of CSOs are working with youth, 22% are working to promote and protect human rights, 15% of CSOs are conducting environment-related work and 12% of active CSOs are involved in advocacy and policy work. The same study mentions that 70% of all active CSOs implement activities at local level, 57% at regional level and 51% are active at national level. Close to 41% of CSOs reside in Chisinau.

Religious organisations play an important role in Moldova. There are 1,716 religious organisations registered in the country. An overwhelming majority of 90% of Moldovan citizens associate with one of the Orthodox Churches.¹⁸⁵

36. Please describe the legal framework on CSOs and the registration procedure.

The creation and operation requirements of CSOs is prescribed by the Civil Code of the Republic of Moldova¹⁸⁶ but also by a specific law: Law No. 86/2020 on non-

¹⁸¹ USAID Civil society organization sustainability index (2020), available in English at: https://www.cnvos.si/media/filer_public/04/75/04753caa-6a1f-4f67-ad04-14b57d3db52b/csosi_final_2020.pdf.

¹⁸² *Ibid.* p. 1.

¹⁸³ European Union, Roadmap for engagement with Civil Society in the Republic of Moldova 2021-2027, available online at: <https://euneighbourseast.eu/news-and-stories/publications/eu-roadmap-for-engagement-with-civil-society-in-the-republic-of-moldova-for-the-period-2021-2027/>.

¹⁸⁴ Dumitru Pîntea et. al/Expert-Grup, „Civil society organizations from the Republic of Moldova: Evolution, sustainability, capacities (2019), available at: <https://drive.google.com/file/d/12ZKiZr76NL5qMg8NjQZht0sMpROFAOdt/view>.

¹⁸⁵ *Ibid.* p. 2.

¹⁸⁶ Civil Code of the Republic of Moldova No. 1107/2002, section „Non-commercial organizations”, art. 296 – 303, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112573&lang=ro

commercial organisations.¹⁸⁷ The legal framework prescribing the creation and operation of CSOs in Moldova allows for organization of CSOs to three legal forms: public associations (membership-based organisations), private institutions (usually, service provider organisations with no membership requirement and a single founder), foundations (associations of capital). It is also possible to participate as a non-registered association (no registration required).

There is a minimal threshold requirement for the founding members of a public association (2 founders), initial capital required to start a foundation (~EUR 980), while in the case of private institutions, no such requirement exists.¹⁸⁸ Nevertheless, in the latter case, there is a pre-requisite for the founder of the institution to be accountable with the institution's assets to the extent of its own property in case the institution's assets are not sufficient to cover debt. The state provides some tax benefits for CSOs (all legal forms included), such as income tax exemption.¹⁸⁹

CSOs shall register with the Public Service Agency (ASP)¹⁹⁰. CSO registration is free of charge and takes up to 15 days from the submission of the full set of documents. For full permission to operate (which includes obtaining an individual tax code for the organisation, registering with fiscal authorities, statistical bureau, etc.) this time can reach up to up to 40-45 days.

37. Are there official bodies for dialogue and cooperation between CSOs and public institutions and if so, how are CSOs represented within them? How is this cooperation working in practice? Is there sufficient administrative capacity and funding in order for the mechanism to achieve its goals? Is the structure sufficiently visible, open and available for CSOs?

Moldova has employed a dual approach when it comes to dialogue between the civil society sector. At the level of the Parliament, there is a Cooperation Concept (2005)¹⁹¹, which prescribes principles of cooperation between civil society and decision makers. The Concept, still in force, is followed by the Civil Society Development Strategy for 2018 – 2020¹⁹², based on the same three pillars of cooperation: enabling legal and fiscal environment for CSOs, development of civic activism and volunteering and strengthening participation in decision making.

A specific mechanism of cooperation with civil society at the level of the Parliament has been in place since 2019. This mechanism entitled Consultative Platform of the

¹⁸⁷ Law No. 86/2020 on non-commercial organizations, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129338&lang=ro.

¹⁸⁸ CRJM, Guidelines on CSO registration (2020) Romanian: <http://old.crjm.org/wp-content/uploads/2020/12/Ghid-procedura-de-obtinere-a-statutului-de-utilitate-publica-RO-2020.pdf>.

¹⁸⁹ Tax Code No. 1163/1997, art. 52, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130624&lang=ro#.

¹⁹⁰ <https://asp.gov.md/ro/servicii/persoane-juridice/211-2>

¹⁹¹ Cooperation concept between the Parliament and Civil society (2005) <https://www.parlament.md/LinkClick.aspx?fileticket=3FFLinRvICI%3d&tabid=60&language=ro-RO>

¹⁹² Law No. 51/2018 on the adoption of the Civil Society Development Strategy, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro

CSOs representatives with the Parliament of the Republic of Moldova („*Platforma Consultativă a reprezentanților societății civile pe lângă Parlamentul Republicii Moldova*”) was established with the Permanent Bureau of the Parliament.¹⁹³ The platform includes thematic groups on areas of activity related to the relevant parliamentary committees, and aims to contribute to the development, adoption, monitoring and evaluation of laws and decisions, as to increasing the decision-making transparency.

At the level of the Government, until 2016, a National Participation Council (NPC) was in place. The (NPC), was a consultative body composed of around 30 CSO representatives selected by the Government to contribute to the adoption of public policy decisions which would correspond to the interests of society. In practice, NPC members were consulted on all legislation, therefore mingling the NPC consultation with the public consultation. The NPC was officially discontinued in 2019. As an alternative, the Government devoted resources (i) to build and maintain an online platform, at www.particip.gov.md, which allows for public consultations and debate on draft legislation, normative and legislative acts. Moreover, individual ministries' websites have a page dedicated to “decisional transparency” where draft laws are published for consultation¹⁹⁴ and (ii) a government decision¹⁹⁵ which unifies the rules on transparency in decision making, binding for all central and local authorities. By this decision, each public authority is responsible to designate focal points for coordinating the public consultation process with the civil, establish institutional telephone lines for informing the civil society; and draft, update and publish on a regular basis a list of non-governmental organisations by fields of activity, interested in the decision-making process.

At the same time, there are several active CSO-driven platforms through which the dialogue both at the level of the Parliament and the Government is ensured on permanent basis: National Platform of the Eastern Partnership Civil Society Forum¹⁹⁶, EU-Moldova Civil Society Platform established by virtue of the art. 442 of the EU-Moldova Association Agreement¹⁹⁷, EU Internal Advisory Group (DAG) for Moldova established by virtue of the art. Article 376 of the EU-Moldova Association Agreement¹⁹⁸, National Council of NGOs¹⁹⁹, National Youth Council of Moldova, Gender Equality Platform, National CSOs Platform on security policies, *among others*.

Most of the Moldovan CSOs are funded from foreign grants. Although there is no accurate information on the proportion of foreign grants offered to CSO, most of the research conducted in recent years estimates that they account for more than 70% of

¹⁹³ <https://www.parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/5692/Page/8/language/en-US/Default.aspx>

¹⁹⁴ Civil Participation in Decision Making in the Eastern Partnership Countries - Part One: Laws and Policies, p. 70 (2016) <https://edoc.coe.int/en/partnerships/7401-civil-participation-in-decision-making-in-the-eastern-partnership-countries-part-one-laws-and-policies.html>.

¹⁹⁵ Government Decision No. 967/2016 on the mechanism for public consultation with civil society in the decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119856&lang=ro#.

¹⁹⁶ <https://www.eap-csf.md/en/>.

¹⁹⁷ <https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-moldova-civil-society-platform>.

¹⁹⁸ <https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-moldova-domestic-advisory-group>

¹⁹⁹ <https://www.consiliuong.md/>.

the annual revenues of registered organisations. Other sources of income include donations from individuals and companies, the 2% individual percentage designation, and income from economic activity.²⁰⁰ In 2020, the State Chancellery developed a draft²⁰¹ Framework Regulation for the public financing of projects of non-commercial organisations that all central and local public authorities can use as a model. The document is expected to be approved in 2022.

38. Are draft laws, bylaws, strategies and policy reforms effectively consulted with CSOs (in terms of adequate access of information, sufficient time to comment, selection and representativeness of working groups, acknowledgement of input, feedback etc.)?

The Government is required by law to publish on their websites information about new draft initiative policies, legislation, strategic documents, and monitoring reports. Access to public information is free of charge.²⁰² The website of each ministry has a sub-page where drafts are published for consultation, which ensures a certain level of transparency of the decision-making process. In addition, the legislative initiatives of the Executive are consulted with civil society through an online platform, www.particip.gov.md. The Government is currently working on a unified E-legislation portal for draft laws. It will include all versions of the legislative drafts and additional materials at different stages of development, both at the level of the Government and of the Parliament.

Citizens and CSOs have the right to provide their opinions on drafts elaborated by the Government or individual ministries (10 working days for comments) and those examined by the Parliament (15 working days). This timeframe may be shorter in those cases when the emergency procedure is used to approve legislation. Institutions publish a summary of the recommendations (feedback reports) received during the public consultations, including the reasons for not accepting suggestions or the decision to accept it/them.²⁰³

In their cooperation with public authorities, CSOs report good practices but also issues related to the application of the provisions aimed at assuring decision-making transparency. According to the 2019 study,²⁰⁴ 81% of the interviewed CSOs confirmed that they cooperated with public authorities on draft laws and decisions impacting public interest. It is noteworthy that in the collaboration with CSOs the cooperation was, to its greatest extent, on the organisation of seminars and training (86.4% of the

²⁰⁰ USAID Civil society organization sustainability index (2020), p. 146, available online at: https://www.cnvos.si/media/filer_public/04/75/04753caa-6a1f-4f67-ad04-14b57d3db52b/csosi_final_2020.pdf.

²⁰¹ Draft Framework regulation public financing of projects of non-commercial organizations, available in Romanian at: <https://cancelaria.gov.md/sites/default/files/document/attachments/1069.pdf>

²⁰² Law No. 239/2008 on transparency in the decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro.

²⁰³ Civil Participation in Decision Making in the Eastern Partnership Countries - Part One: Laws and Policies, p. 70 (2016) <https://edoc.coe.int/en/partnerships/7401-civil-participation-in-decision-making-in-the-eastern-partnership-countries-part-one-laws-and-policies.html>.

²⁰⁴ Dumitru Pinteau et. al/Expert-Grup, „Civil society organizations from the Republic of Moldova: Evolution, sustainability, capacities (2019), available at: <https://drive.google.com/file/d/12ZKiZr76NL5qMg8NjQZht0sMpROFAOdt/view>.

CSOs), and the least – in advocacy and lobbying (44.7% of the CSOs). In the part that refers to public authorities/institutions, most of the respondent CSOs (91%) confirmed the cooperation with the local public administration.

After the 2021 parliamentary elections, the Government is increasing consultations with the CSOs and interested parties on strategic plans and documents. More working groups are created with the participation of the relevant CSOs. The Government and the Parliament are striving to organize public debates with other authorities and CSOs on strategic draft laws.

V. Public Administration

A. Strategic framework of public administration reform (PAR)

39. Describe the main characteristics of organisation of the public administration (ministries, agencies, coordination functions, distribution of responsibilities across territorial levels).

Law No. 98/2012 on the specialised central public administration²⁰⁵ establishes the institutional framework of the specialised central public administration and regulates the general regime of its activity, the fundamental principles of organisation and functioning of the specialised central public administration, as well as the legal relations deriving from the activity of the ministries, the State Chancellery and other central administrative authorities.

The scope of this law covers the ministries, the State Chancellery, other central administrative authorities subordinated to the Government and the organisational bodies within their sphere of competence (the subordinated administrative authorities, including the decentralised public services and those subordinated to them, as well as the public institutions in which the ministry, the State Chancellery or other central administrative authority has the role of founder).

According to the Government Programme “Moldova of Goods Times”, a new Government structure has been proposed to ensure an efficient, democratic, transparent and accountable governance, as well as to achieve the stated development goals. The new structure was established according to several basic criteria:

- the coherence of the mission of public authorities with the priorities of the Government;
- strengthening the capacity of the Government for the implementation of horizontal and transversal policies for the realisation of the governing program;
- more efficient separation of public sector management functions from those related to the implementation of private sector policies.

By the Decision of the Parliament No. 89/2021²⁰⁶, the following list of ministries was approved:

- Ministry of Infrastructure and Regional Development;
- Ministry of Foreign Affairs and European Integration;
- Ministry of Justice;
- Ministry of Finance;
- Ministry of Economy;
- Ministry of Agriculture and Food Industry;
- Ministry of Defence;
- Ministry of Internal Affairs;

²⁰⁵ Law No. 98/2012 on the specialised central public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129125&lang=ro

²⁰⁶ Parliament Decision No. 89/2021 for the approval of the list of ministries, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127270&lang=ro

- Ministry of Education and Research;
- Ministry of Culture;
- Ministry of Health;
- Ministry of Labor and Social Protection;
- Ministry of Environment.

Ministries²⁰⁷ are central specialised bodies of the state that ensure the development of governmental policy in the fields of activity entrusted to them. The ministries are organised and function only under the subordination of the Government. Among the ministries the issues are distributed related to the state policies in different fields, except for the fields that are entrusted to the autonomous administrative authorities established by the Parliament.

In order to ensure the implementation of the state policy in the fields of activity entrusted to a ministry, administrative authorities with the form of legal organisation of agencies, state services and state inspectorates may be created under its subordination. The administrative authorities subordinated to the ministries are legal entities of public law.

Agencies are separate organisational bodies in the administrative system of a ministry, which are set up to exercise the management functions of certain subdomains or spheres in the fields of activity of the ministry.

The state service is a separate organisational structure in the administrative system of a ministry, which is established for the provision of public administrative services (state registration, provision of documents necessary for the initiation and / or for conducting business in specific fields).

The state inspectorate is a separate organisational body in the administrative system of a ministry, which is set up to exercise the functions of state supervision and control in the sub-domains or spheres of the ministry's fields of activity.

For example, the Ministry of Infrastructure and Regional Development has 5 subordinate administrative authorities: Agency for Technical Supervision, Agency for Energy Efficiency, National Agency for Motor Transport, Civil Aviation Authority and Naval Agency of the Republic of Moldova. The Ministry of Environment has 6 administrative authorities: Environmental Agency, Environmental Protection Inspectorate, Moldsilva Agency (forestry), Moldovan Waters Agency, Geology and Mineral Resources Agency and National Agency for the Regulation of Nuclear and Radiological Activities.

Description of the functioning mechanism of the administrative authorities subordinated to the ministries

The issues regarding the organisation of the activity of the administrative authorities subordinated to the ministries are established, in accordance with the normative framework, in the regulations regarding their organisation and functioning approved by the Government. In matters related to the accomplishment of their mission, the

²⁰⁷ <https://gov.md/ro/link-type/ministere>

administrative authorities subordinated to the ministries have decision-making autonomy, within the limits established by the law.

The Government approves the methodology for calculating tariffs, fees and the nomenclature of services provided to individuals and legal entities by administrative authorities, unless it falls within the competence of the Parliament, in accordance with Law No. 160/2011²⁰⁸ on regulation by authorization of entrepreneurial activity.

The administrative authority subordinated to the ministry is headed by the director, appointed to public office and released or dismissed from public office, in accordance with the law, by the minister, unless otherwise established by special legislative acts. The state inspectorate is headed by a chief with a status similar to that of the director of the administrative authority subordinated to the ministry.

The administrative authorities subordinated to the ministries can be organised as decentralised public services, having a central body and territorial subdivisions. They are constituted, reorganised and dissolved by the Government, at the proposal of the minister.

In order to ensure the fulfilment of its functions and to provide the public with the services for which it is responsible, the ministry or other central administrative authority may have decentralised public services which it directly administers, as well as subordinates decentralised public services which are constituted as separate organisational bodies.

The establishment, reorganisation or dissolution of decentralised public services, the establishment of their structure and the number of staff limits are the responsibility of the Government and are carried out at the proposal of the Minister or the Director General, unless the special legislative acts provide otherwise.

Deconcentrated public services are located on the territory of administrative-territorial units and can be grouped by area. Deconcentrated public services not directly managed by ministries and other central administrative authorities are not given legal status.

By Government Decision No. 266/2016 regarding the list of deconcentrated public services administered directly / subordinated to the ministries and other central administrative authorities²⁰⁹, the list of deconcentrated public services was approved.

List of deconcentrated public services

Name of the central public administration authority	Subordinate administrative authority	Deconcentrated public services
1	2	3
Ministry of Finance		Regional treasuries
	Customs Service	Territorial customs

²⁰⁸ https://www.legis.md/cautare/getResults?doc_id=130022&lang=ro#

²⁰⁹ Government Decision No. 266/2016 regarding the list of deconcentrated public services, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120446&lang=ro

		offices
	State Tax Service	Structural subdivisions
	Financial Inspection	Territorial subdivisions
Ministry of Agriculture and Food Industry	Agricultural Intervention and Payments Agency	Territorial subdivisions/ services
	Intehagro State Inspectorate for Technical Supervision	Territorial subdivisions
Ministry of the Environment	Environmental agency	Territorial subdivisions
	Inspectorate for Environmental Protection	Territorial inspections
Ministry of Labour and Social Protection	National Agency for Employment	Territorial agencies
	State Labour Inspectorate	Territorial inspections
Ministry of Health	National Agency for Public Health	Territorial centres
Ministry of Interior	General Inspectorate of Police	Territorial directorates / inspectorates
	General Inspectorate for Emergency Situations	Territorial directorates
	General Inspectorate of Border Police	Regional directorates
	Office of Migration and Asylum	Regional services / subdivisions
	General Inspectorate of Carabinieri	Territorial military units
Ministry of Defence		Territorial military centres
Ministry of Infrastructure and Regional Development	Technical Surveillance Agency	Territorial subdivisions
Ministry of Justice	National Probation Inspectorate	Regional inspectorates / offices

		Gagauzia Directorate of Justice
	National Administration of Penitentiaries	Penitentiary institutions
National Bureau of Statistics		Regional centres
National Agency for Food Safety		Territorial subdivisions
National Social Insurance House		Territorial houses
National Medical Insurance Company		Territorial agencies (branch)
Public Property Agency		Territorial subdivisions

The State Chancellery ensures the organisation of the Government's activity and is headed by the Secretary General of the Government, who is directly subordinated to the Prime Minister.

The State Chancellery establishes the general framework for defining the Government's priorities, provides methodological, organisational and coordination support for the system of planning, elaboration and implementation of public policies at the level of ministries and other central administrative authorities, the implementation of the activity program of the Government, presents the analytical and informational materials, prepares the draft decisions, ordinances and dispositions of the Government and verifies their execution.

The State Chancellery elaborates, promotes and implements the state policy in the field of human resources in public administration and coordinates the implementation of human resources management within the ministries, other central administrative authorities subordinated to the Government and the organisational bodies within their sphere of competence.

State Chancellery:

- coordinates the process of public policy planning and elaboration of policy documents, ensures the observance of the rules of substantiation and presentation of the elaborated policy documents, monitors their implementation by ministries and other central administrative authorities;
- develops, coordinates and monitors policies within the central and local public administration reform;
- coordinates the management of the civil service and civil servants and ensures the national record of civil servants and civil servants;
- coordinates and ensures the process of planning, monitoring, managing and evaluating the external assistance provided by international organisations and

donor countries, including the implementation of projects of major interest to the country;

- coordinates and monitors the execution of normative acts, the provisions of the Government and the instructions of the Prime Minister;
- informs the public about the activity of the Government.

Other central administrative authorities subordinate to the Government

For the implementation of the state policy in a certain field or sphere of activity, which does not fall within the direct competence of the ministries, as well as for solving some problems in which the competences of several ministries intersect or complement each other, under Law²¹⁰ No. 98/2012 and Law²¹¹ No. 136/2017 regarding the Government, other central administrative authorities may be created under the subordination of the Government. These central administrative authorities shall operate in accordance with the principle of sole management exercised by their Directors-General, who shall be appointed and removed from office by the Government. According to the normative framework, the activity of these central administrative authorities is coordinated and controlled by the Government through the First Deputy Prime Minister or one of the Deputy Prime Ministers appointed by the Government.

The Government approves the methodology for calculating tariffs, the nomenclature of services and the amount of tariffs for services provided to individuals and legal entities by other central administrative authorities, unless it falls within the competence of Parliament, in accordance with Law²¹² No. 160/2011 on regulation by authorization of entrepreneurial activity.

The Government has 11 subordinated central administrative authorities:

- Investment Agency;
- State Agency for Intellectual Property;
- Agency for Medicines and Medical Devices;
- National Agency for Research and Development;
- National Agency for Food Safety;
- Public Property Agency;
- Agency for Land Relations;
- Agency for Interethnic Relations;
- National Bureau of Statistics;
- National Social Insurance House;
- National Medical Insurance Company.

The Government may create other public institutions for the execution of administrative, social, cultural, educational and other functions of public interest, for

²¹⁰ Law No. 98/2012 on the specialised central public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129125&lang=ro

²¹¹ Law No. 136/2017 on the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105700&lang=ro

²¹² Law No. 160/2011 on regulation by authorization of entrepreneurial activity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126366&lang=ro

which the ministry or other central administrative authority is responsible, except for those related to the legal regulation, state supervision and control, as well as other functions that involve the exercise on the prerogatives of public administration, in their sphere of competence.

Public institutions within the competence of the ministry or other central administrative authority shall be set up, reorganised and dissolved by the Government, at the proposal of the minister or the head of the central administrative authority, unless the special regulations provide otherwise.

The ministry or other central administrative authority, which has in its sphere of competence a public institution, exercises, on behalf of the state, the function of its founder.

For example, the Ministry of Infrastructure and Regional Development is the founder of the following public institutions:

- National Fund for Regional and Local Development;
- Consolidated Unit for Implementation and Monitoring of Energy Projects;
- Project Implementation Unit on Housing Construction for Socially Vulnerable People;
- Single National Emergency Call Service 112;
- National Radio Frequency Management Service;
- Grant Implementation Unit by the Austrian Development Agency;
- Project Implementation Unit on Water Supply and Sewerage;
- North Regional Development Agency, South Regional Development Agency, Centre Regional Development Agency, UTA Gagauzia Regional Development Agency.

The heads of public institutions within the competence of the ministry or of another central administrative authority shall be employed and dismissed, under the conditions of labour legislation, by the minister or the director general, unless the legal acts governing the activity of those institutions provide otherwise.

40. Describe the institutional set-up for coordination of public administration reform. Is there a central body in charge? Which bodies/institutions are involved in the coordination structures and what are their roles? What is the capacity of the lead institution and the main stakeholders to carry out their tasks?

The State Chancellery²¹³ ensures the coordination of public administration reform and it is the lead institution involved in designing roles for other main stakeholders engaged

²¹³ Government Decision No. 657/2009 on the organization and functioning of the State Chancellery, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130631&lang=ro

in this process. The State Chancellery is headed by the Secretary General of the Government, who is directly subordinated to the Prime Minister.

In order for the Government to fulfil its constitutional prerogatives regarding the accomplishment of the internal and external policy of the state and the exercise on the general management of the public administration, the State Chancellery performs attributions regarding the coordination and monitoring of the activities within the central public administration reform; promoting and monitoring the implementation of state policy in the field of modernization of public services; ensures the coordination of policies in the field of decentralisation and exercises the general coordination, through its territorial offices, of the activity of decentralised public services; ensures the exercise by the Government of the legal prerogatives in its relations with the local public administration authorities, including the organisation of the administrative control of the activity of the respective authorities, carried out directly or through its territorial offices; ensures the cooperation of the Government with the public authorities, based on its prerogatives, according to the provisions of the Constitution of the Republic of Moldova.

The specialised subdivisions within the State Chancellery are responsible for the elaboration and presentation for approval by the Government of public policies in the field of public administration reform, ensuring their coordination, monitoring and evaluation by central administrative authorities, as well as providing the necessary support and expertise for implementation of the reforms. At the same time, the process of coordination, monitoring, evaluation and implementation of the public administration reform includes the following bodies / institutions involved, as follows:

- The Parliament, which approves the legal acts, submitted by the Government in order to implement the public administration reform process; It also exercises parliamentary control over the observance and implementation of the provisions of the legislation in force;
- Central public authorities, which have the responsibility to coordinate certain components / areas of reform (ministries, agencies and central public authorities (Agency for Public Services, Academy of Public Administration, etc.);
- First and second level local public administration authorities;
- Representative associations of local public administration authorities (the Congress of Local Authorities of Moldova);
- Representatives of civil society, academia and science, development partners, specialised in public governance, central and local public administration reform.

The coordination of the process of monitoring and evaluating the implementation of public administration reform also takes place on appropriate inter-institutional platforms. A first step was the creation of the National Council²¹⁴ for Public Administration Reform. The council is a high-level platform for decision-making on the strategic directions of public administration reform both at central and local level.

²¹⁴ Government Decision No. 716/2015 on the National Council for Public Administration Reform, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=88637&lang=ro

As part of the reform of the local public administration, the Joint Commission for Decentralisation was relaunched. It is composed of representatives of central and local public authorities of all levels, respecting the principle of parity, which has the mission to monitor and promote the decentralisation process. The role of the Joint Commission is to ensure a strategic coordination of the implementation process in accordance with the provisions of the legislation on the preparation, monitoring and evaluation of policy documents in the field of local public administration.

The State Chancellery operates in close cooperation with the central public authorities that manage areas related to public administration reform, in particular with the Ministry of Finance, local public administration authorities and their representative associations, representatives of civil society, science and academia, private sector, development partners, etc.

The participation of representatives of civil society, academia and science, and development partners in the process of implementing, coordinating, monitoring and evaluating public administration reform is ensured through working groups and other existing formats.

In order to ensure the implementation of the activities related to the public administration reform process, the State Chancellery, with the support of the development partners, also attracts independent institutions to ensure the objectivity of this process.

41. Is a comprehensive strategy for the reform of the public administration in place? If so, describe its preparation process, including the public consultation process.

The new draft Strategy for Public Administration Reform (PAR) is currently being developed, which will provide an integrated approach for central and local government reform. The draft is being developed in a participatory manner, based on dialogue and communication with all stakeholders. It is expected that in October-November 2022 a wide consultation process will take place, before the strategy's final approval by the end of 2022.

The Government has committed itself, through its Program of Activity, to create the necessary premises to deliver a holistic and visionary public administration reform, with the PAR Strategy playing a crucial role in this process.

The approach based on the perspective of human rights and gender equality is a fundamental principle in the elaboration of the Strategy. For these reasons, a special attention is paid to the principles of participation, non-discrimination, transparency, accountability and equality.

At the same time, an important format of the reform represents the National Council for Public Administration Reform²¹⁵, chaired by the Prime Minister and composed of the heads of two relevant parliamentary committees and members of the Government.

²¹⁵ Government Decision No. 716/2015 on the National Council for Public Administration Reform, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=88637&lang=ro

The Council represents a high-level platform for decision-making on the strategic directions of public administration reform at both central and local levels.

Beside the development of the new public administration reform, the Government aims to restructure the administration and its subordinate institutions in a way that allows elaboration and implementation of well-designed public policies in all the areas important for the development of the country. The Government Program stipulates carrying out functional reviews of institutions in order to identify potential efficiency gains.

The unified methodology, developed with the support of SIGMA experts, addresses the most urgent bottlenecks in the effort to build an effective administration. The State Chancellery and the Ministry of Finance observe the following constraints in the institutional functioning of the Government:

- Due to past staff cuts at the level of ministries and transfers to subordinate institutions following the previous reorganisations during 2017-2019, the line ministries currently do not have enough capacities and resources to effectively perform its functions for: (a) sector policy development and (b) ensuring oversight of work of subordinate institutions. Instead, line ministries need to rely on subordinate institutions for policy development (thus not observing the classical principle of splitting policy development and implementation functions).
- Uncompetitive salary levels, vis-à-vis subordinate institutions (that are not always operating under the salary regulations applied to ministry staff) and the private sector, make ministry positions not attractive for high level professionals.

42. Does the strategy have a sequenced action plan with clear information on responsibilities for implementation, costs and sources of financing?

The new draft PAR Strategy is currently being drafted. The Strategy will contain an Action plan with a clear timeline and specific responsibilities for each stakeholder, including costs and sources of financing, based on the example of the previous Strategy (e.g. Action Plan for the years 2016-2018, approved by Government Decision²¹⁶ No.1351 / 2016).

The main activities provided and assumed by the current Government on the good governance, central and local public administration, administrative decentralisation and consolidation of local autonomy are defined in the Government Action Plan for 2021-2022, approved by Government Decision²¹⁷ No. 235/2021. However, the creation, at all levels, of an efficient and citizen-centred public administration represents a major

²¹⁶ Government Decision No. 1351/2016 on the approval of the Action Plan for the years 2016-2018 for the implementation of the Strategy, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=96817&lang=ro

²¹⁷ Government Decision No. 235/2021 on the approval of the Government Action Plan for the years 2021-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128407&lang=ro

objective of the Government Activity Programme approved by the Parliament Decision²¹⁸ No. 88/2021.

The commitments for a sound public administration reform are also assumed in the Republic of Moldova-EU Association Agreement, as well as in the recommendations formulated by SIGMA and the last independent report on PAR Strategy 2016-2020, approved by Decision Government No. 911/2016.

From the perspective of establishing a public administration capable of ensuring the conditions for the sustainable development of the country, with a high level of integrity and competence, the Government's actions are aimed at streamlining, making transparent and accountable the public administration, accessible to its citizens and business environment, thus contributing to increasing the well-being of society and social cohesion.

Thus, the Government Action Plan for 2021-2022 highlights the objective of modernising the organisation and functioning of public authorities by initiating the reform of the central public administration. In this regard, with the support of the SIGMA, the Unified Public Authority Assessment Methodology for the implementation of the policy consolidation initiative was developed, based on which functional and procedural reviews of public authorities are to be carried out to identify potential efficiency gains.

Also, the Government's action plan for 2021-2022 contains a separate chapter setting out the actions in the field of public administration, the key objective being to strengthen local self-government. The implementation of the planned actions is expected to ensure a systematic, effective and real dialogue between the Government and local public administrations.

The agenda includes the initiative to develop a new policy document in the field of public administration reform. At the same time, with the support of development partners, the draft Concept of the PAR Strategy of the Republic of Moldova was elaborated.

With regard to the evaluation of the costs necessary for implementation, it should be mentioned that the areas and components that will involve more significant costs are those related to the digitization and the modernization of public services, civil service management, and strengthening the financial autonomy of local authorities.

43. Describe the framework for monitoring implementation of the strategy. Are regular reports on implementation prepared and are they published? Is progress measured against performance indicators? How are civil society and the business community involved in the monitoring process?

The new PAR Strategy is currently being drafted and will follow the methodology developed by SIGMA experts and national legal framework on public policy documents. The Strategy will be accompanied by a M&E framework, including a clear

²¹⁸ Parliament Decision No. 88/2021 for the approval of the Government's Work Program and the granting of the vote of confidence to the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127269&lang=ro

description of outcomes, outputs, activities, timeline, baseline/milestones/final targets, source of verification and responsible institutions.

Thus, the strategy monitoring framework will provide for the efficient supervision and coordination in the implementation of the public administration reform.

The National Council for Public Administration Reform²¹⁹, chaired by the Prime Minister and composed of the heads of two relevant parliamentary commissions and members of the Government will represent an important high-level platform.

The monitoring of the Strategy will take place at two levels. First, institutions responsible for coordinating the components of the reform, which will be based on their own monitoring systems, including setting up the mechanism and designating those responsible for collecting and analysing data for monitoring the implementation of the Strategy and its action plan. Second, the State Chancellery will ensure monitoring of the implementation of the Strategy at the national level and will report periodically to the National Council for Public Administration Reform.

The State Chancellery will present an annual implementation report describing the current state of implementation, results achieved, lessons learned, conclusions and recommendations for strengthening the implementation, if the case.

The mid-term evaluation and ex-post evaluation of the Strategy will be carried out as well.

44. What is the state of play of implementation of the strategy and its action plan? What were the shortcomings noticed in the implementation process and how were they overcome?

Given the fact that the new draft of the PAR Strategy is currently being developed, which aims at integrating central and local public administration reforms, the practices of drafting previous policy documents in the field of public administration, the lessons learned, and recommendations received, are crucial for reviewing and improving the quality of the policy document.

The Decentralisation Strategy 2012-2018, approved by Law²²⁰ No. 68/2012 for the approval of the National Decentralization Strategy and the Action Plan on the implementation of the National Decentralization Strategy for 2012-2018, as well as the PAR Strategy for 2016-2020, approved by Government Decision²²¹ No. 911/2016, and the implementation plan for 2016-2018, approved by Government Decision²²² No. 1351/2016, are two important reference policy documents.

²¹⁹ Government Decision No. 716/2015 on the National Council for Public Administration Reform, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=88637&lang=ro

²²⁰ Law No. 68/2012 for the approval of the National Decentralization Strategy and the Action Plan on the implementation of the National Decentralization Strategy for 2012-2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94917&lang=ro

²²¹ Government Decision No. 911/2016 for the approval of the Strategy on public administration reform for the years 2016-2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119202&lang=ro

²²² Government Decision No. 1351/2016 on the approval of the Action Plan for the years 2016-2018 for the implementation of the Strategy, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=96817&lang=ro

At the end of the implementation period both strategies were evaluated with the support of independent experts and the EU "Support for Public Administration Reform in Moldova" project (2021).

Regarding the Decentralisation Strategy 2012-2018, the final evaluation report was prepared based on the information and public data collected, as well as based on the progress recorded in the Government reports and alternative reports on the implementation of this strategy. It contained an assessment of progress in implementing each strategic direction and presented lessons learned and shortcomings, as well as recommendations that could be used to develop a new policy document for the next period. Among the identified deficiencies are:

- Lack or insufficiency of financial data on the financial resources allocated for the implementation of the Strategy;
- There was no sectoral spending strategy in the area of decentralisation, which would reflect the extent to which budget planning takes into account the priorities in the field of decentralisation. Therefore, the reports on the implementation of the Medium-Term Budgetary Framework do not contain references to actions relevant to the decentralisation reform;
- While developing the Strategy, the collection and analysis of data and evidence that would be the basis for a deeper understanding of the issues, following which to formulate the most appropriate actions to ensure systemic changes, were not used appropriately.

In some cases, for actions were assigned "input" indicators (the direct result of the action), which is also recommended to measure the finality of the actions taken by the authorities. In other cases, "outcome" indicators were used, which do not necessarily depend on the implementation of the action to which they have been assigned, but rather on the implementation of several actions. In addition, some performance indicators require additional capabilities and data to be calculated. An example of such a performance indicator established for some actions is the dynamics of the "autonomy index".

Regarding the PAR Strategy for 2016-2020, in the Evaluation Report some positive and visible impact was mentioned from the implementation of the Strategy. Citizens and businesses, in particular, have benefited from improvements in service delivery, simplified procedures and increased use of online solutions based on several improvements related to IT and E-gov. Citizens also benefit from relatively enhanced transparency and openness of publicly available information.

Thus, the Government Action Plan for 2021-2022 highlights the objective of modernising the organisation and functioning of public authorities by initiating the reform of the central public administration. In this regard, with the support of the SIGMA experts, the Unified Public Authority Assessment Methodology for the implementation of the policy consolidation initiative was developed, based on which functional and procedural reviews of public authorities are to be carried out to identify potential efficiency gains.

The unified methodology, developed with the support of SIGMA experts, addresses the most urgent bottlenecks in the effort to build an effective administration. The State Chancellery and the Ministry of Finance observe the following constraints in the institutional functioning of the government:

- Due to past staff cuts at the level of ministries and transfers to subordinate institutions following the previous reorganisations during 2017-2019, the line ministries currently do not have enough capacities and resources to effectively perform its functions for: (a) sector policy development and (b) ensuring oversight of work of subordinate institutions. Instead, line ministries need to rely on subordinate institutions for policy development (thus not observing the classical principle of splitting policy development and implementation functions).
- Uncompetitive salary levels, vis-à-vis subordinate institutions (that are not always operating under the salary regulations applied to ministry staff) and the private sector, make ministry level positions not attractive for high level professionals.

B. Policy development and coordination

- 45. Please describe the policy-making system, and the institutional arrangements within the government for strategic planning. Are there specific guidelines on strategic planning? Is there a government work programme, including an annual legislative programme? What are the main objectives of this programme?**

As in any parliamentary democracy, the Government of the Republic of Moldova is representative of the executive branch responsible for ensuring the implementation of the national and foreign policy and for managing the public administration. While implementing its responsibilities, it is guided by its Programme of Activities which, together with the Prime Minister and the Government designated, is endorsed by the Parliament. The Prime Minister is responsible for leading the Government and for coordinating the activities of its members. The Government is accountable to the Parliament for its commitments and members, as well as for providing information and documents at the request of the Parliament

More specifically, the Government, among others, is responsible for strategic planning and for ensuring the development and approval of policy documents, including those necessary for the implementation of its program; the management of the process that ensures the development and approval of the regulatory and institutional framework necessary for the implementation of its program and management of the implementation of laws; the management of property and public funds, as well as for the management and delivery of public services within its responsibility.

The Inter-ministerial Committee for Strategic Planning chaired by the Prime Minister, is responsible for coordination and monitoring of the Government activities and its committees, responsible for the development and implementation of the Government Activity Program, the National Development Strategy, the Medium Term Budgetary Framework, and issues related to European Integration and Coordination of External Assistance. Its role is to ensure an integrated strategic planning process that would effectively establish a correlation of national priorities set in the key Government strategic documents with the policies developed by ministries, the international commitments, and the available internal and external resources. According to the regulations, the Inter-ministerial Committee for Strategic Planning should meet every

month. In reality, the Inter-ministerial Committee for Strategic Planning meets occasionally, but there is a Government initiative to restructure and revitalise this platform in the near future, so it could properly perform its initial scope.

A major role in ensuring an efficient strategic planning process and the policy-making system has the proper configuration and consolidation of the **Centre of Government (CoG)**. There are several institutions with horizontal coordination responsibilities that, considering the nature of their attributions, can be considered the Centre of Government institutions, namely:

The **State Chancellery** ensures the organisation of the Government's activity and is headed by the Secretary General of the Government, who is directly subordinated to the Prime Minister. It establishes a common basis and leads the process for determining the priorities of the Government; providing methodological, organisational and coordination support for the system of planning, developing and implementing state policies at the level of ministries and other central administrative authorities; monitoring the implementation of the Government Programme, the analytical and informational materials; preparing draft resolutions, ordinances and orders of the Government and monitoring their implementation.

The **Ministry of Foreign Affairs and European Integration (MFAEI)** is the central governing authority which promotes the state policy in the area of foreign affairs, and ensures the general policy planning, coordination, and monitoring at the national level of the implementation of Moldova's commitments provided by the Association Agreement with the EU.

Although the **Ministry of Finance (MoF)** is not a typical CoG institution, its horizontal responsibilities for mid-term budget planning, coordination, preparation, and monitoring of the national Budget execution place it in the centre of horizontal coordination responsibilities and therefore, it has a significant role in the policy-making process. The MoF is in charge of the policy development, coordination, and monitoring of the implementation of the Medium-Term Budget Planning Framework (MTBF), which is establishing the fiscal policy objectives and determining the limits of resources and expenditures of the National Public Budget and its components for the next three years.

Ministries are specialised central state authorities responsible for developing the policy of the Government, implementing its decisions and ordinances, as well as the activities in the envisaged policy fields. To implement the first specific objective of the PAR Strategy 2016-2020, in 2017 a new law on Government and new Regulations on the organisation and functioning of the ministries were adopted in order to ensure a clear delimitation of the policy development and coordination functions of the Ministries from the other functions of the public administration authorities in charge of the implementation of policies, control, and service delivery. Ministers, as members of the Government, are responsible for leading the ministry they have been assigned to; implementing the tasks and strategic directions in the policy areas within the responsibility of the ministry in accordance with the Government Programme, as well as representing the ministry in the relations with other public authorities and legal entities in the country and abroad.

Within the Ministries, the **Departments for Analysis, Monitoring, and Evaluation of Policies (DAMEP)** are responsible for increasing the effectiveness of the operation and outputs of the ministry through horizontal and vertical coordination and management

of the key processes related to policy planning, development, and monitoring, reporting, and evaluation. More specifically, DAMEPs are responsible for the coordination of the development of sectoral and intersectoral policy documents in the policy areas within the responsibility of the relevant ministry; analysis of the results of the impact assessment of public policies developed by the appropriate departments; ensuring linkages between the policy development process and the budgeting process; as well as for coordination of the monitoring, reporting and evaluation of policy documents within the responsibility of the ministry. Their role is crucial in ensuring effective and efficient policy coordination with the t CoG institutions, with other relevant ministries, as well as with subordinated bodies operating within the respective policy area.

Many of the requirements on the policy-making process have been defined in the national legal framework and are put in place efficiently. These regulate who, when, and how shall initiate, draft and adopt policies, as well as ensure their monitoring and evaluation. The legislation relevant to the policy-making process and its main provisions are the following:

The **Law²²³ on Normative Acts No. 100/2017** is an organic law that defines the fundamental principles, elements, and requirements for the normative acts and the law-making process. It regulates the stages of the law-making process and the procedure for initiating the drafting process, and stipulates the definition of policy documents and their role in the policy-making system. It also regulates the procedure for justifying the need for developing draft regulations including the stages of conducting ex-ante analysis, drafting process, development of a concept of the normative act, and the content of the explanatory note. The coordination and consultation process is also regulated in detail with specific deadlines for submitting opinions, as well as identification of ministries and institutions that must be involved in the consultation process and provide an opinion/expertise from an economic, financial, legal, environmental or other relevant aspect. The law also defines the technical aspects of normative acts such as structure, contents, systematisation, etc. The provisions related to monitoring require ministries to evaluate the implementation of the normative acts after two years upon coming into force to identify the degree of achievement of the intended goals. All secondary legislation acts (Government Decisions) required for the implementation of the processes regulated by the law should be adopted.

Law²²⁴ on the Basic Principles of Business Regulation No. 235/2006 defines, among others, the principle of predictability of regulations about business activities, the principle of transparency in decision making and in regulating business activities, and the principle of conducting regulatory impact analysis when adopting regulations related to entrepreneurial activities. Public authorities are obligated to inform the businesses on the draft legislation related to entrepreneurial activities and ensure transparency through the involvement of the private sector and the CSOs in drafting of normative acts. The law establishes the State Commission for Entrepreneurial Regulations whose objective is to ensure continuity and streamlining of the legal framework governing business activities. The State Commission is responsible for monitoring the implementation of the law by the public authorities and reporting on a

²²³ Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

²²⁴ Law No. 235/2006 on basic principle of business regulation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107358&lang=ro

semi-annual basis to the Parliament and the Government; checking and proposing improvements and approving the regulatory impact analyses of draft legislation; proposing, reviewing, or repealing laws that are not in accordance with the principles set by the given law; and oversee and monitor the effectiveness of the normative acts relating to business activities.

Government Decision²²⁵ No. 610/2018 on Approval of the Government Regulations establishes the rules for the functioning of the decision-making system and organisation of the Government, the acts of the Government and the Prime Minister, and other related procedures relevant to the operation of the Government as a collective body.

Government Decision²²⁶ No. 386/2020 on the Planning, Elaboration, Approval, Implementation, Monitoring, and Evaluation of Public Policy Documents substantially revised Moldova's public policy and planning document system. The Government Decision regulates the process of public policy planning as a single, unified system. It prescribes the types, structure, and content of public policy and planning documents, as well as the linkages of these strategic planning documents with each other and with the Medium-Term Budget Framework (MTBF). The State Chancellery is the authority responsible for its implementation and the overall coordination of Governmental policies.

Government Decision²²⁷ No. 1171/2018 for the approval of the Regulation on the Harmonisation of the Legislation of the Republic of Moldova with the Legislation of the European Union - regulates the organisation and operation of the process of harmonisation of the legislation of the Republic of Moldova with the legislation of the European Union. It is applied for draft normative acts aimed at harmonising the national legislation with the EU legislation, establishes the principles, conditions and stages, criteria, methods, and instruments of legislative harmonisation, as well as the coordination and monitoring of the harmonisation process at the national level.

Government Decision²²⁸ No. 23/2019 on the approval of the Methodology for Impact Analysis in the Process of Substantiation of Draft Normative Acts provides the procedure for the normative acts that should undergo the ex-ante analysis and the impact analysis (IA). Under the scope of this Methodology fall: (i) draft normative acts regulating entrepreneurial activity; (ii) draft normative acts that contain regulations with impact on the national public budget or on some components within it; (iii) draft normative acts that provide for reorganisations and structural or institutional reforms of public authorities or institutions.

Law²²⁹ No. 239/2008 on Transparency in the Decision-Making Process, which sets out standards and procedures on the involvement of citizens, associations, and other stakeholders (including private persons) in the decision-making process both at the

²²⁵ Government Decision No. 610/2017 for the approval of the Government Regulation in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119333&lang=ro

²²⁶ Government Decision No. 386/2020 on the planning, elaboration, approval, implementation, monitoring and evaluation of public policy documents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121921&lang=ro

²²⁷ Government Decision No. 1171/2018 for the approval of the Regulation on the Harmonization of the Legislation of the Republic of Moldova with the Legislation of the European Union, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=109962&lang=ro

²²⁸ Government Decision No. 23/2019 on the approval of the Methodology for Impact Analysis in the Process of Substantiation of Draft Normative Acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119960&lang=ro

²²⁹ Law No. 239/2008 on transparency in decision making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

national and local level and the **Government Decision No. 967/2016 on the Mechanism of Public Consultation with Civil Society in the Decision-Making Process** that regulates the procedures to ensure transparency in the decision-making process in the Government.

Besides the legal framework establishing the rules and procedures related to the policy-making process, there are also **methodological guidelines** aiming at facilitating the application in a unitary and efficient way of the provisions of the legal framework stated above by the civil servants involved in the decision-making process.

An important methodological tool for the strategic planning process is the **Methodological Guide²³⁰ on integrating at the national level the provisions of the National Development Strategy into planning documents, public policy documents, and normative acts**, which was approved in July 2021 and is applied efficiently, on a regular basis, by all relevant authorities when planning and drafting policy documents or planning documents. The Guide facilitates the implementation of **Government Decision No. 386/2020 on the Planning, Elaboration, Approval, Implementation, Monitoring, and Evaluation of Public Policy Documents**, the systematic integration of the 2030 Agenda for Sustainable Development, as well as the Association Agreement Republic of Moldova-EU when drafting planning documents, public policy documents, and normative acts. It describes a policy planning process by stages and specifies the responsibilities of the stakeholders in the system. It includes Government priorities' setting on an annual basis based on the assessment of progress achieved in the previous planning cycle; linking the planning process with the budget development process (MTBF), as well as planning at the sectoral level, of the annual Government planning document and annual plans of the ministries.

At the same time, in 2010 two Methodological Guides: **for Ex-ante Impact Assessment** and for the **Intermediate and Ex-post Evaluation of Public Policies** were drafted and efficiently piloted on a limited number of public policy proposals and policy documents. However, given the fact that their application had a recommendation character, the subsequent regular application was not provided. In order to ensure the implementation and consolidation of an evidence-based decision-making system, both guidelines have been revised during 2021, and are intended to be mandatory applied by the line ministries and other relevant central public administration authorities in the decision-making process.

The main document that frames the Government priorities and resources is the Government Action Plan. It is a document that sets the activity of the Government for the entire term of designation and is approved to implement the Government Activity Program (political document endorsed by the Parliament). The latest Action Plan²³¹ approved covers the period 2021-2022 and integrates activities that refer both to the approval of legal acts and other types of measures aimed at achieving the sustainable development objectives set out in the Government Activity Program, as well as in the international commitments of the Republic of Moldova, in particular those deriving from the Association Agreement between the Republic of Moldova - European Union, and the Agenda for Sustainable Development 2030.

²³⁰ Methodological guide available in Romanian at: https://cancelaria.gov.md/sites/default/files/ghid_copertat_coral.pdf

²³¹ Government Decision No. 235/2021 on the approval of the Government Action Plan for the years 2021-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128407&lang=ro

It should be mentioned that there is no separate Annual Legislative Plan. The Government works in accordance with a Government Action Plan approved for the entire period of its activity. At the same time, in accordance with art. 74 of the Constitution of the Republic of Moldova, the Government submits to the Parliament (before the beginning of the parliamentary sessions, the Parliament meets in two ordinary sessions a year-end of December) the list of draft legal acts resulting from the Government Activity Program and its Action Plan, according to the priorities set, as well as according to the international commitments with the EU and other development partners.

In 2020, through the Government Decision No. 386/2020, the national system of strategic and operational planning was revised. Thus, with reference to the new requirements, the Government plans its strategic activity in accordance with the **National Development Plan** - a three-year public policy planning document, developed by the State Chancellery jointly with other public authorities. It includes the priority directions, objectives, and measures for the implementation of the National Development Strategy, the Government Activity Program, and international commitments.

In 2021 the very first exercise of drafting the National Development Plan, covering the 2022-2024, was carried out. The process started early in January and has been almost finished, however because of the unstable political situation it could not be completed. Thus, during the first 6 months of 2021, several rounds of consultations were organised with line ministries and other central public authorities involved in the process. The State Chancellery ensured and provided continuous methodological support. After the adoption of the National Development Strategy “Moldova 2030”, which is currently in process of being adjusted, the process of drafting the National Development Plan for 2023-2025 will be initiated.

At the same time, according to the new requirement, the Government annual legislative agenda is to be set based on the Government Annual Activity Plan, which will contain the measures for the implementation of the National Development Plan for the following year. The Government annual plan will include only public policy documents and regulations to be developed or revised by ministries and other central administrative authorities for the given year. Consequently, the draft normative acts included in the Government Annual Activity Plan, which are to be submitted for examination and approval to the Parliament, will be the basis of its Legislative Program.

46. What types of legal acts exist? Please explain the course of legislative procedure needed for their adoption.

Article 73 of the Constitution of the Republic of Moldova defines the right to legislative initiative, which is attributed to the members of Parliament, the President of the Republic of Moldova, the Government and the People’s Assembly of the Autonomous Territorial Unit of Gagauzia. The Government is the main initiator of draft legislation to Parliament, since the Government bears the main responsibility for the overall process and is responsible for most of the legislation submitted to Parliament. Additionally, once the legislation has been adopted by the Parliament, bylaws necessary

for their implementation are needed, these are adopted by the Government and/or institutions subordinated to the Government. After the act is enacted/adopted by the Government or by the Parliament and published in the Official Journal, the implementation and enforcement phases begin.

Law²³² No. 100/2017 on normative acts defines the categories and the hierarchy of normative acts, the principles of legal drafting (drafting of normative acts), the stages and procedure of legal drafting, the stages of the legislative process, the basic requirements regarding the structure and content of normative acts, the procedure for entry into force and loss of force of normative acts, the procedures for interpretation of normative acts, monitoring of the implementation of normative acts, and the revision of normative acts. It establishes clear procedures and determines the responsibilities of all institutions involved in the legal approximation process and sets requirements for the transposition process. It also defines the obligations for interinstitutional consultations and conflict resolution.

The Law defines in Article 3, par. (3) that the EU legislation is one of the parameters which national legislation should meet, after meeting the Constitution, international treaties to which Moldova is a party to and principles of international law. This puts the EU law in the highest rank of importance for legal drafters.

Section II of the Law on Normative Acts (Article 6) defines the categories and the hierarchy of normative acts.

The hierarchy of normative acts is structured according to their category and the issuing competent public authority:

- a) the Constitution of the Republic of Moldova;
- b) laws and decisions of the Parliament;
- c) decrees of the President of the Republic of Moldova;
- d) decisions and ordinances of the Government;
- e) normative acts of the central specialised public administration authorities;
- f) normative acts of autonomous public authorities;
- g) normative acts of autonomous territorial units with special legal status;
- h) normative acts of local public administration authorities.

The Law on Normative Acts in Articles 8-19 defines the following:

- the amendments and additions to the Constitution might be introduced through constitutional laws; laws are adopted by legislative authority of the state based on constitutional norms, according to the procedure established by the Constitution, the Regulation of the Parliament (Law No.797/1996), and the Law on Normative Acts;
- the President of the Republic of Moldova, based on Article 94 of the Constitution, in the exercise of his/her powers, can issue normative decrees that shall regulate social relations in the fields established by the law, excepting the decrees issued in the exercise for his/her constitutional powers;

²³² Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

- normative decisions of the Parliament are adopted by the Parliament, according to the procedure established in the Regulation of the Parliament (Law No.797/1996);
- the decisions and ordinances are adopted by the Government (Issues that need a more detailed regulation are usually codified in regulations, instructions, statutes, rules, methodologies that are to be approved by a decision of the Government);
- the procedure of adoption of the ordinances is established in the Constitution and Law on Government No. 136/2017 specialised central public administration authorities and autonomous public authorities can adopt decisions and orders for approval of regulations, instructions, rules and other normative acts;
- the authorities of autonomous territorial units with special legal status can adopt local normative acts. Normative acts adopted by authorities of autonomous territorial units with special legal status are issued in the limits of their competence established by the Constitution of the Republic of Moldova, through the Law on Government No. 136/2017, through the laws on special legal status of autonomous territorial units (Law No. 344/1994 and Law No. 173/2005) and through other normative acts (When issuing and applying normative acts, authorities of autonomous territorial units with special legal status shall take into consideration the principle of corresponding to the national legislation of the Republic of Moldova);
- normative acts of local public administration authorities are issued by the local public administration authorities in order to regulate certain activities of local interest.

Section III on the Law-making activity (Articles 20-40) defines all stages of the law-making process: initiating drafting of normative acts; substantiation of draft normative acts; drafting of normative act; endorsement, public consultation and expert review of the draft normative act; and finalising the draft normative act.

The Law on Normative Acts regulates the legislative process, prescribing the following stages (Article 20):

1. Publication of an announcement that drafting of a normative act has been initiated;
2. Elaboration of the draft normative act;
3. Issuing, approving or adopting the normative act;
4. Promulgation of the normative act, if it is a law;
5. Publication of the normative act.

The legislative drafting procedure (Article 21) consists of the following steps:

- Designation of the responsible person or, when appropriate, formation of a working group that will elaborate a draft normative act, and ensuring technical, organisational and financial capacities for the elaboration process;
- Determination of the category, concept and structure of the draft normative act;
- Elaboration of the initial version of the draft normative act (conducting a Study) and preparation of an Explanatory Note;

- Development of the table of concordance (ToC), if the draft normative act aims at harmonising the national legislation with the EU *Acquis*;
- Public consultations, approval of the draft normative act by the public administration authorities whose competence is directly or indirectly related to the subject of regulation, carrying out the expertise needed, including anti-corruption expertise, legal and, where appropriate, expertise related to compatibility with the EU *acquis* and expertise of the Working Group of the State Commission on Regulating Business Activity;
- Preparation of a Summary of the objections and proposals of the public administration authorities and, as the case may be, preparation of a Synthesis of the recommendations of the representatives of the civil society;
- Elaboration of the final version of the draft normative act.

Article 24 envisages that substantiation, development, endorsement, consultation and approval of policy documents are based on rules and requirements set for the normative acts.

Article 25 states that the development of draft normative acts shall be preceded, depending on the importance and complexity of the respective drafts, by research studies which justify the need or its lack thereof for initiating its drafting.

Article 31 of Law No. 100/2017 prescribes that draft normative acts that have the purpose to harmonise the national legislation with EU legislation shall be marked with the EU logo, shall contain a clause on harmonisation and shall be accompanied by a Table of concordance.

Article 32 defines the endorsement, public consultation and expert review of the draft normative act. It, *inter alia*, prescribes that draft normative acts submitted by Members of Parliament shall be sent for endorsement to the Government, in accordance with the Parliament's Rules of Procedure, which – being enacted in the form of a law – also obliges the Government.

Article 33 prescribes a 10 working days' limit for endorsement of the proposal and 30 working days for large or complex proposals. It also prescribes that draft normative acts with the EU logo shall be endorsed by all authorities and interested institutions.

Article 39 prescribes that the drafter shall take into consideration the proposals and recommendations of other institutions when finalising the draft normative act in its final version. The draft shall be finalised without affecting its consistency with the EU legislation.

Government Decision²³³ No. 610/2018 on the approval of the Regulation of the Government establishes the organisation and functioning of the Government, including the organisational framework of the Government activity as a whole and of the members of the Government in particular, the Government and the Prime Minister's acts, the procedure for drafting and promoting the draft acts of the Government, monitoring and controlling the execution of the tasks by the ministries and other central public authorities. The draft act is submitted for consideration to the Government together with a package of accompanying documents that shall contain the documents stipulated by Law No. 100/2017.

²³³ Government Decision No. 610/2017 for the approval of the Government Regulation in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119333&lang=ro

The State Chancellery controls whether the proposed acts meet all normative requirements as prescribed in Law No. 100/2017. The State Chancellery shall monitor the performance of the execution of the laws, Parliament decisions, the decrees of the President of the Republic of Moldova, the Government's acts, and the Prime Minister's decisions and instructions.

Government Decision No. 610/2018 defines the roles of the meetings of the General Secretaries as a preparatory step before materials are submitted to the Government. These meetings are chaired by the Secretary General of the Government and are held weekly. These meetings represent the first stage of the inter institutional coordination process when a draft is being developed and the final step before the Government session.

Government Decision²³⁴ No. 1171/2018 for the approval of the Regulation on harmonisation of the legislation of the Republic of Moldova with the legislation of the EU applies to all draft normative acts which are aimed at approximating the national legislation with EU legislation (having the EU logo), and establishes the principles, conditions and stages, criteria, methods and instruments of legislative harmonisation (Explanatory Note and Tables of Concordance), as well as the national-level coordination and monitoring of the harmonisation process.

It also provides practical guidance and explanations for practitioners regarding the approximation process and is directly linked to the Law No. 100/2017 (Articles 11 and 12).

Law²³⁵ No. 98/2012 on the specialised central public administration establishes the institutional system of the specialised central public administration and regulates the general regime of its activity, the fundamental principles of organisation and functioning of the specialised central public administration, as well as the legal relations deriving from the activity of the ministries, the SC and of other central administrative authorities.

Law²³⁶ No. 235/2006 on regulating business activity and **Government Decision²³⁷ No. 23/2019 on the approval of the impact assessment methodology in the process of draft normative acts reasoning**, which define the framework for *ex-ante* assessment and impact assessment.

According to the Regulation on the organisation and functioning of the State Chancellery, approved by the Government Decision²³⁸ No. 657/2009, the State Chancellery ensures the organisation of the Government's activity in order to carry out the internal and external policy of the state, the creation of the general framework for defining the priorities of the Government's activity, the methodological and

²³⁴ Government Decision No. 1171/2018 for the approval of the Regulation on the Harmonization of the Legislation of the Republic of Moldova with the Legislation of the European Union, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=109962&lang=ro

²³⁵ Law No. 98/2012 on the specialised central public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129125&lang=ro

²³⁶ Law No. 235/2006 on basic principle of business regulation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107358&lang=ro

²³⁷ Government Decision No. 23/2019 on the approval of the Methodology for Impact Analysis in the Process of Substantiation of Draft Normative Acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119960&lang=ro

²³⁸ Government Decision No. 657/2009 on the organization and functioning of the State Chancellery, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130631&lang=ro

organisational support for the system of planning, elaboration and implementation of public policies by the governmental authorities, the monitoring of the implementation of the government program, the presentation of analytical and informational materials, the preparation of projects for acts of the Government, including the implementation of the right of legislative initiative, and the verification of their execution, as well as the exercise by the Government of the prerogatives related to its relations with the local public administration authorities.

47. Please describe the medium-term policy planning system.

The Republic of Moldova's public policy and planning documents system is currently going through a **transitional phase**. Thus, even if there is a new strategic planning system in place as of the beginning of 2020, introduced by **Government Decision²³⁹ No. 386/2020 on the Planning, Elaboration, Approval, Implementation, Monitoring, and Evaluation of Public Policy Documents**, because of the crises that have hit the Republic of Moldova during the last years (pandemic situation, political instability, energy, and geopolitical crisis), the elements of the newly established planning system have not been yet properly applied.

In this regard, it is worth pointing out that currently the medium-term planning system is partially put in practice according to the **Medium-Term Budgetary Framework Methodology²⁴⁰** (see the question 24 Political Criteria, Democracy, and Rule of Law).

However, when referring to the Government work plan, the general provisions arising from the **Law²⁴¹ No. 136/2017 on Government** are applied. Thus, according to it, following the appointment of the Government by the Parliament, the planning process for making the Government Program operational, i.e. the 4-year political program presented by the Prime Minister-designate at the time of appointment of the Government by the Parliament, starts with the development of a Government Activity Plan. The time span of the Government Action Plan usually covers the entire term of office of the Government, that is, from 2 – 4 years, depending on the circumstances. The State Chancellery is responsible for coordinating the process and for developing the Government Action Plan based on the Government Activity Program. The process starts with issuing the instructions and template of the new planning document. Ministries, based on the Government Program, the National Development Strategy, and other sectoral policy documents propose activities that they think should be included in the plan. The proposals are then reviewed by the State Chancellery that decides which activities will be included in the Plan.

²³⁹ Government Decision No. 386/2020 on the planning, elaboration, approval, implementation, monitoring and evaluation of public policy documents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121921&lang=ro

²⁴⁰ Law No. 181 of 25 July 2014 on public finance and fiscal responsibility establishes the general legal framework for the development and approval of MTBF, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

²⁴¹ Law No. 136/2017 on the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105700&lang=ro

The current Government Action Plan²⁴² that covers the year 2021-2022, was widely consulted with stakeholders during its drafting process. All the proposals and recommendations received were analysed and these were either incorporated in the document or omitted following a debate.

The Government Action Plan, as well as all the reports regarding its implementation, are made available by publishing them on the official Government's web page.

Regarding the new strategic planning framework²⁴³, the following elements and processes are envisaged:

Firstly, it has to be mentioned that the main aim of the new planning framework is to regulate the process of public policy planning as a single, comprehensive and unified system. Thus, it includes the typologies, structure, and content of public policy documents and planning documents, as well as the links between the strategic planning documents and with the Medium-Term Budget Framework. According to the framework, there are six types of planning documents that form the activity of the Government. The planning process may vary from long, to medium and short term



Secondly, the framework established two categories of policy documents. The first are meant to include documents that describe in what way and what resources are needed to address the problem/problems our society is confronting.

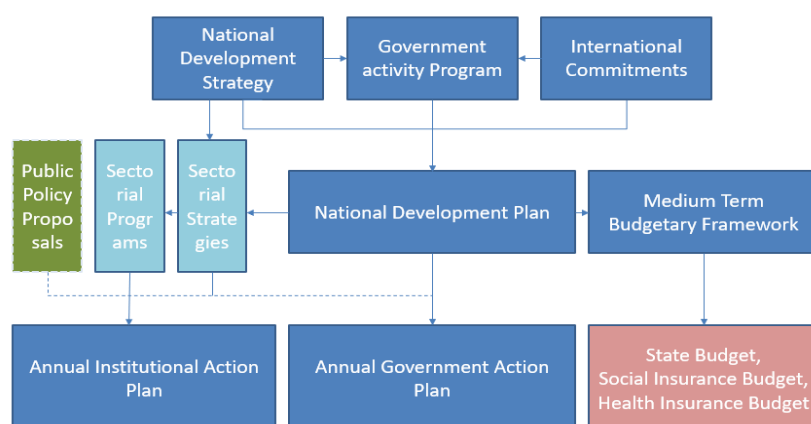
The second type of documents describe the strategy on how to achieve our objectives in a particular field or a subcategory of the government's activity and the expected impact on the state and society. Depending on the type of the policy document, their period of implementation can vary between 7-10 years for **Sectoral Strategies** or medium-term between 3-5 years for **Programs with Action Plans**.

The coherent and logical hierarchy between these two categories of documents (which is extremely important for a proper policy planning system, including that for medium-term) is ensured in accordance with the organigram below:

²⁴² Government Decision No. 235/2021 on the approval of the Government Action Plan for the years 2021-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128407&lang=ro

²⁴³ Government Decision No. 386/2020 on the planning, elaboration, approval, implementation, monitoring and evaluation of public policy documents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121921&lang=ro

LINKAGES BETWEEN PUBLIC POLICY DOCUMENTS AND PLANNING DOCUMENTS



The Government exercises its duty by following the Activity Program that represents the main political document and defines the country's main development goals for the duration the Government is invested.

As a rule, the Government Activity Program's content and structure derive from the Government's challenges and priorities in its development stage. For the implementation of the Government Activity Program, the ministries and other central administrative authorities plan the development and implementation of the public policy documents in the fields and subfields of their competence, that are also linked to the National Development Strategy, as well as other normative acts in accordance with the legislation.

The **National Development Strategy** is the national planning document that sets out the vision, priorities, and objectives for the country's development in the long term. The content of the National Development Strategy results from the Government challenges and priorities at the stage of its development. It is coordinated and developed by the State Chancellery jointly with other public authorities concerned.

The **National Development Plan** is a three-year public policy planning document developed by the State Chancellery jointly with other public authorities, which includes the priority directions, objectives, and measures for the implementation of the National Development Strategy, the Government Activity Program, and international commitments. The National Development Plan is a cyclical document, which is updated annually and approved by the Government until June of each year, before the approval of the Medium-Term Budgetary Framework. Its structure fully reflects the National Development Strategy structure, and at the same time distributes the National Development Strategy elements to budgetary programs/subprograms, thus ensuring the connection between the National Development Strategy and the budgetary framework.

In 2021, the very first exercise of drafting the National Development Plan, covering the year 2022-2024, was carried out. The process started early in January and has been almost finished, however because of the unstable political situation it could not be finalised. Thus, during the first six months of 2021, several rounds of consultations were organised with line ministries and other central public authorities involved in the process and continuous methodological support was ensured from the State

Chancellery's side. After the approval of the National Development Strategy "Moldova 2030", which is currently in the process of being adjusted according to the situation in the region, the process of drafting the National Development Plan for 2023-2025 will be initiated.

48. Are impact assessments (fiscal, regulatory, environmental, etc.) systematically prepared for draft legislation and policy proposals? What mechanisms exist to monitor the effective implementation of legal acts by public bodies (e.g. policy monitoring system in place, reporting requirements, administrative oversight, and inspections)?

Impact assessment (ex-ante analysis) has been mandatory in Moldova since 2008. It is mandated by Law²⁴⁴ No. 235/2006 on principles of business regulation and by Law²⁴⁵ No. 100/2017 on normative acts. Impact assessment is carried out for proposed draft normative acts (primary and secondary legislation) which: (i) contain regulation of entrepreneurial activity; (ii) contain regulation with impact on the national public budget or of some components within it; (iii) provide for reorganisations and structural or institutional reforms of public authorities or institutions.

Impact assessment methodology and process is regulated by Government Decision²⁴⁶ No. 23/2019, which approved Impact Assessment Methodology and is in line with the best international practices suggested by OECD and EU Commission (Better Regulation Guidelines, Commission Staff Working Document SWD (2021) 305).

Three major impact areas are covered by impact assessment – economic (including fiscal), social and environmental.

The compliance rate with Impact Assessment is high. For example, more than 90% of business regulations initiated by the Government were accompanied by impact assessment. In 2020 and 2021, over 200 impact assessment reports were analysed by the Central RIA Unit (Working Group on regulation of entrepreneurial activity).

Ex-ante impact assessment is carried out for policy documents as well, as prescribed by the Law No. 100/2017 on normative acts and Government Decision No. 386/2020 on the planning, elaboration, approval, implementation, monitoring and evaluation of public policy documents. Since 2010 State Chancellery has published and promoted an official Guideline on ex-ante analysis for policy documents. The guide was recently amended and adjusted with the assistance of EU donors to be better aligned with the EU Guidelines (2021).

In addition, Law²⁴⁷ No. 11/2017 on strategic environmental assessment mandates all public authorities, with the exception of financial and budgetary areas as well as

²⁴⁴ Law No. 235/2006 on basic principle of business regulation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107358&lang=ro

²⁴⁵ Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

²⁴⁶ Government Decision No. 23/2019 on the approval of the Methodology for Impact Analysis in the Process of Substantiation of Draft Normative Acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119960&lang=ro

²⁴⁷ Law No. 11/2017 on strategic environmental assessment, available in Romanian at:

defence policies or liquidation of the consequences of exceptional civil situations, to carry out strategic environmental assessment (possible effects on the environment, including health) for draft policy documents in agriculture, forestry, fisheries, energy, industry, transport, waste management, water resources management, electronic communications, tourism, land use, urban and rural planning. Law No. 11/2017 transposes the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment and creates the mechanism for implementing the provisions of the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context.

Pursuant to art. 2 of the Law No. 11/2017, the competent authority for carrying out the strategic environmental assessment procedure is: a) the central environmental body of the public administration (Ministry of Environment) - for national plans and programs, including sectoral and intersectoral ones, approved by the Government or the Parliament; b) the territorial subdivision of the central environmental body of the public administration (Environment Agency) - for the plans and programs of local level, approved by the local public administration.

Pursuant to art. 20 para. (2) of the Law No. 11/2017, the Guideline on conducting procedures on strategic environmental assessment was developed, approved by the Order of the Minister of Environment No. 219 of 01.10.2018. The initiator of the draft document (central and local public authorities) has to carry out the strategic environmental assessment of draft strategy, plan and programme according to the procedure indicated in the Guideline. The Guideline sets out the institutional competences and responsibilities in the field of strategic environmental assessment, the scope of strategic environmental assessment, determining the need for strategic environmental assessment (screening), the stages of strategic environmental assessment, informing and involving the public in the strategic environmental assessment procedure, consultations in a transboundary context, general provisions on international agreements, plan or programme approval, monitoring of plans and programmes.

Impact assessment process for draft normative acts includes drafting and scrutinising impact assessment reports and draft regulations. Drafting and scrutiny of IA is regulated by the IA Methodology. Scrutiny of draft regulations is regulated by the IA Methodology and the Law²⁴⁸ No. 100/2017. IA is drafted by authors of regulation, is consulted publicly, separately or together with the draft act, and is scrutinised by: (i) the Working Group on regulation of entrepreneurial activity, assisted by the RIA Secretariat, for acts which regulate entrepreneurial activity; (ii) the Ministry of Finance for acts with impact on the national public budget or of some components within it; (iii) the State Chancellery for acts which provide for reorganisations and structural or institutional reforms of public authorities or institutions; iv) Ministry of Environment for Strategic Environmental Assessment Reports.

The first mandatory step is to publish the announcement on initiation of legal draft consultation on governmental platform particip.gov.md. At this stage, policymakers are expected to place the IA report for public consultations. The next step involves the

https://www.legis.md/cautare/getResults?doc_id=105551&lang=ro

²⁴⁸ Law No. 100/2017 on normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

scrutiny bodies mentioned above, which are requested to issue an opinion on the IA report.

The scrutiny bodies are checking the extent to which the RIA report is compliant with the requirements established in the IA Methodology, including the quality of consultation, i.e. who has been consulted, has the IA report been made public, etc.

In case of the regulations of entrepreneurial activity, the scrutiny body is also involved in the scrutiny of draft of regulation. The Working Group checks on the compliance of draft regulation with the principles of better regulation established by law. Additionally, the Working Group checks on the consistency of draft regulation with the IA report assessed previously.

Finally, with the opinions of the scrutiny bodies on IA report and draft regulation together with all other accompanying documents, the draft regulation is proposed for approval to the Government.

The Working Group on regulation of entrepreneurial activity and its RIA Secretariat are regulated by Government Decision²⁴⁹ No. 1429/2008. The composition of the Working group is based on the parity of the public-private partnership principle, 10 members being delegated from public institutions (policymakers) and 10 from the business associations, excluding the head of the group, who is a deputy general secretary of the Government. The RIA Secretariat is composed of 3 independent experts and 1 secretary of the WG (public servant from the State Chancellery) responsible for the WG Agenda and logistics.

Mechanisms for monitoring the implementation of normative acts by state authorities:

The Government through the State Chancellery. In accordance with the provisions of Government Decision²⁵⁰ No. 610/2018 for the approval of the Government Regulation, as well as of the Regulation on the organization and functioning, structure and staff-limit of the State Chancellery, approved by Government Decision²⁵¹ No. 657/2009, the execution of laws, decisions of the Parliament, decrees of the President of the Republic of Moldova, acts of the Government and decisions of the Prime Minister is ensured by ministries, other central administrative authorities, as well as by organizational structures within their sphere of competence.

The monitoring of the execution of the tasks established in the mentioned acts is performed by the State Chancellery. To this end, the State Chancellery organizes and ensures: (i) control over the timely submission by ministries, other central administrative authorities of draft normative acts of the Parliament or the Government and decrees of the President of the Republic of Moldova, in order to prepare them for promotion in the Government meeting; (ii) monitoring the execution by the ministries, other central administrative authorities of the acts of the Government and of the decisions of the Prime Minister.

²⁴⁹ Government Decision No. 1429/2008 on the revision and optimization of the normative framework for regulating entrepreneurial activity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115427&lang=ro

²⁵⁰ Government decision No. 610/2017 for the approval of the Government Regulation in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119333&lang=ro

²⁵¹ Government Decision No. 657/2009 on the organization and functioning of the State Chancellery, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130631&lang=ro

The Government through the Ministry of Justice. Government Decision²⁵² No. 1181/2010 on monitoring the implementation of legislation establishes the mechanism for monitoring the implementation of legislation, which aims to identify the degree of implementation of normative and legislative acts, the circumstances that generate the inapplicability of existing legislation, determining whether the objectives and purposes the acts were fulfilled, if any unforeseen or negative consequences occurred in the process of their execution, as well as the elaboration of recommendations on how to remedy the negative consequences.

The Ministry of Justice is appointed as coordinator of the process of monitoring the implementation of the legislation and has the following attributions:

- develops on an annual basis the draft Government decision on approving the list of legislative and normative acts to be monitored;
- provides methodological support to the authorities responsible for monitoring the implementation of the legislation;
- supervises the monitoring process for its compliance with Government Decision No. 1181/2010;
- draws up the General Monitoring Report which it submits to the Government and publishes it on the official website of the Ministry.

In order to optimize and facilitate the organization and monitoring of the implementation of the legislation, as well as to provide informative and methodological support, the Ministry of Justice has developed a Methodological Guide²⁵³ on monitoring the implementation of legislation, for information and recommendation.

The Parliament. According to the provisions of Law²⁵⁴ No. 797/1996 **for the adoption of the Rules of Procedures of the Parliament**, the Parliament establishes the manner of execution of the law in its final and transitional provisions. The control over the execution of the law by the competent bodies and persons, as well as the determination of the efficiency of the law action is in the responsibility of the profile committee assisted by the Legal Department of the Secretariat of the Parliament, other commissions, created for this purpose by the Parliament. To that end, Parliament's Bureau approves an annual plan for the ex-post evaluation of normative acts. It should be noted that the normative acts are subject to ex-post legal and impact assessment.

By the Decision of the Permanent Bureau of the Parliament of the Republic of Moldova No. 2/2018, the Ex-post evaluation methodology on the implementation of normative acts was approved, which establishes two notions of ex-post evaluation (legal and impact), rules and procedures on how to prepare and conduct the process of evaluating normative acts and a clear vision of the tasks and responsibilities, the way of analyzing the impact of the adopted normative acts, the way of drawing up and the requirements towards the evaluation reports, as well as the norms regarding the actions to be carried out after the evaluation.

The ex-post evaluation regarding the implementation of normative acts takes into account the ex-ante evaluation performed at the stage of elaboration of the normative

²⁵² Government Decision No. 1181/2010 on monitoring the implementation of legislation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=103310&lang=ro

²⁵³ Methodological guide available in Romanian at: <http://www.justice.gov.md/pageview.php?l=ro&idc=101>

²⁵⁴ Law No. 797/1996 for the adoption of the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro

act, including the analysis of the regulatory impact, as well as the results of monitoring the implementation process of legislation based on Government Decision No. 1181/2010.

The ex-post legal evaluation analyses the legal aspects regarding the adopted normative act, in order to verify: if all the normative acts necessary for the organization of the execution and implementation of the normative act have been approved; if there are certain legal obstacles in the application of the normative act; if the norms of the normative act have been the subject to referral to the Constitutional Court.

The ex-post impact assessment analyses: the efficiency of the normative act in terms of material, financial and human resources, including the costs and benefits of regulation; the degree of fulfilment of the purpose and objectives of the normative act; unforeseen consequences - economic, social or otherwise; the normative impact in terms of the principles of non-discrimination and equality; the possibility and the solutions to improve the implementation of the normative act.

Following the evaluation performed, the parliamentary committee presents recommendations to the Government and/or other public authorities, and, as appropriate, reports to the Parliament on the implementation of the normative act. The Parliament decides on the maintenance, amendment, repeal or replacement of the assessed normative act.

Monitoring public policy documents and planning. The monitoring of the implementation of public policy and planning documents is carried out by the State Chancellery, ministries and other central administrative authorities subordinated to the Government responsible for their implementation in accordance with the provisions of Government Decision No. 386/2020, as well as the procedures set out in policy and planning documents, and monitoring indicators.

The monitoring of the Government's annual activity plan is carried out by the State Chancellery on the basis of quarterly progress reports prepared by ministries and other central administrative authorities subordinated to the Government. The results of the monitoring of the Government's Annual Business Plan are included in the Government's Consolidated Annual Report, which contains an analysis of the achievement of the established objectives and measures and is the reference document for planning the Government's activities for the following year.

Also, the Government Decision No. 386/2020 establishes the types of interim and final evaluation for public policy documents, as well as how to carry them out. The results of the evaluations are used to review public policy documents and planning documents in the process of implementation and to plan the next public policy interventions. The final evaluation process completes the public policy cycle and allows public authorities to take decisions on whether to continue, amend or stop the public policy intervention subject to evaluation.

In order to be in line with the provisions of Government Decision No. 386/2020 and to facilitate the process of evaluating public policy documents, the State Chancellery has recently amended and developed the Methodological Guide for public authorities involved in the process of evaluating public policies during their implementation or after completion.

C. Public service and human resources management

49. Please present the legal framework governing the public service (civil servants, other public employees, political appointees, temporary employees)?

The public service in the Republic of Moldova is regulated by a series of normative acts that have general applicability on different categories: positions of public dignity; positions within the office of the person exercising the function of public dignity, top management, managerial and execution civil servants and contract staff that ensure the functionality of the public authority.

General regulatory framework for persons of public dignity and staff in the cabinet of persons with public office:

- Law No. 199/2010 on the status of persons of public dignity²⁵⁵;
- Law No. 80/2010 on the status of staff in the cabinet of persons with public office²⁵⁶.

General regulatory framework for regulating the civil service staff:

- Law No. 158/2008 on the civil service and the status of the civil servant ²⁵⁷.
- Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/ 4, 2008 on the civil service and the status of the civil servant ²⁵⁸, includes the following regulations:
 - Regulation on the occupation of public office by competition, according to annex No.1;
 - The regulation regarding the probationary period for the debutant civil servant, according to annex No.2.
 - The model and components of the job description and the Methodology regarding the elaboration, coordination and approval of the job description, according to annex No.3;
 - The rules regarding the performance of work by the cumulation of the civil servant, according to annex No.4;
 - The manner of drawing up the written commitment of the civil servant regarding the activity in the public service after graduating the forms of professional development, according to annex No.6;
 - Regulation on the disciplinary commission, according to annex No.7;
 - Regulation on the evaluation of the professional performance of the civil servant, according to annex No.8;

²⁵⁵ Law No. 199/2010 on the status of persons of public dignity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128023&lang=ro#

²⁵⁶ Law No. 80/2010 on the status of staff in the cabinet of persons with public office, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110498&lang=ro

²⁵⁷ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁵⁸ Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/ 2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115403&lang=ro

- Regulation on the continuous professional development of civil servants, according to annex No.10;
- The instruction regarding the management of the personal file of the civil servant, according to annex No.11.

Normative framework that regulates the civil service with special status:

The unitary normative framework that regulates the civil service with special status is not currently approved, but its elaboration and approval is planned in the Government Action Plan for 2021-2022, approved by Government Decision No. 235/2021²⁵⁹.

The following public authorities in the field of law enforcement and national defence are regulated by special provisions regarding the civil service with special status, as follows:

- Ministry of Internal Affairs, pursuant to the Law No. 288/2016 on the civil servant with special status within the Ministry of Internal Affairs²⁶⁰;
- National Anticorruption Centre, pursuant to the Law No. 1104/2002 on the National Anticorruption Centre²⁶¹;
- Service for Preventing and Combating Money Laundering, pursuant to the Law No. 308/2017 on preventing and combating money laundering and terrorist financing²⁶²;
- Intelligence and Security Service, in accordance with the Law No. 170/2007 on the status of the intelligence and security officer²⁶³;
- State Protection and Guard Service, in accordance with the Law No. 134/2008 on the State Protection and Guard Service²⁶⁴;
- The National Administration of Penitentiaries, pursuant to the Law No. 300/2017 on the penitentiary administration system²⁶⁵;
- Ministry of Defence, pursuant to the Law No. 162/2005 on the status of the military²⁶⁶;
- Ministry of Foreign Affairs and European Integration, pursuant to Law No. 761/2001 regarding the diplomatic service²⁶⁷;

²⁵⁹ Government Decision No. 235/2021 on the approval of the Government Action Plan for 2021-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128407&lang=ro

²⁶⁰ Law No. 288/2016 on the civil servant with special status within the Ministry of Internal Affairs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110602&lang=ro

²⁶¹ Law No. 1104/2002 on the National Anticorruption Center, https://www.legis.md/cautare/getResults?doc_id=66260&lang=ro

²⁶² Law No. 308/2017 on preventing and combating money laundering and terrorist financing, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110418&lang=ro

²⁶³ Law No. 170/2007 on the status of the intelligence and security officer, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107155&lang=ro

²⁶⁴ Law No. 134/2008 on the State Protection and Guard Service, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=114811&lang=ro

²⁶⁵ Law No. 300/2017 on the penitentiary administration system, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105744&lang=ro

²⁶⁶ Law No. 162/2005 on the status of the military available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=95083&lang=ro

²⁶⁷ Law No. 761/2001 regarding the diplomatic service, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107826&lang=ro

- Customs Service, pursuant to the Law No. 302/2017 on the Customs Service²⁶⁸;
- The Fiscal Service, pursuant to the Fiscal Code No. 1163/1997²⁶⁹;
- Prosecutor's Office (only inspectors from the prosecutors' inspection), pursuant to the Law No. 3/2016 on the Prosecutor's Office²⁷⁰;
- National Integrity Authority, pursuant to the Law No. 132/2016 on the National Integrity Authority²⁷¹.

Regulatory framework for regulating persons of public dignity and civil servants in local public authorities:

- Law No. 436/2006 on local public administration²⁷²;
- Law No. 136/2016 on the status of Chisinau municipality²⁷³.

The normative regulatory framework for contract staff (non-civil servants) is the Labour Code of the Republic of Moldova No. 154/2003²⁷⁴.

50. What are the distinctions between different types of public servants (e.g. civil servant, other public employees, political appointees, etc.) in terms of their status, legal regime, rights and obligations? What are the safeguards in place against the politicisation of the civil service?

Differences between different public positions

Definitions:

The positions of public dignity are public positions that are held by mandate obtained directly, following the elections, or indirectly, by appointment under the law, according to article 2 of Law No. 199/2010 on the status of persons of public dignity²⁷⁵.

The staff in the cabinet of persons with public office are contractual staff appointed by dignitaries on the basis of personal trust during their term of office. The regulation of

²⁶⁸ Law No. 302/2017 on regarding the Customs Service, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121328&lang=ro

²⁶⁹ Fiscal Code No. 1163/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=79111&lang=ro

²⁷⁰ Law No. 3/2016 on the Prosecutor's Office, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=117461&lang=ro

²⁷¹ Law No. 132/2016 on the National Integrity Authority, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro

²⁷² Law No. 436/2006 on local public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=17373&lang=ro

²⁷³ Law No. 136/2016 on the status of Chisinau municipality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94998&lang=ro

²⁷⁴ Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

²⁷⁵ Law No. 199/2010 on the status of persons of public dignity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128023&lang=ro#

their legal status is based on Law No. 80/2010 on the status of staff in the cabinet of persons with position of public dignity²⁷⁶.

The public functions are the set of attributions and obligations established under the law in order to exercise the prerogatives of public power, according to article 3 of Law No. 158/2008 on the civil service and the status of the civil servant²⁷⁷.

Public positions with special status are regulated by a set of attributions and responsibilities of the civil servant with special status established in order to achieve the specific competencies of the entity to which he belongs, according to Law No. 288/2016 on the civil servant with special status within the Ministry of Internal Affairs²⁷⁸.

Contract staff are non-public positions that perform work according to a certain specialty, qualification or in a certain position, in exchange for a salary, based on the individual employment contract, according to article 1 of the Labour Code of the Republic of Moldova No. 154/2003²⁷⁹.

Rights and obligations:

According to the provisions of the general normative framework, the civil servant has the following rights:

- examine issues and make decisions within its competence;
- to request, within the limits of its competence, and to receive the necessary information from other public authorities, as well as from natural and legal persons, regardless of the type of property and their legal form of organisation;
- to know the rights and attributions stipulated in the job description;
- to benefit from normal working conditions and hygiene likely to protect his health and physical and mental integrity, as well as a salary corresponding to the complexity of the duties of the position;
- to address to the Government the cases of violation of the legislation regarding the civil service and the status of the civil servant, except for the civil servants working within the public authorities indicated in art.8 paragraph (2) letter d), which are in law to address the heads of the respective public authorities;
- to enjoy stability in the public office held, as well as the right to be promoted to a higher public position;
- to enjoy equal opportunities and treatment between men and women in terms of access to employment, the process of continuous professional development and promotion;
- the right to an opinion;
- membership in political parties and other socio-political organisations;

²⁷⁶ Law No. 80/2010 on the status of staff in the cabinet of persons with public office, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110498&lang=ro

²⁷⁷ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁷⁸ Law No. 288/2016 on the civil servant with special status within the Ministry of Internal Affairs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110602&lang=ro

²⁷⁹ Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

- to establish and join trade unions and other organisations;
- access to personal information;
- legal protection in the exercise of office;
- at strike.

The civil servant has the following obligations:

- to respect the Constitution, the legislation in force, as well as the international treaties to which the Republic of Moldova is a party;
- to strictly respect the rights and freedoms of citizens;
- be loyal to the public authority in which he operates;
- to fulfil with responsibility, objectivity and promptness, in the spirit of initiative and collegiality all the duties of the service;
- to keep, in accordance with the law, the state secret, as well as the confidentiality in connection with the facts, information or documents of which he becomes aware in the exercise of public office, except for the information considered of public interest;
- to observe the norms of professional conduct provided by law;
- to comply with the provisions of art. 7 para. (2) of Law No. 325/2013 on the assessment of institutional integrity²⁸⁰;
- to comply with the internal regulations;
- execution of the leader's orders;
- declaration of assets and personal interests, compliance with the legal regime of conflict of interest, incompatibilities, restrictions and gifts.

Senior civil servants, as well as senior civil servants, are obliged to encourage the motivated proposals and initiatives of subordinate staff in order to improve the work of the public authority in which they operate.

Dignitary in the exercise of his mandate shall have the following rights.

- to adopt decisions within the limits of legal competences and to demand their execution;
- to obtain in the established manner the information and materials necessary for the exercise of the function and, as the case may be, to have access to the documents and information containing state secret;
- to visit, ex officio or upon request, in the exercise of the function and in the established manner, other public authorities, other natural and legal persons, of public or private law;
- to enjoy the right to personal integrity, to an appropriate and respectful attitude on the part of subordinates, other decision-makers and citizens;
- to benefit from the right to remuneration and stimulation of work in accordance with the law;

²⁸⁰ Law No. 325/ 2013 on the assessment of institutional integrity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106168&lang=ro

- to benefit from the right to continuous professional development from the budget from which she is remunerated;
- to benefit from the right to security protection, to the protection of health and to favorable conditions for the efficient exercise of the function held;
- to delegate the right to perform acts on his behalf, to sign documents during his absence, unless the special laws governing the activity of the dignitary or his field of activity provide otherwise.

The civil servant in the exercise of the mandate has the obligation provided in Article 7, paragraph (2) of Law No. 325/2013 on the assessment of institutional integrity.

The civil servant with special status enjoys the general rights and obligations for civil servants with some specific rights established by special laws for each public authority (the special regulatory framework for these authorities is described in question 49). Specific rights include:

- the right to uniform, to special and protective equipment, to medical and psychological assistance, to prostheses, as well as to free medicines, under the conditions established by Government decision;
- the right to recover travel expenses in the interest of the service;
- the right to compulsory insurance and protection from the state according to the law;
- the right to technical-material endowment.

Guarantees in force regarding the depoliticization of the civil service.

Recruitment procedure as a guarantee of depoliticization of the civil service.

Guarantees regarding the depoliticization of the civil service are ensured as an initial stage in the recruitment procedure, namely in the composition of the competition commission include representatives of civil society, according to point 54, sub-point (2) of the Regulation on employment by competition, Annex No.1 from the Government Decision No. 201/2009.

Guarantees of depoliticization following the competition of the applications, is the request for information from the National Integrity Authority - integrity certificate, National Anticorruption Centre - criminal record certificate on professional integrity, Intelligence and Security Service - information on the absence or existence of risk factors may affect the rule of law, state security, public order, point 182 of the Regulation on the occupation of public office by competition, Annex No.1 of Government Decision No.201/2009²⁸¹.

Another depoliticization guarantee is the very procedure of recruiting and conducting the open competition by appointing the best candidates in public office, the competition is described in the Regulation on the occupation of public office by competition, according to Annex No. 1 to Decision No. 201 / 2009

Depoliticization guarantees in the civil servant's career:

²⁸¹ Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/ 2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115403&lang=ro

General provisions for depoliticization of civil servants are found in various regulations such as:

- Law No. 158/2008 on the civil service and the status of the civil servant²⁸²;
- The code of conduct of the civil servant approved by Law No. 25/2008²⁸³;
- Law No. 122/2018 regarding the integrity warnings²⁸⁴;
- Law No. 82/2017 on integrity²⁸⁵;
- Law No. 325/2013 on the assessment of institutional integrity²⁸⁶.

The civil servant in the exercise of his career also has the quality of whistleblower of integrity and can make public the disclosure of illegal practices that take place within the public authority.

The normative framework also provides norms regarding the cultivation of integrity in the public sector, according to chapter II of Law No. 82/2017. Thus, among the ways of cultivating integrity in the public sector is the creation of the climate of political integrity. The climate of political integrity strengthens society's confidence in the institutional integrity of public entities created as a result of electoral processes and in the professional integrity of public officials holding elective and exclusively political positions.

The professional ethics and integrity of persons holding an elective or exclusively political office is described in Article 9 of the above-mentioned law.

For the positions of public dignity, as in the case of civil servants of any category, some limits of membership in political parties and organisations are established, according to article 9 of Law No. 199/2010. Thus, the dignitary, in exercising his functional duties, must refrain from spreading the doctrine and ideology of the party or socio-political organisation whose member or exponent he is, including refraining from participating in fundraising, using administrative resources, displaying the insignia or objects inscribed with the logo or the name of political parties or their candidates, and refraining from the creation or contribution to the creation of subdivisions of political parties within the public authority he leads or in whose framework he exercises his function of public dignity.

²⁸² Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁸³ Law No. 25/2008 on the code of conduct of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107130&lang=ro

²⁸⁴ Law No. 122/2018 regarding the integrity warnings, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro

²⁸⁵ Law No. 82/2017 on integrity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro

²⁸⁶ Law No. 325/2013 on the assessment of institutional integrity, available in Romanian at: <https://weblex.md/item/view/iddbtype/1/id/e47e8f7efaf0b1fe2a821968a9009c72>

51. Please describe the recruitment procedure for the different categories of civil servants (e.g. senior, middle and low level managers, executive/non-managerial level).

Filling a vacant civil service position in the Republic of Moldova is carried out under Law No.158/2008 on the civil service and the status of the civil servant²⁸⁷. The procedures for recruitment and selection of the public dignity function, of the public positions with special status and of the positions within the office of the person exercising the function of public dignity are performed based on special laws, and the occupation of other positions within the public authority – based on the Labour Code²⁸⁸.

At the same time, in order to respect the fundamental principles of the civil service: equality and non-discrimination of legality, professionalism, transparency, impartiality, independence, accountability, stability and loyalty. The procedure is described in the Regulation on employment in civil service job based in open competition, approved by the Government Decision No.201/2009 on the implementation of Law No.158/2008 on the civil service and the status of the civil servant²⁸⁹.

The competition is held in order to attract candidates for public office and select the most suitable candidate, based on the principles of open competition, competence and professional merit, equal access to public office and transparency. The right to participate in the competition is held by persons who meet the basic conditions provided by Law on civil service, the minimum requirements for each type of civil service position provided in the Unified Classification of civil service positions (Law No. 155/2011 on approval of the Single Classifier of public positions²⁹⁰) and the specific requirements established in the job description.

The basic conditions for participation of a candidate in the civil service are the following:

- is a citizen of the Republic of Moldova;
- speaks the Romanian language and the official languages of interethnic communication spoken in the respective territory within the limits established by law;
- has full exercise capacity;
- did not reach the age of 63;
- has full work capacity, from the point of view of the state of health, for the exercise of the civil service job, according to the medical certificate issued by the authorised medical institution, if special health requirements are established for the respective job;
- has the professional education necessary for the given public position;

²⁸⁷ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁸⁸ Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

²⁸⁹ Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/ 2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115403&lang=ro

²⁹⁰ Law No. 155/2011 on approval of the Single Classifier of public positions, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115200&lang=ro

- in the last 5 years, has not been dismissed from a public position or her individual employment contract has not been terminated for disciplinary reasons;
- has no criminal record for intentional crimes;
- is not deprived of the right to perform certain functions or to exercise a certain activity, as a basic or complementary punishment, as a result of the final court sentence by which this interdiction was ordered;
- is not prohibited from holding a public office or public office, which derives from an act of finding the National Integrity Authority.

The public authority organising the competition will publish the conditions of the competition on the governmental portal of public positions for which the public authorities organise the competition, www.cariere.gov.md, on the official website of the public authority that initiated the competition, and will display on the information board at the headquarters of the respective public authority, in visible and accessible place to the public, at least 20 days before the date of the contest.

The information on the conditions of the competition must include: the title and location of the public authority organising the competition, the name of the vacant civil service job, the purpose and basic tasks of the public office, according to the job description, the conditions of participation in the competition, the documents to be submitted, bibliography, deadline for submission of required documents, method of submission of documents, contact details, the person responsible for providing additional information and collecting the required documents.

Recruitment and selection for the top civil service jobs and managerial civil service job (head of public authorities)

The competition commission set up by the Government is responsible for organising and conducting the competition for top civil service jobs (Deputy Secretary General of the Government, Secretary General of the Ministry, Deputy Head of the Administrative Authority). The competition commission consists of 7 members, representatives of civil society and specialists with outstanding activity and experience in public administration, appointed by the Government, one of whom is delegated by the head of the public authority for whose position the competition is organised.

For the Head and Deputy Head of the office of a public authority (Parliament, President of the Republic of Moldova, Superior Council of Magistracy, Constitutional Court, Supreme Court of Justice, General Prosecutor's Office, Court of Accounts, People's Advocate Office), competition commission is set up by the respective public authorities.

The competition for the top civil service jobs and for the position of head and deputy head of the subordinated body to the ministries and other administrative authorities includes the 1) competition of applications and 2) the interview. In order to hold a top civil service position, the person must cumulatively meet the following requirements: to comply with the basic conditions provided by Civil Service Law (art. 27 of Law No. 158/2008); to have higher education, graduate with a bachelor's degree or equivalent; to have at least 5 years of experience in the specialty / profile of the respective civil service job; to have at least 2 years of managerial experience.

In this regard, **the competition of the applications** is aiming to assess the quality of the Concept of institutional development, level of professional and managerial experience and reputation, which will be done through the points system from 1 to 10, separately by each member of the competition committee. The arithmetic mean of the points awarded by the members of the competition commission is considered the final grade for the competition of the files. Candidates who have obtained a final grade of less than 7.5 in the competition of the files are excluded from the competition. The results of the competition of the files are recorded in a report.

Within a maximum of 2 days from the competition of the applications, for the short-listed selected candidates, the competition commission requests from:

- National Integrity Authority – integrity certificate;
- National Anticorruption Center – criminal record certificate on professional integrity;
- Security and Intelligence Service – information regarding the absence or existence of risk factors that may affect the rule of law, state security, public order.

The interview with the candidates for the top civil service jobs takes place not later than 5 working days from the date of the file competition. The list of candidates admitted to the interview, the date, time, place and format of the interview is placed on the official website of the public authority and on the information panel of the public authority headquarters. At the same time, the candidates are personally informed about the date, time, place and format of the interview by e-mail / telephone. The duration of the interview and the list of basic questions are established by the competition committee. When establishing the basic questions, the specifics of the public office for which the competition is organised are taken into account.

The basic questions for top civil service jobs and the managerial positions of the head and deputy head of the body subordinate to the ministries and other administrative authorities are used to obtain public information on:

- the concept of institutional development;
- motivation for access to public office;
- managerial competence;
- professional experience and competence;
- self-control and resistance to stress;
- professional ethics and good reputation, etc.

Candidates who have a final grade below 7.5 for the interview are excluded from the competition. The arithmetic mean of the final marks ensures the competition of the files and at the interview the final mark of the competition is known. The candidate with the highest final grade is the winner of the competition.

The winner of the competition is the candidate proposed to the Government by the competition commission for the appointment of the position of the candidate who promoted the competition with the highest final grade. If several candidates have set an

equal final grade, priority is given to the candidate who asked to score higher in the interview.

Recruitment and selection for managerial civil service job (head of units) and execution civil service jobs

The procedure for recruitment and selection of heads of units and civil service with execution functions within the public authorities is carried out in a decentralised manner: each public authority ensures its own administration of the civil service and civil servants, through competition commissions established within the authority. The competition procedure includes two phases: 1) written test and 2) interview.

Following the recruitment procedure and the period for submitting applications for all categories of public office, within 3 working days from the expiry of the deadline for submitting documents, the competition committee examines the candidates' files and decides on their admission to the competition. The competition commission establishes the date, time, place of the written test, information which, at least 3 working days before the date of the written test, is placed on the website of the public authority and on the information panel at its headquarters. At the same time, the candidates are personally informed about the date, time, place of the written test by e-mail / telephone.

The written test aims to test the knowledge and skills necessary to perform the tasks and duties of public office. The competition commission, based on the bibliography, elaborates at least three options of tests. Each option of tests includes:

- grid test containing 4-6 topics, of which 2-3 are related to specifics to public positions and 2-3 are in the field of the normative framework that regulates the activity of public administration and civil servants;
- for managerial civil service positions (head of units): 2-3 practical tasks for the managerial civil service positions (e.g. planning a concrete task, preparing a meeting on a certain topic, elaborating a draft decision, analysing and / or solving a case study, etc.);
- for execution civil service positions: 2-3 practical tasks (e.g. drafting and / or writing different types of writing, instructions, draft reports, decisions, etc.).

An evaluation grid is also developed for each option of the test. Each option of the test is sealed in separate envelopes. At the appointed time, the written test begins with the extraction of one option out of three by one of the candidates. The duration of the written test is set by the competition committee, depending on the degree of difficulty and complexity of the assignments, but may not exceed three astronomical hours.

The written test is performed in the presence of the members of the competition committee, and some practical tasks are performed on the computer. After the selection of the option to be completed, in the room where the written test takes place, the access of other persons is forbidden, except for the members of the competition commission and of the persons who provide the secretariat of the competition commission. Candidates are not allowed to hold or use any source of consultation, including mobile phones, during the written test. The non-observance of the mentioned provisions entails the elimination of the candidate from the competition, with the action not being "cancelled" on the work and the recording of what happened in the minutes. The tests are written only on the paper sets specially prepared by the public authority organising the contest.

Written works are checked, coded and decoded only after their evaluation. The evaluation of the written test is done through the system of points from 1 to 10, separately from each member of the competition committee, and is recorded in a report. The arithmetic mean of the points awarded by the members of the competition commission is the final mark for the written test. Candidates who need a final grade below 6 in the written test are excluded from the competition.

The interview will take place not later than 5 working days from the date of the written test. The list of candidates admitted to the interview, the date, time, place and format of the interview is placed on the official website of the public authority and on the information panel at the headquarters of the public authority. At the same time, the candidates are personally informed about the date, time, place and format of the e-mail / telephone interview. The duration of the interview and the list of basic questions are established by the competition committee. When establishing the basic questions, the specifics of the public office for which the competition is organized are taken into account.

The basic questions for the public management and executive functions are used to obtain information on:

- the motivation to enter the public office;
- professional experience and competence;
- analytical / critical thinking;
- clear and logical expression;
- professional and personal qualities;
- professional ethics and good reputation, etc.

In the interview, the members of the competition committee ask the same basic questions to each candidate for the same vacant position. It will be ensured that no candidate hears the questions addressed to his predecessors. Questions regarding the candidate's political choice, religion, ethnicity, material status, social background or questions that may be considered discriminatory on the grounds of sex may not be asked. The assessment of the answers to the interview is done through the system of points from 1 to 10, separately from each member of the competition commission and is recorded in a report. The arithmetic mean of the points awarded by the members of the competition committee is considered the final grade for the interview.

Candidates who obtained a final grade below 6 in the interview are excluded from the competition. The arithmetic mean of the final marks obtained in the written test and in the interview, is considered the final mark in the competition. In case of obtaining equal final marks, the competition commission divides the candidates according to the degree of compliance with the conditions of participation in the competition, based on the documents in the competition file.

In case of non-appearance, for unfounded reasons, of the winning candidate of the contest within 5 working days from the date on which he was declared the winner in order to be appointed to the public office, non-appearance within 10 days from the date on which he was declared the winner of the originals of the documents or of the written refusal to be appointed to the public office, the person / body with the legal competence of appointment appoints the next candidate from the list of candidates who promoted the competition, and in the absence of another candidate who promoted the competition,

the deadline for submitting applications is changed or the competition is declared closed.

If the public office held as a result of the competition or another position, with similar tasks and responsibilities, in the same category or in a lower category, has become vacant or temporarily vacant within a maximum of 6 months from the date of completion of the competition, the person / body that has the legal competence to appoint may decide to appoint the next candidate from the list of those who promoted the competition. The appointment is made with the written consent of the candidate, if he meets the basic and specific conditions of the job description.

The public authority or the competition commission for the occupation of public senior management positions may extend the term of the competition if only one candidate has submitted the file and after examining the files, only one candidate may be admitted to the competition, no files have been submitted within the set deadline, no candidate has obtained the minimum grade for the promotion of the competition, the winner candidate has refused employment and there is no other candidate who has promoted the competition. If, after the extension of the competition, after the examination of the competition applications, only one candidate has been admitted, the competition will be carried out according to the established procedure.

Filling a public functions with special status

The procedure for recruitment and selection of civil service jobs with special status (collaborators of the diplomatic service, the customs service, the state fiscal service, the defense bodies, the prevention and fight against corruption, national security and public order, other categories established by law) are carried out in based on special laws, listed to the question 49.

In this context, the recruitment and selection of the civil servants with special status takes place on the basis of the internal regulations approved by the head of the authority or the head of the authority under which the public authority is subordinated.

Other categories of personnel within the public authorities, such as specialised / auxiliary positions or technical support positions that ensure the functioning of the public authority, employment is based on the individual employment contract, according to the provisions of the Labour Code of the Republic of Moldova No. 154/2003²⁹¹.

52. What are the legal guarantees for ensuring transparency and meritocracy in recruitment/appointment/promotion? Which bodies are in charge of monitoring and reporting on the process?

The policy of the state in the field of civil service and civil servants is the competence of the Government. The development, promotion, coordination, monitoring and

²⁹¹ Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

evaluation of the implementation of state policy and personnel procedures are the responsibility of the Government and are carried out by the State Chancellery.

Thus, in order to achieve a stable, professional and efficient public service in the interest of society, the state and the civil servant, filling the vacant or temporarily vacant public office is done through: competition, promotion, transfer, secondment, temporary office public leadership. The competition is usually organised after the application of the methods of holding the public position of promotion and transfer.

The transparency of the recruitment process in public authorities is ensured by the following means:

- publishing the conditions for conducting the competition on the governmental portal of public positions for which the public authorities organise the competition www.cariere.gov.md, on the official website of the public authority that initiated the competition, as well as on the information panel at the headquarters of the public authority respectively, in a place visible and accessible to the public at least 20 calendar days before the date of the contest. The public authorities may publish the conditions for holding the competition for public office and in a periodical or other means of information;
- the meetings of the commission conducting the competition for senior management positions shall be broadcast live through the media, and the minutes shall be published on the official website of the public authority concerned;
- vacancy notices are also distributed on the official pages of public authorities on social networks (e.g. Facebook, Instragam), on the official pages of heads of authorities, information is also distributed on various portals for the publication of job advertisements (e.g. www.civic.md).
- presentation of information on how to organise and conduct the contest to all interested parties. At the end of each stage of the competition, the list of persons admitted to the next stage of the competition is published on the information panel at the authority's headquarters and on the website of the public authority.
- candidates are entitled to submit an application to challenge the evidence in order to re-evaluate the stage of the competition;
- at the end of the recruitment procedure, the list of participants who promoted the competition is published;

At the same time, in order to respect the principle of meritocracy, the service relations of civil servants may be modified in the interest of the service and at the request of the civil servant. For the development of the professional career of the management and execution civil servants, the service relations can be modified by: promotion; detachment; transfer, the interim of a public management position, and the modification of the service relations of the senior management civil servants takes place through secondment and transfer in the interest of the service.

The promotion procedure presupposes the way of career development by occupying a public position superior to the one exercised and is performed on the basis of merit, based on the corresponding administrative act of appointment issued by the head of the respective public authority, with the written consent of the civil servant. be promoted to a higher civil service the civil servant who obtained after the evaluation of the professional performances the qualification “very good” at the last annual evaluation

or the qualification “good” at the last 2 annual evaluations and who meets the basic conditions provided by the legislation. Also, the civil servant who has unqualified disciplinary sanctions cannot be promoted. In the event that two or more civil servants meet the conditions for promotion to a higher civil service, the selection shall be made on the basis of a competition.

The secondment procedure involves the temporary transfer of the civil servant to another public authority in order to carry out some service tasks in its interest. The secondment shall be made by accepting the secondment by the head of the public authority in which the civil servant is active, at the written request of the head of the public authority in whose interest the secondment is made, by appointing or hiring the civil servant to the position for which he was seconded. The secondment shall be for a period not exceeding one year. With the consent of the civil servant, the period of secondment may be extended by a further two years. The secondment of the civil servant cannot be done more often than once every 5 years. The secondment shall be ordered if the professional training of the civil servant corresponds to the requirements of the post to which he is to be seconded and only on the basis of the written consent of the civil servant. During the secondment, the civil servant shall retain his public office. It is held by another civil servant for a certain period of time. Upon expiry of the term of office, the civil servant shall be reinstated in the public office held until the secondment.

The transfer procedure of civil servants, appointed in accordance with the law, presupposes that this can take place between distinct public authorities or, as a way of changing the service relations, within the same public authority. The transfer is made in the interest of the service or at the request of the civil servant and is ordered by the head of the authority, and only with the written consent of the transferred civil servant. The transfer in the interest of the service is made in a public office equivalent to the public office held by the civil servant. The transfer at the request of the civil servant is made in a civil service equivalent to the civil service held by the civil servant or in a lower civil service.

Public authorities may advertise public positions which may be filled by transfer upon request. In the event that two or more civil servants request a public office by transferring the application, this advantageous civil servant who has better results in the evaluation of professional performance. If the professional results of the evaluation of the performance of civil servants are equal, the selection is made on the basis of a competition. The transfer may take place only if the civil servant to be transferred fulfils the conditions laid down by law.

The procedure for acting on a temporary basis of public management consists in the temporary exercise of a public management position is carried out by acting on a temporary basis by the civil servant of the public authority who meets the basic conditions and specific requirements in the job description for the acting civil service. and which are not unquestionable disciplinary sanctions under the present laws. If the public management position is vacant, it is applied to the person / body that has the legal competence of numbers depending on the duration of maximum 6 months per year. The period may be extended by a maximum of 6 months if the public authority has organised a competition and the public office has not been filled, in accordance with the law.

The interim insurance, as well as its termination is ordered, as the case may be, is ascertained by an administrative act of the persons / body that has the legal competence

of numbers in office. During the period of temporary employment, the occupation of another person of the position of the person providing temporary employment is done on a determined job.

The senior management civil servants shall be transferred in the interest of the service to the public positions provided in art. 8 paragraph (2), in compliance with the provisions of art. 8 paragraph (4). The transfer in the interest of the service of the senior management civil servant is made in a vacant senior management civil service if: it is necessary to coordinate complex activities by a senior management civil servant with a certain qualification, specialisation and experience or of the nature of those who fall within the attributions of the senior civil servant and it is necessary to coordinate some projects or programs of major importance. For a senior civil servant, the transfer in the interest of the service may not be made more often than once a year.

The implementation of personnel procedures in public authorities in accordance with the normative framework in force has a special significance for the alignment of the activity of the public administration in the Republic of Moldova with the European principles of administration. Thus, several factors are involved in the human resources management process within the public authorities. Government through a specialised subdivision within the State Chancellery, management of public authorities, heads of subdivisions, internal auditors, subdivisions of human resources within public authorities, civil servants. Each of the factors involved has specific roles and responsibilities.

The attribution of management of the civil service and of the civil servants at national level was delegated to the State Chancellery in accordance with Law No. 158/2008 on the civil service and the status of the civil servant²⁹². In this context, art.31, paragraph (2) of Law No.136 / 2017 on the Government²⁹³ contains norms with reference to the State Chancellery, related to the elaboration, promotion and implementation of the state policy in the field of human resources in public administration and coordinates the management of human resources within the ministries, other central administrative authorities subordinated to the Government and the organisational structures within their sphere of competence.

According to the Regulation on the occupation and functioning of the State Chancellery, approved by Government Decision No. 657/2009, it lists the following attributions:

- ensures the coordination and monitoring of the activities within the central public administration reform;
- ensures the promotion and implementation of the state policy in the field of public service, especially human resources management.

The monitoring and evaluation at national level of civil servants and civil servants is carried out by administering the register of civil servants and civil servants and the personal files of civil servants. Another tool for monitoring and evaluating the civil service and civil servants is the preparation of the Annual Report on the Civil Service and the status of the civil servant, which presents trends in human resource management in the public service and provides relevant information for decision-making.

²⁹² Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁹³ Law No.136 / 2017 on the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94998&lang=ro

streamlining management and increasing the capacity of human resources, as the most powerful and valuable resource of public administration.

Currently, the possibility of consolidating and strengthening the capacities of the State Chancellery in this field is being examined in order to develop the civil service management segment and focus more on the system of developing the professional skills and abilities of civil servants, ethics and integrity, based on merit, improving the system of financial and non-financial motivation, etc.

53. Please explain how dismissals of civil servants are regulated, i.e. the specific conditions for triggering the dismissal prescribed by the legislation for each category of staff (senior managers, middle managers and expert/non-managerial staff), the authority which takes the decision and the legal mechanisms for preventing abusive dismissals etc.

With regard to the dismissal of civil servants, it is noted that this is a way of terminating the employment of civil servants, which is done by administrative act of the person who has the legal competence to appoint to the civil service.

In the legislation of the Republic of Moldova, the legal framework governing the termination of employment of civil servants is represented by:

1. Law No. 158/2008 on the civil service and the status of the civil servant²⁹⁴;
2. Labour Code of the Republic of Moldova No. 154/2003²⁹⁵.

In accordance with Art. 64 of Law No. 158/2008, the person / body that has the legal competence of appointment will order the dismissal from public office by an administrative act, in the following cases:

- a) as a disciplinary sanction, applied for violating the provisions of art. 22 para. (1) lit. f1), as well as for committing a disciplinary offence, if previously unqualified disciplinary sanctions have been applied in the established manner. This basis is based on egg situations, namely:
 - in the first situation, the civil servant may be dismissed in the situation in which he violated the non-observance of the norms of professional conduct provided by law (Code of Professional Conduct of civil servants, approved by Law No. 25/2008);
 - in the second case, civil servants may be dismissed for disciplinary misconduct if previous disciplinary sanctions have been imposed.
- b) as a disciplinary sanction, applied for committing a disciplinary offence that had serious consequences. The assessment of whether or not a violation has had serious consequences remains at the discretion of those who must apply the disciplinary sanction - the disciplinary commission and the head of the authority.

²⁹⁴ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁹⁵ Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

- c) if a legal reason for incompatibility has arisen and the civil servant does not act for its termination within the term established by the present law. In this matter, it is evoked by the fact that the grounds of incompatibility are regulated by the provisions of art. 25 of the law No. 158/2008. According to the provisions of art. 25 para. (6) of the cited law, the situations of incompatibility are to cease within one month from the moment of its appearance. If he has not eliminated the situation of incompatibility within the prescribed period, the civil servant shall be removed from office.
- establishing, by the final act of finding, the issuance / adoption by the civil servant of an administrative act, the direct conclusion or through a third person of a legal act, taking or participating in a decision without resolving the real conflict of interests in accordance with the provisions of the legislation on the regulation of conflicts of interest. According to the provisions of art. 2 of Law No. 133/2016 on the declaration of assets and personal interests, conflict of interest is the situation in which the subject of the declaration has a personal interest that influences, or could influence the impartial and objective exercise of obligations and responsibilities under the law. Thus, the act of finding regarding the issuance / adoption of an administrative act affected by conflict of interests is pronounced by the court, at the request / request of the National Integrity Authority.
 - non-submission by the civil servant of the declaration of personal wealth and interests or refusal to submit it, under the conditions of art. 27 para. (8) of Law No. 132 of June 17, 2016 regarding the National Integrity Authority. According to the nominated provision, Failure to submit the declaration of assets and personal interests within 30 days of receipt of the integrity inspector's request or refusal to submit it constitutes grounds for termination of office, employment or service. The integrity inspector shall immediately notify the management of the public body or authority responsible for appointing the subject of the declaration in order to initiate the termination procedure, employment or service relations of the subject matter.
 - ordering by the court, by an irrevocable decision, of the confiscation of the unjustified property.
- d) professional incompetence established following the obtaining of the qualification “unsatisfactory” at the annual evaluation of the professional performances of the civil servant, under the conditions of the present law. The evaluation of the professional performances of the civil servant is performed annually, by comparing the results obtained in the evaluated period with the established objectives, based on the evaluation criteria.
- e) refusal to take the oath provided in art. 32 of Law No. 158/2008.
- f) unjustified absence from work for 4 consecutive hours during a working day. Dismissal for this reason, in particular, may take place for unjustified absence from work for 4 consecutive hours (excluding lunch break).

Dismissal of the civil servant is not allowed during his annual leave, on study leave, during the suspension of employment in connection with illness or trauma, during maternity leave, part-time paid childcare leave up to the age of 3 years, unpaid additional leave for the care of a child aged 3 to 4 years, as well as during the period of secondment, except in case of liquidation of the public authority.

Regarding the mechanisms for preventing abusive dismissals, the following can be noted:

- The exhaustive regulation of the grounds for dismissal from public office in Law No. 158/2008, without leaving room for interpretation against other unregulated grounds;
- Examination of disciplinary offences by the disciplinary commission, which is a collegial and objective body regarding the application of the sanction of dismissal from public office, in the cases provided by law;
- The possibility of challenging the administrative acts regarding the dismissal from public office in the administrative contentious court, in order to recover the violated rights;
- Stability in the civil service, which means that dismissal is carried out according to procedures strictly established by law.

54. Please describe the legal framework to promote integrity of the civil service. Is there a Code of Ethics applicable to civil servants? If so, how is its application monitored? Are there specific rules applicable to specific categories of civil servants?

Legal framework:

1. The Code of Conduct for civil servants, approved by Law No. 25/2008, regarding the Code of Conduct of the civil servant²⁹⁶;
2. Law No. 158/2008 on the civil service and the status of the civil servant²⁹⁷;
3. Law No. 122/2018 regarding the integrity warnings²⁹⁸;
4. Law on Integrity No. 82/2017²⁹⁹;
5. Law No. 132/2016 on the National Integrity Authority³⁰⁰;
6. Law No. 133/2016 on the declaration of assets and personal interests³⁰¹;
7. Government Decision No. 116/2020 on the legal regime of gifts³⁰².

²⁹⁶ Law No. 25/2008 on the Code of Conduct for civil servants, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107130&lang=ro

²⁹⁷ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

²⁹⁸ Law No. 122/2018 regarding the integrity warnings, available in Romanian at: Law No. 122/2018 regarding the integrity warnings

²⁹⁹ Law on Integrity No. 82/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro

³⁰⁰ Law No. 132/2016 on National Integrity Authority, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro

³⁰¹ Law No. 133/2016 on the declaration of assets and personal interests, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105905&lang=ro

³⁰² Government Decision No. 116/2020 on the legal regime of gifts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120625&lang=ro

Code of Conduct for Civil Servants

The purpose of the Code is to establish rules of conduct for the public service and to inform citizens of the conduct of civil servants in order to:

- improving the quality of public service;
- ensuring better administration in promoting the public interest;
- contributing to the prevention and elimination of bureaucracy and corruption in public administration;
- creating an environment that increases citizens' trust in public authority.

In addition, Article 23 of the Law on Integrity No. 82/2017 stipulates the respect for the norms of ethics and deontology and describes the responsibilities of the head of a public entity, among which are: to establish and implement norms of ethics and deontology; to provide training to public officials on the rules of ethics and deontology; to provide public officials with their own example of compliance with these rules; to enforce the mechanisms of disciplinary liability, and in case the admitted violations meet the elements of some contraventions or offences, to notify the responsible anti-corruption authority.

The Code of Conduct of the civil servant (hereinafter referred to as the Code) regulates the conduct of the civil servant in the exercise of public office. The purpose of the Code is to establish rules of conduct in the public service and to inform the public about the conduct that the civil servant must adopt in order to provide quality public services; ensuring better administration in the public interest; contributing to the prevention and elimination of corruption in public administration and creating a climate of trust between citizens and public authorities.

The Code is applicable to all civil servants and provides for the observance of the rules of conduct by civil servants. The Code is not applied to contract staff working in public authorities. The Code does not apply to public officials. The Code does not apply (nor can it be applied) to the President of the Republic of Moldova, deputies, members of the Government, judges, prosecutors, mayors, local councillors, etc.

In the same order of ideas, the principles of conduct of the civil servant are revealed, provided by art. 2 of the Code. Thus, in the exercise of public office, the civil servant is guided by the following principles: a) legality; b) impartiality; c) independence; d) professionalism.

The principle of legality. In the exercise of their duties, the civil servant is obliged to respect the Constitution of the Republic of Moldova, the legislation in force and the international treaties to which the Republic of Moldova is a party. The civil servant is obliged to comply with the provisions (orders, orders, mandatory instructions for execution) received from his direct manager and from the head of the public authority in which he exercises his public function. The civil servant has the right to refuse, in writing and with reasons, the fulfillment of the provisions, written or verbal, received from the leader if he considers them illegal. If the civil servant has doubts about the legality of a provision, he is obliged to communicate his doubts in writing to the author of the provision, as well as to inform his superior in such situations. The civil servant may not be sanctioned or prejudiced for notifying in good faith the illegal dispositions of the manager.

The principle of impartiality. The civil servant is obliged to take decisions and take action in an impartial, non-discriminatory and fair manner, without giving priority to persons or groups according to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin. The principle of impartiality in Article 4 of the Code of Conduct for Civil Servants is based on the provision of Article 16 (2) of the Constitution of the Republic of Moldova. The civil servant must behave with respect, exigency, fairness and kindness in his dealings with the public, as well as in his dealings with leaders, colleagues and subordinates. The civil servant must not induce natural or legal persons, including other civil servants, to engage in illegal conduct, using his official position.

The principle of independence. The political affiliation of the civil servant must not influence his behavior and decisions, as well as the policies, decisions and actions of public authorities. Hence, according to Article 16 of Law No. 158/2008 regarding the civil service and the status of the civil servant, civil servants may have the qualities of a member of the political parties or legally constituted socio-political organisations, with the exceptions provided by law. It should be noted that the exception to the permissive rule refers only to those civil servants (usually with special status) for whom special laws expressly prohibit holding membership of political parties or association within them. Article 15 of the aforementioned Law specifies that, during the exercise of his attributions, the civil servant shall refrain from the public expression or manifestation of political preferences and the favouring of any political party or socio-political organisation. Thus, the Code of Conduct provides that in the exercise of public office, the civil servant is prohibited: a) to participate in the collection of funds for the activity of political parties and other socio-political organisations; b) to use the administrative resources to support the electoral contestants; c) to display, within the public authorities, signs or objects inscribed with the logo or the name of the political parties or of their candidates; d) to make propaganda in favour of any party; e) to create or contribute to the creation of subdivisions of political parties within the public authorities.

The principle of professionalism. The civil servant has the obligation to fulfil his / her duties with responsibility, competence, efficiency, promptness and correctness. The civil servant is responsible for the performance of his / her duties to his / her immediate manager, to the hierarchically superior manager and to the public authority. Professionalism is the principle that determines civil servants to perform their duties and duties in an exemplary manner.

The principle of loyalty. The civil servant is obliged to serve in good faith the public authority in which he operates, as well as the legitimate interests of the citizens. The civil servant has the obligation to refrain from any act or deed that may prejudice the image, prestige or legal interests of the public authority. In addition to the nominated principles, the Code also regulates:

Rules on the use of public resources. The civil servant is obliged to ensure the protection of public property and to avoid any prejudice to it.

Rules of conduct in international relations. The civil servant who represents the public authority in international organisations, educational institutions, conferences, seminars and other activities is obliged to behave in a way that does not prejudice the image of the country and the public authority they represent.

Rules for gifts received by civil servants. The civil servant is prohibited from soliciting or accepting gifts, services, favours, invitations or any other advantage intended for his or her staff or family if their offering or giving is directly or indirectly related to the performance of his or her duties.

For violating the provisions of the Code of Conduct of civil servants, civil servants bear disciplinary liability, contravention or criminal liability, depending on the seriousness of the violation.

In the same vein, it is noted that according to Government Decision No. 116/2020, approving the Regulation on the legal regime of gifts - determines the activity of the Commission for the evaluation and evidence of gifts, as well as the manner of evidence, evaluation, storage, use and redemption of gifts offered out of politeness or on the occasion protocol actions.

Law No. 158/2008 on the civil service and the status of the civil servant

Law 158/2008 regulates the general regime of the civil service, the status of the civil servant, the legal relations between the civil servants and the public authorities, as well as other relations deriving from them. With regard to the integrity of civil servants, the law in question regulates the disciplinary sanctions applied by the Disciplinary Commission for non-compliance.

Law No. 122/2018 regarding the integrity warnings

Another important aspect of the conduct of civil servants is the regulation of the institution of whistleblowers.

The provisions of Law No. 122/2018, regulates the disclosures of illegal practices within public and private entities, the procedure for examining such disclosures, the rights of whistleblowers and their protection measures, the obligations of employers, the powers of the authorities responsible for examining such disclosures and the protection of such disclosures. Integrity warning.

The adaptation of the nominated legislative act was an important step in the construction of functional mechanisms for communicating illegal practices by civil servants, attributing to them the quality of whistleblower of integrity, as well as the establishment of means of their protection.

Law on Integrity No. 82/2017;

The Law regulates the field of public sector integrity at the political, institutional and professional level, the responsibilities of public entities, anti-corruption authorities and other competent authorities for cultivating, consolidating and controlling public sector integrity, important areas for cultivating private sector integrity in the interaction with the public sector and for sanctioning the lack of integrity in the public and private sectors.

This law aims to cultivate integrity in the public sector and a climate of zero tolerance for corruption in public entities in the Republic of Moldova by:

- increasing the company's confidence in the fact that public entities and agents fulfil their mission in accordance with the public interest, including in the process of interaction with the private sector;
- the regulation of the obligatory measures for ensuring and consolidating the institutional and professional integrity;

- encouraging the denunciation of manifestations of corruption by public agents, as well as ensuring their protection against revenge;
- identifying and eliminating the risks of corruption within public entities;
- sanctioning public agents for manifestations of corruption and leaders of public entities for lack of institutional and professional integrity.

The law should be applied in accordance with the following principles:

- making public entities responsible for cultivating and consolidating the climate of institutional integrity, as well as for sanctioning the lack of professional integrity;
- making the anti-corruption authorities responsible for assessing and monitoring the institutional integrity, as well as for sanctioning its lack;
- a fair balance between the human rights of persons exponents of the public interest, even if they do not know about the violation of their rights through manifestations of corruption of public officials, on the one hand, and the human rights of public officials admitting incidents of integrity, on the other other side;
- cultivating integrity in the public sector and preventing the occurrence of manifestations of corruption;
- zero tolerance for corruption within public entities and the inevitability of legally sanctioning the lack of integrity in the public sector;
- the presumption of the professional integrity of the public agents and of the institutional integrity of the public entities;
- the presumption of the good faith of the subjects of the law in the process of accomplishing its provisions.

The subjects who exercise the rights, obligations and attributions provided by this law are:

- public agents, electoral contestants and their trusted persons;
- public entities, leaders of public entities;
- responsible anti-corruption authorities, other public authorities with specific competencies;
- natural and legal persons in the process of interacting with the public sector, including commercial organisations, civil society and the media.

Law No. 132 of 17/2016 regarding the National Integrity Authority.

The Law regulates: the mission, functions, attributions, as well as the organisation and functioning of the National Integrity Authority; the procedure for controlling personal property and interests, regarding compliance with the legal regime of conflicts of interest, incompatibilities and restrictions.

The functions of the National Integrity Authority are:

- exercising control over wealth and personal interests;
- exercising control over compliance with the legal regime of conflicts of interest, incompatibilities and restrictions;

- finding and sanctioning violations of the legal regime of property and personal interests, conflicts of interest, incompatibilities and restrictions;
- cooperation with other institutions, both at national and international level;
- ensuring the good organisation of the Authority and the administration of the activity of promoting the integrity of the subjects of the declaration;
- other functions established by law.

According to law No. 132/2016, the Authority ensures integrity in the exercise of public office or public office and the prevention of corruption by controlling wealth and personal interests and respecting the legal regime of conflicts of interest, incompatibilities and restrictions.

Law No. 133/2016 on the declaration of assets and personal interests,

This law regulates:

- the obligation and the manner of declaring the property and personal interests by the subject of the declaration and the family members, his / her concubine;
- the control mechanism of the property acquired by the subject of the declaration and the family members, his concubine during the exercise of mandates or public functions or of public dignity and control regarding the observance of the legal regime of conflicts of interests, incompatibilities, restrictions and limitations;

The purpose of this law is to establish measures to prevent and combat unjust enrichment, conflicts of interest, incompatibilities, as well as violations of the legal regime of restrictions and limitations.

According to this law law, the subjects of the declaration of wealth and personal interests are:

- the persons holding the positions of public dignity provided in the annex to Law No. 199 /2010 on the status of persons with positions of public dignity³⁰³;
- members of the Board of Observers of the National Public Audiovisual Institution Teleradio-Moldova Company; councillors of village (communal), city (municipal), district councils; deputies of the People's Assembly of the Gagauzia Autonomous Territorial Unit;
- the members of the Superior Council of Magistracy and of the Superior Council of Prosecutors from among the professors;
- non-permanent members of the Central Electoral Commission;
- the leaders of the public organisations and their deputies;
- the staff in the offices of persons with positions of public dignity;
- civil servants, including those with special status;
- members of the Integrity Council;
- members of the colleges / commissions for admission to the profession, evaluation, discipline and / or ethics of the professions related to justice.

³⁰³ Law No. 199/2010 on the status of persons of public dignity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128023&lang=ro#

Regarding the monitoring of the application of the normative framework on the integrity of civil servants, the fact is noted in accordance with the provisions of point 7, letter g of the Regulation on the organisation and functioning, structure and staffing of the State Chancellery, approved by Government Decision No. 657/2009³⁰⁴, the State Chancellery ensures the promotion and implementation of the state policy in the field of public service, especially of human resources management.

By virtue of this competence, the State Chancellery is vested with competencies related to monitoring the implementation of the regulatory framework governing the civil service, including the compliance with the Code of Conduct for civil servants.

The same rules apply to all categories of civil servants as regards integrity in the performance of their duties.

55. Is there a transparent legal or regulatory basis for actions taken by civil servants? In particular, how is impartiality and non-discrimination of actions by civil servants ensured?

The public service in the Republic of Moldova is based on the principles of equality and non-discrimination of legality, professionalism, transparency, impartiality, independence, responsibility, stability and loyalty. The regulations regarding impartiality and non-discrimination in the activity of civil servants are provided in Law No. 158/2008 on the civil service and the status of civil servants³⁰⁵; Law No. 25/2008 on the Code of Conduct for Civil Servants³⁰⁶; Law No. 132/2016 on the National Integrity Authority³⁰⁷; Law No. 133/2016 on assets declaration and personal interests³⁰⁸; Law No. 82/2017 on Integrity³⁰⁹; Law No. 122/2018 on integrity warnings³¹⁰; Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/2008 on the civil service and the status of civil servant (annex No. 7)³¹¹; Government Decision No. 116/2020 on the legal regime of gifts³¹².

³⁰⁴ Government Decision No. 657/2009 on adoption the Regulation on the organization and functioning, structure and staffing of the State Chancellery, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=32944&lang=ro

³⁰⁵ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

³⁰⁶ Law No. 25/2008 on the Code of Conduct for Civil Servants, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107130&lang=ro

³⁰⁷ Law No. 133/2016 on the National Integrity Authority, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro

³⁰⁸ Law No. 133/2016 on assets declaration declaring wealth and personal interests, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105905&lang=ro

³⁰⁹ Law No. 82/2017 on Integrity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro

³¹⁰ Law No. 122/2018 on integrity warnings, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro

³¹¹ Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/2008 on the civil service and the status of civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115403&lang=ro

³¹² Government Decision No. 116/2020 on the legal regime of gifts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120625&lang=ro

Law No. 158/2008 on the civil service and the status of the civil servant contains regulations on the disciplinary liability of the civil servant, which are also reflected in the Regulation on the disciplinary commission. The approval of the Regulation established a mechanism for the implementation of the provisions of the Law on the Code of Conduct of the civil servant which regulates the conduct of the civil servant in the exercise of public office. The rules of conduct provided by the Code are binding on all civil servants. For the violation of duties, norms of conduct, for material damages caused, contraventions or offences committed during the service or in connection with the exercise of duties, the civil servant bears disciplinary, civil, administrative, criminal liability, as appropriate. According to art.57 lit. h) of Law No. 158/2008, the violation of the norms of conduct of the civil servant constitutes a disciplinary violation. The procedure provides that in each public authority a disciplinary commission is set up, which proposes the disciplinary sanctions applicable to civil servants who have committed disciplinary offences. Prior to the decision of the disciplinary commission, the act notified as a disciplinary violation, as well as the behaviour of the investigated civil servant are examined in a service investigation.

According to Article 2 of Law No. 25/2008 on the **Code of Conduct for Civil Servants**, in the exercise of public office, the civil servant is guided by the following principles: a) legality; b) impartiality; c) independence; d) professionalism (described above under the question 54).

In 2013, the State Chancellery developed a methodological guide for the application of the Code of Conduct for Civil Servants in the Republic of Moldova³¹³ in order to provide practical support in the implementation of the current Code. Work is currently underway to develop a monitoring mechanism to monitor compliance by civil servants with the Code of Conduct.

In order to ensure the service of the public interest with impartiality and objectivity, civil servants together with the head of the public entity and, as the case may be, with the National Integrity Authority, are obliged to identify and deal with conflicts of interest that appear in the professional term.

Law No. 133/2016 regarding the declaration of wealth and personal interests. The Authority shall ensure integrity in the exercise of the public office or the function of public dignity and the prevention of corruption by controlling property and personal interests and respecting the legal regime of conflicts of interest of incompatibilities, restrictions and limitations. The requirement to declare wealth and personal interests is included in all procedures or contracts governing employment, election or appointment to a public office. The declaration of assets and personal interests represents a personal and irrevocable act of the subject of the declaration, submitted in the form of an electronic document on his own responsibility. Responsibility for the timely submission of the statement, as well as for the veracity and completeness of the information lies with the person submitting it.

Compatibility of the quality of civil servant with other activities

According to Article 25 of Law No. 158/2008 on the civil service and the status of civil servant, the quality of civil servant is incompatible with any other civil service than the one in which he was appointed. The civil servant is not entitled to carry out other

³¹³ Methodological guide for the application of the Code of Conduct for Civil Servants in the Republic of Moldova, available in Romanian at:
https://cancelaria.gov.md/sites/default/files/document/attachments/1489299_md_ghid_conduita_.pdf

remunerated activities within the public authorities, with the exceptions provided by law, as well as to carry out entrepreneurial activity, except for the quality of founder of the company. The civil servant is not entitled to promote, by virtue of his office, the entrepreneurial activity of natural and legal persons and may not be a proxy of third parties in the public authority in which he carries out his activity, including in relation to the performance of acts related to with the public office he exercises.

The civil servant who works in other fields of activity in the private sector, who are not directly or indirectly related to the duties exercised as a civil servant, according to the job description, outside working hours, or who is appointed, is not in a situation of incompatibility. The situation of incompatibility, according to the law, is to cease within one month from the moment of its appearance. If he has not eliminated the situation of incompatibility within the prescribed period, the civil servant shall be dismissed.

Integrity Law No. 82/2017 aims to cultivate integrity in the public sector and the climate of zero tolerance for corruption in public entities in the Republic of Moldova by:

- increasing society's confidence that public entities and agents fulfill their mission in accordance with the public interest, including in the process of interaction with the private sector;
- the regulation of the obligatory measures for ensuring and consolidating the institutional and professional integrity;
- encouraging the denunciation of manifestations of corruption by public agents, as well as ensuring their protection against revenge;
- identifying and eliminating the risks of corruption within public entities;
- sanctioning public agents for manifestations of corruption and the leaders of public entities for lack of institutional and professional integrity.

Civil servants have the obligation not to admit favouritism in their professional activity and to carry out their professional activity outside of any inappropriate influences; Thus, according to Article 17 paragraph 3 of the Integrity Law No. 82/02017, the civil servant is obliged:

- to expressly reject the inappropriate influence;
- to carry out legally the activity for which the inappropriate influence intervened;
- in case of impossibility to expressly reject the inappropriate influence and of affecting his / her professional activity as a result, to submit a written complaint, within 3 working days, to the responsible person within the public entity, appointed by the manager, about the exercise of influence inappropriate;
- to file a complaint about the exercise of undue influence at the National Anticorruption Centre if the source of the undue influence is the head of the public entity or if, after filing a complaint, the head of public entity does not fulfil his obligations under the law.

56. Please describe how independent oversight of the civil service is guaranteed.

In the Republic of Moldova, the methodology for monitoring and evaluating the implementation of the normative framework of the public service exists and is applied in practice. Law No. 158/2008 on the civil service and the status of the civil servant³¹⁴ and Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/2008 on the civil service and the status of civil servant³¹⁵, establishes the legal basis and powers of the Government and public authorities in implementing the management of civil service and civil servants in the Republic of Moldova.

According to article 11 of the Law No. 158/2008 on civil service and the status of civil servants, the management of the civil service and civil servants is the competence of the Government, which has been delegated to the State Chancellery.

The institutional management system of the civil service and of the civil servant in the Republic of Moldova is decentralised, being composed of two levels:

- 1) State Chancellery is responsible for the elaboration of the personnel policy, coordination of the implementation of the legislative/normative framework and monitoring/control of the implementation of the legislative/normative framework on civil service;
- 2) Central and local public authorities are responsible for the application of personnel procedures and practices.

Internal and external monitoring and evaluation of the civil service

The oversight of the civil service (monitoring and evaluation activities) are determined in accordance with the competencies of the State Chancellery and the public authorities, established by the normative framework of the civil service and the status of the civil servant. There are two types of monitoring and evaluation activities of civil service – internal and external.

Internal monitoring and evaluation is carried out by the head of public authority and human resources subdivisions with the support of other subdivisions and includes monitoring and evaluation of the application of personnel procedures consisting in measuring and collecting the value of monitoring and evaluation indicators on personnel procedures applied within public authorities. The analysis of the data on the value of the monitoring indicators on personnel procedures allows the public authority to determine the progress and results in the human resources management, to establish the non-conformities and the problems in the application of the normative framework provisions. As a result of the activities of monitoring and evaluating the personnel procedures, the human resources subdivision elaborates the information on the implementation of the provisions of the Law on the civil service and the status of the civil servant within the public authority for the reporting period. The information is presented to the management of the authority and, later, to the State Chancellery.

³¹⁴ Law No. 158/2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120077&lang=ro

³¹⁵ Government Decision No. 201/2009 on the implementation of the provisions of Law No. 158/ 2008 on the civil service and the status of the civil servant, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115403&lang=ro

External monitoring and evaluation is carried out by the State Chancellery and includes two types of activities:

- Monitoring and evaluation of quantitative data regarding the situation in the implementation of the normative framework which consists in verifying, generalising and interpreting data and information on i) the value of monitoring and evaluation indicators received from public authorities through information on the implementation of the Law No. 158/2008 on civil service and status of the civil servant; ii) the effective value of the indicators on the external professional development of the civil servants and of other categories of personnel from the public authorities received from the Academy of Public Administration.
- Monitoring and evaluation of quantitative data regarding the correct application of the regulatory framework in public authorities which consists in the collection by the State Chancellery of information on the correct application of personnel procedures in public authorities in accordance with the provisions of the regulatory framework during field monitoring visits to public authorities. The State Chancellery verifies if the personnel procedures and practices have been applied in accordance with the provisions of the normative framework, if the information on the implementation of the provisions of the Law No. 158/2008 on civil service and the status of civil servant, identifies the cases of deviation from the provisions of the normative framework, the problems in the application of the normative framework in the public authorities. The data collected during the visit to the public authority are mainly qualitative indicators. Another essential tool for achieving the objectives of public authorities is considered the audit. The main purpose of the audit is to assess non-compliance with applicable regulations and to take corrective action to eliminate such non-compliance. At the same time, following the finding of some cases of deviation from the provisions of the normative framework, the sanctions do not apply, but all the proposals offered have the character of a recommendation.

Reporting on the civil service

An integral part of the monitoring and evaluation process is reporting. Annually, the State Chancellery collects, analyses data and reports on the situation in the civil service. Data and information are collected and presented by the public authorities falling under Law No. 158/2008 on the civil service and the status of civil servants and Government Decision No. 2001/2011 on the implementation of legislative acts. The public authority, through the human resources subdivisions or the persons with responsibilities in the field of personnel management, keeps records of the functions and positions and of the employees within the public authority. The collection of data on monitoring the application of personnel procedures in the public authority, requested by the State Chancellery, is done by the subdivision of human resources within the public authority from various forms of data storage on personnel procedures, using data from operational activity, by measurement of process indicators and results on personnel procedures.

The report on the civil service and the status of the civil servant shall be drawn up annually within a standard period of up to three months from the end of the reporting

period. The findings, conclusions, challenges and subsequent actions / priorities of the report on monitoring and evaluating the implementation of the provisions of the normative framework of the public service in public authorities are to be used to improve the normative framework of the public service, used in the elaboration of Government action plans for the next period, used in reviewing the activities of the Government, in particular the public authorities and the State Chancellery.

D. Accountability

- 57. Describe the legal framework governing establishment and organisation of all public bodies under the executive power along with their lines of accountability. Provide an organisational chart of the executive branch at the different levels of governance.**

In the Republic of Moldova, the relations of the Government with the Parliament are regulated at the Constitutional level. Pursuant to art. 72 of the Constitution of the Republic of Moldova, the organisation and functioning of the Government is regulated by organic law, i.e. the Law No. 136/2017 on the Government³¹⁶, which establishes the relations of the Government with the President of the Republic of Moldova, with the Parliament and with other public authorities.

The Government is the public authority that represents and exercises executive power in the Republic of Moldova directly and / or through ministries, other central administrative authorities and organisational structures within their sphere of competence, as well as through collaboration with local public administration authorities.

According to the art. 104 of the Constitution, the Government shall be accountable to the Parliament and shall present the information and documents requested by it, its parliamentary commissions and members of the Parliament (MPs). If the Parliament requests the presence of members of the Government in Parliament, their presence is mandatory. According to art. 105 of the Constitution, the Parliament, at the proposal of at least one quarter of the MPs, may express its distrust in the Government, with the vote of the majority of elected MPs.

Relation of the Government with other public authorities

Chapter VII of the Law No. 136/2017 on the Government regulates the relations of the Government with other public authorities, being established the following provisions:

Article 42. Relations of the Government with the Parliament

- (1) The members of the Government shall be entitled to participate in the sittings of the Parliament and parliamentary committees and to express their opinions on the subjects examined.
- (2) At the decision of the Parliament or at the request of the President of the Parliament, the participation of members of the Government in the work of the Parliament shall be compulsory.

³¹⁶ https://www.legis.md/cautare/getResults?doc_id=125861&lang=ro#

(3) At the sitting of the Parliament devoted to interpellations, the presence of members of the Government to whom interpellations are addressed shall be compulsory.

(4) In case of impossibility of participation in the plenary sitting of the Parliament devoted to interpellations of the Prime-minister, first deputy prime minister and deputy prime ministers without portfolio, they shall be replaced by the secretary general of the Government or by one of the deputy secretaries general of the Government.

(5) In case of examination of a motion of censure or of the activity report of the Government, the presence of members of the Government shall be compulsory.

(6) In case of examination of the simple motion or of the activity report in a certain field, the member of the Government whose competence is the field of activity is concerned shall be obliged to participate in the plenary session of Parliament.

(7) In case of examination in the plenary session of the Parliament of a draft normative act, the Minister may delegate its presentation to the Secretary General of the Ministry, to one of the State Secretaries or to the representative of the Government in the Parliament.

(8) The members of the Government and the heads of other central administrative authorities and of the organisational structures within their sphere of competence shall be obliged to answer the questions of the deputies addressed during the plenary sittings of the Parliament.

(9) At the request of the Parliament's committees or parliamentary factions, members of the Government and heads of other central administrative authorities or persons with positions of responsibility empowered by them shall participate in the sittings of the committees or parliamentary factions and shall answer the questions of the deputies.

(10) The Government shall submit to the Parliament the annual activity report in April. Members of the Government submit activity reports in their fields of competence if this is requested by the Parliament or if it is expressly foreseen by law.

(11) In order to ensure an efficient interaction between the Government and the Parliament, working sessions shall be organised between the leadership of the State Chancellery and the management of the Secretariat of the Parliament in order to coordinate the joint activities aimed at the implementation of the legislative program and the Activity Program of the Government.

Article 44. Relations between the Government and the President of the Republic of Moldova

(1) The relations between the Government and the President of the Republic of Moldova shall be regulated by the Constitution of the Republic of Moldova.

(2) The President of the Republic of Moldova shall suspend the acts of the Government that contravene the legislation until the final decision of the Constitutional Court is adopted.

Article 45. Relations between the Government and other public authorities

(1) The Government may submit to Parliament, as a legislative initiative, draft normative acts in the fields within the competence of the following authorities, upon their proposal:

a) The National Agency for Energy Regulation;

b) The National Agency for Settlement of Claims (in public procurement) ;

- c) The National Integrity Authority;
- d) The People's Advocate (Ombudsman);
- e) The National Bank of Moldova;
- f) The National Center for Personal Data Protection;
- g) The National Anticorruption Center;
- h) The Central Electoral Commission;
- i) The National Commission of Financial Market;
- j) The Competition Council;
- k) The Superior Council of Magistracy;
- l) The Superior Council of Prosecutors;
- m) The Audiovisual Council;
- n) The Constitutional Court;
- o) The Court of Accounts;
- p) The Supreme Court of Justice;
- q) The Prosecutor General's Office;
- r) The Information and Security Service.

All these authorities are autonomous from the Government, but the relations between them are based in a spirit of collaboration and mutual support.

Article 46. Relations between the Government and local public administration authorities. Representative of the Government in the territory

1. The relations of the Government with the local public administration authorities shall be based on the principles of local autonomy, decentralization, collaboration and consultation of citizens in local issues of particular interest, in order to ensure by the Government the observance of legality and proper realization of the competences delegated at local level.
2. The exercise of the functions of the Government at the local level shall be carried out by the representative of the Government in the territory, who shall exercise the following basic functions:
 - contributes to the local achievement of the objectives of the Government's activity programme;
 - coordinates the activity of the deconcentrated public services of the ministries and other administrative authorities subordinated to the Government;
 - carries out the control of the activity of the local public administration authorities according to the legislation in force;
 - performs other functions arising from the provisions of the Law and of the regulatory framework in force.

Article 10 (1) of the Law No. 136/2017 on the Government³¹⁷ regulates the list of members of the Government. Thus, the Government consists of: Prime Minister, First

³¹⁷ https://www.legis.md/cautare/getResults?doc_id=125861&lang=ro#

Deputy Prime Minister, Deputy Prime Ministers, Ministers and other members established by organic law. According to art. 14 (4) of Law No. 344/1994 on the special legal status of Gagauzia (Gagauz-Yeri), The Governor (Bashkan) of Gagauzia is a member of the Government.

Central specialized public administration

Article 107 of the Constitution of the Republic of Moldova, regulates the basic provisions on the central specialized public administration. This stipulates that the central specialized organizations of the state are the ministries. At the same time, in order to manage, coordinate and exercise control in the field of organization of economy and in other fields that do not directly fall within the competences of ministries, other administrative authorities are established under the law.

The provisions of art. 107 of the Constitution are developed by Law nr. 98/2012 on the central specialized public administration. It establishes the institutional system of the central specialized public administration and regulates the general regime of its activity, the fundamental principles of organization and functioning of the central specialized public administration, as well as the legal relations arising from the activity of ministries, the State Chancellery and other central administrative authorities. The purpose of this law is to ensure a democratic, legal, efficient and transparent character of organization and functioning of the central specialized public administration. Under the scope of this law are the ministries, the State Chancellery, other central administrative authorities subordinated to the Government and the organisational structures within their sphere of competence (the subordinated administrative authorities, including the deconcentrated public services and those subordinated to them, as well as the public institutions in which the ministry, the State Chancellery or other central administrative authority has the role of founder).

The State Chancellery ensures the organisation of the Government's activity and is headed by the Secretary General of the Government, who is directly subordinated to the Prime Minister.

Ministries are central specialized bodies of the state that ensure the implementation of governmental policy in the fields of activity entrusted to them. The ministries are organized and function only under the subordination of the Government. Among the ministries are distributed the issues related to the state policies in different fields, except for the fields that are entrusted to the heads of the autonomous administrative authorities established by the Parliament.

The current List of Ministries is contained in art. 1 of the Parliament Decision No. 89/2021 for the approval of the list of ministries and is composed of:

- Ministry of Infrastructure and Regional Development,
- Ministry of Foreign Affairs and European Integration,
- Ministry of Justice,
- Ministry of Finance,
- Ministry of Economy,
- Ministry of Agriculture and Food Industry,
- Ministry of Defense,
- Ministry of Internal Affairs,

- Ministry of Education and Research,
- Ministry of Culture,
- Ministry of Health,
- Ministry of Labor and Social Protection and
- Ministry of Environment.

Administrative authorities subordinated to the ministries

In order to ensure the implementation of the state policy in certain subdomains or spheres in the fields of activity entrusted to a ministry, administrative authorities with the form of legal organization of agencies, state services and state inspectorates may be created under its subordination. The administrative authorities subordinated to the ministries are legal entities of public law.

- **Agency** is a separate organizational structure in the administrative system of a ministry, which is constituted for the exercise of functions of management of certain subdomains or spheres in the fields of activity of the ministry.
- **State service** is a separate organizational structure in the administrative system of a ministry, which is established for the provision of administrative public services (state registration, issuance of documents necessary for the initiation and/or conduct of business in other fields).
- **State Inspectorate** is a separate organizational structure in the administrative system of a ministry, which is established for the exercise of state supervision and control functions in subdomains or spheres in the fields of activity of the ministry.

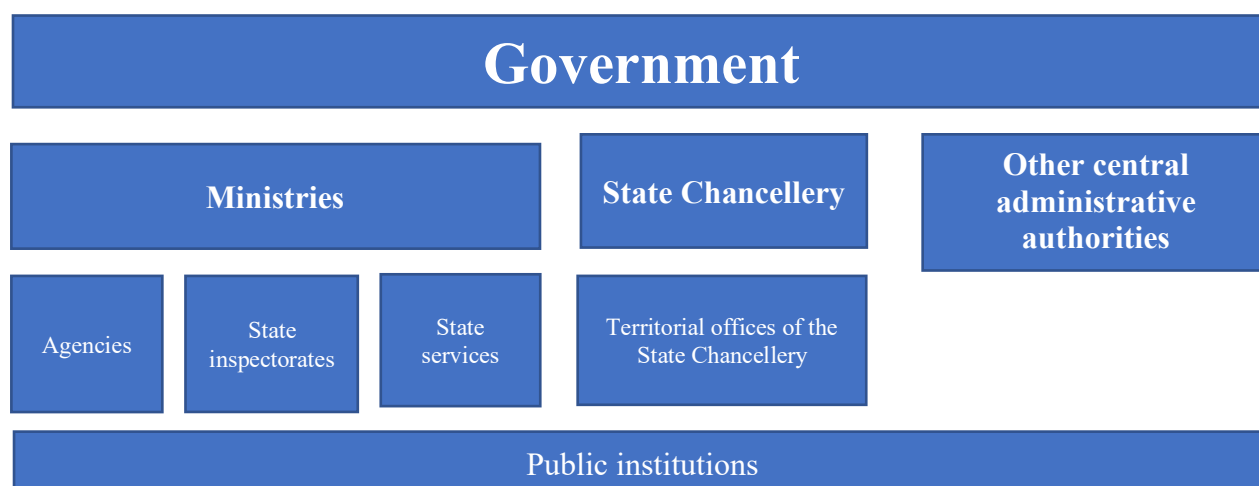
Other central administrative authorities

In order to implement the state policy in a certain field or sphere of activity, which does not fall within the direct competence of ministries, as well as to solve some problems in which the competences of several ministries intersect or are complemented, other central administrative authorities may be created under the subordination of the Government.

Public institutions

At the same time, to carry out some administrative, social, cultural, educational and other functions of public interest, for which the ministry or other central administrative authority is responsible, except for those of normative-legal regulation, state supervision and control, as well as other functions involving the exercise of the prerogatives of public power, public institutions may be set up within their sphere of competence.

Organizational chart of the executive branch at central level



Local Public Administration authorities

According to the Law no 436/2006 on local public administration³¹⁸ the local public administration is based on the principles of local autonomy, decentralisation of public services, eligibility of local public authorities, and consultation of citizens on local issues of special interest. They benefit from decisional, organisational, managerial, and financial autonomy, they have the right to the initiative in matters regarding the administration of local public affairs, exercising, under the law, the authority within the limits of the administered territory.

The administrative-territorial units are regulated by the Law nr. 764/2001 on the administrative-territorial organisation of the Republic of Moldova. According to it, the Republic of Moldova's territory is organised, from an administrative point of view, in the following administrative-territorial units: villages, communes, towns, municipalities, rayons and the autonomous territorial unit of Gagauzia.

The statute of the village (commune), sector, city (municipality) shall be elaborated on the basis of the framework statute, approved by the Parliament, and shall be approved by the local council, except for the statute of the Chisinau municipality and the statute of the Balti municipality, which shall be regulated by organic laws.

The special statute of autonomy of the localities from the left bank of the Dniester shall be established by an organic law, according to Article 110 of the Constitution of the Republic of Moldova.

The Law No. 173/2005 on the basic provisions of the special legal status of the localities on the left bank of the Dniester (Transnistria) provides a framework for the status of the Transnistrian region. The final status will be based on the political solution, respecting sovereignty and territorial integrity of the Republic of Moldova in its internationally recognized borders, to be negotiated in the appropriate format.

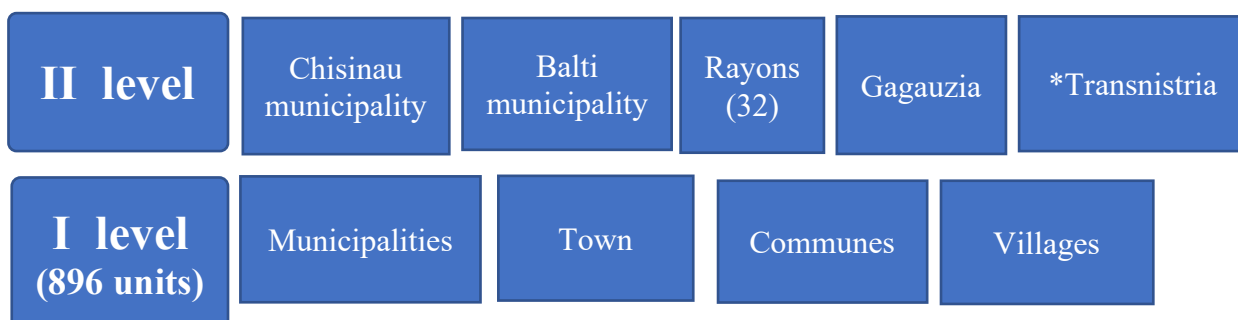
³¹⁸ https://www.legis.md/cautare/getResults?doc_id=130401&lang=ro#

The special status of autonomy of the autonomous territorial unit of Gagauzia shall be regulated by the Constitution of the Republic of Moldova and the Law No.344/1994 on the special legal status of Gagauzia (Gagauz-Yeri).

The administrative-territorial organisation of the Republic of Moldova shall be carried out on the following levels:

- **The village** is an administrative-territorial unit that includes the rural population united by the territory, geographical conditions, economic, social-cultural relations, traditions and customs, in which the majority of the labor force is concentrated in agriculture, forestry, fishing, offering a specific and viable way of life to its inhabitants, and which, through the modernization policies, will keep its rural specificity in perspective.
- **The commune** is an administrative-territorial unit, made up of two or more villages, which includes the rural population united by a community of interests and traditions, depending on the economic, socio-cultural, geographical and demographic conditions.
- **The town** is an administrative-territorial unit where most of the labor resources are occupied in non-agricultural activities with a diversified level of endowment and equipment, exercising a significant socio-economic influence on the surrounding area.
- **The municipality** is an urban-type locality with a special role in the economic, social-cultural, scientific, political and administrative life of the country, with important industrial, commercial structures and institutions in the field of education, health care and culture.
- **The rayon** is an administrative-territorial unit made up of villages (communes) and towns, united by territory, economic and social-cultural relations.
- **Gagauzia** is an autonomous territorial unit with a special status which, being a form of self-determination of the Gagauz people, is an integral and inalienable part of the Republic of Moldova and settles independently, within the limits of its competence, according to the provisions of the Constitution of the Republic of Moldova and the Law No.344/1994 on the special legal status of Gagauzia (Gagauz-Yeri), in the interest of the entire population, political, economic and cultural issues.
- **Transnistrian region** is an inalienable part of the Republic of Moldova and, within the limits of the powers to be established by the Constitution and other laws of the Republic of Moldova, will be solving the problems within its competence. The final status of the Transnistrian region is to be based on a political solution negotiated in an appropriate format.

Organizational chart of the executive branch at local level



* Basic provisions on the legal status of Transnistria are foreseen in the Law 173/2005³¹⁹.

58. Describe how accountability of administrative bodies is ensured (e.g. are administrative bodies accountable or answerable for their actions to other administrative, legislative or judicial authorities and subject to scrutiny by others)?

According to the Law No. 98/2012 on the specialised central public administration³²⁰, ensuring the internal managerial control and the internal audit activity is one of the fundamental principles of organisation and functioning of the public administration. The activity of central administrative authorities is coordinated and controlled by the Government.

Pursuant to article 11, the head of a ministry, ensures the coordination, supervision, and control of the activity of the public administration in the fields of activity entrusted to the ministry for the accomplishment of the mission and for the fulfilment of its functions and organises the internal managerial control system, as well as the internal audit function in the ministry.

Pursuant to article 26, the main responsibilities of the ministry and the central administrative authority is to control the activity of the administrative authorities and of the subordinated decentralised public services and of the public institutions in which they have the quality of founder and to exercise control over the integrity and efficient use of the state patrimony in their fields of activity.

Ministerial management represents only one layer of the oversight and accountability applicable to administrative bodies. A comprehensive model for agency accountability would address multiple layers: the general public, independent oversight bodies, courts, and the Parliament.

Transparency and Open Government

The institutionalisation of administrative accountability started in year 2000 with the approval of the Law No. 982/2000 on access to information³²¹. The Law No. 239/2008 on transparency in the decision-making process³²² further expanded authorities' efforts to ensure a level of transparency and participation of citizens and civil society in the decision-making process. To ensure a standardised model of public pages for public

³¹⁹ https://www.legis.md/cautare/getResults?doc_id=16014&lang=ro

³²⁰ Law No. 98/2012 on the specialized central public administration, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129125&lang=ro

³²¹ Law No. 982/2000 on access to information, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

NOTE: The Law sets the legal framework that facilitates the information, consultation and participation of the population, with the goal to set up the general regulatory framework on the access to formal information; streamline the provision of public information and people's control over the activity of public authorities and public institutions; contributes to the formation of opinions and active participation on the population in the decision-making process in a democratic spirit

³²² Law No. 239/2008 on transparency in decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro.

NOTE: The Law sets the applicable norms to ensure transparency in the decision-making process in central and local public administration authorities, other public authorities and regulates their relationships with individuals, legally established entities and other stakeholders interested to participate in the decision-making process.

authorities, the Government adopted the Decision No. 188/2012³²³ on the Official websites of public administration authorities. In 2012, the Republic of Moldova joined the Open Government Partnership (OGP). The basic principles of this partnership are transparency and openness and an institutionalised cooperation with civil society organisations. By joining this partnership, the Government developed and implemented an open action plan every two years. The level of implementation for the latest plan was 62%³²⁴.

The State Chancellery manages the national portal for public consultations particip.gov.md. Ninety administrative bodies and public institutions use the portal to publish draft decisions and to collect citizens' feedback. In 2013, the Republic of Moldova received the UN Public Service Award³²⁵ for increasing decisional transparency and consolidation of an efficient and responsive state administration.

To provide citizens with access to public data sets, in 2011, the e-Government Agency launched an open data platform date.gov.md. The platform is being constantly improved to offer easier access to the data produced and owned by public authorities.

Starting with 2018, local authorities must submit³²⁶ the administrative acts adopted at the local level in the State Register of Local Acts. These include the decisions of the local councils of the first and second levels, the provisions of mayors and the presidents of rayons, as well as other acts of the local public authorities. The register allows citizens to view the normative acts of the local public administration authorities and provides a mechanism for performing the administrative control of the acts of the local public administration.

An additional example of transparency is the online broadcasting of government meetings³²⁷, which increases the access of the citizen and the civil society to the activity of the Government, but also creates a higher level of responsibility among ministers.

Despite these advances in transparency and the ability to monitor public authorities, the genuine participation of the community, including the use of citizens generated feedback by public authorities is still rudimentary. Public authorities adopted a technical approach towards participation, ensuring the minimum requirements of the laws.

Independent oversight bodies

- Ombudsman – investigations into alleged violations of human rights.
- Court of Accounts – external audit functions.

The Law No. 52/2014 on Ombudsman³²⁸ establishes two positions: a) Ombudsman with a general mandate and b) Ombudsman for the protection of the child's rights. The Ombudsman must submit a yearly report to the Parliament on the observance of human rights. The report must include a chapter about the respect for the rights of the child and a chapter on the prevention of torture. The draft annual report on the observance of

³²³ Government Decision No. 188/2012, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=103186&lang=ro

³²⁴ https://cancelaria.gov.md/sites/default/files/raport_monitorizare_hg_1172_anul_2020.pdf

³²⁵ <http://www.old.cancelaria.gov.md/libview.php?l=en&id=1450&idc=277>

³²⁶ Law No.161/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=95791&lang=ro

³²⁷ <https://gov.md/ro/content/live>

³²⁸ Law No.52/2014 on Ombudsman, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=22211&lang=ro

human rights and freedoms in the Republic of Moldova shall be published at least one month before its presentation to the Parliament.

The Law No. 260/2017 on the Court of Accounts³²⁹ regulates the main state audit institution. The Court of Accounts must submit three reports to the Parliament:

- Annual activity report of the Court of Accounts.
- Audit report on the Government's annual reports on the execution of the state budget.
- Annual report on the administration and use of public financial resources and public assets.

All reports must be presented in the plenary session of the Parliament.

Parliamentary oversight over public authorities

The Parliament may exert classical instruments of parliamentary oversight towards public authorities and administrative bodies: interpellations, requests for information, hearings of the senior management, debating annual reports, budgetary oversight by the parliamentary finance committee, or requesting audits of the authorities and administrative bodies.

Subcommittee for exercising parliamentary control over the activity of the Security and Information Service

Within the commission for national security, defence and public order there's an active subcommittee for exercising parliamentary control over the activity of the Security and Information Service. A representative of the parliamentary opposition shall be elected as chairman of the subcommittee.

The subcommittee supervises the observance by the Security and Information Service of the legality, the fundamental human rights, and freedoms and of the democratic order in the state, ensuring the non-admission of the political engagement of the Security and Information Service.

The subcommittee verifies the respect by the Security and Information Service of the provisions of the Constitution and of the laws regulating the activity of the Information and Security Service, examines the cases of violation of the Constitution, the laws, the constitutional rights and freedoms of the citizens.

The subcommittee for exercising parliamentary control over the execution of judgments and decisions of the European Court of Human Rights, as well as of the judgments of the Constitutional Court.

Within the Legal, Appointments and Immunities Commission there is a subcommittee for exercising parliamentary control over the execution of judgments and decisions of the European Court of Human Rights, as well as of the judgments of the Constitutional Court.

A representative of the parliamentary opposition shall be elected as chairman of the subcommittee. The numerical and nominal composition of the subcommittee shall be

³²⁹ Law No.260/2017 of the Court of Accounts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126160&lang=ro

approved by the Legal Commission for appointments and immunities with the vote of the majority of the members of the commission.

In exercising its powers, the subcommittee permanently monitors the process of execution of judgments and decisions of the European Court of Human Rights, judgments of the Constitutional Court, as well as promote draft normative acts necessary for their execution.

The subcommittee hears the authorities responsible for the elaboration and implementation of measures regarding the execution of judgments and decisions of the ECHR, those responsible for the enforcement of judgments of the Constitutional Court, as well as requests information from the respective authorities.

Budget accountability

The State and local budgets provide a good basis for accountability. The budget process is defined by the Law No. 181/2014 on Public Finance and Budgetary-Fiscal Responsibility³³⁰ Law No. 373/2003 on Local Public Finance³³¹. The Ministry of Finance regularly publishes program budgets which show the breakdown of programs and economic items, including performance indicators. The local budgets use the same budgetary classification as at the central level and all local budgets are published in the State Registry of Local Acts.

permanent Parliamentary Committee for the Control of Public Finances also exists, which has the following basic tasks:

- ensuring the legal framework regarding the external public audit;
- ensuring the organisation and functioning of the Court of Accounts;
- examining and hearing the annual and audit reports of the Court of Accounts and the audited entities;
- hearing the annual report on the administration and use of public financial resources and public patrimony;
- examination of annual reports of the Government on execution of the state budget, state social insurance budget and mandatory health insurance funds;
- examination of the annual report of the Competition Council on state aid granted in the Republic of Moldova in the part related to the efficiency of the use of public money;
- organising and controlling the examination of petitions and audiences of citizens regarding the external public audit and the way of formation and use of the public patrimony;
- parliamentary control over activity of the budgetary sector;
- parliamentary control over the activity of central and local public administration authorities and other entities subject to external public audit in order to apply the legislation on the formation and use of public finances and assets;

³³⁰ Law No. 181/2014 on Public Finance and Budgetary-Fiscal Responsibility, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126152&lang=ro

³³¹ Law No. 373/2003 on Local Public Finance No.373/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129334&lang=ro

- enforcement of judgments and addresses of the Constitutional Court in the field;
- initiation and organisation of the public contest for the position of president of the Court of Accounts;
- proposal to the Speaker of the Parliament of the candidacy of the President of the Court of Accounts, based on the results of the public contest;
- proposal for approval to the Parliament's plenum of the candidacies of the members of the Court of Accounts, based on the proposal of the President of the Court of Accounts.

Ex-post evaluation of the normative acts

The Parliament carries out the ex-post evaluation of the normative acts, based on an Annual Plan³³² in accordance with the Methodology on ex-post evaluation on the implementation of normative acts, approved through the Decision No. 7/2018 of the Permanent Bureau of the Parliament.³³³

Parliament's oversight over Government's implementation of the Association Agreement

The Parliament has had a special role in the process of implementation of the Association Agreement (AA) in particular since September 1st, 2014, when its provisional application was initiated. The AA outlines key priorities for the reform agenda of the country, aiming at political association and economic integration with the EU.

Parliamentary control over the Government's AA implementation, the review, and compatibility of draft laws with the EU acquis is ensured by the Committee on Foreign Affairs and European Integration, and the Parliamentary Legal Standing Committee which organise regular hearings on the AA implementation.

The Secretariat of the Parliament provides support to MPs in reviewing the compatibility of draft legislation with the EU acquis. The practice of regular joint meetings of the Parliament and the Government to agree on the legislative priorities linked to the AA implementation has been in place since 2016. In early 2016 a special consultative parliamentary Council for European Integration was established by the Speaker of the Parliament with consultative and coordination functions at the parliamentary level.

³³² Decision No. 2/2022 of the Permanent Bureau of the Parliament of the Republic of Moldova, approving the Plan for ex-post assessment of normative acts for the year 2022, available in Romanian at: <https://www.parlament.md/LinkClick.aspx?fileticket=RmJxVzoadu0%3d&tabid=79&mid=498&language=ro-RO>

³³³ Methodology on ex-post evaluation on the implementation of normative acts¹⁵, approved by Parliament Decision No. 7/2018, available in Romanian at <https://www.parlament.md/LinkClick.aspx?fileticket=StfUFPiq0N8%3d&tabid=266&language=ro-RO>

59. Explain the legal framework governing the scrutiny by oversight institutions and provide a list of all structures involved (independent institutions).

Oversight is performed by the following bodies in line with their competences:

- Parliament³³⁴
- Government³³⁵
- Court of Accounts³³⁶
- Financial Inspectorate³³⁷

The oversight function is an important responsibility of the above-mentioned institutions. It refers to the review, monitoring and supervision of national agencies, strategies and policy implementation. It provides the opportunity to examine, inspect and check the activity of administrative bodies.

The authority of each institution to ensure the oversight function derives from the implied power and authority in the following laws:

Parliament - Law No. 797/1996 for the adoption of the Regulation of the Parliament³³⁸.

Article 27 stipulates the duties of standing committees and the possibility of the Parliament to set up various subcommittees for exercising parliamentary control over the activity of public authorities under the Parliament's supervision.

Examples of such subcommittees:

- Within the Parliamentary Committee for National Security, Defense and Public Order, a subcommittee is active for the exercise of parliamentary control over the activity of the Intelligence and Security Service.
- Within the Parliamentary Committee for Legal Affairs, Appointments and Immunities, a subcommittee is active for the exercise of parliamentary control over the execution of judgments and decisions of the European Court of Human Rights, as well as judgments of the Constitutional Court.

Article 111 provides for the following:

- The control over the execution of the law by the competent bodies and persons, as well as the determination of the efficiency of the law action rests with the standing committee instituted for this purpose by Parliament.
- Following the control performed, the parliamentary commission will present recommendations to the Government and / or other public authorities and, in some cases, will present to the Parliament reports on the execution of the laws after 6 months from their entry into force.

³³⁴ <https://www.parlament.md/>

³³⁵ <https://gov.md/ro>

³³⁶ <https://www.ccrm.md/ro>

³³⁷ <https://if.gov.md/>

³³⁸ Law No. 797/1996 for the adoption of the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro

Thus, the Parliamentary standing committees have the required legal framework to review and study, on a continuous basis, the application, administration and execution of laws under its jurisdiction.

Government - Law No. 136/2017 regarding the Government³³⁹ and Government decision No. 610/2018 for the approval of the Government Regulation³⁴⁰.

Articles 6 and 7 describes the duties of the Government:

- ensures the realisation of the administrative control of the activity of the local public administration authorities.
- establishes the organisation and functioning, the fields of activity, the structure and the staff limit of the ministries, of other central administrative authorities subordinated to the Government and of the organisational structures within their sphere of competence, coordinates and controls their activity.

Article 35 stipulates the following:

- The Government ensures the execution of the normative acts of the Parliament, monitors and analyses the efficiency of the implementation of the normative acts by the ministries, other central administrative authorities subordinated to the Government and the organisational structures within their competence, monitors and exercises control over their implementation.
- The State Chancellery collaborates with the Secretariat of the Parliament through the exchange of information in order to ensure the control of the execution of the normative acts of the Parliament.

Chapter VI of the Government Regulation (decision No. 610/2018) describes the mechanism of monitoring and control of the implementation by the ministries, other central administrative authorities of the tasks written in the acts issued by the Parliament and the Government and directives of the Prime-minister and the President:

- The execution of laws, decisions of the Parliament, decrees of the President of the Republic of Moldova, acts of the Government, decisions and instructions of the Prime Minister is ensured by ministries, other central administrative authorities, as well as by organisational structures within their sphere of competence.
- The monitoring of the performance of the tasks set out in the acts referred above shall be carried out by the State Chancellery, which:
 - exercises control over the timely submission by ministries, other central administrative authorities of draft normative acts of the Parliament or the Government and decrees of the President of the Republic of Moldova, in order to prepare them for adoption by the Government;

³³⁹ Law No. 136/2017 regarding the Government, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125861&lang=ro

³⁴⁰ Government decision No. 610/2017 for the approval of the Government Regulation in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119333&lang=ro

- monitors the execution by the ministries, other central administrative authorities of the acts of the Government, of the decisions and directives of the Prime Minister.
- The State Chancellery systematically informs the Prime Minister about the results of the monitoring.

Court of Accounts - Law No. 260/2017 on the organisation and functioning of the Court of Accounts of the Republic of Moldova³⁴¹

The accountability of administrative bodies is also ensured through audits to guarantee an independent opinion. The Court of Accounts is the main state audit institution which oversees the execution of the state budget, the administration and use of public financial resources and public assets. The financial audit includes the evaluation of the internal management control systems of the audited entity. The institution cooperates with similar bodies of the European Union in the audit of the management and control of European Union funds.

As the Court of Accounts ensures oversight of administrative bodies, the Parliament provides oversight of the Court of Accounts. The institution must submit three reports to Parliament. All reports must be presented in the plenary session of Parliament:

- Annual activity report of the Court of Accounts.
- Audit report on the Government's annual reports on the execution of the state budget.
- Annual report on the administration and use of public financial resources and public assets.

Financial Inspectorate - Government Decision nr. 1026/2010³⁴² - Regulation on the organisation and functioning of the financial inspection subordinated to the Ministry of Finance

Article 5 of the Government Decision 1026/2010 provides for the following:

- 1) The basic functions of the Financial Inspection are:
 - financial inspection of operations and transactions regarding the compliance with the regulatory framework in the budgetary and economic-financial field;
 - detection of damages/ irregularities at the entities subject to financial inspection (control), on the aspects provided for in the Regulation.
- 2) In the process of carrying out financial inspections (controls), the Financial Inspection shall cooperate, if necessary, with other inspection and control authorities.
- 3) The financial inspection (control) shall be carried out:

³⁴¹ Law No. 260/2017 on the organisation and functioning of the Courts of Accounts of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126160&lang=ro

³⁴² Government Decision nr. 1026/2010 on the adoption Regulation on the organization and functioning of the financial inspection subordinated to the ministry of finance, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=93936&lang=ro

- according to the activity program elaborated on topics proposed by the public authorities and included on the basis of risk assessment, coordinated with the Ministry of Finance, on the basis of the ordinances issued during the criminal investigation, for legal entities of public law, for private legal entities and for individual entrepreneurs and public associations, on the topics provided for in the ordinances of the law enforcement bodies;
- at the request of the Administration of the President of the Republic of Moldova, Parliament, Government, Court of Accounts or Ministry of Finance;
- at the request of the law enforcement bodies;
- on the basis of requests, petitions and information, including received from central and local public authorities, regarding the violation of financial discipline in the activity of the entities specified in art.6 of the Regulation.

Art. 6 stipulates the following:

In the exercise of its functions, the Financial Inspection shall carry out financial inspections (controls) at:

- central and local public authorities and institutions subordinated and/or founded by them, on aspects related to the use of resources financed or contracted from the national public budget, grants and means offered by internal and external donors, reporting of public debt, public procurement procedures, as well as the compliance of management of assets and liabilities;
- to state and municipal enterprises, to commercial companies in whose capital the State holds a share, as well as to affiliated persons, on aspects related to the use of public patrimony, the correctness of the breakdowns to the budget and the payment of dividends, the discipline of prices and tariffs regulated by the state;
- to other natural and legal persons, who use public financial means and manage public patrimony, on aspects related to the correctness of performing economic operations and transactions from public financial means and on aspects related to the observance of the regulatory framework on the procedure of using the grants offered by internal and external donors;
- to legal entities of public law, to private legal entities, as well as to individual entrepreneurs and public associations, at the request of law enforcement bodies, on the basis of the ordinances issued during the criminal investigation, on the topic provided for in the ordinances of the law enforcement bodies.

60. Describe the legal framework and institutional setup to guarantee access to information.

The right to guarantee access to official information is enshrined in the Constitution of the Republic of Moldova in the light of Art. 34(1) that stipulates that the right of a person to have access to any information of public interest shall not be limited. Art. 4 of Law No. 982/2000 on access to information³⁴³ stipulates that everyone, under this

³⁴³ Law No. 982/2000 on access to information, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

law, has the right to seek, receive and make official information known. Thus, under this law, official information may be requested by:

- any citizen of the Republic of Moldova;
- citizens of other states, who are domiciled or reside in the Republic of Moldova;
- stateless persons, who are domiciled or reside in the Republic of Moldova.

Art. 10(3) of Law No. 982/2000 stipulates that any applicant for access to information under this law is not obliged to justify his/her interest in the requested information.

According to Art. 5 and 6 of Law No. 982/2000 on access to information, the following concepts are to be mentioned:

Official information is all the information that is possessed and available to information providers, which has been developed, selected, processed, systematised and/or adopted by bodies or officials or made available to them in accordance with the law by other subjects of law. According to Art. 6(2)(1)(e), information-bearing documents are also considered any other information recorder that has appeared as a result of technical progress;

Information providers (holders of official information) are the subjects obliged to provide the applicants with official information. In this case, under the conditions of this law, these subjects are:

- central and local public authorities – authorities of the state administration, provided for in the Constitution of the Republic of Moldova, and namely: the Parliament, the President, the Government, the public administration, the judicial authority;
- central and local public institutions – organisations founded by the state represented by public authorities and financed from the state budget, which aim to perform administrative, socio-cultural and other non-commercial duties;
- natural and legal persons that, based on the law or the contract with the public authority or the public institution, are empowered to manage certain public services and collect, select, possess, store, and use official information.

According to Art. 3 of the Law No. 982/2000 on the access to information, the legal framework on the guarantee of access to information, consists of this law, the Constitution of the Republic of Moldova, the international treaties and agreements to which the Republic of Moldova is a party, as well as the provisions of other regulatory acts regulating the relations concerning the access to information.

The violation of the legislation on access to information and on petitioning by establishing certain sanctions is provided for in Art.71 of the Contravention Code of the Republic of Moldova No. 218/2008³⁴⁴, namely:

- Intentional violation of legal provisions on access to information or petitioning shall be punished with a fine of 9 to 15 conventional units³⁴⁵ imposed on the natural person, with a fine of 18 to 30 conventional units imposed on the person holding a management position.

³⁴⁴ https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro#

³⁴⁵ 1 conventional unit = 50 MDL or circa 2.5 EUR

- Provision, on request, of a response with obviously erroneous data shall be punished with a fine of 27 to 33 conventional units imposed on the person holding a management position.

Sanctions for intentional violation of the legislation on access to information are provided for in Art.180 of the Criminal Code of the Republic of Moldova No. 985/2002³⁴⁶.

Other provisions regarding the guarantee of the right of access to official documents are laid down in the following legal documents:

- Administrative Code No. 116/2018³⁴⁷;
- Law No. 982/2000 on access to information³⁴⁸;
- Law No. 305/2012 on reuse of public sector information³⁴⁹;
- Law No. 239/2008 on transparency in the decision-making process³⁵⁰;
- Law No. 91/2014 on electronic signature and electronic document³⁵¹;
- Law No. 71/2007 on registers³⁵²;
- Law No. 880/1992 on the Archival Fund of the Republic of Moldova³⁵³;
- Government Decision No. 188/2012 on the official pages of public administration authorities in the Internet network³⁵⁴;
- Government Decision No. 967/2016 on the mechanism of public consultation with civil society in the decision-making process³⁵⁵;
- Government Decision No. 618/1993 for the approval of the Rules of preparation of organisational and executive documents and of the Standard Instruction on the document management in the specialised central public administration and local self-administration bodies of the Republic of Moldova³⁵⁶;

³⁴⁶ Criminal Code of the Republic of Moldova No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

³⁴⁷ 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

³⁴⁸ Law No. 982/2000 on access to information, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

³⁴⁹ Law No. 305/2012 on reuse of public sector information, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=22449&lang=ro

³⁵⁰ Law No. 239/2008 on transparency in decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

³⁵¹ Law No. 91/2014 on electronic signature and electronic document, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112497&lang=ro

³⁵² Law No. 71/2007 on registers, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=104973&lang=ro

³⁵³ Law No. 880/1992 on the Archival Fund of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119218&lang=ro

³⁵⁴ Government Decision No. 188/2012 on the official pages of public administration authorities in the Internet network, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94487&lang=ro

³⁵⁵ Government Decision No. 967/2016 on the mechanism of public consultation with civil society in the decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94483&lang=ro

³⁵⁶ Government Decision No. 618/1993, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121959&lang=ro

- Government Decision No. 208/1995 on the management of documents related to petitions of natural and legal persons, addressed to state bodies, enterprises, institutions and organisations of the Republic of Moldova³⁵⁷;
- Government Order No. 43/2011 on the governmental public data portal www.date.gov.md³⁵⁸;
- Decision No.1/2007 of the Plenum of the Supreme Court of Justice of the Republic of Moldova on examination of cases of access to official information³⁵⁹.

Requests for access to official documents

According to Art. 12 of the Law No. 982/2000, official information is made available to applicants on the basis of a written or oral request. The written request, in addition to the other elements, shall contain the applicant's identification data. In accordance with the above-mentioned article, to obtain access to information, the applicant shall submit an oral or written request. Thus, the written request shall contain:

- enough and conclusive details to identify the requested information (of a party or parties thereof);
- acceptable manner of receiving the requested information;
- identification data of the applicant.

An oral request shall be submitted if a positive response is possible, and the request for information shall be immediately satisfied. If the provider intends to refuse to provide access to the requested information, it shall inform the applicant of this refusal and of the possibility of submitting a written request. In addition, the development and provision of analytical, synthesis or original information may be carried out under a contract between the applicant and the information provider, for a negotiable fee, if the provider is available and has the right to make such an offer.

Processing of requests for access to official information

According to Art. 15 of Law No. 982/2000, written requests for access to information shall be recorded in accordance with the legislation on registers and petitions. They shall be examined and satisfied by the civil servants responsible for provision of information. The decisions of the civil servants shall be subsequently reported to the applicant in a way that would guarantee their reception and awareness. When satisfying a request for access to information, providers shall take all necessary measures to ensure that information with limited access will not be disclosed, integrity of the information will be protected, and unauthorized access to it will be excluded.

³⁵⁷ Government Decision No. 208/1995, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=15955&lang=ro

³⁵⁸ Government Order No. 43/2011 on the governmental public data portal www.date.gov.md, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=3492&lang=ro

³⁵⁹ Decision No.1/2007 of the Plenum of the Supreme Court of Justice, available in Romanian at: http://jurisprudenta.csj.md/search_hot_expl.php?id=92

The exercise of this right shall in no case involve discrimination based on race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin.

As regards the time limits for satisfying the requests for access to information, according to Art. 16 of Law No. 982/2000, requested information, documents shall be made available to the applicant as soon as if/they are available to be provided, but not later than 15 working days from the date of record of the request for access to information. The term for provision of information or a document, can be extended by 5 working days by the head of the public institution if:

- the request refers to a very large amount of information that shall be selected;
- additional consultations are required to satisfy the request.

Additionally, the applicant shall be informed of any extension of the time limit for provision of the information and of its reasons 5 days before the expiry of the initial time limit.

Under Art. 19 of Law No. 982/2000, the refusal to provide information, an official document, shall be made in writing, while specifying the date of the refusal, the name of the responsible person, the reason for refusal, a reference to the regulatory act (title, number, date of adoption, source of official publication), which substantiate the refusal, as well as the procedure for challenging the refusal, including the limitation period. At the same time, information providers cannot be obliged to provide evidence of the lack of undocumented information.

61. What are the procedures to guarantee citizens' rights of recourse against public service actions? Describe these (e.g. parliamentary committees, ombudsperson's office, internal and external audit, inspectorates, standard-setting authorities).

According to Art. 34 of the Constitution of the Republic of Moldova, public, state or private media are obliged to ensure correct coverage of the public opinion. Additionally, article 52 of the Constitution guarantees the right to petition for citizens and legally constituted organizations.

Recourse to limitations on access to information

The obligations of the information provider to guarantee free access to information under Law No. 982/2000 includes:

- elaboration, in accordance with the present law, of regulations on the rights and obligations of civil servants in providing official documents, information;
- provision of the necessary assistance and support to applicants for searching and identifying information;
- holding its meetings and sessions publicly, in accordance with the legislation.

At the same time, the information provider shall publish or make otherwise, generally and directly, accessible to the population the information containing:

- a description of the structure of the institution and its address;
- a description of the functions, directions and forms of activity of the institution;
- a description of subdivisions with their competencies, their working hours, the days and hours of audience of the officials responsible for provision of official information and documents;
- final decisions on the main examined issues.

In addition to the above, the information provider shall also use other forms of active information of citizens and the media.

The Constitution obliges information providers, *inter alia*, to ensure that citizens are properly informed about public affairs and matters of personal interest. At the same time, the following measures of official information management are usually carried out:

- provision of a space arranged for documentation and accessible to applicants;
- provision of effective access to registers of information providers, which shall be completed in accordance with the legislation on registers;
- provision of effective access, through the interoperability platform, to registers of information providers, which shall be completed in accordance with the legislation on registers.

According to Art. 13 of Law No. 982/2000, the forms of access to official information are:

- hearing the information that can be voiced;
- examination of the document (parts of it) at the premises of the institution;
- issuance of a copy of the requested document, information (some parts thereof);
- issuance of a copy of the translation of the document, information (parts thereof) in a language other than the original one, for an additional fee;
- posting (including e-mailing) the copy of the document, information (some parts thereof), the copy of the translation of the document, the information in another language, at the request of the applicant, for an additional fee.

Extracts from registers, documents, information (some parts thereof), in accordance with the request of the applicant, may be made available to the person concerned, in a reasonable form that is acceptable to him/her, to be:

- examined at the premises of the institution;
- typed, photocopied or copied in another way that would ensure the integrity of the original;
- written on an electronic carrier, printed on video, audio tapes, another carrier resulting from technical progress.

According to Art. 21 of Law No. 982/2000, the person who considers his/her right or legitimate interest affected by the information provider, may challenge its actions both out of court and directly in the competent administrative court. The person may also apply to the Ombudsman for the protection of his/her legitimate rights and interests.

According to Art. 22 of Law No. 982/2000, if a person considers that his/her rights or legitimate interests of access to information have been violated, he/she may challenge the actions or inaction of the information provider before its leadership and/or its hierarchically higher body within 30 days from the date he/she has found out or had to find out about the violation. The leadership of the information provider and/or its hierarchically superior body shall examine the applicants' requests for information within 5 working days and shall necessarily inform the petitioner about the results of the examination within 3 working days. The complaints, whereby the actions or inaction of the organisations that do not have higher bodies are challenged, are addressed directly to the competent administrative court.

According to Art. 23 of the above-mentioned Law, if the person who considers that the rights or legitimate interests of access to information have been violated, as well as if he/she is not satisfied with the solution given by the leadership of the information provider or by its hierarchically superior body, then they may challenge the actions or inactions of the information provider directly in court. The court shall be notified within one month from the date of receipt of the response from the information provider or, if he/she has not received a response, from the (latest) date when it had to be received. If the applicant for information has previously challenged the actions of the information provider out of court, the time limit of one month shall run from the date of the response of the leadership of the information provider and/or its hierarchically superior body or, in case of no response, from the (latest) date when he/she had to receive it.

Petitions

At the same time, **the Administrative Code of the Republic of Moldova No. 116/2018** establishes the procedure for submitting, registration, readmission, settlement and other procedures regarding petitions. Thus, according to art. 72 (2) the petition may be submitted in writing to the public authority or sent by post or fax, transmitted in electronic form or deposited orally, being recorded in a report. If submitted in electronic form, the petition must meet the legal requirements set out for an electronic document.

According to art. 73 of the Administrative Code, the public authority is obliged to immediately receive and register the petition or other documents submitted within the administrative procedure. The public authority is not entitled to refuse petitions solely on the grounds that it does not consider itself competent or because it considers the petition to be inadmissible or unfounded. In the case of petitions or other documents submitted at the headquarters of the public authority, the subdivision responsible for relations with the public shall issue proof of their registration. In the case of petitions or documents submitted in electronic form, the public authority is obliged to communicate within 2 days, by the same means, the registration number of the petition. In order to manage in good conditions, the activity of solving petitions by electronic means, the public authorities are obliged to offer the possibility to submit petitions on-line through their own official web pages, and for the petitioner to automatically receive the proof of registration.

Also, requests can be formulated verbally within the audience program. These petitions shall be recorded in a report and recorded by the subdivision or person in charge of relations with the public within the public authority.

If the petition falls within the competence of another public authority, the original of the petition shall be sent to the competent public authority within 5 working days from the date of registration of the petition, of which the petitioner is to be informed.

For the speedy exercise of the right to petition, the public authorities may offer petitioners application forms in the fields of competence, both in electronic format, through their own official web pages, and in printed format, through the subdivision or person in charge of relations with the public.

The general deadline within which petitions are to be examined is 30 days. For justified reasons related to the complexity of the subject matter of the administrative procedure, the general period may be extended by a maximum of 15 days. This extension shall take effect only if it is communicated in writing to the participants in the administrative procedure within 30 days, together with the reasons for the extension.

At the same time, the Administrative Code guarantees the petitioner's right to go to court. Therefore, any person who claims the violation of a right of his own through the administrative activity of a public authority may bring an action in administrative proceedings. An administrative action may also be filed when the public authority has not settled an application within the legal term.

Role of the Ombudsman

According to art. 18 (1) of Law No. 52/2014 on the Ombudsman³⁶⁰, it examines the requests of natural persons, without distinction of race or ethnic origin, colour, sex, language, religion, political or any other opinion, of national or social origin, property, birth or any other circumstances, who live permanently, are present or have been temporarily present in the territory of the country, whose rights and freedoms have been purportedly violated.

The Ombudsman³⁶¹ examines the requests regarding the decisions, actions or inactions of the public authorities, organizations and enterprises, regardless of the type of ownership and the legal form of organization, of the non-commercial organizations and of the persons with positions of responsibility of all levels which, according to the petitioner's opinion, have violated his rights and freedoms. At the same time, the Ombudsman cannot be replaced by another public authority, law enforcement bodies or a court.

Complaints are submitted in person or by post, fax, e-mail or other means of communication. The application may also be submitted by a mandated/entitled representative of the person entitled to the rights, by non-governmental organizations, trade unions and other representative organizations on his/her behalf.

The request from a person in detention, from a person in criminal investigations, or from the military is not subject to censorship and is sent by the administration of the respective institutions to the Ombudsman within 24 hours.

Within 10 days from the date of receipt of the application, the Ombudsman shall notify the petitioner about the adopted decision. Where the application is returned without examination, the reasons for that must be indicated.

³⁶⁰ Law No.52/2014 on Ombudsman, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=22211&lang=ro

³⁶¹ <http://ombudsman.md/>

Also, if in possession of information on the mass or serious violation of human rights and freedoms, in cases of particular social importance or if it is necessary to defend the interests of persons who cannot independently use the legal means of defense, the Ombudsman is entitled to act *ex officio*.

If mass or serious violations of human rights and freedoms are found, the Ombudsman is entitled to present special reports at the sittings of the Parliament, as well as to propose the establishment of special commissions to investigate these facts.

Art. 23 of the Law No. 52/2014 on the Ombudsman provides for the mode of examination of applications, as follows:

- When examining the applications, in order to verify the facts presented, the Ombudsman shall be entitled to request the assistance of the authorities and persons with responsible positions in order to organise the control of the circumstances to be elucidated. The control cannot be entrusted to the authority or the person with responsible positions whose decisions, actions or inactions are contested.
- The persons with responsible positions of all levels shall be obliged to submit to the Ombudsman the requested materials, documents and information in connection with the exercise of his/her duties within 10 days from the date of the request, unless another term is provided for in the request.
- The Ombudsman shall undertake to settle the requests by reconciling the parties and seeking mutually acceptable solutions. Conciliation may take place at any stage of the examination of the request and, at the request of the parties, may be concluded by the signing of a conciliation agreement. Conciliation of the parties is grounds for terminating the process of examining the application.
- If, following the examination of the application, it has been found that the rights or freedoms of the petitioner have not been violated, the Ombudsman shall issue a reasoned decision on the termination of the examination of the application.
- The decision to terminate the examination of the application shall not be subject to appeal.

The role of the Equality Council

In order **to prevent and combat discrimination**, as well as to ensure the equality of all persons on the territory of the Republic of Moldova in the political, economic, social, cultural and other spheres of life, without distinction of race, color, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation or any other similar criterion, the Law No. 121/2012 on ensuring equality³⁶² was adopted. According to it, the existence or non-existence of the act of discrimination is initiated by the Council for preventing and eliminating discrimination and ensuring equality (hereinafter Equality Council) *ex officio* or at the request of the interested persons, including at the request of trade unions and public associations working in the field of promotion and protection of human rights.

The term of settlement of complaints is 15 days, which may be extended for up to 45 days, with the obligation to inform the president of the Council in writing about the

³⁶² Law No. 121/2012 on ensuring equality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

circumstances that require the extension of the term. This procedure is regulated by the Law No. 298/2012 on the activity of the Council for preventing and eliminating discrimination and ensuring equality³⁶³.

62. How is implementation of the recommendations formulated by these bodies monitored and taken into account by the public administration?

In the Republic of Moldova, the competence to issue recommendations and decisions from the relevant authorities (the Ombudsman, the Council for preventing and eliminating discrimination and ensuring equality, etc.) are set out in the normative acts.

Decisions of the Ombudsman

According to art. 24 of the Law No. 52/2014 on the Ombudsman³⁶⁴, in situations where violations of the petitioner's rights or freedoms are found, the Ombudsman submits to the authority or the person in charge whose decisions, actions or inactions, in his/her opinion, may violate human rights and freedoms an opinion that will include recommendations on the measures to be taken to restore immediate rights of the petitioner. The authority or the official who has received the opinion shall be obliged to examine it within 30 days and to communicate in writing to the Ombudsman about the measures taken to remedy the situation. If the Ombudsman does not agree with the measures taken, a hierarchically superior body can be addressed to take the necessary measures in order to execute the recommendations contained in the opinion and/or to inform the public opinion. The hierarchically superior body is obliged to communicate about the measures taken within 45 days.

At the same time, according to art. 25 of the same law, based on the results of the examination of the complaint, the Ombudsman is entitled to:

- address to the court a request to defend the interests of the petitioner whose fundamental rights and freedoms have been violated;
- intervene with the competent authorities with a request to initiate a disciplinary or criminal procedure with regard to the official who committed the violation of human rights and freedoms;
- notify the prosecutor regarding the commission of the contravention stipulated in the Contravention Code of the Republic of Moldova;
- to notify the persons with positions of responsibility of all levels on the cases of negligence in service, violation of the work ethics, of procrastination and bureaucratic abuse.

³⁶³ Law No. 298/2012 on the activity of the Council for preventing and eliminating discrimination and ensuring equality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120696&lang=ro

³⁶⁴ Law No.52/2014 on Ombudsman, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=22211&lang=ro

Decisions of the Equality Council

According to art. 15 of Law No. 121/2012 on ensuring equality³⁶⁵, the complaint shall be examined within 30 days from the date of submission, with the possibility of extending the term, which, however, will not exceed 90 days. When examining the complaint, the Equality Council has the right to request relevant data and information from persons who are presumed to have committed discriminatory acts. The burden of proving that the act in question does not constitute discrimination lies with the persons alleged to have committed the discriminatory act.

Following the examination of the complaint, the Equality Council adopts a reasoned decision with a majority of the votes of its members. The Equality Council's decision also includes recommendations to ensure the reinstatement of the victim's rights and the prevention of similar acts in the future. The decision shall be notified to the person who committed the discriminatory act and to the person who filed the complaint within 5 days. The Council shall be informed within 10 days of the measures taken. If the Equality Council does not agree with the measures taken by the person who committed the discriminatory act, it has the right to address a hierarchically superior body in order to take appropriate measures and/or to inform the public opinion.

If during the examination of the complaint it is attested that some facts constitute a contravention, the Equality Council shall send to the competent bodies for examination in substance the minutes and materials of the case. If the examined facts contain elements of the crime, the Equality Council immediately sends the materials to the criminal investigation bodies.

Role of the Government in monitoring and control

At the same time, at the executive level according to art. 2 (2) of the Law No. 136/2017 on the Government, the Government ensures the general management of the public administration. Within the Government, according to item 1 of the Regulation on the organisation and functioning of the State Chancellery, approved by the Government Decision No.657/2009, the State Chancellery ensures the organisation of the Government's activity in order to carry out the internal and external policy of the state, the creation of the general framework for defining the priorities of the Government's activity, the methodological and organisational support for the system of planning, elaboration and implementation of public policies by the governmental authorities, the monitoring of the implementation of the government program, the presentation of analytical and informational materials, the preparation of projects for acts of the Government, including the implementation of the right of legislative initiative, and the verification of their execution, as well as the exercise by the Government of the prerogatives related to its relations with the local public administration authorities.

Thus, the responsibility to ensure the monitoring and control of any decisions coming from the leadership of the Government and the autonomous authorities is to be ensured by the State Chancellery. Other authorities also establish at its level the mechanism for implementation, monitoring and control.

According to the current mechanism, the State Chancellery has established a process in which it ensures the continuous monitoring of decisions, as well as the execution of

³⁶⁵ Law No. 121/2012 on ensuring equality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

reporting on them. This aspect could be strengthened by developing an information system that would ensure an intelligent monitoring and control system, by excluding the human factor.

63. Do special administrative courts exist? What are their competences?

No special administrative courts exist in Moldova. However, since January 2019, a formal specialisation of judges is ensured at the Chisinau District Court (the largest first-level court in the country) and at the Chisinau Court of Appeals. The Chisinau District court has five premises, out of which one (Rîșcani) is dealing with all administrative disputes from the city³⁶⁶. In 2021, this courthouse examined 3,219 (70%) of all 4,621 administrative disputes from Moldova³⁶⁷. Judgments of the Chisinau District Court can be challenged at the Chisinau Courts of Appeal, where there are panels of judges specialised in administrative disputes. Judgments of the Courts of Appeal can be challenged with a final appeal on the points of law at the Supreme Court of Justice (SCJ). There is no formal specialisation of judges in administrative disputes at the SCJ.

The court jurisdiction in administrative matters is established by the Administrative Code approved in 2018 and inspired by the German model (Law No. 116/2008)³⁶⁸. The district courts have the competence to hear administrative litigations with regard to five types of issues: (i) partial or full annulment of an individual administrative act (contested action); (ii) obliging the public authority to issue an individual administrative act (obligatory action); (iii) imposition on action, tolerance of action or inaction (action in progress); (iv) finding the existence or non-existence of a legal relationship or the nullity of an individual administrative act or an administrative contract (action for finding); or (v) annulment in whole or in part of a normative administrative act (normative control action).

Article 190 of the Administrative Code excludes from the competence of ordinary courts the administrative disputes related to the political decisions of the Parliament, President, and Government. Some of these decisions can be challenged at the Constitutional Court. The administrative courts also have no jurisdiction over decisions related to foreign policy and military command.

64. Describe the role of the Ombudsperson in the oversight of administrative bodies in terms of ensuring compliance of the laws, public policies and other regulations with the

³⁶⁶ High Judicial Council (CSM) Decision on specialization of district courts premises from Chisinau (2022) <https://www.csm.md/files/Hotaririle/2021/25/257-25.pdf>.

³⁶⁷ The statistical report of the Agency for Court Administration for 2021 is available here <https://aaij.justice.md/files/document/attachments/31.Informa%C5%A3ia%20privind%20mersul%20examin%C4%83rii%20materialelor%20%C5%9Fi%20dosarelor%20%C3%AEn%20prim%C4%83%20instan%C8%9B%C4%83%20pentru%2012%20%20luni%20ale%20anului%202021.pdf>

³⁶⁸ The Romanian version of the Code is available here https://www.legis.md/cautare/getResults?doc_id=129135&lang=ro

Constitution as well as with the international human rights instruments. (for other questions related to the Ombudsperson see also under Fundamental rights)

The People's Advocate according to Article 11(c) and (d) of the Law No. 52/2014 on the People's Advocate (Ombudsman)³⁶⁹ has the right to assist and speak at the meetings of the Parliament, Government, Constitutional Court, Superior Council of the Magistrates, Superior Council of the Public Prosecutors and to submit to the Parliament or Government the recommendations on the improvement of the legislation in the area of protection of human rights and freedoms.

Furthermore, according to Articles 26, 27 of the Law No. 52/2014 on the People's Advocate (Ombudsman), to ensure the compliance of laws, public policies, and other regulations with the Constitution of the Republic of Moldova, the People's Advocate has the right to intimate the Constitutional Court, to submit to the subjects with the right for legislative initiative proposals and recommendations to improve the legislation, to issue opinions on the draft normative documents which envisage the human rights and freedoms, to issue opinions on the compatibility of the national legislation with the international legal tools in the area of human rights and freedoms.

65. Does the Ombudsman enjoy external and internal independence when acting in execution of its mandate? What guarantees exist for the independence of the Ombudsman officials (e.g. case lawyers)? Please specify in particular the procedures for their selection and appointment, end of mandate and the allocated financial and human resources. What mechanisms are in place to guarantee a transparent selection and appointment process?

The People's Advocate and the People's Advocate for Child Rights are autonomous and independent of any authority or person. They cannot be subject to an imperative or representative mandate. People's Advocates cannot be obliged to explain cases reviewed or being reviewed, except in some situations. The interference in the activity of the People's Advocate is sanctioned according to the Law. The guarantees are expressly established in Article 59/1 of the Constitution of the Republic of Moldova³⁷⁰ and the Law on the People's Advocate. The People's Advocates are appointed by the Parliament, with the vote of the majority of the elected deputies, based on a transparent selection procedure, provided by law, for a 7 years mandate, which cannot be renewed.

The People's Advocate does not have the right to undertake political activity and cannot be a member of a political party. The People's Advocate may be revoked from the position with the votes of 2/3³⁷¹ of the total number of elected deputies, in compliance with the established procedure by law, which provides a preliminary hearing.

Law No. 52/2014 on the People's Advocate (Ombudsman) establishes that the People's Advocate institution is autonomous and independent from any public authority, or legal

³⁶⁹ https://www.legis.md/cautare/getResults?doc_id=121241&lang=ro

³⁷⁰ https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro

³⁷¹ https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro

entity, no matter the type of property and legal organization form, and any individual in the decision-making position at all levels.

During their mandate, the People's Advocate and his/her deputies cannot be prosecuted or held legally liable for opinions expressed and actions undertaken, in compliance with the law. People's Advocate cannot be apprehended, searched, or arrested without the prior consent of the Parliament, and deputies - without prior notice to Parliament. The inviolability of the People's Advocate and deputies expands over their dwelling and office, transportation and telecommunication mean used, correspondence, documents, and personal property.

A number of guarantees also apply to the institution's officials. The Office officials cannot be obliged to submit an explanation on matters reviewed by the People's Advocate or under review, cannot be prosecuted or held liable for the actions or opinions expressed during the performance of their work duties. The Office officials have free access to detention places and unlimited access to any information on the treatment and conditions of detention of the detained persons.

Regarding the allocated human and financial resources, in accordance with Article 36, 37 of Law No. 52/2014 on the People's Advocate (Ombudsman), The Office staff is comprised of public servants, technical and other staff, and the institution is financed from the state budget within the budget allocations approved by the annual budget law.

In accordance with Law No. 164/2015 on approving the Regulation for Organization and Operation of the Ombudsman's Office³⁷², the limit number of personnel under the Ombudsman's Office accounts for 65 units.

66. Is access to all official documents granted to the Ombudsperson? Is s/he entitled to suspend the execution of an administrative act if s/he determines that the act may result in irreparable prejudice to the rights of a person? If so, how is this implemented in practice? Does the Ombudsperson have the right to contest the conformity of laws with the Constitution and, if so, how is this implemented in practice?

The People's Advocate has access to all official documents, as recorded in the Article 11(k), in which the People's Advocate has the right to request and receive from public authorities, from responsible officials at all levels information, documents, and materials necessary to perform their duties, including official data with limited access and data from the state secret category in under the law.

Also, Law No. 245/2008 on the state secret³⁷³, establishes the right of the People's Advocate to access certain forms of state secret.

The People's Advocate has the possibility to challenge the administrative acts if he/she finds that the act may result in irredeemable damage to a person's rights. In this situation, there are several ways, by formulating recommendations addressed to the issuing body or the higher hierarchical body or even contesting the administrative act in court where he/she can request not only the suspension but also the annulment of this

³⁷² https://www.legis.md/cautare/getResults?doc_id=120702&lang=ro

³⁷³ https://www.legis.md/cautare/getResults?doc_id=112337&lang=ro

act. These possibilities are expressly established in Articles 24, 25 of Law No. 52/2014 on the People's Advocate (Ombudsman).

In the same context, the People's Advocate has the possibility to challenge the constitutionality of a normative act at the Constitutional Court or to address recommendations, opinions, and proposals to the authors with the right of a legislative initiative to make changes in the normative framework. (Article 26, 27 of Law No. 52/2014 on the People's Advocate (Ombudsman)³⁷⁴ and Article 25 of Law No. 317/1994 on the Constitutional Court³⁷⁵.

E. Service delivery

67. Please describe the service delivery policy in place. How is a coherent policy between the different levels of governance ensured?

The relevant normative framework regarding public services was established following the adoption of Law No. 234/2021³⁷⁶ on public services. The law is set to enter legal force 12 months after publication which is due in December 2022.

The purpose of the law is to create a regulatory framework for the provision of public services, ensuring the accessibility, quality of services and efficiency of their provision, with a balance between meeting the interests of beneficiaries of public services and the public interest.

The law establishes the basic principles regarding the provision of public services, establishes the competencies and responsibilities in the field of public services, the requirements for the provision of public services, the modalities and forms of their provision, the rights and obligations of beneficiaries and providers of public services, regulate aspects related to assessing the quality of public services, as well as those related to liability for breaches of public service law.

The chapter II of the Law provides competence of the Government in the field of public services, the competence of the authority responsible for promoting and monitoring policies in the field of modernization of public services, the competence of ministries and other subordinate central administrative authorities, as well as provisions related to public services at local level.

³⁷⁴ https://www.legis.md/cautare/getResults?doc_id=121241&lang=ro

³⁷⁵ https://www.legis.md/cautare/getResults?doc_id=127105&lang=ro

³⁷⁶ https://www.legis.md/cautare/getResults?doc_id=129764&lang=ro

68. Describe the legal/policy framework to guarantee the quality and equal access to public services. How are needs of special groups ensured (such as persons with disabilities, foreigners, senior citizens etc.)?

By adopting Law No. 234/2021 on public services, the services modernization has become one of the basic priorities of the state. The implementation of the Law implies a de facto rethinking of the ways and forms of providing public services at all levels of public authorities / institutions. The Law envisages a number of basic principles in provision of public services, including digital-by-default and digital-first.

At the same time, enshrining in law the principle of omnichannelity (the provision of public services by providers through all possible and reasonable channels), applied in several Member States of the European Union, creates the obligation of the Government to organize and establish multifunctional centers and unified public service delivery centres (CUPS), which provides public services through the application of the one-stop shop mechanism, as well as for other new channels and ways of providing public services, in order to improve access and continuously increase of their quality.

Law No. 234/2021 on public services states in art. 4 letter c) the principle of equal treatment in the provision of public services, so it is forbidden any difference, exclusion, restriction or preference in the rights and freedoms of the person or a group. The law prohibits any discriminatory conduct based on race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation or any other similar criterion. The law also meets the needs of special groups (such as people with disabilities, foreigners, the elderly, rural inhabitants, diaspora).

The Law No. 234/2021 on public services aims also to transpose the principle “once only”, according to which beneficiaries of public services provide the requested data to public authorities / institutions only once, and the former are obliged to ensure that the data are reusable and can be accessed by all public service providers, within their competences and for the purpose of providing services.

The implementation of Law No. 234/2021 on public services also aims to achieve the following objectives:

- creating the conditions for the implementation of proactive public services that will be provided ex officio, without the need of beneficiaries to submit requests ;
- establishing the obligation of service providers to ensure the creation of fully automated electronic public services to allow electronic self-service of beneficiaries of public services, without interaction with the representatives of service providers;
- ensuring the legal conditions for cooperation between central and local public service providers, for the efficient organization and provision of public services to citizens and businesses in rural areas;
- the exclusion of geographical belonging in the process of providing public services, so that the beneficiaries of public services may request the provision of a service at any office of the provider, regardless of their domicile or headquarters;

- reducing the administrative burden by simplifying the processes of providing public services and by excluding administrative activities that do not create public value;
- the opening of the Unified Centers in rural areas and in diplomatic missions / consular offices for the provision of public services (physical counters).

69. What mechanisms are in place to ensure that the public service is open and transparent? Can any citizen affected by an administrative action have access to the legal basis for the action? How are reasons for administrative decisions shared with the affected citizens?

Law No. 234/2021 on public services provides in Art. 4 letter b) the principle of transparency, objectivity and impartiality, which implies the observance by public service providers of the obligation to inform objectively and impartially the beneficiaries of public services on the regulation, organization, operation, financing, provision and evaluation of public services, as well as on measures to protect their rights and interests and on the mechanisms for resolving petitions.

According to the Law, 12 months at latest after its publication,, the Government will establish the government customers support service. The service will act as a single point of contact with public service users, providing support services, thus ensuring standardization, optimizing support processes and, as a result, increasing the quality of public services. The aim of the service is to organize efficient and timely customer-provider interaction, to improve the quality in the functioning of the information systems and to quickly solve the incidents and possible abuses in the process of providing the services.

Sharing information on the administrative decisions with affected citizens is regulated by the Administrative Code of the Republic of Moldova. Administrative legislation aims to regulate the procedure for carrying out administrative activity and judicial control over it, in order to ensure respect for the rights and freedoms of individuals and legal entities, taking into account the public interest and the rule of law.

According to art. 32 of the Code, the participants in an administrative procedure are granted unrestricted access at each stage of the procedure. At the same time, if the person considers that an administrative decision or action / inaction of the public authorities infringes a right or freedom established by law, he/she has the right to resort to a prejudicial dispute resolution procedure (prior request) or to bring an action in administrative litigation.

70. Describe the legal framework for administrative procedures. How are special administrative procedures regulated? Explain their justification.

In the Republic of Moldova, the administrative procedures are regulated by the provisions of the Administrative Code No. 116 of 19.07.2018 (hereinafter the

Administrative Code), published in the Official Gazette No. 309-320 art. 466 of 17.08.2018, entered into force on 01.04.2019.

The **structure** of the Administrative Code is as follows:

- Book I - General provisions (provides the basic notions and principles);
- Book II - Administrative procedure (regulates the relations between the natural / legal person and the public authority within the administrative procedure);
- Book III - Procedure for administrative litigation (regulates the procedure for resolving disputes between the natural / legal person and the public authority in the court);
- Book IV - Final and transitional provisions.

According to Article 3 of the Administrative Code, the Administrative Legislation aims to regulate the procedure for carrying out administrative activity and judicial control over it, in order to ensure respect for the rights and freedoms provided by law of individuals and legal entities, taking into account the interest public and the rule of law. Based on the above, we conclude that the object of regulation of the Administrative Code refers to both the material and the procedural field.

According to the Administrative Code, the common principles for the administrative procedure and the administrative contentious procedure are: Legality, Ex officio investigation, Equal treatment, Good faith, Impartiality, Language of procedure, Application of the reasonable term (art.21-27).

The principles of the administrative procedure are: Efficiency, Proportionality, Security of legal relations, Motivation, Comprehensibility and transparency of the actions of public authorities, Communication, Cooperation, Accountability (art. 28-35).

The principles of the administrative litigation procedure are: the rule of law, the independence of judges, the legal hearing and the right to a fair trial, free access to justice, the right to defence, orality, intermediation, adversarial and equal procedural rights of participants in the trial (art. 36-43).

Regarding the terms of the administrative procedure, art. 60 of the Administrative Code stipulates that the general term in which an administrative procedure must be completed is 30 days, unless the law provides otherwise.

According to art.69 of the Administrative Code, the administrative procedure is initiated upon request or ex officio. The administrative procedure initiated ex officio begins with the performance of the first procedural action, and the one initiated upon request is considered initiated from the moment the application is submitted. It follows from the above rule that there are two ways of initiating the administrative procedure, namely: (i) at the request of the petitioner, and (ii) at the decision of the public authority.

Regarding the completion of the administrative procedure, art. 78 of the Administrative Code stipulates that the administrative procedure is completed by performing an administrative operation or by issuing an individual administrative act, respectively concluding an administrative contract.

In order to streamline the administrative procedure and ensure that the interests of the participants in the administrative procedure are respected, the obligation of the public authority, at the same time as initiating the procedure, to prepare a file in electronic

format or on paper, containing all documents and documents related to the respectively procedure (art. 82). The public authority conducting the administrative procedure grants the participants in the procedure access to the administrative file (art. 83).

One of the basic elements of the administrative act is the motivation (art.118). The motivation of the administrative act indicates the essential legal and factual grounds that the public authority took into account for its decision. The statement of reasons for the act must be such as to ensure that the party to the administrative proceedings has been heard and that the administrative authority has taken into account all the legal and factual circumstances relevant to the case.

Another element of the administrative act is the express indication of the means of appeal (art.120). By way of derogation from the general rule, if the information on the exercise of the remedies is not contained in the individual administrative act or is indicated incorrectly, the prior request may be submitted within one year from the communication or notification of the administrative act or rejection of the petition.

The legal effects of the individual administrative act become valid for the person to whom it is intended or who is affected by it when it is communicated to him (art. 139).

An individual administrative act obtains the power of the decided thing when it can no longer be challenged neither in advance, nor by action in the competent court. If an individual administrative act has several addressees or several persons are affected by it, the power of the decided thing may occur at different times for each of these persons (art. 140).

A legal relationship in the field of public law may be established, amended or terminated by an administrative contract, if this does not contravene the provisions of the law. In particular, the public authority may conclude, instead of issuing an individual administrative act, an administrative contract with the person to whom the administrative act would have been addressed (art. 154).

Regarding the modalities of the appeal of the administrative acts with which the party to the administrative procedure does not agree, we note that, according to the general procedure provided by the code, there are the following stages of jurisdiction, as follows:

Preliminary procedure (art. 162-169)

The preliminary procedure aims at verifying the legality of the individual administrative acts.

The prior application shall be submitted in writing, on paper or in the form of an electronic document, to the issuing public authority.

The prior request shall be submitted within 30 days of the communication or notification of the individual administrative act or of the rejection of the petition. If the public authority does not resolve the request within the term provided by the code, or does not correctly indicate the means of appeal of the administrative act, the preliminary request may be submitted within one year from the expiration of the term.

After examining the prior application, the public authority may admit in whole or in part, or reject, the prior application submitted (art. 167). At the same time, in certain

situations, the public authority may order the resumption of the administrative procedure (art. 170).

Administrative litigation procedure

If the public authority does not resolve the prior request in time, or rejects the request, the participant in the administrative procedure has the right to challenge the administrative act in court in the order of administrative contentious.

Thus, any person who claims the violation of his right through the administrative activity of a public authority may file an action in administrative litigation (art. 189).

Regarding the jurisdictional competence for the action in administrative contentious (art.191), we note that, as a rule, the courts resolve in substance all the actions in administrative contentious. The courts of appeal resolve in the first instance the actions in administrative contentious against the normative administrative acts, which are not subject to the constitutionality control. At the same time, the Chisinau Court of Appeal resolves in the first instance the administrative litigation actions against the decisions of the Superior Council of Magistracy, the Superior Council of Prosecutors, the documents issued by the National Bank of Moldova, as well as the administrative litigation actions assigned in its jurisdiction by the Electoral Code. The courts of appeal also resolve appeals against judgments and appeals against decisions issued by judges. The Supreme Court of Justice settles appeals against the decisions, decisions and rulings of the Court of Appeal.

It is worth noting that, in the proceedings at first instance, in the appeal procedure and in the procedure for examining appeals against court decisions, factual and legal issues are resolved *ex officio*. In the procedure for examining appeals, the contested judgments and decisions shall be examined *ex officio* as to the existence of procedural errors and the correct application of substantive law.

In this way, the phrases “*ex officio*” of the aforementioned norm, corroborated with the common principle of administrative procedure and administrative contentious procedure - “*Ex officio investigation*” (art. 22) denote that the administrative contentious court is entitled to determine the type and volume of investigations and is not related to the participants' submissions or their requests for evidence. Thus, the administrative contentious court examines the legality of the administrative act as a whole.

When examining the action in administrative contentious, the court may attract in the process, *ex officio* or upon request, persons whose rights are affected by the dispute in question. If a third party participates in the disputed legal relationship in such a way that the court's decision would directly interfere with his rights, then this third person must be involved in the process (art. 205).

The types of actions in administrative litigation are (art. 206):

- annulment in whole or in part of an individual administrative act (action in appeal);
- obliging the public authority to issue an individual administrative act (binding action);
- imposition on action, tolerance of action or inaction (action in progress);

- finding the existence or non-existence of a legal relationship or the nullity of an individual administrative act or an administrative contract (action for finding);
- annulment in whole or in part of a normative administrative act (normative control action).

The court verifies *ex officio* whether the conditions for the admissibility of an action in the administrative litigation are met. If it is inadmissible, the action in administrative contentious is declared as such by a court decision susceptible to appeal (art. 207).

The appeal action and the enforcement action are filed within 30 days, unless otherwise provided by law. If the information on the exercise of the remedies is not contained in the individual administrative act or in the decision on the prior application or is indicated incorrectly, the filing of the action in administrative litigation shall be allowed within one year of the decision on the prior application. For the action in realization, the action in ascertainment and the action of normative control, there is no term for submitting the action in administrative contentious (art. 209).

The legislator provided for certain measures to ensure the action, namely:

- suspension of the execution of the contested individual administrative act (art. 214);
- issuance of the provisional ordinance (art. 215). The provisional ordinance is issued when: on the basis of a summary examination, the court concludes that the claim claimed by the applicant is well-founded; and the issuance of the provisional ordinance is necessary to avoid serious and irreparable consequences for the applicant.

Decisions on the merits shall be motivated in writing within 45 working days from the registration of the request for appeal or appeal filed within or within 45 working days from the submission of a request for motivation of the decision. The request for motivation of the decision shall be submitted within the period of forfeiture of 15 days from the pronouncement of the operative part of the decision. If the appellate court reinstates the appellant or the appellate court reinstates the appellant within the term of the appeal / recourse, the decision on the merits shall be motivated within 15 days from the receipt of the rescheduling decision. Decisions on the merits issued on the basis of normative control actions shall be motivated in writing within 15 days from the pronouncement, regardless of whether or not an appeal has been filed (art. 226).

The decisions of the courts adopted in the administrative contentious can be appealed. The appeal is submitted to the court that issued the contested decision within 30 days from the pronouncement of the operative part of the decision, if the law does not establish a shorter term. The court that issued the contested decision sends the appeal without delay together with the judicial file, after the motivation of the decision, to the appellate court. The motivation of the appeal is presented to the appellate court within 30 days from the date of notification of the motivated decision.

The court order of the first instance and of the appellate court may be appealed, separately from the decision, in the cases provided by this code and by other laws. The court order of the first instance and of the appellate court which are not contested separately by appeal may be challenged together with the merits, if this code or other laws do not provide for any appeal for court order.

The appeal against the court order is filed with the motivated court that issued the contested decision within 15 days from the notification of the court decision, if the law

does not establish a shorter term. The court that issued the contested order shall immediately send the appeal against the decision together with the court file to the court competent to resolve the appeal.

Decisions of the appellate court as a court of the first instance as well as decisions of the appellate court may be appealed. The appeal is filed with the appellate court within 30 days from the notification of the decision of the appellate court, if the law does not establish a shorter term. The appellate court shall forward the appeal to the Supreme Court of Justice without delay, together with the court file. The motivation of the appeal is presented to the Supreme Court of Justice within 30 days from the notification of the decision of the appellate court.

The courts of appeal are competent for the execution of court decisions and reconciliation court transactions. If a legal person under public law does not fulfill its obligation to issue an individual administrative act within 15 days, the appellate court may itself issue, in appropriate cases, the administrative act.

If at least two attempts to execute have not been successful, the appellate court may order a person to be executed. The person with an enforcement order act under the control of the appellate court, the enforcement measures taken by this person being considered as decisions of the appellate court. The person with an enforcement order is entitled to take all measures to fulfill the obligation arising from the writ of execution. The head of the legal person under public law, as well as all his collaborators, are subject to the instructions of the person with an execution mandate aimed at fulfilling the obligation arising from the executory title. An official or a judge in the exercise of his or her office or a person who has held a position of public dignity shall be appointed as a person with an executive mandate. The collaborators of the legal person of public law in respect of which the execution takes place cannot be appointed. The designation may be excluded only for serious health reasons or for reasons of similar significance.

F. Public financial management (PFM)

71. **Has Moldova adopted a comprehensive PFM strategy with a medium-term action plan, covering the key PFM sub-systems and issues in each (i.e. budget preparation, revenue administration and collection, budget execution with cash management, public procurement systems, debt management, public internal financial control, budget inspection, accounting and reporting and external audit, etc.)? If not, is Moldova planning to adopt a comprehensive reform programme? In what timeframe?**

PFM Development Strategy for 2013-2020, extended to 2022

The PFM Development Strategy (the “Strategy”) for 2013-2020 was approved by Government Decree No. 573/2013³⁷⁷ (*Official Gazette No. 173-176 of August 9, 2013*), based on findings and recommendations arising from the Public Expenditure and Financial Accountability Assessment (PEFA 2011)³⁷⁸, which provided comprehensive evidence on a wide range of topics related to the core components of public finance

³⁷⁷ https://www.legis.md/cautare/getResults?doc_id=125548&lang=ro

³⁷⁸ https://mf.gov.md/sites/default/files/pefa_2011.pdf

management. The aim of the strategy is to develop efficient management of public finances, in order to contribute to the ultimate goal of sustainable economic growth.

The Strategy integrates seven components of the PFM into a single policy framework:

- **Component 1. Macro-budgetary framework**, which includes areas of the macroeconomic forecast (including a forecast of revenues) and monitoring of public sector debt and of state guarantees.
- **Component 2. Budget preparation and planning**, which covers areas of budget credibility, transparency and comprehensiveness, budget policy, inter-budgetary relations, and public investments.
- **Component 3. Budget execution, accounting, and financial reporting** refer to areas regarding the execution of the budget, liquidity management, reporting on the execution of the budget, accountability, and financial reporting.
- **Component 4. Financial management and internal control**, which covers areas like internal control, internal audit, and financial inspection.
- **Component 5. Revenue management** aims to ensure an adequate level of budget revenues by implementing modern, fair, and coherent measures of tax and customs administration.
- **Component 6. Public procurement** aims to develop a modern public procurement system in line with European Union standards.
- **Component 7. Public Finance Management Information System**, refers to the development and implementation of the PFM Informational System.

Amending and updating the PFM Development Strategy in December 2017

After four years of implementation, in 2017 the Strategy had to be adapted to the Government's commitments included in the Association Agreement, in the Strategy on public administration reform for 2016-2020, approved by Government Decree No. 911 of July 25, 2016³⁷⁹ (*Official Gazette of the Republic of Moldova No.256-264 of July 12, 2016*) and its Action Plan for 2016-2018, approved by Government Decree No. 1351 of December 15, 2016³⁸⁰ (*Official Gazette of the Republic of Moldova No.459-471 of December 23, 2016*). At the same time, it was revised according to findings and recommendations of 2015 PEFA³⁸¹ and SIGMA's 2015 Baseline Measurement³⁸² of public administration from the Republic of Moldova. As a result, the PFM Development Strategy was amended and updated by the Government Decree No. 1149 of December 20, 2017³⁸³ (*Official Gazette of the Republic of Moldova No. 7-17 art. 5 of January 12, 2018*).

Amending and updating the PFM Development Strategy in January 2021

³⁷⁹ https://www.legis.md/cautare/getResults?doc_id=119202&lang=ro#

³⁸⁰ https://www.legis.md/cautare/getResults?doc_id=96817&lang=ro

³⁸¹ <https://www.pefa.org/node/916>

³⁸² <https://www.sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf>

³⁸³ https://www.legis.md/cautare/getResults?doc_id=102499&lang=ro

In the last year of Strategy implementation (2020), systematic monitoring undertaken by the Ministry of Finance, based on annual performance indicators, had revealed missed deadlines primarily due to political instability in 2019 and to the effects of the pandemic in 2020. Because objectives and most of the reform measures in the Strategy remained relevant, the implementation period of the PFM Development Strategy 2013-2020 was extended for another two years to 2022. This decision was supported by development partners and coordinated with the EU Delegation. Thus, the Government Decree No. 573/2013 on PFM Strategy 2013-2020 was amended by Government Decree No. 9/2021 (*Official Gazette of the Republic of Moldova No. 22-32 of January 21, 2021*). Annual actions planned as part of the PFM Development Strategy are integrated into the annual working plan of the Ministry of Finance.

The Ministry of Finance is undertaking an ex-post evaluation of the current PFM Development Strategy with the support of OECD/SIGMA. As part of the evaluation process, an ex-ante impact assessment of policy priorities in PFM areas is also being carried out with the support of GIZ. At the same time, the 2021 PEFA (Public Expenditure & Financial Accountability) has been completed and the final report will be issued soon. All three exercises will lay the ground for an updated PFM strategy for the forthcoming period which is expected to be completed by the end of 2022.

72. How is monitoring and reporting of PFM reforms ensured? Is civil society involved in monitoring? How often are monitoring reports prepared? Are they published?

Monitoring of progress on the implementation of the PFM Strategy is performed on a continuous basis, using annual performance targets. Civil society is not involved at this stage.

Reporting on the implementation progress is done annually.

Reports are published in Romanian on the Ministry of Finance website³⁸⁴ where they can be accessed and reviewed by civil society actors.

73. Please describe the measures that Moldova has taken to ensure budget transparency across the different phases of the budget cycle (budget preparation, approval, executing and oversight)?

The legal framework for budgetary transparency is ensured by the Law No. 239/2008 on transparency in the decision making process³⁸⁵, Government Decision No. 967/2016 on public consultation mechanism with civil society in the decision making process³⁸⁶

³⁸⁴ <https://mf.gov.md/ro/managementul-finan%C8%9Belor-publice/strategia-de-reform%C4%83-a-mfp/planuri-%C8%99i-rapoarte>

³⁸⁵ *Official Gazette of the Republic of Moldova No. 215-217 of December 5, 2008* https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

³⁸⁶ *Official Gazette of the Republic of Moldova No. 265-276 of July 19, 2016*

and Government Decision No. 188/2012 on the official websites of public administration authorities in Internet³⁸⁷.

Budget transparency is ensured at different stages of the budgetary cycle as follows:

- Preparation of the budget:

Draft laws on the annual state budget, including explicative notes, are published on the Ministry of Finance website and on the Government consultation platform <https://particip.gov.md/ro>.³⁸⁸ The Medium Term Budgetary Framework – the document that sets the macro-fiscal framework for the forthcoming three years for the national public budget and of its components – is published on the Ministry of Finance website³⁸⁹.

- Approval of the budget:

After approval by Parliament, annual budget laws are published online as follows:

- The state registry of legal acts, where all approved laws and regulations are published, including the Law on the state budget - <https://www.legis.md/>
- Ministry of Finance website, where annual laws on state budget are published - <https://mf.gov.md/ro/content/bugetul-de-stat-2022>.

Since 2015, based on the approved annual Law on the state budget, the Ministry of Finance prepares the Citizens' Budget. This is an instrument developed to present the budget in a simple and accessible format ensuring that each citizen understands its provisions. It is also published on the Ministry of Finance website³⁹⁰.

- Execution and supervision of the budget:

Below is a summary of publications providing transparency on budget execution:

Annual report on execution of the state budget, after approval by the Government	<p>Ministry of Finance website - https://mf.gov.md/ro/trezorerie/rapoarte-privind-executarea-bugetului/rapoarte-anuale</p> <p>Government open data platform - https://date.gov.md/ckan/ro/dataset/15932-raport-anual-privind-executarea-bugetului-de-stat</p>
Consolidated financial report for the central government	<p>Ministry of Finance - https://www.mf.gov.md/ro/trezorerie/raport-financiar-consolidat-pentru-guvernul-central</p> <p>Government open data platform - https://date.gov.md/ckan/ro/dataset/18539-raport-financiar-consolidat-pentru-guvernul-central</p>

https://www.legis.md/cautare/getResults?doc_id=119856&lang=ro#

³⁸⁷ Official Gazette of the Republic of Moldova No. 70-71 of April 6, 2012

³⁸⁸ For example, the draft budget law for 2022 is published on <https://www.mf.gov.md/ro/content/proiectul-legii-bugetului-de-stat-pentru-anul-2022-0> and <https://particip.gov.md/ro/document/stages/proiectul-legii-bugetului-de-stat-pentru-anul-2022/8509>.

³⁸⁹ <https://www.mf.gov.md/ro/buget/cadrul-bugetar-pe-termen-mediu>

³⁹⁰ <https://mf.gov.md/ro/content/ministerul-finan%C8%9Belor-publicat-bugetul-pentru-cet%C4%83%C8%9Bni-pentru-anul-2022>

Report on the execution of the Citizens' Budget	Ministry of Finance - http://mf.gov.md/ro/trezorerie/rapoarte and Government open data platform - https://date.gov.md/ckan/ro/dataset/18540-raport-privind-executarea-bugetului-pentru-cetateni
Semi-annual report on the execution of the national public budget and its components, after approval by the Government	Ministry of Finance - https://mf.gov.md/ro/trezorerie/rapoarte-privind-executarea-bugetului/rapoarte-semianuale Government open data platform - https://date.gov.md/ckan/ro/dataset/15929-raportul-semianual-privind-executarea-bugetului-public-national-si-a-componentelor-acestua
Monthly reports on the execution of the national public budgets	Ministry of Finance - http://mf.gov.md/ro/trezorerie/rapoarte-privind-executarea-bugetului/rapoarte-lunare Government open data platform - http://date.gov.md/ckan/ro/dataset/15071-raport-privind-executarea-bugetului-public-national
Platform on data regarding the execution of the national public budget (VDEB), which is updated monthly and specific reports can be generated at request	https://buget.mf.gov.md/ro
Detailed database on public expenditures (BOOST) is updated annually	Ministry of Finance - http://mf.gov.md/ro/search/node/boost Government open data platform - https://date.gov.md/ckan/ro/dataset/15421-baza-de-date-a-cheltuielilor-publice-boost
Open data catalog	https://mf.gov.md/ro/ministerul-finan%C8%9Belor/catalogul-de-date-deschise-al-ministerului-finan%C8%9Belor

VI. Civilian oversight over security forces

74. **Is there civilian control over the security forces, including intelligence services, and how is it exercised? Please describe the relevant arrangements in place for parliamentary control of security forces.**

The civilian democratic control of the security and defence forces and other public order institutions (see the box below) is ensured within four levels: 1. Legislative oversight/control (the Parliament); 2. Executive control (the President /Government); 3. Judicial oversight (Courts/ Audit); 4. Decision-making transparency (Mass media/Public).

Pursuant to the Law No 345/2003³⁹¹ on National Defence, the democratic control over the Armed Forces is based on the authority of the political factor over the military and subordination of the military structures to the democratically-elected civil public authorities.

1. Parliamentary oversight

The Parliament's control/oversight over the Armed Forces is executed through the approval of the National Security Strategy, National Defence Strategy and Military Doctrine of the state; of the structure and the number of the Armed Forces; of the volume of budgetary allocations for defence needs; of the regulation on military code of conduct. Furthermore, the Parliament has the exclusive right to declare a state of emergency, siege, war, mobilization and demobilization.

The Parliament's oversight over the Armed Forces is ensured by receiving defence related reports, analyses, programs, inquires and hearings via Parliamentary Committee for National Security, Defence and Public Order. The important defence-related issues are examined at parliamentary sessions.

The state security services are also subject to democratic parliament control ensured through parliamentary hearings and inquiries, public or closed meetings reports or the Parliament's Committee on National Security, Defence and Public Order hearings/investigation activities.

In the sector covered by the Committee on national Security, Defence and Public Order, parliamentary oversight refers to: aspects of national security, the service in specialised executive structures responsible for national security; combatting criminality, corruption and terrorism; ensuring public order and road traffic security; state border guard and state border regime, Armed Forces reform (National Army, Border Police, General Inspectorate of Carabineers), service in the Armed Forces and Civil alternative service, social and legal protection of militaries; service in the customs agencies, in the penitentiary system and the agencies of civil protection and exceptional situations; state secret protection; providing identity papers to citizens, ensuring personal data protection; monitoring and assessing the implementation of national strategies in the respective field; examining petitions assigned to the Committee in compliance with its competences and their settlement in accordance with the current legislation.

The Committee on National Security, Defence and Public Order, includes a Subcommittee for the Exercise of the Parliamentary Oversight of the Security and

³⁹¹Law No. 134/2008 on the State Protection and Guard Service, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110393&lang=ro

Intelligence Service. The mission of this Subcommittee is to oversee the observance by the Security and Intelligence Service of legality and fundamental human rights and freedoms and to ensure the non-admissibility of the Service's political engagement. In order to achieve this mission, a representative of the parliamentary opposition is elected as Chair of the Subcommittee. The Subcommittee has the task to verify the compliance by the Intelligence and Security Service with the provisions of the Constitution and the laws governing its activity, to examine the cases of violation of the Constitution, laws and constitutional rights and freedoms of the citizens.

The parliamentary oversight of the Security and Intelligence Service is carried out through the Committee on National Security, Defence and Public Order, which establishes and approves the manpower of the Intelligence and Security Service of the Republic of Moldova, exercises control over the activity of the Intelligence and Security Service, examines the activity reports of the Intelligence and Security Service of the Republic of Moldova and carries out the parliamentary oversight of the activity of the Service.³⁹²

2. Executive control

The Government and the President shared the executive control over national defence and security institutions.

The Government ensures executive control, development and monitoring of the implementation of national policies in the field of national defence, security and public order. The Government's control over the Armed Forces is exercised by promoting draft laws to the Parliament, concluding international treaties on military cooperation with other states, and providing a framework for the development of the country's defence capabilities, including the formulation of security and defence budgets.

The Ministry of Defence (MoD)³⁹³ is the main central public administration authority in charge of policy development and monitoring the implementation of policies the following key areas: 1) defence policy; 2) national defence planning; 3) analysis and military information; 4) the resources of the national defence system; 5) human resources development in the military field; 6) military education; 7) international cooperation in the military field; 8) military interoperability.

The Ministry of Internal Affairs (MoIA)³⁹⁴ is the main central public administration authority in charge of policy development and monitoring the implementation of policies in the following key areas: 1) public order and security; 2) integrated state border management; 3) combating organized crime; 4) managing the migratory flow, asylum and integration of foreigners; 5) prevention and liquidation of the consequences of emergency and exceptional situations, civil protection, fire protection and the provision of qualified first aid; 6) ensuring the observance of fundamental human rights and freedoms, as well as the defence of public and private property; 7) records of population and citizenship, records of vehicles and drivers; 8) material and mobilization material reserves;

³⁹² Law No. 299/2017 on the approval of the Information Security Concept of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105660&lang=ro

³⁹³ Government Decision No. 692/2017 on the organisation and functioning of the Ministry of Defence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119191&lang=ro

³⁹⁴ Government Decision No. 693/2017 on the organisation and functioning of the Ministry of Internal Affairs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119192&lang=ro

Pursuant to the art. 87 of the Constitution of the Republic of Moldova, the **President of the Republic of Moldova** is the Commander-in-Chief of the Armed Forces, the President of the Republic of Moldova exercises the highest level of civilian control over the security and defence forces. The President controls the Armed Forces by promulgating defence-related laws, using his right to request the Parliament to re-examine specific laws and Constitutional Court to confirm the Law's constitutionality.

The President approves by decree:

- the programs and plans for the construction and development of the Armed Forces;
- the composition of the Military Council of the Ministry of Defence;
- the appointment Chief of General Staff on the proposal of the Government,
- the appointment of the Head of the Security and Intelligence Service
- the appointment of the Head of the State Protection and Guard Service.

The President of the Republic of Moldova chairs the **Supreme Security Council (CSS)**, which is an advisory body that analyses the activity of ministries and other central administrative authorities in the field of ensuring national security. CSS carries out its activity on the basis of the Constitution of the Republic of Moldova, No. 618/1995 on State Security, the CSS Regulation³⁹⁵, and other national legislation. CSS has the following key functions:

- assists the President of the Republic of Moldova in the exercise of his constitutional duties, in order to defend the sovereignty, independence and territorial integrity of the Republic of Moldova;
- consults the President of the Republic of Moldova on issues of internal and foreign policy of the state aimed at national security and defence;
- coordinates and monitors policy documents in the field of ensuring national security and defence;
- analyses and drafts policy proposals for addressing the threats and risks to national security and defence;
- formulates proposals for the President of the Republic of Moldova, in order to optimise the system of ensuring national security and defence;
- presents to the public authorities proposals and recommendations on issues related to national security and defence;
- develop an efficient system of analysis, expertise and strategic planning, in order to ensure national security and defence, including in crisis situations.

3. Judicial oversight

The judiciary oversight of the state security services is exercised during the court trials on criminal cases, abuses committed by state security and defence sectors members, and illegal actions made by citizens against state security members and officeholders. The Office of the General Prosecutor and public prosecutors monitor, investigate and

³⁹⁵ Decree of the President No. 58/2021 on the Regulation of of the Supreme Council of Security, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125934&lang=ro

oversight implementation of laws of the state security structures and laws on defence, other security and defence-related legal acts. A set of clauses of the Law no 59/2012 on the special investigation activity³⁹⁶ envisage procedures for the Security and Intelligence Service activity coordination by Coordination Council, under the jurisdiction of the General Prosecutor of Moldova. The Court of Audit exercises the financial oversight of budget execution of security forces.³⁹⁷

4. Decision making transparency/Mass-media

Pursuant to the Law No 982/2000 on information access³⁹⁸, all public authorities are obliged, where appropriate, to ensure that citizens, associations and other interested parties can participate in the decision-making process.. The public institutions are obliged to publish on their official web-pages and consult with public drafts of decision-making documents related to Government decisions or Parliament Law adoption unless it is confidential. This also relates to the public procurement process.

National security and defence forces, and public order institutions and their key functions:

Pursuant to Law No. 618/1995 on State Security³⁹⁹ **the Security Forces** in the Republic of Moldova are composed of the Security and Intelligence Service (SIS)⁴⁰⁰, State Protection and Guard Service (SPPS)⁴⁰¹, General Inspectorate of Border Police⁴⁰² and Customs Service⁴⁰³. Pursuant to the the Law No 345/2003 on National Defence⁴⁰⁴ **the Armed Forces** include the National Army and General Inspectorate of Carabineers⁴⁰⁵. **Public order institutions** include the General Inspectorate of Police⁴⁰⁶, General Inspectorate of Carabineers, General Inspectorate on Emergency Situations⁴⁰⁷.

The Security and Intelligence Service is a special body that assures the state security, protects and secures persons, who benefit from governmental protection, and objects under a special security regime. The activity of the Service is coordinated by the President of the Republic of Moldova within the limits of his competence and is subject to parliamentary control, carried out by the Committee on National security, defence and public order following its Terms of Reference.

³⁹⁶Law no 59/2012 on the special investigation activity, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123543&lang=ro

³⁹⁷Law No. 753/1999 on the Security and Intelligence Service of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121235&lang=ro

³⁹⁸ Law No 982/2000 on information access, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

³⁹⁹Law No. 618/1995 on state security, available in Romanian at:

[#">https://www.legis.md/cautare/getResults?doc_id=124125&lang=ro">#](https://www.legis.md/cautare/getResults?doc_id=124125&lang=ro)

⁴⁰⁰ Law No. 753/1999 on the Security and Intelligence Service of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121235&lang=ro

⁴⁰¹ Law No. 134/2008 on the State Protection and Guard Service, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=114811&lang=ro

⁴⁰² Law No. 283/2011 on Border Police, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106470&lang=ro

⁴⁰³ Law No. 302/2017 on Customs Service, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121328&lang=ro

⁴⁰⁴ Law No 345/2003 on National Defence, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110393&lang=ro

⁴⁰⁵ Law No. 219/2018 on the General Inspectorate of Carabineers, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=120688&lang=ro

⁴⁰⁶ Law No. 320/2012 on the Police and statute of police person, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=120699&lang=ro

⁴⁰⁷ Government Decision No. 137/2019 on General Inspectorate for Emergency Situations, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113037&lang=ro

The State Protection and Guard Service is a special body that provides state protection and guarding of state officials and public authority buildings (Parliament, President Office, Government buildings) and critical government infrastructure. In addition, it is responsible for high-ranking officials' protective (bodyguard) measures – Chairperson of Parliament, President, and Prime-minister. In addition, it is responsible for the protection of official international delegations on the territory of the Republic of Moldova. The activity of the Service is coordinated by the President of the Republic of Moldova within the limits of his competence and is subject to rigorous parliamentary control, carried out by the subcommittee of the Committee on National security, defence, and public order following its Terms of Reference, according to Law no 797/1996 on the Rules of Procedure of adaptation of Terms of Reference of the Parliament.⁴⁰⁸

The General Inspectorate of Police is an armed body of the public authorities responsible for protecting citizens' lives, health and liberties, and society and state interests against criminal or other delinquent attacks. Office of the Prosecutor General and public prosecutors executes general oversight over the Police.

The General Inspectorate of Carabineers is a specialized state authority with military status, aimed to maintain public order, prevent and investigate offences and contraventions, protection of objectives of particular importance. During peace time, Carabineers exercise policing powers, but on the declaration of the state of siege or war, it performs the specific duties of the Armed Forces. Civilian control is ensured within the legislative framework depending on its responsibilities, either under the Armed Forces or the Police.

The General Inspectorate of Border Police executes tasks and implements state policy on integrated management of the state border, combating illegal migration and cross-border crime.

The General Inspectorate of Emergency Situations performs tasks to protect the population, territory, environment, and property in danger or exceptional circumstances.

The Customs Service is the law enforcement body of executive authority, which carries out customs policies and manages customs activities. The Parliament and the Government have the right to issue decisions on the competence of customs bodies, modify their powers, impose other functions on them or interfere with their work.

The Armed Forces are composed of the National Army and the Carabineers, which are empowered with the following national defence tasks: state defence; supporting national public authorities in crisis management and disaster relief operations; contributing to the international peace support (peacekeeping) missions and operations (efforts).

⁴⁰⁸ Law no 797/1996 on the Rules of Procedure of the Parliament, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130560&lang=ro#

VII. The Judiciary

A. Organisation and structure of the court and prosecutorial system

- 75. Please provide a brief description of legislation or other rules governing the structure and functioning of the judicial system, including the organisation framework and number of courts. Are there any tribunals outside the ordinary judicial system (such as military tribunals, juvenile tribunals, etc.)?**

The judicial system is exercised through the court system governed by the Constitution and organic laws. The technical aspects regarding the functioning of the courts are covered by decisions and regulations of the Government, and by regulations adopted by the Superior Council of Magistracy.

According to the first section of Chapter IX of the Constitution of the Republic of Moldova, justice is carried out by the Supreme Court of Justice (1), courts of appeal (4) and the first instance courts (15). In some instances, according to the law, specialized courts of law can be established to solve specific cases. Establishing extraordinary or ad-hoc courts of law is forbidden. There are no tribunals outside the ordinary judicial system.

Please note that there is also a Constitutional Court in Moldova, however, it is not part of the judicial system as it only hears cases about the constitutionality of legal acts of Moldova.

The Supreme Court of Justice is the highest court of law and ensures the correct and unitary implementation of laws by all courts in the Republic of Moldova. The organization and functioning of the Supreme Court of Justice is regulated by the Law on the Supreme Court of Justice No. 789 of 26.03.1996. The courts of appeal are the hierarchically superior courts concerning ordinary ways of appeal. The courts of appeal examine the appeals against the decisions of the first instance courts (the courts of law), as well as in other cases provided by the law. The ordinary courts examine all cases and requests, except for those that are under the jurisdiction of other courts of law.

The Law No. 514/1995 on the judicial organization sets out the main provisions regarding the judicial system, such as: general provisions, judicial system structure and functioning, management of the courts, and funding. The Annexes of the Law depict the headquarters and the constituency of the first instance courts and the courts of appeal. Respectively, there are fifteen first instance courts according to the administrative districts and four courts of appeal exercising jurisdiction over several first instance courts.

Relevant legislation for the functioning of the courts includes:

- Law No. 514/1995 on the judicial organization;
- Law No. 789/1996 on the Supreme Court of Justice;
- Law No. 76/2016 on the reorganization of the courts;
- Law No. 59/2007 on the status and organization of the activity of court clerks;
- Parliament Decision for the approval of the Plan for the construction of new buildings and / or the renovation of existing buildings, necessary for the proper conduct of the court system No. 21/2017;

- Government Decision regarding the approval of the Technical Concept of the Judicial Information System No. 593/2017;
- Government Decision for the approval of the Regulation on the organization and functioning of the Judicial Information System No. 794/2018;
- The instruction regarding the activity of evidence and procedural documentation in courts and courts of appeal, approved by the Decision of the Superior Council of Magistracy No. 142/4 of 04.02.2014 with subsequent amendments and completions (SCM decision No. 368/19 of 31.07.2018);
- Regulation on the random distribution of files for examination in the courts, approved by the Decision of the Superior Council of Magistracy No. 110/5 of 05.02.2013;
- Regulation on the manner of publication of judgments on the national portal of courts and on the website of the Supreme Court of Justice, approved by the Decision of the Superior Council of Magistracy No. 658/30 of 10.10.2017.

76. Please describe the geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud, organised crime and corruption cases and indicate any ongoing and planned changes.

Geographical distribution and number of courts / jurisdictions

In the Republic of Moldova, the judicial system comprises the Supreme Court of Justice (1 court), the courts of appeal (4 courts) and the courts of the first instance (15 courts). The Supreme Court of Justice is the only supreme court in the country and is located in the capital city, Chisinau.

A dedicated Law No. 514/1995 on judicial organisation sets forth the geographical distribution of courts in the country (Annex No. 2 of the Law). The current number of courts is the result of a reform to consolidate and optimise the judicial map, including by way of merging of a more extensive number of previously existing courts, started in 2016.

The judicial map optimisation reform was based on the following criteria: number of localities in the districts and the number of the population; the number of judges in each court; workload per court; condition of the court buildings; distance from the place of residence to the nearest court, including the time required to reach the court, as well as the level of development of the road infrastructure.

Court specialization

Currently, there are no specialised courts in Moldova. At the same time the Constitution of the Republic of Moldova and the legal framework allow the setting up specialized courts and at various moments in history Moldova used to have economic courts, military tribunals, etc. Similarly, specialised courts may be established in the future.

At the same time, courts may set up specialized chambers or panels. Thus, there is a Civil, Commercial and Administrative Litigation Chamber, as well as the Criminal Chamber within the Supreme Court of Justice. The legislation allows the creation, if necessary, of other boards for hearing certain categories of cases, at all court levels. For example, there is also a Civil and a Criminal Panel in the Chisinau Court of Appeal, as well as at the Courts of Appeal of Balti, Cahul and Comrat.

Additionally, courts may choose to specialise in certain categories of cases in addition to smaller or other cases that all courts hear. Thus, in Chisinau, the capital city, which is relatively small, the first instance court has five premises. The Superior Council of Magistracy adopted the Decision nr. 555/25 of 11/27/2018 on the specialization of the Chisinau district court premises, as follows: Chisinau Centre District Court hears civil cases; Chisinau Botanica district Court - insolvency and liquidation cases; Chisinau Buiucani district Court - criminal and contravention (misdemeanour) cases; Chisinau Riscani district Court - administrative cases; and Chisinau Ciocana district Court – the activity of the investigative judges.

Regards to fraud, organized crime, and corruption cases, these are heard by specialised chambers and panels within courts.

Ongoing plans for reform

For the current 2022 year, the Government has planned “the analysis of the judicial map in order to identify needs for court office and location restructurings taking into account the distance to courts and access to justice”. At the same time, the Government Programme provides for the creation of the Anticorruption Court and Anticorruption Court of Appeal, which would hear exclusively high corruption cases investigated by the Anticorruption Prosecutor's Office. This point of the Programme shall be further consulted with the public.

- 77. Is the jurisdiction of every court stipulated in clear and predictable terms? How is the conflict of jurisdiction regulated and how is it enforced by the courts? Are there areas where courts are too small for objective case allocation and/or specialisation? Can the physical distance and lack of communications be problematic in light of access to justice? Please provide concrete examples.**

Court jurisdiction

The rules on the jurisdiction of the courts are clearly and comprehensively regulated. The competence of the courts in the Republic of Moldova is determined by several criteria, which are provided in the codes of procedure.

First, it is necessary to decide the level of the court that will hear the case. There are cases that are tried in the first instance by the trial courts (this category includes most of the cases), there are cases for which the role of "court of first instance" belongs to the Court of Appeal (for example, appeals against the decisions of the Superior Council of Magistracy and the Superior Council of Prosecutors), or the Supreme Court of Justice (it has the power to adjudicate in the first instance the criminal cases regarding the crimes committed by the President of the Republic of Moldova).

Second, the territorial jurisdiction of courts must be considered. The annexes to the Law on Judicial Organization No 514/1995 regulate both the list of courts in the country and the list of all towns, villages and other settlements within their territorial constituency. In addition, the Code of Civil Procedure and the Code of Criminal Procedure provide details on certain specific issues related to the territory, depending on the specific civil or criminal case.

Third, there are additional criteria depending on the case subject matter. For example, for civil proceedings, the issues that are regulated are the following: the jurisdiction competence in case of competition of claims, the jurisdiction in adjudicating the related claims, the general territorial jurisdiction, the jurisdiction at the discretion of the claimant, the exceptional jurisdiction, the jurisdiction over inheritance, the jurisdiction if there are a number of related cases (Chapter IV Civil Procedure Code, No 225/2003).

The jurisdiction of the courts in criminal proceedings includes the jurisdiction depending on the level of the court, the territorial jurisdiction in criminal matters, the jurisdiction of the instruction judge, the jurisdiction in case of indivisibility or interconnection of criminal cases (Title II, Chapter II from Criminal Procedure Code No 122/2003).

For contravention cases, the Contravention Code expressly provides that these cases can be resolved by a judicial court; the prosecutor; administrative commission; the ascertaining agent. In material terms, the courts are competent to adjudicate all cases concerning contraventional (misdemeanour) offenses, except those assigned by this Code to the jurisdiction of other authorities, as well as a series of offenses expressly assigned to the courts. The contravention cases shall be solved by the court under the territorial jurisdiction of which the contravention was committed. In case of continuous or prolonged contravention, the case is solved by the authority under the territorial jurisdiction of which the offense ended (Art. 393 para.(2) from ContraventionCode No. 218/2008).

The Contravention Code, in addition to the territorial competence mentioned above, comes with certain details regarding the jurisdiction.

Conflict of jurisdictions

Regarding the conflicts of jurisdiction, please note that each procedural code regulates the way in which possible conflicts of jurisdiction between the courts shall be resolved and the stage of proceedings at which it is possible to relocate the case.

Thus, in the civil procedure, the court before which the conflict of jurisdiction arose suspends the proceedings ex officio and forwards the case to the court entitled to resolve the conflict of jurisdiction (Art 44 Civil Procedure Code, No 225/2003). When two or more courts from the jurisdiction of the same court of appeal declare themselves competent to adjudicate the same case or when, by final decisions, they declare their incompetence to try the same case, the conflict of jurisdiction shall be adjudicated by the common court of appeal.

The conflict of jurisdiction between two or more courts that do not belong to jurisdiction of the same court of appeal or between a court and a court of appeal, or between the courts of appeal shall be judged by the Civil, Commercial and

Administrative Litigation Board of the Supreme Court of Justice (art. 44 para. (3) Civil Procedure Code).

The court competent to adjudicate the conflict of jurisdiction shall resolve, without summoning the participants in the trial, by a decision, which is not subject to any appeal.

In criminal proceedings, when two or more courts consider themselves competent to try the same case (positive conflict of jurisdiction) or decline their jurisdiction (negative conflict of jurisdiction), the dispute is resolved by the common hierarchically superior court. The common hierarchically superior court is notified, in case of a positive conflict, by the court that declared itself competent the latest, and in case of a negative conflict, by the court that was the last to decline its jurisdiction (Art. 45 Civil Procedure Code).

In all cases, the referral may be made by the parties to the proceedings. Until the positive conflict of jurisdiction is resolved, the procedure is suspended. The court which last declared itself competent or the last one declined its jurisdiction shall carry out the acts and take the measures that cannot be postponed. The common hierarchically superior court resolves the conflict of jurisdiction according to the rules applied for the first instance court. In all cases, the time limit for resolving the conflict of jurisdiction shall not exceed 7 days from the date of registering the case in the hierarchically superior court.

The court to which the case was referred by a decision establishing its jurisdiction may no longer decline its jurisdiction, unless, following the new factual situation resulting from the completion of the judicial investigation, it is found that the deed concerned constitutes an offense given by law in jurisdiction of another court.

In the administrative litigation process, the court before which the positive or negative conflict of jurisdiction arose suspends the procedure *ex officio* and submits the case to the competent court to resolve the conflict of jurisdiction. Conflicts of jurisdiction between two courts within the jurisdiction of the same court of appeal shall be settled by that court of appeal (art. 200 Administrative Code No. 116/2018). Conflicts of jurisdiction between courts under the jurisdiction of different courts of appeal, between a court and a court of appeal or between two courts of appeal shall be settled by the Supreme Court of Justice. The conflict of jurisdiction shall be resolved without summoning the participants in the trial, through a decision that cannot be appealed.

Size of the courts and case allocation

In 2016, the reorganization of the court system took place in the Republic of Moldova. Thus, as a result of optimizing the number of first-level courts, their number was reduced from 42 to 15. Given that the number of judges in the country has not been reduced, that reform has increased the number of judges per court. It is planned, for a period, that courts shall have several premises/offices (corresponding to the offices of the former courts that were merged), as it takes time and resources to improve the headquarters of the courts in order to create the necessary conditions for the physical location of all judges, specialists and auxiliary staff.

As the number of judges per court (even if in separate physical offices) has increased after the recent restructuring, there is a sufficient number of judges for meaningful allocation of cases. The only issue that may come up, until all offices are consolidated

into one, is in connection with complex cases that need to be judged by a panel of judges. Currently, there is no specialization per court (apart from the courts in Chisinau), and courts are free to decide on specialization of judges internally. The exceptions are the judges issuing arrest warrants (instruction/investigation judges) who are assigned by the SCM. Also see the answer to Question 76 above on specialization.

The SCM established the criteria for the allocation of judges per court in a dedicated Regulation on the criteria for establishing the number of judges in the courts (SCM Decision No. 175/7 dated 26.02.2013). Based on this regulation the number of judges is revised every 3 year, based on the following criteria:

- workload per judge for the last 3 years;
- total number of cases per year, per country, and number of judges per country (average annual workload per judge per country);
- complexity of cases (degrees of complexity);
- number of judges per capita;
- the number of inhabitants in the particular court jurisdiction;
- the number of cases specific to the respective court jurisdiction;
- other criteria that may influence the activity of the courts.

Below is an extract from the judge distribution table, by way of example of the smallest courts in the country:

Table Smallest courts in Moldova by number of judges

Court and its territorial offices	Judge positions	Current number of judges (excluding vacancies)
Anenii Noi Court	10	8
office Anenii Noi (Central)	7	6
office Bender	3	2
Cahul Court	15	14
office Cahul	9	9
office Cantemir	3	2
office Taraclia	3	3
Căușeni Court	10	9
office Căușeni (central)	6	5
office Ștefan Vodă	4	4
Comrat Court	10	9
office Comrat (central)	5	5
office Ciadîr-Lunga	3	3
office Vulcănești	2	1
Edineț Court	16	15
office Edineț (central)	5	5
office Briceni	5	5
office Dondușeni	3	3
office Ocnîța	3	2

Below is the allocation of judges and staff for all courts in RM.

Table. Number of judges and other staff positions per court

	Court	Other staff positions	Judge positions
1	Anenii Noi Court	51	10
2	Balti Court	125	29
3	Cahul Court	78	15
4	Căuşeni Court	52.5	10
5	Cimişlia Court	60.5	10
6	Chisinau Court	578.5	155
7	Comrat Court	62	10
8	Criuleni Court	51	9
9	Dochia Court	73	14
10	Edineţ Court	91	16
11	Hînceşti Court	70	16
12	Orhei Court	119.5	25
13	Străşeni Court	78	14
14	Soroca Court	65.5	14
15	Ungheni Court	59	12
	Total trial courts	1614.6	359
16	Chisinau Court of Appeal	197.5	57
17	Balti Court of Appeal	100	24
18	Cahul Court of Appeal	42.5	9
19	Comrat Court of Appeal	40	7
	Total appeal courts	380	97
20	Supreme Court of Justice	220	33
	TOTAL	2214.5	489

Physical distance and access to justice

Overall, Moldova is a small country, hence distance is not an issue, especially if using one's own transportation. Based on basic research one of the furthest courthouses from the communities in its jurisdiction is the Ungheni Court. It takes 45 min to 1 hour to reach the court by car from one of the most distant community, town of Nisporeni, the distance being 45 to 60 km depending on the itinerary. Ungheni is the first consolidated court and has no other premises/offices apart from its central office.

When participants in a hearing must use public transportation, the situation is patchy, depending on the transportation routes and itinerary times for buses and trains, although train coverage in Moldova is limited. There are situations when a person may need to make two or three changes to reach a courthouse and this may take a long time to be achieved in one day in order to be in court on the same day, depending on when is the time of the hearing.⁴⁰⁹

⁴⁰⁹ With regards to physical distance, here is an example of potential difficulties to reach the courthouse on time. Note however that this is an extreme example. We will refer to the situation in Donduseni district. First of all it is to be mentioned that in the town of Donduseni there is located the territorial office of the Edinet Court. Let us imagine that a casefile was handed over to a judge who is in the headquarters of that court (i.e. in the town of Edinet), then a litigant who lives in a village in Donduseni district (v. Plop) should engage in the following route: 1) from the village Plop, to the town Donduseni - there are only 2 buses per day; 2) from the town Donduseni to the town Edinet - there are 4 buses per day, three in the morning and one in the evening. It must be mentioned that the existing bus routes do not allow an efficient management of time, so that the litigant would be able to arrive on time at the courthouse. Equally difficult is the way back, from the courthouse to the place of residence. Moreover, if the court hearing ends, for example, at 18:00, and the last bus in the necessary direction was at 17:25, the litigant is unable to get back home. The same difficult situation arises, for example,

With a view to access to justice, Moldova has embraced the digitalisation trend. Our law and courts are already allowing and using videoconference for hearings in criminal and civil cases. The judiciary together with the Ministry of Justice is also considering extending the use of videoconference to many more categories of cases, and to using more digital tools of constantly emerging electronic communication tools. There is also a dedicated portal for filing court applications online and monitoring your case via the platform (E-Case). See Question 125 for more on digitalisation.

78. Please provide a description of the prosecutorial system. What are the respective roles of prosecutors and deputy prosecutors and what is the hierarchical system between them?

The prosecutorial system is set forth in the Constitution of the Republic of Moldova and consists of the Public Prosecution Service and the Superior Council of Prosecutors (SCP).

The Public Prosecution Service is an autonomous public institution within the judicial authorities which, in criminal proceedings and in other legal proceedings, contributes to the observance of the rule of law, the administration of justice, the defence of the rights and legitimate interests of individuals and companies. The main legal act governing the Public Prosecution Service is the Law No. 3/2016 on the Prosecution Office.

The Prosecutor's Office is independent from the legislative, executive and judicial powers, from any political party or socio-political organization, as well as from any other institutions, organizations or persons. Interference with the activity of the Prosecutor's Office is prohibited.

The powers of the Prosecutor's Office are exercised by public prosecutors. A public prosecutor is a person with a position of public dignity who exercises the powers of the Prosecutor's Office, provided by the Constitution, the law on the Prosecution Office, other legislative acts and international treaties to which the Republic of Moldova is a party, and is appointed to this position as provided by the law. The total number of prosecutors within the Public Prosecution Service is set by the Parliament, at the proposal of the Prosecutor General with the endorsement of the SCP.

The Public Prosecution Service is an integral system that includes: a) the General Prosecutor's Office, b) specialized prosecutor's offices and c) territorial prosecutor's offices. The number of prosecutors within each prosecutor's office is set by the SCP, at the suggestion of the Prosecutor General. The structure of the General Prosecutor's Office, territorial and specialized prosecutor's offices, as well as their locations is established and amended by the Prosecutor General, with the written consent of the SCP.

when the court hearing is set for 8.30, but the bus going to that locality only starts at 09.00. The lack of a developed infrastructure, which would allow the rapid coverage of the distance between the place of residence and the courthouse, makes it impossible for citizens to show up at the trial, as well as to postpone the court hearings.

The Prosecutor General and his/her deputies lead the activity of the Public Prosecution Service.

The staff of the Public Prosecution Service is composed of prosecutors, civil servants, civil servants with special status, and technical staff. The latter's status is regulated by Law No. 158/ 2008 on the public function and the status of the civil servant.

According to the Parliament's Decision on the approval of the staff of the Prosecution Office No. 78/2010 and its following modifications, the total number of the staff of the Public Prosecution Service consists of 720 prosecutors and 700 units of personnel auxiliary staff, including technical staff⁴¹⁰. Through the Decision nr. 12-51/17 from 26.05.2017 and its subsequent amendments the Superior Council of Prosecutors, set the prosecutors's allocation, so that currently the General Prosecutor's Office currently holds 90 prosecutor positions, the specialized prosecutor's offices - 102, the territorial prosecutor's offices - 528.

General Prosecutor's Office

The General Prosecutor's Office (GPO) is a legal entity that has a treasury account, and a stamp with the state coat of arms. The powers of the GPO include, among other, leading, controlling, organizing, and coordinating the activity of the territorial and specialized prosecutor's offices.

Specialized prosecutor's Offices

The specialized prosecutor's offices operate in certain special areas and have their competency throughout the territory of the Republic of Moldova. The Public Prosecution Service system includes the Anticorruption Prosecution Office (APO) and the Prosecution Office for Combating Organised Crime and for Special Causes (POCOCSC).

The specialized prosecutor's offices are governed by the Law No. 159/2016 on the specialized prosecutor's offices. The structure of the specialized prosecutor's office is established and modified by the Prosecutor General, at the proposal of the chief prosecutor of the specialized prosecutor's office, with the written consent of the SCP.

The specialized prosecutor's office is headed by a chief prosecutor that is assimilated to deputy of the General Prosecutor, who is assisted by a deputy or by several deputies, assimilated to the chief-prosecutor of the subdivision of the General Prosecutor's Office. In the exercise of his / her attributions, the chief prosecutor of the specialized prosecutor's office issues orders and other types of documents provided by the activity regulation of the specialized prosecutor's office.

Territorial prosecutor's offices

The territorial prosecutor's offices usually operate in the constituencies of the courts according to the territorial competence established in the Regulation of the Prosecutor's Office. The personnel structure and the residence of the territorial and specialized prosecutor's offices are established by the order of the General Prosecutor, with the

⁴¹⁰ <http://procuratura.md/md/hot/>

written agreement of the Superior Council of Prosecutors, in accordance with the provisions of art. 7 para. (3) of Law No. 3/2016 on the Prosecution Office.

Chisinau District Prosecutor's Office, Balti District Prosecutor's Office and Cahul District Prosecutor's Office are territorial prosecutor's offices and operate within the constituency of the Courts of Appeal. The Prosecutor's Office of the Gagauzia Autonomous Territorial Unit is a territorial prosecutor's office that exercises its attributions in the territory of the respective autonomous territorial unit.

Hierarchy system of prosecutors and their functions

The Regulation of the Prosecutor's Office No. 24/28 of 24.09.2016 defines the general provisions regarding the organization of the Public Prosecution Services, functions and roles of the prosecutors, along with the Constitution, the Law No. 3/2016 on the Prosecution Office, and the Criminal Procedure Code of the Republic of Moldova No. 122/2003.

The Public Prosecution Service is an institution organized on the principles of procedural and administrative hierarchy, ensuring the observance in the activity of the prosecutor of the principles of legality, impartiality, reasonableness, integrity and procedural independence.

In the Moldovan Public Prosecution Service there is no function of deputy prosecutors. Instead, all chief prosecutors have one or two deputies who are hierarchically higher to regular prosecutors (e.g. the Prosecutor General, the chief of specialized prosecutors' office, chief of district prosecutors' office have deputies).

The PPS is headed by the Prosecutor General and his deputies, according to the areas of competence established by the Prosecutor General. Within the limits of the attributions established by the Prosecutor General, the heads of the subdivisions of the General Prosecutor's Office organize and coordinate the activity of the subdivisions they lead according to the established competencies, issue disposition and organizational documents, which regulate the issues regarding the organization and activity of the subdivision they lead. The Chief Prosecutor of the specialized or territorial prosecutor's office also organizes and coordinates the activity of the prosecutor's office he leads.

Art. 53/1 of the Criminal Procedure Code of the Republic of Moldova No. 122/2003 establishes the hierarchy of the prosecutors as following:

- a) for the prosecutors from the territorial prosecutor's office - the chief prosecutor of the territorial prosecutor's office or his deputy;
- b) for the prosecutors from the specialized prosecutor's office - the chief prosecutor of the specialized prosecutor's office or his deputy;
- c) for the deputy chief prosecutors of the territorial prosecutor's offices - the chief prosecutor of the territorial prosecutor's office;
- d) for the deputy chief prosecutors of the specialized prosecutor's offices - the chief prosecutor of the specialized prosecutor's office;
- e) for the chief prosecutors of the territorial prosecutor's offices, including for the chief prosecutor of the Prosecutor's Office of the autonomous territorial unit Gagauzia - the

chief prosecutors of the subdivisions of the General Prosecutor's Office, according to the established competencies;

f) for the chief prosecutors of the specialized prosecutor's offices - the General Prosecutor or his deputies, according to the established competencies;

g) for the prosecutors within the subdivisions of the General Prosecutor's Office - the chief prosecutors of the subdivisions of the General Prosecutor's Office;

h) for the deputy chief prosecutors of the subdivisions of the General Prosecutor's Office - the chief prosecutors of the subdivisions of the General Prosecutor's Office;

i) for the chief prosecutors of the subdivisions of the General Prosecutor's Office - the General Prosecutor or his deputies, according to the established competencies;

j) for Deputy Prosecutor General - Attorney General;

k) for all prosecutors within the Prosecutor's Office system - the General Prosecutor.

The hierarchically superior prosecutor is entitled to perform the hierarchical control. While conducting the hierarchical control within the criminal investigation, the superior prosecutors performs the following actions:

- may request from the hierarchically inferior prosecutors to verify criminal files, documents, procedural acts;
- withdraws, by reasoned ordinance, in the cases provided by law, the distributed materials and criminal cases and forwards them to another prosecutor for examination;
- annuls, totally or partially, modifies or supplements, by motivated ordinance, the acts of the hierarchically inferior prosecutors and of the criminal investigation officers;
- examines the complaints filed against the acts and actions of the hierarchically inferior prosecutors;
- via written indications, returns the criminal files to the hierarchically inferior prosecutors.

Superior Council of Prosecutors

The SCP is an independent body, with the status of a legal entity, formed in order to participate in the process of setting up, functioning and ensuring the self-administration of the Prosecutor's Office system. It operates within the provisions of the Law No. 3/2016 on the Prosecution Office and the Regulation on the SCP adopted by the Decision of the SCP No. 12/225/16 of 14.09.2016.

Prosecutor

In the exercise of his powers in criminal proceedings, the prosecutor is independent and obeys only the law. He also executes the written indications of the hierarchically superior prosecutor regarding the elimination of the violations of the law and the omissions admitted when carrying out and / or conducting the criminal investigation. The prosecutor has the right to initiate a civil action against the accused in the interests of the state and in the interest of the injured person who is unable to defend himself.

79. Please describe the system(s) of appeal procedures.

Procedural laws (Civil Procedure Code, Criminal Procedure Code, Administrative Code) guarantee the right to regular and extraordinary legal remedies, except for the cases where the law does not provide for appeals and, instead, establishes a different proceeding. The appeal procedures are brought before the courts of appeal (if the appealed decision is issued by the first instance and in other cases provided by the law) or the Supreme Court of Justice (if the appealed decision is issued by a court of appeal and in other cases provided by the law).

Decisions subject to appeal may be appealed, until they become final, in the court of appeal which, on the basis of the materials in the file and those additionally presented, verifies the correctness of establishing the factual circumstances of the case, the application and interpretation of substantive law, and observance of the procedural norms, at the trial of the case in the first instance court.

The appeal can be brought before the Court of appeal within 30 days from the day of the issuance of the operative part of the judgment in civil and administrative proceedings, and 15 days in criminal proceedings.

Challenging the decision before the courts of appeal is possible on both factual and legal grounds. The persons entitled to request an appeal in civil proceedings are: parties and other participants to the proceedings; the representative in the interest of the appellant, if he is empowered in the manner established by law; the witness, the expert, the specialist and the interpreter, the representative regarding the compensation of the court costs, due to them. In criminal proceedings, these persons include: the prosecutor on the criminal and civil aspects of the case; the defendant on the criminal and civil aspects of the case (the sentences of acquittal or of termination of criminal proceedings may be subject to appeal as to the grounds for them); the injured party, on the criminal aspect of the case; a civil party and a civilly liable party, on the civil aspects of the case; witnesses, experts, interpreters/translators and defence counsel on the judicial expenses due to them; any person whose legal interests were injured by a measure or an act of the court.

In the appellate process the rules of evidence consist of invoking, submitting, admitting and managing evidence in order to determine the circumstances important for the case; evidence can be submitted except the parties must indicate the reasons which prevented it from being presented in the first instance.

After the appeal procedures, the court of appeal can issue one of the following decisions: admit the appeal and repeal the decision, admit the appeal and annul in full or in part the decision of the first instance, admit the appeal and annul in full the decision of the first instance court and sends the case for retrial, or to reject the appeal and maintain the decision of the lower court.

Cassation before the Supreme Court of Justice (SCJ) is the later appeal procedure. The SCJ examines appeals on legal grounds (appeal on points of law). Firstly, a set of three judges examines the admissibility of the request for cassation. Subsequently, if deemed admissible by the criteria set forth in the procedural laws, a set of five judges will examine the filed request. Depending on the type of proceeding, the five judges will be

assigned from either the Civil, commercial and administrative litigation college or the Criminal College.

The request for cassation can be brought before the SCJ by the same persons that are entitled to appeal before the Courts of appeal. The SCJ examines the request in the absence of parties with the right to summon, if deemed necessary. The request for cassation is declared within 2 months from the date of communication of the decision or the full decision, unless the law provides otherwise in civil proceedings, within 30 days in criminal and administrative litigation proceedings.

Reviewing the court decision is an extraordinary way of appeal proceeding that examines irrevocable court decisions. The basis for reviewing is exhaustively set by the procedural laws. The admissibility examination of the review request is required - in civil and administrative litigation cases, the admissibility review is performed by a judge, in criminal cases - by the prosecutor. The review request can be brought before the competent body within three months, with an exception of six months if the ECtHR adopts a judgement in that case.

80. Is there a Judicial and/or Prosecutorial Council or a single/joint High Justice Council (gathering both judges and prosecutors), independent from the executive and the legislative, responsible for managing the justice system/prosecution services, incl. the appointment, promotion and career respectively of judges/prosecutors/both professions?

The Constitution of the Republic of Moldova provides for two independent Councils: the Superior Council of Magistracy (CSM) and the Superior Council of Prosecutors (SCP). These are the self-governing bodies of the judicial system and of the prosecution, respectively. Both Councils are independent, having a significant part of their members elected from and by peers. All matters regarding the career of judges and prosecutors (appointment, performance assessment, promotion, disciplinary sanctioning, and dismissal) are decided upon by the respective Councils and their specialized boards.

The functioning and competencies of the SCP are regulated by the Constitution of the Republic of Moldova and by the Law No. 3/2016 on Prosecution Service. The activity of the SCM is regulated by the Constitution and by the Law No. 947/1996 on the Superior Council of Magistracy.

81. Management body(ies): High Judicial Council / Prosecutorial Council:

- a) **Describe their composition, powers, premises and budget. Is there a single or separate bodies? How is the institutional independence and stability guaranteed and protected? How are members appointed? What are the powers, if any, of the legislative and/or executive authority in the nomination/dismissal process?**

In the Republic of Moldova, there are two separate bodies for the self-regulation and management of the justice system – the Superior Council of Magistracy – and of the prosecution service – the Superior Council of Prosecutors.

Superior Council of Magistracy

Following the amendments of the Constitution that came into force on 01.04.2022, the Superior Council of Magistracy (SCM) is composed of 12 members: six judges and six non-judges members. The six judges shall represent all levels of the courts and are elected by the General Assembly of Judges. The six legal professionals are appointed by the Parliament as a result of a public and merit based competition with the vote of at least 3/5 of the MPs (61 votes out of 101). They shall have a high professional reputation and personal integrity, with experience in the field of law or in another relevant field, outside of the legislative, executive, or judicial branches and are not politically affiliated. Only in cases strictly provided by law, the appointing bodies can revoke the mandate of the members (the General Assembly of Judges for the six judge members and, respectively, the Parliament for the six non-judge members).

The legal framework is yet to be modified in adjustment to the latest Constitution amendments. A draft law was registered in the Parliament on 16.03.2022 in this context.⁴¹¹

The role of SCM is to be the guarantor of the independence of the judiciary. The SCM ensures the appointment, transfer, secondment, promotion, and application of disciplinary measures against judges. The SCM exercises its attributions directly or through its specialized bodies, which include: the Board for the Selection and Career of Judges, the Judges' Performance Evaluation Board, the Disciplinary board, and the Judicial Inspection.

The SCM is based in Chisinau and holds a separate building allocated for the activity of the Council. The SCM is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law.

In its relations with the public authorities, the SCM is independent. It may notify the Parliament, the President of the country and the Government of any matter which, according to the law, falls within its competence.

Superior Council of Prosecutors

The Superior Council of Prosecutors consists of 12 members:

- The ex-officio members of the SCP include the SCM chief (including interim), the minister of Justice (including interim) and the Ombudsperson (People's Advocate).
- Five members prosecutors are elected by the General Assembly of Prosecutors through a secret ballot, directly and freely cast, as follows: one member from the prosecutors of the General Prosecutor's Office and four members from the prosecutors from the territorial and specialized prosecutor's offices.

⁴¹¹ Draft Law No. 78 of 16.03.2022 is available in Romanian at: <https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5899/language/ro-RO/Default.aspx>.

- Four members are elected through a public contest from within the civil society, as follows: one by the President of the country, one by the Parliament, one by the Government and one by the Academy of Sciences of Moldova. The criterion for the candidates is set forth by the law.

The SCP is the guarantor of the independence and impartiality of prosecutors. The SCP is an independent body, with the status of a legal entity, created in order to participate in the process of setting up, functioning and ensuring the self-administration of the Prosecutor's Office system. The SCP ensures the appointment, transfer, promotion, and application of disciplinary measures against prosecutors. Within the SCP, an internal set of specialized boards operate. These include: the Selection and Career Board, the Performance Evaluation Board and the Discipline and Ethics Board.

The SCP is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law. The budget of the SCP is drawn up, approved, and administered in accordance with the principles, rules and procedures established by the legislation on public finances and budgetary-fiscal responsibility.

The SCP has separate office spaces within the building of the General Prosecution Office, in Chisinau.

- b) Is composition mixed (members coming from the judiciary and members not part of it)? Do the members serve full or part time? Are they part of the national civil service? How long is their mandate? Do members have specific privileges? Can the mandate be renewed and who can renew it? What are their qualifications requirements to become member? How is the career management after serving as a member regulated?**

Superior Council of Magistracy

The SCM is composed of six judge members and six non-judge members, serving for a six-year mandate without the right for renewal. The SCM members serve full time, however they are allowed to exercise didactic, scientific, and creative activities. The judge members hold the status of persons with functions of public dignity.

The judge members must meet the following requirements: has effectively served as a judge for at least 2 years; has not been disciplinary sanctioned or the term of the disciplinary sanction has expired. To be elected, a non-judge member must meet the following criteria: has a high professional reputation and personal integrity; has at least 10 years of experience in the field of law or in another relevant field; the time of submitting the application is not working within the bodies of the legislative, executive or judicial power; is not politically affiliated. Before the election/appointment, all the candidates, both judge members and non-judge members have to pass the external evaluation carried out by the Independent Commission for the evaluation of the integrity of the candidates (pre-vetting evaluation to be done in 2022).

At the end of the mandate, the judge members return to their positions as judges, but their administrative position is not preserved.

Superior Council of Prosecutors

The SCP is composed of 12 members, out of which 3 ex-officio members (SCM chief, minister of Justice, People's Advocate); 5 prosecutors elected by the General Assembly of Prosecutors (one member representing the General Prosecutor's Office, and four members from among the prosecutors from the territorial and specialized prosecutor's offices); four members appointed from the civil society (one by the President of the country, one by the Parliament, one by the Government and one by the Academy of Sciences of Moldova).

The five prosecutor members are detached from their prosecutor positions and therefore serve full time. The three ex-officio members and the four members appointed from the civil society serve part time.

The duration of a SCP member mandate is 4 years without the possibility for renewal of the mandate. The prosecutors elected by the General Assembly of the Prosecutors must meet the following requirements: has effectively served as prosecutor for at least 3 years; has not been disciplinarily sanctioned or the term of the sanction has expired; has been elected to the position of member of the Superior Council of Prosecutors from among the prosecutors

Candidates for the position of member of the SCP from the civil society must have at least higher legal education and 3 years of and experience in the field of law, must promote the evaluation carried out by the Independent Commission for Assessing the Integrity of Candidates for Membership in Bodies self-government of judges and prosecutors, and must be at most 65 years old.

As in the case of the SCM, before the election/appointment, all the candidates to the SCP must pass the external evaluation carried out by the Independent Commission for the evaluation of the integrity of the candidates (pre-vetting evaluation to be done in 2022).

The members of the SCP representing civil society receive a monthly allowance in the amount of 50% of the average salary of the SCP members elected from among the prosecutors.

Given that the prosecutors are detached from their position to fulfil their role as a member of SCP, after the termination of the mandate, the prosecutors return to their initial job positions.

- c) **Is the High Judicial Council/Prosecutorial Council adopting its procedural rules? By which majority (simple, qualified) and are remedies available in case of non-respect of the rules? What are the current rules regarding quorum and decision-making process in the Councils?**

Superior Council of Magistracy

The SCM adopts its own Regulation on the organization and functioning of the Superior Council of Magistracy. It also approves the regulations on the criteria and procedure for appointments, for promotion to the office of judge in a higher court, for appointment to the position of chairman or vice-chairman of the court and for transferring the judge to a court of the same level or a lower court; the regulations for conducting the competition for filling the vacant positions of judge, president, or vice-president of the court.

The meeting of the SCM is deliberative if at least two-thirds of its members (8 members out of 12) participate. CSM adopts decisions with the open vote of the simple majority of its total number of members (at least 7 votes). There is one situation when SCM has to decide with 2/3 of the votes - when the President of the Republic of Moldova rejects the selected candidacy for a judge position by the SCM. In this case, the SCM may select the same or another candidacy with the vote of two-thirds (at least 8 members) of its members.

The draft Law No. 78/16.03.2022⁴¹² will amend the current Law on the Superior Council of Magistracy with the following provision: *in case of termination of the mandate of more than 5 members of the Superior Council of Magistracy and there are no substitutes to continue their mandate in the manner established in art. 13, the Superior Council of Magistracy continues to function, having restricted competences.* These cases refer to the announcement of the General Assembly of the Judges, the disposal of the interim administrative function of the courts, etc.

The SCM decisions can be challenged at the Supreme Court of Justice by any interested person, within 15 days from the date of the communication. The appeals are examined by a panel of the Supreme Court of Justice composed of 5 judges. The decisions of the Supreme Court of Justice on the appeals against the SCM decisions are irrevocable and enter into force on the date of their adoption.

Superior Council of Prosecutors

The SCP elaborates and approves regulations regarding its activity, the functioning of its boards and other regulations concerning the SCP. The SCP meets whenever necessary, but not less than once a month. The meeting is deliberative if at least 2/3 of the members participate (at least 8 members out of 12). The decisions are adopted in public sessions, with the open vote of the majority of the members present at the meeting (which makes it at least 5 members).

According to the Law No. 3/2016 on the Prosecution Office, the SCP decisions may be appealed to the Supreme Court of Justice by any person harmed in his right by the SCP decision within 10 working days from the date on which the decision in question was communicated to him. Appeals against the SCP decisions are examined by the panel of the Supreme Court of Justice that examines the appeals against the decisions of the Superior Council of Magistracy.

- d) How is accountability ensured? How is potential conflict of interest scrutinised and prevented? If the conflict of interest of Council(s) Members occurs, what rules do apply and how is their implementation ensured? What are the current rules regarding quorum and decision-making process in the Councils?**

⁴¹² Draft Law No. 78/2022 is available in Romanian at:
<https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5899/language/ro-RO/Default.aspx>.

SCM and SCP members are obliged to comply with the general legal provisions on conflict of interest and the legal regime of incompatibilities and prohibitions, expressly provided in the Law No. 947/1996 on Superior Court of Magistracy, the Law No. 3/2016 on the Prosecution Office, the Administrative Code of the Republic of Moldova No. 116/2018 and the Law No. 133/2016 on Declaring Assets and Personal Interests.

Members of the Councils cannot participate in the examination or adoption of a decision if there are circumstances that exclude their participation or there are circumstances that can raise doubts about their objectivity. If such a case occurs, the member is obliged to declare self-recusation or the Council will recuse him/her.

Members of the Councils must inform the President of the Council in the event of a real conflict of interest (personal interests or interests of a closely related person). Moreover, the member is not allowed to participate in the examination of the case until the conflict of interests is resolved.

The National Integrity Authority (NIA) is the competent authority to ascertain the commission of the contravention for not declaring or not resolving the conflict of interests. After the NIA decision, this issue will be examined by the court.

The President of the Council is obliged to inform the NIA immediately, but no later than 3 days from the date of finding of the possible situation of a real conflict of interest. The NIA records the declarations in the Register of declarations of conflicts of interest and, within 3 days from the day it was informed, resolves the conflict of interests either by restricting access to the examination of the case or by accepting the participation in the decision-making. If the Chief of the Council has refrained from the examination and adoption of the decision in the case of a conflict of interest, he/she has to notify the NIA on this issue.

The National Authority of Integrity is the competent authority to ascertain the commission of the contravention for not declaring or not resolving the conflict of interests; this will be examined by the court.

The acts adopted in person or through a third party in a situation of real conflict of interest shall be struck down with absolute nullity unless their annulment would harm the public interest.

The term office of the member of the Council will be terminated if there is a final finding act that establishes the breach of the real conflict of interest.

e) Do non-judicial/non-prosecutorial members have the right to vote and what are their exact methods of selection, roles and functions? How disqualification from decision-making of these members is regulated and applied in practice?

Out of the 12 members of the CSM, six are elected by the representatives of the civil society through a public contest. There is no power/vote distinction between the judge and non-judge members of the SCM.

The four SCP members representatives of the civil society, appointed by the President of the Republic of Moldova, Parliament, Government, and the Academy of Sciences of Moldova, have the same power/vote rights as the five prosecutor members.

f) Do ex-officio members of these Councils have the right to vote and what are their exact powers and functions?

The SCM does not have ex officio members. The 3 ex-officio members of the SCP - Chief of the SCM, minister of Justice, and People's Advocate - have the right to vote that is no different from the other members of the Council.

g) If the Minister of Justice is an ex-officio member, do they have the right to vote and if yes, in what cases?

The minister of Justice is an ex-officio member of the SCP and has the same right to vote as other SCP members.

h) Does the High Judicial Council/Prosecutorial Council dispose of and manage its own budget and staff and are these sufficient to allow effective performance of the tasks?

SCM and SCP dispose and manage their own budget and staff. SCM is financed from the state budget within the limits of the budgetary allocations approved by the Annual Budget Law. The budget is elaborated, approved and administered in accordance with the principles, rules and procedures provided by the Law No. 181/2014 on Public Finance and Budgetary-Fiscal Responsibility.

For the year 2022⁴¹³, the approved budget for SCM is 17,984.4 (thousand lei), which makes a total of a 3,7 % take from the general budget allocated for the judiciary (478, 530.4 thousand lei). The SCM budget has increased by 2,5% compared to 2021⁴¹⁴ (17, 534.2 thousand lei) and by 22% compared to 2019⁴¹⁵ (14, 682 thousand lei). The number of approved staff has varied from 55 to 58 over the years 2018 - 2021, with an average of 10 vacant positions.

SCP is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law.

The SCP budget is separated from the Public Prosecution Service budget and is approved at the proposal of the SCP⁴¹⁶. For the year 2022, the approved CSP budget was 14327.4 thousand⁴¹⁷, attesting an increase of 14% in relation to the approved budget for the year 2021 ⁴¹⁸(12530.3 thousand) and by 47% compared to 2018⁴¹⁹. The number of staff (43 positions) of the SCP hasn't changed since 2017⁴²⁰, with a mild variation of vacant positions: about 3-5 vacant positions per each year.

⁴¹³ https://www.legis.md/cautare/getResults?doc_id=129175&lang=ro Appendix 3

⁴¹⁴ https://www.legis.md/cautare/getResults?doc_id=126066&lang=ro Appendix 3

⁴¹⁵ https://www.legis.md/cautare/getResults?doc_id=117024&lang=ro Appendix 3

⁴¹⁶ https://www.legis.md/cautare/getResults?doc_id=130336&lang=ro# art. 70 (1) p)

⁴¹⁷ https://www.legis.md/cautare/getResults?doc_id=129175&lang=ro Appendix 3

⁴¹⁸ https://www.legis.md/cautare/getResults?doc_id=126066&lang=ro Appendix 3

⁴¹⁹ https://www.legis.md/cautare/getResults?doc_id=105740&lang=ro

⁴²⁰ <http://csp.md/sites/default/files/2021-08/12->

[5%20%2017%20Cu%20privire%20la%20aprobarea%20structurii%20%20C5%9Fi%20statului%20de%20personal%20al%20](https://www.legis.md/cautare/getResults?doc_id=130336&lang=ro#)

The current staffing level and amount of work (considering the competencies and powers of the Councils) are well covered by the allocated budgets.

82. How is the transparency of the work and procedures of the management body(ies) ensured? Is the Council working in transparency towards the public (e.g. broadcasting of sessions) and are reports regularly and timely made available online, i.e. through publication on its website?

The transparency of the judicial administration process is provided in the Law on the Superior Council of Magistracy No. 947 of 19.07.1996, the Law on Prosecution Office No. 3 of 25.02.2016, and the SCM and SCP regulations.

Both SCM and SCP publish the agenda and the minutes of the meetings on their official websites. The SCM and SCP meetings are public, except for the closed meetings, clearly regulated by law. The reasons for the closed meetings are provided in the law and seek to protect the information, which is a state secret or in the case, due to special circumstances, the public nature may harm the interests of justice or may harm the privacy of individuals. The reasoned decision on the declaration of the closed meeting shall be adopted by a majority vote of the members present. The SCM and SCP meetings are broadcasted live; video and audio recordings of the meetings along with the minutes are available on their official websites.

The decisions adopted by the SCM and SCP are published on their websites. Decisions adopted by the SCM and its specialized bodies, including those adopted in closed sessions, separate opinions of its members, as well as its annual reports are published on the SCM official website. SCP decisions are published on its official website no later than 10 working days after their adoption.

83. Judicial reform: Is there a general strategy of the reform of the judiciary in place, with a corresponding action plan? If yes, please describe the strategy, its timeframe, action plan specific measures and further plans for reform of the judiciary. Who is or will be responsible for the implementation, coordination and monitoring of the further steps?

In order to map out a medium-term vision for the justice sector, on 6 December 2021 the Parliament of the Republic of Moldova adopted *the Strategy for ensuring the independence and integrity of the justice sector for the years 2022-2025* (the “Justice Strategy”) and *the Action Plan* for its implementation. This policy document sets three strategic areas of intervention: (1) Independence, accountability, and integrity of the justice sector stakeholders; (2) Access to justice and quality of justice delivery; (3) Efficient and modern administration of the justice sector.

The objectives and actions defined in the Strategy and the Action Plan, which are consistent with the three areas of intervention, are aimed at the critical problems and

vulnerabilities attested by international assessment reports/surveys regarding the shortcomings of the Moldovan judiciary or by system malfunctions reported in practice; these objectives and actions are also aimed at building a justice sector that is independent, impartial, professional, responsible, efficient and transparent, which in the end will lead to quality justice and also respond to future challenges.

The Justice Strategy and Action plan establishes a great number of actions, some are formulated more generally, others rather specific and focused. By way of example, and among priority actions for the reform of the judiciary, are:

- removal of the probation period (formerly 5 years) for appointment of judges; [completed by the time of writing];
- vetting of the candidates to the self-regulatory authorities (Superior Council of Magistracy and Superior Council of Prosecutors and their specialized boards) for judges and prosecutors (pre-vetting) [launched and on-going];
- country-wide extra-ordinary vetting of all judges and prosecutors by an independent external commission (vetting);
- reforming the Supreme Court of Justice by limiting its functions to primarily hearing most important cassation cases (2nd level of appeal) and unifying the court practice;
- increase the quality of candidates to become judges by adding integrity criteria before applying for qualifying training for judges at the National Institute of Justice and rethinking some other criteria for joining the profession;
- accelerating the actions to fight against corruption including via restructuring and optimising the authorities investigating and handling high corruption, fraud, organised crime cases (Anticorruption Prosecution Office and National Anticorruption Centre)
- changing the selection criteria for appointment of heads of the anti-corruption authorities and setting the framework for the pre-selection of the head of Anticorruption Prosecution Office by an independent commission of experts; [launched and on-going].

The Action Plan sets forth the deadlines, responsible authorities, performance indicators, as well as financial resources required for the Strategy implementation. The responsibility for implementation rests with the authorities indicated in the Action Plan. The monitoring of the implementation is structured as follows. A Monitoring Group was set by a Ministerial Decree for the evaluation of the implementation progress. The Monitoring Group is supported by a Secretariat. The Parliament is also involved in the monitoring of the implementation process by organising regular hearings about the progress, via its Legal Committee for Appointments and Immunities.

B. Independence

84. **Are the fundamental principles of statute for magistrates (including judicial independence) set out in internal norms at the highest level? Are these entrenched in the Constitution and reflected in internal law? How are the rights of the judiciary protected?**

Have there been any complaints about the independence of the judiciary and the autonomy of prosecutors? If so, how were they resolved? How does the public perceive independence of the judiciary and autonomy of prosecutors and based on what type of indicators?

Principles of statute for magistrates and prosecutors

The Constitution of RM expressly regulates the statute of magistrates (judges), with three core attributes of their status: independence, impartiality and irremovability (Art. 116). It also regulates the highest-level guarantees of appointment and promotion or transfer of judges, their functional immunity, matters related to discipline (including disciplinary liability) and incompatibilities in office.

Judicial constitutional guarantees of independence have been strengthened by recent constitutional amendments (in force since April 1, 2022). The probationary initial term of 5 years for the appointment of judges was excluded, expecting this will ensure the stability of the mandate. These changes were welcomed by the Venice Commission of the Council of Europe, which considered them a clear improvement of judicial independence which requires stability and irremovability.⁴²¹ Thus, judges now have life tenure that will last until the mandatory retirement age (65 years). The security of the mandate is a fundamental element of the independence of judges. Another positive change, also in force from 1st of April 2022 is the appointment of judges of the Supreme Court of Justice (SCJ) by the President of the Republic of Moldova, at the proposal of the Superior Council of Magistracy (SCM). Previously, the nomination had to be confirmed by a vote in the Parliament (51 MPs from 101 had to confirm the nomination). The exclusion of the Parliament from the nominations of SCJ judges excludes excessive political leverage over the judiciary on the procedure for appointing the judges.

Fundamental principles enshrined in the Constitution are further detailed in a number of organic laws (application-wise superior laws), including the Law on the status of the judge (#544/1995), Law on the organization of the judiciary (#514/1996), Law on the selection, performance evaluation and career of judges (#154/2012), Law on the disciplinary liability of judges (#178/2014), Law on the Superior Council of Magistracy (#947/1996).

Under Moldovan law, only judges enjoy the status of “magistrates”. Nevertheless, prosecutors enjoy pretty much the same status, with guarantees set up in the Law on Prosecution Service No. 3/2016. It is our understanding that the question above also inquiries about the principles of statute for prosecutors. This information is presented below:

The Prosecution Service status is regulated at the constitutional level and the reference to the independence and impartiality of prosecutors is prescribed in art.125/1 of the Constitution. According to this article, the role of guarantor of the independence and impartiality of prosecutors belongs to the Superior Council of Prosecutors. Law #3/2016 on Prosecution Service enshrines the procedural independence of prosecutors, as well as the independence of the Prosecutor's Office from the legislative, executive

⁴²¹ Venice Commission, Opinion No. 983/2020, CDL(2020)009, para. 15, available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2020\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2020)009-e).

and judicial powers, from any political party or socio-political organization, as well as from any other institutions, organizations or persons.

The aspects regarding the protection of the inviolability of the prosecutors are also explained in Questions 88 and 109 of this questionnaire.

Protection of the rights of the judiciary

In relation to the principle of the independence of judges which is connected to that of impartiality in the examination of cases and decision-making, the regulatory framework referred to above guarantees:

1) *functional independence/immunity of the judge* - guarantees the exclusion of interference by the legislative power, executive power or the litigants [external independence] as well as the independence of judges in the hierarchy of courts and in relation to the court president [internal independence]. In this sense, the law establishes that judges make decisions independently and impartially and act without any restrictions, influences, pressures, threats or interventions, direct or indirect, from any authority, including the judiciary. The hierarchical organization of jurisdictions may not affect the individual independence of the judge. If there is an influence in relation to the activity of the judge in the exercise of the act of justice, there are remedies mentioned in Question 88 of this questionnaire (criminal liability for such actions or other mechanisms for reporting such actions by the judge).

2) *personal independence of the judge* - the legal provisions that guarantee this independence are reflected in: the method of appointment; duration of the appointment; the conditions of transfer, the existence of the mechanisms that establish the grounds on which the disciplinary liability may arise and the regulation of the entire procedure. Additional connected guarantees include: the right to challenge SCM acts concerning a judge's career; levels of remuneration and terms of retirement; the right to create and assemble in organizations in order to defend their professional interests; interdictions and incompatibilities for judges.

The mechanisms that guarantee the irremovability and immunity of judges, and the special procedures that determine the criminal liability are explained in Question 109 of the questionnaire. These guarantees are intended to protect the judge from prosecution for her/his judicial decisions and from possible abuses when initiating a criminal case against a judge.

The SCM and the SCP also act as guarantors of the judiciary and the prosecutor's office following the addresses of judges and prosecutors by taking a position. Note that there are decisions of the SCM condemning any interference, direct or indirect influence, threats, pressure in the activity of a judge, and all law enforcement bodies were called to get consolidated and not to accept in the future any interference in exercising the justice (e.g. SCM Decision #95/9 of 12 May 2020)⁴²². SCP also deals with referrals submitted by prosecutors alleging that their independence has been affected.

Complaints about the independence of the judiciary and the autonomy of prosecutors

⁴²² SCM decision available in Romanian at: <https://www.csm.md/files/Hotaririle/2020/09/95-9.pdf>.

There are a number of ways in which the fundamental principles may be breached and below we will try to explain each.

- violation of the principle by passing inadequate laws and regulations - this is remedied by applying for a constitutional review by the Constitutional Court (both SCM and SCP have the right to bring cases before the Court). Over the years, there have been several applications in this regard, which resulted in declaring as unconstitutional provisions that regulated, for example, the grounds and procedure for disciplinary liability of judges, the transfer mechanism, the limits on challenging the SCM acts, method of remuneration, the conditions of retirement, etc.
- alleged violations of the law - in these circumstances the remedies available to judges and prosecutors are to challenge the acts that breach legal provisions (acts of the SCM, SCP or their specialized boards) or to notify the prosecution office if the breach amounts to a crime (art. 303 of the Criminal Code).

A field mission of the International Commission of Jurists (ICJ), which visited Moldova in 2019, concluded, among others, that both the public and the stakeholders of the justice system typically do not yet perceive an amelioration in the independence of the judiciary. A mentality of excessive hierarchy in the judiciary and of the judge as having a mere notary role to the work of the prosecution office (called by some experts met by ICJ a “Soviet mentality”) is still common among judges, even though the majority of judges are young and have been appointed after 2011.⁴²³ The ICJ mission also heard from several stakeholders that, notwithstanding changes of personnel, this orientation and attitude persists, transmitted from generation to generation of judges.

Prosecutors: Moldova’s Prosecutor General Alexandr Stoianoglo was suspended by law on 5 October 2021, after a prosecutor assigned by the Superior Council of Prosecutors (SCP) started prosecution against him on charges of abuse of office, passive corruption, misrepresentation, and transgression of job duties.⁴²⁴ The investigation against Mr. Stoianoglo is ongoing. The charges of abuse of power were sent to court already.

Public perception of the independence and autonomy of judges and prosecutors

The 2021 analysis of surveys on society's confidence in justice differs among citizens and business, on the one hand, and from professional users of services and employees in the justice sector, on the other. Thus, according to the Public Opinion Barometer, in 2021 24.7% of the respondents stated that they have some confidence in judges; 3.7% are very confident; 31% do not trust much and 43.5% totally lack confidence (survey conducted on a sample of 1161 respondents)⁴²⁵:

The results of the survey⁴²⁶ published by the Legal Resources Centre from Moldova in December 2020 showed the following results:

⁴²³ International Commission of Jurists (ICJ) „Only an Empty Shell” - The Undelivered Promise of an Independent Judiciary in Moldova – A mission report (2019), p. 22, available at: http://crjm.org/wp-content/uploads/2019/03/2019-ICJ-Rep-Moldova-Judiciary_ENG.pdf.

⁴²⁴ Available in Romanian at: <https://www.zdg.md/stiri/stiri-justitie/detalii-despre-fiecare-dintre-cele-cinci-capete-de-acuzare-pentru-care-procurorul-general-suspendat-alexandr-stoianoglo-a-fost-retinut-lista-actiunilor-de-care-este-invinuit/>.

⁴²⁵ Institute for Public Policies, „Public Opinion Barometer”, available at: <http://bop.ipp.md/en>.

⁴²⁶ LRCM, *Survey: Lawyers’ Perception of the Justice Reform and the Fight against Corruption*, 2020, available at

- When asked to what extent they agree with the statement that judges are independent, the affirmative answer was given by 83% of judges and only 22% of lawyers. This figure confirms that the opinions of judges and lawyers on the independence of judges differ considerably. When asked if they were independent 60% of prosecutors answered in the affirmative way, and 39% of prosecutors disagreed with this statement.
- When asked if they agree with the statement that judgments are pronounced without any external influence, 83% of judges and 61% of prosecutors answered in an affirmative way. Only 25% of lawyers agreed with this statement. When the same question was asked about prosecutors' solutions, only 49% of judges and 24% of lawyers answered in an affirmative way. Instead, 75% of prosecutors agreed with this statement. These figures suggest a clear distrust of lawyers in genuine independence of judges and prosecutors and moderate confidence of judges in the independence of prosecutors.
- According to respondents who disagree that judges' solutions are fair and adopted without external influence, judges' decisions are most often influenced by politicians and most rarely by the police. 48% of judges stated that they were influenced by prosecutors. 78% of lawyers agreed with this statement. Over 60% of prosecutors and lawyers believe that judges are influenced by other judges and by the SCM (Superior Council of Magistracy).

The results of the same survey showed that confidence in the judiciary in 2020 was at the same level as in 2011 when the judicial reform began. 80% of judges, 74% of prosecutors, and 59% of lawyers believe that low trust in the judiciary is connected to the other two powers (legislative and executive). 72% of judges, 73% of prosecutors and 68% of lawyers believe that low trust in the judiciary is determined by politicians' attacks on justice. 40% of judges believe that some of their colleagues make politically ordered decisions, which affects confidence in the whole system. 68% of prosecutors and 80% of lawyers agreed with this.

According to other previous surveys (survey conducted between November and December 2018 by the Centre for Sociological Research and Marketing Studies "CBS-AXA", at the request of the Legal Resources Centre from Moldova, lawyers consider that judges' solutions are most often influenced by politicians (90.7%), prosecutors (83.9%), other judges (68.2%), the Superior Council of Magistracy (65.1%).

85. Do judges enjoy both external and internal independence when deciding an individual case? Does the system guarantee that every judge within the court system, in the context of judicial adjudication, is independent vis-à-vis other judges, also in relation to his/her court president or other (e.g. appellate or superior) courts? What are the measures in place ensuring internal independence of the judiciary? Are the lower courts independent from the Supreme Court or other higher courts? Is the Supreme Court or another high court prohibited from giving instructions, guidance, recommendations, explanations or supervision to the lower courts? Do judicial leadership posts hold any

evaluation, appraisal or disciplinary powers? If so, what safeguards exist to prevent the undue influence of the internal judicial hierarchy?

Internal and external judicial independence

The legal framework in Moldova sets a variety of rules meant to ensure that judges enjoy both external and internal independence when deciding an individual case.

The Criminal Code sanctions any interference in the administration of justice and criminal prosecution (Art.303). Given the gravity of this crime, the same normative act prohibits “release from criminal liability with contraventional (misdemeanor) punishment” of persons who have interfered in the application of justice.

The Contraventions Code sanctions a number of relevant offenses: disrespect towards any court (including the Constitutional Court); interference unrelated to procedural matters in the activity of judges, the attempt to exercise influence over them (Art. 317).

The Constitutional Court, in a judgment from 2016, has reinforced the principles of internal judicial independence. It stated that, when settling a case, the judge must be independent both from the other judges and from the chairperson of the court or from the other courts.⁴²⁷

With regard to the independence of judges in relation to the presidents of courts, from April 2022, the court presidents are to be elected from among the judges and have only administrative duties (before they were selected by a public contest at SCM). The law provides for disciplinary liability for judges and presidents of courts who attempt to impinge on the independence of another judge: “interference in the administration of justice by another judge”.⁴²⁸

Also see the answers to Question 88.

Role of the Supreme Court and higher courts vis-a-vis lower courts

There is no explicit rule prohibiting the Supreme Court and other high courts from giving instructions to the lower courts. However, the principle of judicial independence implies such rule and is adhered to in practice. Moreover, under Article 114 of the Constitution, “Justice is done in the name of the law.” Therefore, judges obey only the law, and have no obligation to follow SCJ, with the exception of particular cases which are reviewed and sent for re-trial. In this case, the instructions of SCJ are mandatory to the lower courts. Supreme Court and higher courts have no authority to supervise lower courts.

The Supreme Court is the only court having the authority to issue guidance, recommendations and explanations, within its competence to unify court practice. Most of these are not mandatory, having recommendatory nature, and address the general practice in all courts. At the same time on matters of criminal law in exceptional circumstances the Supreme Court may issue clarifying decisions on interpretation of

⁴²⁷ Constitutional Court of Moldova, Decision No. 21/2016, para. 103, available in Romanian at: <https://www.constcourt.md/public/ccdoc/hotariri/ro-h2122072016rob76c2.pdf>.

⁴²⁸ Law No. 178/2014 on disciplinary liability of judges, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130335&lang=ro#

some provisions, which the court itself interpreted differently in different cases and needs to put the practice straight. Such decisions are mandatory for future application.

Constitutional Court of the Republic of Moldova has stated that, when judging a case, the judge must be independent both from the other judges and from the chairperson of the court or from the other courts. While it did not exclude the obligation of the judge of a lower court to comply with a previous judgement of a higher court instance regarding the interpretation of the law applicable to subsequent cases, the Constitutional Court labelled the possibility for the SCJ to issue recommendations or explanations, when these are given outside the cases it examines, as a potential risk of being contrary to the independence of judges guaranteed by art. 116 of the Constitution of the Republic of Moldova.

Evaluation powers of the judicial leadership posts

The presidents of the courts have no authority of disciplinary evaluation or sanctioning of judges. These powers are exercised by the Superior Council of Magistracy, through its specialized Boards: the Board for the Evaluation of Judges' Performance and the Disciplinary Board.

- 86. Do prosecutors enjoy a proper degree of autonomy when working on an individual case? Do hierarchical instructions and guidelines need to be put in writing and need to be included in the file and/or made publicly available? Do instructions not to prosecute exist and if, with which safeguards? Do lower prosecutors have recourse to an independent mechanism enabling them to contest the hierarchical instructions of senior prosecutors and on what basis? How are the independence of courts and the autonomy of the prosecution service ensured from a financial point of view?**

The Prosecutor's Office is an autonomous public institution within the judicial system, which contributes to the administration of justice, the protection of rights, freedoms and legitimate interests of persons, society and the state using criminal and other procedures provided by law. (Art. 124 Constitution of the Republic of Moldova)

In the exercise of his powers in criminal proceedings, the prosecutor is independent and obeys only the law. S/he also executes the written instructions of the hierarchically superior prosecutor regarding compliance with legal requirements and prevention of any undue actions while conducting the criminal investigation. At the same time, the procedural independence of the prosecutor is guaranteed and excludes any political, financial, administrative or other influence on the prosecutor while in the exercise of her/his duties.

With regard to the instructions by the hierarchically superior prosecutor the envisaged prosecutor may challenge these before the Prosecutor General and her/his deputies. The instructions of the hierarchically superior prosecutor must be in writing, lawful and shall be binding on lower ranking prosecutors. Note that lower ranking prosecutors may request that his/her superior explains the reasoning for the instructions. S/he has the right to refuse to follow the instructions that are obviously illegal and must file a

complaint in this regard to the hierarchically superior prosecutor. Instructions not to prosecute do not require any additional safeguards and follow the same regime.

In practice, it often happens that the higher ranking prosecutor gives verbal instructions that are directly executed by the lower ranking prosecutor, even if the lower ranking prosecutor may suspect that the instructions exhibit some level of conflict of interest or lack independence. Therefore, the autonomy and independence that the legal framework offers to the prosecutor is very fragile. At the same time note that the Prosecutor General office took a number of actions to prevent verbal instructions, including a number of written and published Decisions (Orders)⁴²⁹ expressly prohibiting superior prosecutors to issue verbal instructions and requiring instructions to be in writing, as well as providing for a procedure to regularly check compliance. In this regard, GRECO has concluded in its interim compliance report (GrecoRC4(2021)22), adopted at the GRECO 89th Plenary (29 November-3 December 2021) that its earlier recommendation on verbal instructions and documenting all hierarchical interventions regarding a case, have been duly implemented.⁴³⁰

The financial autonomy of the prosecution service and of the judiciary is ensured by the principle of auto-administration expressly provided for in the Law on prosecution Service (Art. 65) and Law on organisation of courts (Art. 23¹). This principle stipulates that the prosecution service and judiciary shall be independent and governed by self-regulatory bodies, including on the question of finance: for prosecution service by the General Assembly of Prosecutors, Superior Council of Magistracy and its Boards. Regarding the financial autonomy of the specialised prosecutor's offices, please note that, although the law provides that specialized prosecutor's offices have separate budgets, their financial independence from the General Prosecutor's Office is yet to be implemented. Please consider answers to Questions 98 and 119 for details.

87. How can a decision by a prosecutor not to press charges or to drop a case be challenged, in particular in cases where there is no obvious victim apart from the public interest?

The accused (defendant), her/his legal representative or defence counsel, the injured party, any party (including the civilly liable party) to the process or their representatives, as well as other persons who consider that her/his rights and legitimate interests have been breached, may file complaints against the prosecutor's actions, inactions and acts. Such complaints shall be examined by the hierarchically superior prosecutor.

Thus, in a criminal case where the offence under investigation, by its nature, is not against a specific victim, but which affects the interests of the State or other public interests, any other envisaged persons (such as witnesses who have reported certain deeds to the prosecuting authority or representatives of public authorities) may challenge or file a complaint about prosecutor's decision to drop charges against the accused, closure of criminal proceedings or about closing the case. The challenge or

⁴²⁹ Prosecutor General Order n 11-3d/19-3357, dated 01.10.2019; and Prosecutor General Order N° 56/61, dated 17.09.2021

⁴³⁰ CGRECO, GrecoRC4(2021)22 - Interim Compliance Report, available at: <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a5722f>

complaint shall be addressed to the chief prosecutor of the prosecutor against whose decision the complaint is filed.

In contrast, the criminal procedure law does not provide for any ways to challenge the prosecutor's decision to drop charges during the judicial phase of the criminal proceedings. At the same time, the legality of the actions, inactions and acts of the prosecutor can be verified, *ex officio*, by the hierarchically superior prosecutor who can request from the lower ranking prosecutors, for the purpose of control, criminal files, documents, procedural acts, materials and any other related data. (Articles 53/1, 298, 299/1, 299/2 and 320 of the *Criminal Procedure Code* #122/2003).

At the same time in all scenarios any of the persons mentioned above may file a complaint against the prosecutor in court.

88. Threats against the independence of judges and autonomy of prosecutors: Are there legal provisions establishing sanctions against persons seeking to influence judges/prosecutors in any undue manner? Which authorities can act in specific procedures for protecting judicial independence /prosecutorial autonomy when judges or prosecutors consider that their independence/autonomy is threatened? Which measures can be taken in this case?

- a. Issuing a formal declaration/press release?
- b. Filing of complaint/notifying an authority?
- c. Sanctions against persons seeking to influence judges in an improper manner?
- d. Possible reaction by the Prosecution Service?
- e. Possible reaction by the Supreme Court?
- f. Possible reaction by the Judicial Council or judicial inspection?
- g. Possible reaction by the Constitutional Court?

The constitutional role as guarantor of the independence of judges and prosecutors is vested with the Superior Council of Magistracy (SCM) and the Superior Council of Prosecutors (SCP), respectively. Hence, judges and prosecutors are entitled to report to their administrative bodies on certain actions whose nature/substance may harm their independence, impartiality and professional reputation. By taking an active stand, both SCM and SCP have the right to openly denounce threats against the judiciary or prosecution service in general and against the independence of an individual judge in particular, by clarifying challenges the judiciary is facing.

In addition, according to the legal framework, should a participant in a case or any other person, including a person in state office, attempt an illegal communication with the judge in regard to a particular case, the judge is obliged to inform in writing, on the same day, the Superior Council of Magistracy about this action (art. 15, Law no 544/1995 on the statute of judges).

In the event of interference in the professional activity of public officials (including judges and prosecutors) by third parties, by means of pressure, threats or requests to carry out their professional activity in a certain way, when the given interference is illegal but does not meet the elements of a crime, they are obliged to denounce the inappropriate influences. These allegations of undue influence are made to the SCM (regarding judges) and to the Prosecutors' Inspection (established within the General Prosecutor's Office). In these situations, SCM and the Inspection may take direct measures to prevent cases of undue influence (for example, alerting by issuing official notifications, discouraging the person generating undue influence, identifying other legal measures).

According to statistical data, in the period 2016-2021, 7 such complaints were filed by the judges (the main grounds being the attempt to communicate by the lawyer or third parties, intimidation and the threat of physical force).⁴³¹

The Contraventions Code (Law No. 218/2008) sanctions a number of connected offenses: disrespect towards any court (including the Constitutional Court); interference unrelated to procedural matters in the activity of judges, the attempt to exercise influence over them (Art. 317).

The Criminal code provides for a crime: „Interference with the dispense of justice and with criminal investigations” (art.303). This provision sets a penalty of up to appx. 2370 EUR , or up to 240 hours of community service or a jail sentence for up to 4 years, and withdrawal of the right to hold public office if the perpetrator used his/her position, for interfering in any form with the examination of cases by courts in order to hinder the comprehensive, complete, and objective examination of a specific case or in order to obtain an illegal court decision, or for interfering in the activity of the law enforcement bodies preventing them from faster, comprehensive and objective investigation of a specific case.

The Constitutional Court is not part of the judicial system and only holds constitutionality jurisdiction (art. 134 of the Constitution). Hence, the role of the Constitutional Court is only to verify the constitutionality of the legal provisions from the perspective of their correspondence to the constitutional principle of the independence and impartiality of judges. The Superior Council of Magistracy and the Prosecutor General have the authority to file applications to the Constitutional Court. A normative act or some provisions declared unconstitutional shall cease to apply as from the effective date of the judgement of the Constitutional Court.

89. Recruitment/nomination: Describe the methods and criteria for the selection/appointment of candidates for judicial office. How are judges and prosecutors recruited (are there competitive and public written exams with anonymous results; are the questions publicly available or not; systematic interviewing of all candidates; comparison of CVs; etc.)?

Appointment and recruitment of judges

⁴³¹ Source: Superior Council of Magistracy.

Based on recent constitutional amendments (in force since April 1, 2022), all judges are appointed by the President of the Republic of Moldova, at the proposal of the Superior Council of Magistracy (SCM).

In order to apply for the position of a judge, the candidate must meet several cumulative criteria, namely: s/he has the citizenship of the Republic of Moldova, is domiciled in the country, knows the state language (Romanian)⁴³², enjoys legal capacity, has an impeccable reputation, has a clean criminal record, meets the medical requirements, holds a bachelor's degree and a master's degree in law or its equivalent, has graduated from the National Institute of Justice or has the required number of years of required work experience (e.g. as advocate, prosecutor, etc.), and has passed the polygraph test. In addition, the person must have passed the selection by the Board for Selection and Career of Judges, and subsequently be registered in the Register of candidates published on the official page of the SCM.⁴³³

The regulatory framework distinguishes between two categories of candidates for the position of a judge: (1) graduates of the initial training courses for candidates for the position of judge (graduates) and (2) candidates who apply for the position of judge based on work experience (candidates by experience). Both types must pass the same exam before the Graduation Commission of the National Institute of Justice, except that the graduates must take it to complete their studies and they receive the certificate of graduation, whereas the other candidates take it separately and receive an exam certificate. Both certificates are valid for 5 years after which the candidates must retake the exam. For more details on the graduation exam please see the answer to Question 115.

The number of places offered for the admission to National Institute of Justice (NIJ) selection for the initial training of candidates for the position of judge and prosecutor is approved annually by the NIJ Board, taking into account the available financial means and the proposals of the Superior Council of Magistracy and the Superior Council of Prosecutors.

The persons registered for the competition take the admission exam in Romanian, for the written and oral test. The written test is carried out electronically in two stages: taking an eliminatory psychological test (validation), and the second stage - taking a specialized test, which consists of solving 400 questions in areas such as: civil law, procedural law civil law, criminal law, criminal procedural law, administrative law, administrative procedural law, and human rights. The oral test consists of solving two cases in the subjects from the speciality test, which include aspects of material and procedural law. Cases may also include questions related to international human rights law. All grid tests with the correct answer and task cases are published on the NIJ website 60 days before the test. After the completion of the admission competition, the NIJ Board approves the results and the lists of candidates for the positions of judge and prosecutor who promoted the competition. The minimum acceptable grade for registration is 8.00 (out 10).

Graduates of the National Institute of Justice, after completing the initial training (lasting 18 months), are required to participate for 5 years in all selections announced by the SCM to fill the positions of a judge and are expected to accept any position on

⁴³² Hot. CC nr. 36/2003, available in Romanian at: <https://www.constcourt.md/ccdocview.php?l=ro&tip=hotariri&docid=476>

⁴³³ See the register of candidate judges: <https://csm.md/ro/registrul-candidatilor.html>

offer. For failure to do so they may be excluded from the Register of candidates and may be required to pay back the state scholarship received by all graduates during the initial training.

Judicial positions are filled on a competitive basis. The SCM organizes the selections for the judge positions, as a rule, twice a year only, whereas the vacant positions are published on SCM website on on-going basis.

The SCM proposes candidates for appointment based on the average score of each candidate. The score is composed as follows: 50% weight is based on the grade in the exam/graduation certificate of the candidate; 30% - on the score by the SCM Board for Selection and Career of Judges; and 20% - on the score by the SCM. Note that there are different individuals sitting in the SCM and in the SCM Board for Selection and Career of Judges. During the selection meeting, the SCM evaluates personal and other motivations, fit for the position, signs of authority and reputation.

The SCM will propose the winning candidate for each position for appointment to the President of RM. The President may refuse a candidate proposed by the SCM only once.

Appointment and recruitment of prosecutors

Prosecutors in RM are appointed on the basis of selection. The candidate must be a citizen of the Republic of Moldova; knows the state language; is not subject to guardianship; has a bachelor's degree and a master's degree in law or another equivalent legal qualification; recognized by the relevant authority; has completed the initial training courses for prosecutors at the National Institute of Justice (NIJ) or has the required years of required work experience; has passed the examination before the Graduation Commission of the National Institute of Justice (unless exempt based on work experience (10 years); has irreproachable reputation and is medically fit to perform the function of prosecutor. Qualifying candidates will be registered in the Registry of candidates published on the website of the Superior Council of Prosecutors (SCP). See above about the places offered for studies at NIJ.

The graduates of the National Institute of Justice take part in the competition on the basis of the graduation certificate, while persons who have not completed the initial training courses for prosecutors at the National Institute of Justice may apply for the position of prosecutor if they have at least 5 years' experience as a prosecutor or judge in national or international courts, as an investigation officer, as a lawyer, as a People's Advocate or as a prosecutor's consultant, judicial assistant in the court, also in legal specialist positions in the apparatus of the Constitutional Court, the Superior Council of Prosecutors, the Superior Council of Magistracy, the Ministry of Justice, the Ministry of Internal Affairs, the National Anti-Corruption Centre, the Customs Service or in the position of full professor of law in accredited higher education institutions - on the basis of the capacity examination taken at the NIJ.

During the selection, candidates are assessed by the Board for Selection and Career of Prosecutors on the basis of the following main criteria: (a) level of knowledge and professional skills; b) the ability to apply knowledge in practice; c) seniority in the position of prosecutor or in other positions stipulated by Law No. 3/2016; d) the quality and efficiency of work in the position of prosecutor; e) compliance with the rules of professional ethics; f) teaching and scientific activity.

The Board assesses all candidates entered in the Register. In the assessment of the candidate for the position of prosecutor, the total score obtained in the competition is made up as follows: at least 50% - the score obtained in the examination held in front of the INJ and no more than 50% - the score awarded by the Board for the Selection and Career of Prosecutors.

After the assessment of the Board for the Selection and Career of Prosecutors, the Superior Council of Prosecutors proposes to the Prosecutor General the appointment of the winner of the competition.

90. Please describe the appointment procedure carried out for judges, prosecutors and court presidents, including of the highest courts: constitutional and legal basis, procedure, competent bodies, criteria applied, limitation of terms in office for court presidents, and judicial review. How do the procedures of selection/appointment guarantee that the best candidates are finally appointed? Are there deviations from the merit-based appointments, and if yes, on what legal grounds?

Constitutional and legal basis – judges

Article No. 116 from the Moldovan Constitution regulates the status of judges and lists the three core guarantees of their status: independence, impartiality and irremovability. The same article entrusts the two institutions involved in the appointment procedure: (i) the High Judicial Council of Judges – Superior Council of Magistracy (SCM/CSM), which nominates candidates for judicial nomination, promotion and appointment of court presidents, and (ii) the President of Moldova, which is involved in the procedure by confirming judicial nominations of the SCM by a presidential decree. The President may reject (veto) the candidature proposed by the SCM only once. The provisions of the Constitution are further transposed in special normative acts: Law No. 514/1995 on Judicial Organization,⁴³⁴ Law No. 544/1995 on the Status of Judge,⁴³⁵ and Law No. 154/2012 on the Selection, Performance Evaluation, and Career of Judges.⁴³⁶ These laws are further transposed in detail in the regulations approved and regularly revised by the SCM.⁴³⁷

Once appointed, judges serve for life tenure, until they reach the age limit of 65 (until 1 April 2022, an initial five-year nomination following reconfirmation existed. It was repeated by the amendment of art. 116 of the Constitution).

⁴³⁴ Law No. 514/1995 on Judicial Organization, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127868&lang=ro#.

⁴³⁵ Law No. 544/1995 on the Status of Judge, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125037&lang=ro#.

⁴³⁶ Law No. 154/2012 on the Selection, Performance Review, and Career of Judges, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130340&lang=ro#.

⁴³⁷ Currently, the selection and promotion mechanism is described in four regulations: (i) the Regulation on the criteria for selecting, promoting, and transferring judges; (ii) the Regulation on the criteria, indicators, and procedure for evaluating judges' performance; (iii) the Rules of Procedure of the Board for the Evaluation of Judges' Performance; and (iv) the Rules of Procedure of the Selection Board.

Constitutional and legal basis – prosecutors

Art. 125 of the Constitution provide that the appointment, transfer, promotion, and dismissal of prosecutors is carried out by the Prosecutor General, at the proposal of the High Council of Prosecutors (Superior Council of Prosecutors, or SCP). Similarly, to the judiciary, the SCP ensures the appointment, transfer, promotion and enforcement of disciplinary measures against prosecutors. The rules for the selection and career promotion are further established in the Law No. 3 on the Prosecution Service (2016) and SCP regulations (similarly to the judiciary).

Procedure of selection and promotion – judges

The procedure for selection and promotion represents a complex mechanism. The selection and promotion procedure of judges has several stages, illustrated in the table below:

Stage	Appointment of judges	Promotion of judges
1	Training and graduation exams at NIJ ⁴³⁸ or the exam before the Final Examination Board of the NIJ ⁴³⁹	Evaluation by the Board for Performance Evaluation of Judges
2	Evaluation by the Board for Selection and Career of Judges	
3	Interview and proposal on appointment by the SCM	
4	Appointment by the President of the country ⁴⁴⁰	

Both in the appointment and promotion procedures the candidates for judicial office or promotion pass through these four filters. At each stage the candidates are graded. The purpose of each filter, under Law No. 154, is to ensure an objective, impartial and transparent process that guarantees the selection of the best candidates as judges⁴⁴¹. Each stage is important to ensure checks and balances between the institutions involved in this process. Although the verification of specific skills and qualities can take place in several stages of the selection process, some stages of the evaluation are duplicated by the SCM. The SCM interview is the last stage of evaluation and amounts to 20% of the final scores received by the candidates.

Contests for judicial selection and promotion are organized, as a rule, no more than twice a year. From 2019, SCM is obliged to announces all the available vacancies within the system at the next contest. The competition for each contest is eligible only for candidates previously registered in the SCM Register of candidates (*Registrul candidaților*)⁴⁴². To be included in the Register, each candidate goes through the above-

⁴³⁸ Candidates who graduated NIJ.

⁴³⁹ Candidates with tenure in law.

⁴⁴⁰ The President has the right to refuse the candidacy proposed by the SCM only once, giving reasons for that. The SCM may repeatedly propose the same candidacy by a vote of 2/3 of the members, a mandatory proposal for the President.

⁴⁴¹ See Art. 2 of Law No. 154/2012 on selection, performance evaluation and career of judges, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130340&lang=ro#.

⁴⁴² The ledger of available candidates for judicial appointments and promotion is available at: <https://csm.md/ro/registru-candidatilor.html>.

mentioned filters (NIJ or Evaluation by Performance Evaluation Board, Evaluation by the Board of Selection and Career, and SCM interview). When included in the Register, each candidate has an assigned score, which he/she received after the evaluation procedure. The final „rating” ensures priority in the choice of available vacancies. This is not always respected in practice.

Selection criteria - candidates for judicial office

To be eligible for a judge position, the candidates need to have a bachelor's degree and a master's degree in law⁴⁴³ and 18 months of specialized training at the National Institute of Justice (NIJ) – the entity which prepares future judges and prosecutors. Another point of entry into the system, is the selection of candidates with at five years of experience as court clerk, judicial assistant, lawyer, prosecutor, or other similar office.⁴⁴⁴ Candidates who have the required work experience must take an exam from the NIJ's Examination Commission. The SCM Selection Board evaluates candidates on the scores result at the NIJ's Examination Commission, their work experience, personality traits and skills appropriate for judicial office, including „motivation” of the candidate. Over the last 10 years (2012 – 2022) the weight of certain selection criteria was revised (the weight of the results at the initial training at the NIJ were increased, while the weight of candidates' motivation in writing and the interview was decreased).⁴⁴⁵

Selection criteria – promotion (judges)

Judges shall have at least 6 years of experience as a judge to seek promotion to the appeal court and at least 10 years to seek promotion to the Supreme Court. Promotion is pending by a successful performance evaluation by SCM Evaluation Board and an interview with the SCM members. The board evaluates seniority in judicial office, quality, efficiency, and integrity in judicial office, extracurricular activity of the judge (such as teaching experience, scientific contributions or participation/contribution to working groups designed to streamline legislation, etc). The SCM also evaluates the „motivation” of the judge requesting to be promoted.

Selection criteria – promotion to administrative positions (judges)

To get promoted to the chief judge or deputy chief judge of a court, judges must pass the same evaluation as in case of the promotion, (see the previous section). In addition, judges competing for administrative positions must also pass an additional evaluation which tests their managerial skills. They need to prepare and present before the SCM special boards a development plan or strategy for the next four years of the office for

⁴⁴³ Prior to 2018, aspirants for the NIJ had to have a bachelor's degree in law. In September 2018, a master's degree in law became another mandatory condition for training at the NIJ.

⁴⁴⁴ Article 6 (2) of Law No. 544/1995 on the Status of Judge provides for selections based on work experience for judges and assistant judges of the Constitutional Court, judges from international courts, prosecutors, tenure law professors from accredited higher education institutions, law trainers of the NIJ, lawyers, judicial assistants, and clerks if they have worked in their respective positions for the past five years.

⁴⁴⁵ Legal Resources Centre from Moldova „Resetting the system of selection and promotion of judges in Moldova -Lessons learned and (new) challenges” (2020), available at: https://www.academia.edu/43423685/Resetting_the_system_of_selection_and_promotion_of_judges_in_Moldova_-_Lessons_learned_and_new_challenges

which they compete, while the evaluation boards will score the candidate's former participation in administrative matters (evaluation of personnel, membership in the procurement boards or other working group related to management). The Evaluation Board also looks and awards score for any previous experience in administrative positions.

Procedure of selection and promotion (prosecutors)

Selection of prosecutors is also done via public contests. Prosecutors appointed for the first time undergo a similar procedure of evaluation as judges (results of NIJ boards, evaluation by the selection Board of SCM), while those who seek promotion must undergo a performance review. The specialized boards reviews performance once in four years or more often, at the prosecutor's request it.

The positions of chief prosecutor and deputy chief prosecutor, including chief of subdivision at the Prosecutor General's Office, are also filled through public competition. According to Article 24 (1) of the Law on the Prosecution Office, the SCP regularly announces current vacancies and those that will arise in the next three months by posting the information on its website (www.csp.md). All vacancies announced by the SCP must be open during the next competition.

Similar to judges, in order to compete for a vacant position, the prosecutor must be first registered in a register/ledger of candidates. The SCP publishes the register on its website.⁴⁴⁶ In accordance with para. 8.14 of the SCP's Regulation, as a rule, the competition takes place once in six months.⁴⁴⁷

The candidate who obtains the highest score wins the competition. This score represents the sum of the scores received from specialized evaluation and selection boards of the SCP. In accordance with Article 24 (5) of the Law on the Prosecution Authority, the SCP must publish competition results on its website within two business days of the completion of the competition. At the next meeting, the SCP nominates the winning candidates for appointment by the prosecutor general. Article 24 (6) of the Law on the Prosecution Authority allows the SCP to refuse to nominate a candidate for appointment only if it finds that the candidate is incompatible with the position of prosecutor.

Selection and promotion criteria (prosecutors)

All candidates undergo an evaluation by a specialized Review Board (BRPP), which awards a score to them (similar with judges). The evaluation criteria are approved by the SCP and refer to the specifics of the position put out for competition. The nomination for appointment and promotion as prosecutor is based on the following criteria: seniority in service, the relevance of prior experience for the desired position, the candidate's motivation and performance during the interview, academic and scientific work, the candidate's involvement in activities that are relevant for the

⁴⁴⁶ The registers of candidates are available at: <http://www.csp.md/node/34>.

⁴⁴⁷ The SCP's Regulation approved by SCP Decision 12-225/16 of 14 September 2016 with subsequent amendments and additions is available in Romanian at: <http://csp.md/sites/default/files/inline-files/Regulamentul%20CSP%20cu%20modif.18.12.2020.pdf>.

prosecution, knowledge of foreign languages, and compliance with professional ethics during service in the prosecution.

Promotion to administrative positions (prosecutors)

In accordance with Article 22 (4) of the Law on the Prosecution Service, a prosecutor who wants to enter a competition for chief prosecutor or deputy chief prosecutor must have worked at least five years in the prosecution and have undergone a performance review at least two years before applying for the competition. Candidates obtain additional points for the skills required to perform managerial duties and for the conception of how managerial duties should be performed.

Limitation of managerial office

Judges: the presidents and vice-presidents of the courts are appointed for term of 4 years. They may hold office for a maximum of two consecutive terms. **Prosecutors:** The term of office of the Chief Prosecutor of the Prosecutor's Office, that of Deputy Chief Prosecutor of the Prosecutor's Office, that of Chief Prosecutor of the General Prosecutor's Office subdivision and that of Deputy Chief Prosecutor of the General Prosecutor's Office subdivision is 5 years. They may hold office for a maximum of two consecutive terms.

Judicial review: All the decisions of the Superior Council of Magistracy and Superior Council of Prosecutors (on the selection and promotion included) may be challenged at the Chisinau Courts of Appeal in 30 days. Its ruling can be appealed to the Supreme Court.

Procedures of selection/appointment that guarantee that the best candidates are finally appointed

Judges: There are all the prerequisites in the law to ensure that the best candidates are finally appointed for the position of the judge: There is a mandatory requirement that all candidates are obliged to express their choice for every vacancy put out to competition, and they are given a priority in the choice of vacancies, in the descending order of their average score obtained in the competition. However, there are documented cases in the last decade (2012 - 2022) where the role of the evaluation by the Selection Board (the offered score) was minimized as the SCM most often did not nominate the candidates with the highest score, nor did it offer the reasoning why it had disregarded evaluation made by the two boards.⁴⁴⁸ **Prosecutors:** Similarly to the system of selection and appointment, the law on Prosecutors they are given a priority in the choice of vacancies, in the descending order of their average score obtained in the contest. Similarly, to judges, there are documented cases when the scores were disregarded.⁴⁴⁹

⁴⁴⁸ Available at: <http://old.crim.org/wp-content/uploads/2020/05/Resetare-sistem-selectie-si-promovare-2013-2019-En.pdf>

⁴⁴⁹ See communiqué by the Prosecutor General's Office, available in Romanian at <http://procuratura.md/md/newslst/1211/1/8540/>.

Trust in the system of appointments and promotion

Judges: The laws on the selection and promotion of judges are mostly compliant with international standards.⁴⁵⁰ Surveys conducted in 2015⁴⁵¹ and 2020⁴⁵² showed that more than 60% of judges agree with the statement that the mechanism for the initial selection of judges was fair and meritocratic. When it comes to promotion, this number is slightly lower – only around 40% agree with the statement. **Prosecutors:** Based on the same surveys, 71% of prosecutors stated that the appointment procedure of prosecutors was merit based, and 57%, that the promotion of prosecutors was based on merit.

91. Evaluation/Promotion: Is the performance of holders of judicial office assessed? If yes, describe the body in charge as well as the relevant methods and criteria. Do the promotion criteria contain factors such as ability/efficiency and integrity? What type of career system is established in Moldova (based on merit, seniority, mixed)? Is there a fair and transparent system of promotion of judges and prosecutors in place? Are there legal remedies available before an independent tribunal against final decisions on the matter?

Assessment of performance

Judges are evaluated in terms of professional performance by the Judges' Performance Evaluation Board of the Superior Council of Magistracy (Evaluation Board). The aspects related to the evaluation and promotion of judges are regulated in Law #154/2012 on the selection, evaluation of performance, and career of judges. The Evaluation Board consists of 7 members, appointed for a term of 4 years:

- 5 members are elected from among the judges of the courts of all levels;
- 2 members are selected from among the representatives of the civil society by the Superior Council of Magistracy.

The procedure and detailed criteria for evaluating the performance of judges are established by the *Regulation on criteria, indicators and procedure for evaluating the performance of judges*, approved by the Superior Council of Magistracy. The following criteria and sub-criteria have been set out in that Regulation:

1. The efficiency of the judge's activity:
 - a. case resolution rate;
 - b. compliance with reasonable deadlines in resolving cases;
 - c. compliance with the deadline for drafting the judgements;
 - d. the fulfilment in legal term of other duties established by law;
 - e. knowledge and application of information technologies;

⁴⁵⁰ See Recommendations of the Venice Commission CDL-AD(2007)028 on Judicial Appointments, paras. 46 – 47; CDL-AD(2010)004 on the Independence of the Judicial System. Part I: The Independence of Judges; OSCE/ODIHR's Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus, and Central Asia, 2010, paras. 2, 4, 8, 16, 17, 21, and 23; and Dublin Declaration on Standards for the Recruitment and Appointment of Members of the Judiciary. ENCJ, 2012, Chapter II, para. 2.

⁴⁵¹ Legal Resources Centre from Moldova, *Survey: Perception of Judges, Prosecutors, and Lawyers on Justice Reform and Fight against Corruption*, 2015, available in Romanian at <http://crjm.org/wp-content/uploads/2016/01/CRJM-Percepts-reformelor-just-1.pdf>.

⁴⁵² LRCM, *Survey: Lawyers' Perception of the Justice Reform and the Fight against Corruption*, 2020, available at: <https://crjm.org/wp-content/uploads/2021/02/Perceptia-judecatorilor-procurorilor-si-avocaturilor-ENG-2020-web.pdf>.

2. Quality of activity:

- f. the percentage of judgments / decisions upheld on appeal;
- g. the number and percentage of judgments / decisions annulled;
- h. clarity of presentation and quality of reasoning of decisions;
- i. the way of organizing the professional activity;
- j. professional training of the judge

3. Professional integrity:

- k. observance of professional ethics;
- l. professional reputation;
- m. existence of disciplinary violations;
- n. existence of violations of the European Convention on Human Rights (ECHR) found by the European Court of Human Rights (ECHR)

Another body within the Superior Council of Magistracy that is involved in the promotion of judges is the Board for the Selection and Career of Judges. This Board aims to ensure the selection of candidates for the position of judge, the promotion of judges to higher courts, the appointment of judges to the position of president or deputy president of a court and the transfer of judges to courts of the same level or to lower courts. The decision taken by the Board for the Selection and Career of Judges is based on the results of the performance evaluation, carried out by the Board for the Evaluation of Judges' Performance.

The Board for the Selection and Career of Judges consists of:

- 4 members elected from among the judges of the courts of all levels;
- 3 members selected from among the representatives of the civil society by the Superior Council of Magistracy.

Promotion and level of transparency/fairness in appointment and promotion

The career promotion in the Republic of Moldova is based on merit. In order to be promoted to a higher court or to be appointed as a court president, the judge's performance shall be evaluated, according to the criteria indicated above. This includes becoming a judge in the Supreme Court of Justice, which until recently was a mixed system as it also required 10 years of experience as a judge. This requirement was removed from 1 April 2022.

Regarding the transparency of the promotion system for judges and prosecutors, the results of the survey conducted in 2020 by the Legal Resources Centre from Moldova show that: "When asked about the procedure for appointing judges, 68% of judges said it was based on merit. However, less than half (48%) of judges said that the promotion of judges is based on merit. 71% of prosecutors said that the appointment of prosecutors was based on merit and 57% that the promotion of prosecutors was based on merit."

Legal remedies

The RM legislation provides for the right of judges to challenge in court the decisions regarding their career. Appeals against decisions adopted by the Board for the Selection and Career of Judges and the Board for Judges' Performance Evaluation shall be

examined within a maximum of 30 working days from the date of their registration in the Superior Council of Magistracy. The decisions taken by the Superior Council of Magistracy can also be challenged at the Chisinau Court of Appeal, in the manner provided by the Administrative Code.

92. Irremovability of judges: Does the system foresee the principle of “irremovability” of judges and prosecutors? Are there sufficient legal safeguards regarding the transfer of judges without their consent? If such transfers are allowed, can judges be required to move between courts and regions without their consent? Who and how is the decision to move a judge without consent made? Can judges appeal final decisions of transfer?

The principle of irremovability of judges is expressly regulated in art.116 para.(1) of the Constitution of the Republic of Moldova, being developed in art. 18 of Law #544/1995 on the status of judges. In this context, it is expressly provided that even in the event of the liquidation / reorganization of a court or the need to make a temporary transfer to another court, such changes in a judge's career may be made only with her/his consent.

Under Moldovan law promotion/transfer of a judge to the higher or lower court, appointment to the position of court president or vice-president shall be made only with the judge's consent. The basis for initiating such a change in a judge's career is her/his request submitted to the Superior Council of Magistracy. In this context, the extraordinary evaluation of the judge's performance is mandatory.

The RM legislation does not stipulate the principle of irremovability for prosecutors. The lower ranking prosecutors are appointed, transferred, promoted and discharged by the Prosecutor General at the proposal by the Superior Council of Magistrates (Constitution, Art. 125).

The legislation stipulates that the transfer of prosecutor to a position of the same or lower level, except for the position of chief prosecutor and deputy chief prosecutor, shall be made based on competitive selection. At the same time, in case a prosecutor's office cannot function due to the temporary lack of prosecutors, in case of vacancies, but also in other cases, the Prosecutor General, at the proposal of the chief prosecutor of the respective prosecutor's office, may delegate prosecutors from other prosecutor's offices, without their consent, for a period of up to one month during a year, and with their written consent, for a period of up to 24 months.

Also, for the purpose of investigating a specific case, the prosecutor appointed as a member of a criminal investigation group may be delegated to another prosecutor's office for a period of up to 6 months without her/his consent.

93. What procedure governs the allocation of judges to particular courts and regions? Who decides on such transfers? For which reasons (e.g. organisational, disciplinary)? Is an appeal against the decision possible?

The Superior Council of Magistracy is the constitutional authority to decide the allocation of judicial positions in Moldova, but the number is also prescribed in the Law No. 514/1995 on the Organization of the Judiciary - 504 judge positions. This number includes all positions in the Republic of Moldova for all courts, including 33 judge

positions for the Supreme Court of Justice and allocation for the courts located on the left bank of Nistru River (Art. 21 para. (2) of Law on the Organization of the Judiciary). The SCM regulates the criteria for deciding the number of judges in courts in a dedicated Regulation⁴⁵³, which include: the workload per judge for the last 3 years; the number of cases per year, per country and the number of judges per country (average annual load per judge per country); complexity of cases; the number of judges per capita; the number of inhabitants in the court constituency; the number of cases specific to the respective court and constituency; other criteria that may influence the operation of courts.

During the competitive selection candidates for the position of judge choose preferred vacancies based on a decreasing order of their score. Candidates may also indicate the court of their choice. These options are mentioned in the SCM decision proposing the candidates to the President of the Republic of Moldova for appointment.

As mentioned above the principle of irremovability is set in the Constitution of the Republic of Moldova. In accordance with international standards in the field of justice, which allow some restrictive exceptions to this principle, the Moldovan law allows transfer of a judge to other courts for a limited period (up to 6 months). Such transfer can take place if a court cannot operate efficiently due to a large caseload, vacancies or temporary vacancies, etc., but only with the written consent of the judge and by decision on the SCM. The same judge may not be repeatedly transferred for short periods to the same court within 2 years. Should as a result of the transfer the judges will be entitled to lower remuneration, he is due to be paid the salary from before the transfer.

Other situations that allow a judge's transfer are related to (1) redistribution of judges' positions and (2) a court's reorganization or dissolution. If a court is reorganized or dissolved, the judge is transferred, with their consent, under the law, to another court. If they refuse the transfer to another court, they have the right to resign.

The national legislation does not establish a judge's transfer to another court as a disciplinary sanction.

The acts adopted by the Superior Council of Magistracy (including those concerning their careers) may be appealed in administrative procedure in Chisinau Court of Appeals.

94. Dismissal of judges/prosecutors: Please describe the exact procedures for the dismissal of judges and prosecutors (legal basis, competent authorities to launch the procedure, reasons for dismissal etc.). Which authorities have the power to propose (and who should be consulted) and to decide on the dismissal of judges/prosecutors and on the withdrawal of judges? Are there legal remedies against the final decisions on dismissal of individual judge/prosecutor?

Grounds for discharge of judges are provided in art. 25 para.(1) of the Law #544/1995 on the status of the judge and are as follows:

- submission of the resignation request;
- obtaining the grade "insufficient" for two consecutive performance evaluations;

⁴⁵³ See an array of relevant SCM regulations at: <https://www.csm.md/ro/informatii/legislatia/hotariri-csm.html>

- transfer to another position under the law;
- committing a disciplinary violation specified in the Law #178 of July 25, 2014 on the disciplinary liability of judges;
- being subject of a final judgment of conviction;
- establishing, by the final finding act, the direct ruling, or by means of a third party, of a legal act;
- taking or participating in taking a decision without resolving the actual conflict of interest in accordance with the provisions of the legislation governing the conflict of interests;
- failure to submit the declaration of assets and personal interests or refusal to submit it, under the conditions of art. 27 para.(8) of the Law #132 of June 17, 2016 on National Integrity Authority;
- final ruling by the court, of the confiscation of the unjustified property;
- established, by the final finding act, unresolved in due time the incompatibilities with a position of a judge, stipulated in art. 8 para.(1) of this law;
- the negative result of the professional integrity test based on the decision of the disciplinary board;
- loss of citizenship of the Republic of Moldova;
- non-compliance with the provisions regarding the list of positions incompatible with the position of judge;
- established the incapacity to work, proven by a medical certificate;
- end of tenure (65 years);
- establishing a judicial protection measure.

Regardless of the grounds for dismissal of the judge, the final proposal for her/his dismissal is submitted to the President of the Republic of Moldova by the Superior Council of Magistracy. The President confirms the resignation by a presidential decree.

The internal procedures within the Superior Council of Magistracy may differ depending on the grounds for dismissal. For example, in the case of resignation or transfer, the procedure is initiated at the request of the judge concerned, which is submitted to the Superior Council of Magistracy. In case of obtaining the grade "insufficient" at two consecutive evaluations, the Performance Evaluation Board informs the Superior Council of Magistracy about this fact and the latter adopts the decision to propose the dismissal of the judge, which is submitted to the President of the Republic of Moldova. In case of disciplinary violations, the Superior Council of Magistracy is informed by the Disciplinary Board. In case of non-submission of the declaration of assets and personal interests, the Superior Council of Magistracy shall be informed by the National Integrity Authority.

The grounds for dismissal of prosecutors are regulated in the Law #3/2016 on Prosecution Service and are the following:

- submission of the resignation request;

- refusal to be transferred to another prosecutor's office or subdivision of the prosecutor's office if the prosecutor's office or subdivision of the prosecutor's office where s/he worked is liquidated or reorganized;
- refusal to comply with the disciplinary sanction of demotion;
- the application of the disciplinary sanction of dismissal from the position of prosecutor once it becomes final;
- obtaining the grade "insufficient" in two consecutive evaluations or failing in the performance evaluation;
- unmotivated failure to show up, twice in a row, for performance evaluation;
- running as a candidate on the list of a political party or socio-political organization in elections to Parliament or local public administration authorities;
- final act that finds incompatibility or the violation of certain prohibitions;
- act that certifies that s/he is considered to be medically unfit to perform her/his duties;
- refusal to be subject to verification under the Law #271-XVI of December 18, 2008 on the verification of incumbents and candidates for public office;
- appointment to a position incompatible with the position of prosecutor;
- final finding act that finds the direct ruling, or by means of a third party, of a legal act, taking or participating in taking a decision without resolving the real conflict of interests in accordance with the provisions of the legislation on conflict of interest;
- failure to submit the declaration of assets and personal interests or refusal to submit it, under the conditions of art. 27 para.(8) of the Law #132 of June 17, 2016 on National Integrity Authority;
- Final ruling by the court, to confiscate the unjustified property.

In cases of resignation request, refusal to be transferred, and refusal to comply with the disciplinary sanction, the dismissal of the prosecutor is made by an order of the Prosecutor General, based on the request or, respectively, the refusal, presented in writing.

The dismissal of the prosecutor, the chief prosecutor or the deputy Prosecutor General, in all cases except for their own resignation request, is made within 5 working days from the intervention or bringing to the attention of the Prosecutor General of the case, by an order. of the Prosecutor General, which is communicated to the prosecutor concerned within 5 working days from the issuance, but prior to the date of dismissal.

The Prosecutor General may be removed from office before the expiration of her/his term of office by the President, in the event of (i) his/her own early resignation, (ii) application of a disciplinary sanction – resignation, (iii) if the Prosecutor General joins a political party, or (iv) ceases to be compatible with the position of the prosecutor, (v) finding that s/he is medically unfit for work, (vi) refusal to be subject to verification under the Law #271-XVI of December 18, 2008 on the verification of holders and candidates for public office, (vii) failure to file a declaration of assets and personal interests, (viii) by a final ruling of the court that approved the confiscation of unjustified

assets. In case of a final act which finds the incompatibility or violation of some restrictions, the dismissal of the Prosecutor General is made on the basis of a final court judgement or a decision of the Superior Council of Prosecutors.

Legal remedies against dismissal

The decision of the Superior Council of Magistracy to dismiss a judge may be appealed in court in administrative procedure. The Administrative Code expressly provides that the Chisinau Court of Appeal resolves in the first instance the applications against the decisions of the Superior Council of Magistracy. In case the dismissal order is declared null, the judge will be reinstated in all her/his previous rights, and will be paid for the time out of office.

In case of prosecutors, the order of the Prosecutor General regarding the dismissal can be challenged in court (same procedure – Administrative Code). In case the dismissal order is declared null, the prosecutor will be reinstated in all her/his previous rights, and will be paid for the time out of office.

95. Can decisions by a disciplinary body be appealed before a Court?

The decisions of the disciplinary bodies of judges and prosecutors may be challenged in accordance with the provisions of the *Administrative Code of the Republic of Moldova #116/2018* and some other special laws regulating the procedure in courts and the pre-court mechanism.

Disciplinary liability of judges

Disciplinary liability of judges is prescribed in the *Law #178/2014 on disciplinary liability of judges*. The law governs the grounds for disciplinary liability, the categories of disciplinary offences committed by judges, the disciplinary sanctions applied to them, the stages of disciplinary proceedings, the powers of institutions involved in disciplinary proceedings and the procedure of examination, adoption, and challenging disciplinary proceedings against judges.

The following institutions are involved in the examination of a disciplinary notification: the Judicial Inspection, the Disciplinary Board, and the Superior Council of Magistracy.

The disciplinary procedure comprises four stages, for each of which the responsible bodies and the manner of appeal are established as follows:

- Submission of a complaint regarding the deeds that may constitute disciplinary violations – shall be made by the person or state body concerned.
- Verification of complaints by the Judicial Inspection and carrying out of the disciplinary investigation - the decision of the Judicial Inspection regarding the rejection of the complaint as unjustified can be challenged at the Disciplinary Board, which will examine such appeal within its appeal-related panel. The decision of the panel regarding the admission of the appeal is binding for the Judicial Inspection.

- Examination of disciplinary cases by the Disciplinary Board - the decisions of the Disciplinary Board adopted as a result of the examination of disciplinary cases may be challenged at the Superior Council of Magistracy by the persons who filed the complaint, by Judicial Inspection, or by the judge concerned, within 15 days from receiving the copy of the reasoned decision. The 15-day period is a mandatory time-limit. Upon expiration of this term, the uncontested decisions of the disciplinary board shall become final.
- Decisions on disciplinary cases - this is one of the competencies of the Superior Council of Magistracy. The decisions of the Superior Council of Magistracy can be appealed to the Chisinau Court of Appeal by the persons who filed the notification, by the Judicial Inspection or by the judge concerned, within 30 days from the date of receiving the reasoned decision. Such an appeal shall be examined in the procedure established by the Administrative Code. The party to the proceedings who is dissatisfied with the decision of the Court of Appeal has the opportunity to appeal against this decision to the Supreme Court of Justice.

Disciplinary liability of prosecutors

The Law #3/2016 on Prosecution Service, provides a similar pre-court complaints procedure is as the one set out above for judges. The decision of the Discipline and Ethics Board of the SCP in a disciplinary case may be appealed to the Superior Council of Prosecutors, through the Board, within 5 working days from the date of pronouncement. Such decisions (as well as decisions by other prosecutors' boards) are examined by the Council, as a rule, at the next meeting of the Council, but not later than one month from the date of their registration. After examining the appeal against a decision the Council shall take one of the following courses of action: (a) uphold the contested decision; (b) set aside the contested decision and adopt a new decision ordering that the candidate be reassessed by the respective board. These provisions are introduced in the Rules of the Superior Council of Prosecutors, approved by the Decision of the Superior Council of Prosecutors No 12-225/16 of 14 September 2016.

In case of disagreement, the decision concerned may be contested in accordance with the provisions of the Administrative Code #116/2018 at the Chisinau Court of Appeal, and the decision of the Court of Appeal ruled in that case can be appealed to the Supreme Court of Justice.

96. Can cases be taken away from judges and if so, by whom and under which circumstances? Has the take-over of cases been proscribed in Law? If yes, please describe its functioning? Can judges complain, and to whom, about the taking-away of cases?

The casefiles received in court are distributed, within one day, to a judge or, as the case may be, to a panel of judges by random allocation, through the automated information program for casefile management (ICMS/PIGD) via a system for random allocation of casefiles in courts. Where there is a conflict of interest the rules on abstaining from a case or recusal apply, in order to transfer the case. Please see the answer to Question 104 for the details on these procedures.

National legislation also provides for a mechanism of transferring a casefile from a competent court to another court of equal level and the procedure is slightly different in criminal, civil, and administrative cases.

For criminal cases, the Supreme Court of Justice may transfer a criminal case from a competent court to another court of the equal level if by doing so the case may be resolved objectively, quickly, completely and procedurally adequate. The transfer of the case may be requested by the court president or by one of the parties. If it considers that the request is well-founded, the Supreme Court of Justice shall order the relocation of the case with the indication of the specific court. This court will be notified immediately about the admission of the request for relocation. The decision of the Supreme Court of Justice is final.

For civil and administrative cases, the court in the process of preparing the case for judicial hearings, by means of a reasoned decision that is not subject to any appeal, may transfer the case to another court if:

- the defendant, whose domicile was not known, requests the transfer of the case to the court from her/his domicile attested by the right of ownership, the quality of tenant or the residence visa;
- the case was accepted in breach of the rules of jurisdictional competence;
- both parties request that the case be moved to the court where most of the evidence was found.

For cases where:

- due to the recusal (abstention from trial) of one or more judges or for other well-founded reasons, the substitution of its judges becomes impossible;
- there are reasons for public security measures;
- there are suspicions that the impartiality of judges could be hampered by the circumstances of the case or the kind of the participants in the trial;
- in exceptional circumstances, the court competent to adjudicate the case may not function for a long time.

The transfer of the case shall be carried out by the hierarchically superior court, by a final decision not subject to any appeal.

A judge is obliged to notify the Superior Council of Magistracy of any undue interference, including in an event of taking away a case.

97. The allocation of incoming cases within a court/prosecution office: Are general objective criteria for distributing cases within a court pre-established, thus preventing that the allocation of cases is influenced by the wishes of any party to a case or any person concerned with the results of the case (e.g. law, well-established practice)? How are cases allocated (e.g. by court president/chief prosecutors, by court staff, random allocation, pre-defined order) and which authority supervises the allocation?

Cases are assigned for examination in courts randomly, which ensures the transparency, fairness, and impartiality of this process, using the Integrated Case Management System (ICMS/PIGD).

The ICMS was introduced since 2016, and is available in all courts of the Republic of Moldova. The system allows for the creation of electronic case files, electronic generation of hearings scheduled, random assignment of cases, and automatization of procedures that otherwise were time-consuming and related to judicial statistics reporting.⁴⁵⁴ ICMS is used to register and manage all types of cases: civil, criminal and misdemeanours. The court chairpersons are responsible to oversee the random case assignment. Since its creation, the system was subject to several updates.⁴⁵⁵

Incoming cases are registered in ICMS by an authorized person, designated for this purpose by the court chairperson. Usually, this is someone from the court registry. The cases are registered in the order of their arrival. The system allows categorisation by civil, criminal, and contravention cases. The timeframe for registration of cases in ICMS shall not exceed 24 hours after the cases was received.

ICMS ensures random distribution of cases and a balanced workload in courts by utilizing an algorithm that takes into account the complexity of the case, the judge's specialization, and the judge's workload.

The Agency for Court Administration (AAIJ), subordinated to the Ministry of Justice, is in charge of monitoring and preparation of reports on the random automated assignment of cases in courts.

ICMS is an innovative program intended to build the capacity of the Moldovan judiciary in fighting corruption, increasing transparency, and public access to justice. Nevertheless, the system is not without flaws. There are still records of situations in which it might be possible to bypass the system of random assignment of cases.⁴⁵⁶ To prevent this, the Government and judiciary is in search of solutions and will conduct an audit of the security of the system, with a view to update the system and insure better traceability of actions and persons accessing the system.

In the Prosecutor's Office system, complaints, criminal proceedings, criminal cases, petitions and other work processes are assigned by the chief prosecutor of the structural unit (the hierarchically superior prosecutor). The assignment criteria include specialization; skills; experience; the number of complaints/proceedings/cases, reports, and their degree of complexity; and incompatibility and conflict of interest cases.

The hierarchically superior prosecutor may also withdraw, by a reasoned order, the materials and criminal cases assigned, and assign them to another prosecutor for examination in the following cases:

- transfer, secondment, deployment, suspension, or dismissal of the prosecutor, according to the law;
- absence of the prosecutor, if there are objective reasons that justify the urgency;

⁴⁵⁴ <https://rm.coe.int/the-list-of-recommendations-for-improving-the-integrated-case-manageme/168078afd8>

⁴⁵⁵ See SCM decision on for the experimental exploitation of the modules of the new Integrated File Management Program <https://www.csm.md/files/Hotarile/2019/01/25-1.pdf>.

⁴⁵⁶ Press-release from 13 November 2017 by practicing Lawyers in Chisinau stating that the random case distribution in the case of their client was violated: <https://www.ipn.md/en/societate/87565>.

- failure to take the necessary actions on the criminal case unjustifiably for more than 30 days;
- finding, *ex officio* or based on a complaint, a serious violation of the rights of the persons participating in the criminal proceedings or in case of allowing irreparable omissions while handling the evidence.

Subsequently, we inform that there are no criteria for assigning work tasks in other areas of operation of the Prosecutor's Office, such as: an examination of petitions, contravention cases, etc. Therefore, the assignment of work processes in these areas of operation are at the discretion of the Chief Prosecutor.

98. What is the salary scale for judges and prosecutors and does it include a system of rewards/ bonuses? How does this compare with other professions (high-ranking civil servants, attorneys, lawyers in private enterprises, etc.) and to the average income? How is the salary of judges and prosecutors set and adjusted in practice? Who is deciding about it? Is information about the system of remuneration publicly available?

The monthly salaries of judges are established based on a formula calculation which includes a rate of x3 average monthly salaries in the public sector. Additional sums are awarded on a monthly basis for the professional rank; scientific and/or scientific-didactic title; honorary titles (Art. 10 of Law on the unified remuneration system in the public sector). The salaries of prosecutors are on average 90% of those of the judges.

The average monthly salary per economy for 2021⁴⁵⁷ was established in the amount of 8716 lei. Based on 2021 data, the salary of a judge in his/her early career was ~2.8 times the national average salary, and the salary of a Supreme Court of Justice (SCJ) judges was 4.4 times the national average.

For 2021, the basic average salary of judges and prosecutors has been set in the following range / *per month*

- For judges of the Supreme Court of Justice - from 30660 (EUR⁴⁵⁸ ~1500) to 36250 lei (EUR ~1800);
- For judges of courts of appeals – from 24930 (EUR ~1249) to 31380 lei (EUR ~1.573);
- For judges of the district courts – from 20650 (EUR ~1035) to 26550 lei (EUR ~1330);
- For prosecutors of the General Prosecutor's Office – from 27125 (EUR ~1359) to 34850 lei (EUR ~1746);
- For prosecutors of specialized prosecutor's offices – from 27130 (EUR ~1359) to 32050 lei (EUR ~1606);
- For prosecutors of territorial prosecutor's offices – from 18230 (EUR ~913) to 23430 lei (EUR 1.174).

⁴⁵⁷ The salary is set on annual basis, see Government Decision No. 923/2020.

⁴⁵⁸ Sums in MDL converted in EUR based on the exchange rate of the National Bank of Moldova, as of 18 April 2022. See online conversion information: <https://www.bnm.md/ro/content/ratele-de-schimb>.

The salary of judges (regardless of entry-level or for those at the SCJ) is relatively low in comparison with the 45 countries reviewed in the Council of Europe CEPEJ report.⁴⁵⁹

Salaries differ depending on the length of service and the position held (for example: court president, vice-president, judge, prosecutor, chief prosecutor, deputy chief prosecutor, general prosecutor, deputy general prosecutor).

Judges' salaries compared with other professionals

Despite being the lowest remunerated judges from the region, the remuneration of judges and prosecutors is still higher than those in the executive and legislative branch of power, including for the highest-ranking civil servants: President of the Republic of Moldova, Speaker of the Parliament, Prime Minister, Members of the Parliament, etc.) had the following salaries set for 2021. President of the Republic of Moldova, Speaker of the Parliament and Prime Minister - 19500 lei gross monthly salary (EUR ~977); Members of the Parliament and Ministers - 18130 lei (EUR ~908).

Lawyers/Bailiffs/Notaries/: belong to the category of self-employed persons and their salaries are neither pre-established nor public, so an objective comparison is not possible. Although lawyers are free to establish the size of their fee, the Council of the Bar Association of the Republic of Moldova has approved recommendations in this regard. Hence, a reasonable and recommended range for the size of hourly rates of lawyers in the Republic of Moldova has been set between 50 and 150 euros per hour and a ceiling of 17% of the value of a winning case (2012).

It is worth noting that judges and prosecutors, as well as, high-ranking civil servants (persons with public offices) enjoy the same monthly allowances, mentioned above, i.e. (allowance for the professional rank (e.g. in the range of 200-500 lei (EUR ~10 – 25) per rank and there are appx. 5 ranks); for holding a scientific and/or scientific-didactic title (e.g. up to 1100 lei, ~55 EUR); etc). With regards to prosecutors, the implementation mechanism for awarding and paying the allowances for professional rank is still on-going and not entirely in effect yet.

All the amounts mentioned above paid to public officials (including judges, prosecutors, cabinet ministers, etc.) are calculated based on publicly available information and formulas set in the on the unitary salary system in the budget sector (Law No. 270/18). Moreover, judges and prosecutors are subject to submitting annual information on wealth and personal interest. The database is available to the public, searchable by the name of the official in the Database of personal declarations of interests and wealth: <https://portal-declaratii.ani.md/>.

99. Do judges / prosecutors receive non-monetary benefits such as free housing, real estate etc. or monetary compensations such as reimbursement of transport, meals, etc.? If yes, who decides on granting such benefits and upon which criteria? How does this compare with other civil servants? Who is deciding about it? Please describe all the benefits and/or compensations received by judges and prosecutors.

⁴⁵⁹ Legal Resources Centre from Moldova (LRCM) „Moldovan Justice in Figures – a Comparative Perspective~ https://crjm.org/wp-content/uploads/2021/10/Justitia-din-Republica-Moldova-in-cifre-%E2%80%93-o-privire-comparativa_2021-ENG.pdf.

Judges' benefits

Judges do not receive non-monetary benefits such as free housing, real estate or free allowances for transportation or meals. A former mechanism, establishing free housing was repealed in 2009. Judges are entitled to compensation of costs incurred while on official travel (*per diems*), as any civil servant. The amount is established and periodically updated through a Government decision.

At the end of service, the judge is entitled to a lump-sum end of service pay, which is equal to 50% of the amount calculated by multiplying the last monthly salary by the number of years fully worked as a judge.

As a moral incentive for a judge's work, they are granted ranks and titles. Awarding honorary titles is done by the Superior Council of Magistracy. According to Art. 4 of Law No. 947/1996 on the Superior Council of Magistracy, the Council is entitled to apply measures of encouragement to judges. In this sense, the honorary titles "Veteran of the Judicial System", "Dean of the Judicial Authority" and "Honorary Diploma of the Superior Council of Magistracy" may be conferred to them. The qualification ranks of judges are honorary and reflect the appreciation of the results of their work, the quality of the justice made by them, and the level of their professionalism and conduct. Neither the honorary titles nor the qualifications granted to judges represent material (monetary) benefits.

Prosecutor benefits

Same as judges, prosecutors do not receive non-monetary benefits such as free housing, real estate, or free allowances for transportation or meals. A former mechanism, establishing free housing was repealed in 2009. Similar to judges, at the end of service (or upon resignation), the prosecutor with more than ten years of seniority benefits from a lump-sum payment equal to 50% of the amount calculated by multiplying the last monthly salary by the number of years fully worked as a prosecutor. For a returning prosecutor, the calculation of the one-time severance pay shall take into account the time spent in the position of a prosecutor from the date of termination of the last resignation. If on the date of dismissal of the prosecutor, there are ongoing contravention proceedings in connection to their performance of duties or criminal prosecution against them, the payment of the allowance is suspended until the case is resolved, and if the prosecutor is found guilty in such cases, the allowance is not granted.

A prosecutor is entitled to compensation for costs incurred in the interest of service, e.g. field visits investigating the place of the crime, etc. For special merits in the service, prosecutors may be proposed for decoration with state awards. The proposals for decoration with state distinctions are submitted by the Superior Council of Prosecutors.

The material damage caused in connection with the work activities of the prosecutor, by damaging or destroying their property, the property of their family members, or their close relatives, can be compensated from the budget of the Prosecutor's Office.

100. Describe the legal regime of outside incomes of judges and prosecutors? Are there any limitations, regarding amount or other? Is there any code of ethics in general and in particular as regards gifts?

According to the national legal framework, the position of judge, as well as that of a prosecutor, may not be combined with any other paid position or activity, except for teaching, scientific or creative activities (art. 8 of the Law no 544/1995 on the statute of judges and Law on prosecution Service, respectively).

Soliciting or accepting gifts is qualified as a corrupt action under criminal legislation (art. 16 of the Law on integrity no 82/2017). The aforementioned prohibition is not applicable for protocol gifts (offered as a polite gesture or received as part of protocol activities (if their value does not exceed MDL 1000 (EUR ~50) during a calendar year. Still, protocol gifts up to MDL 1000 must be declared and registered in a dedicated register kept by all public institutions. Admissible gifts whose value exceeds the established limit shall be passed on to the public entity inventory after being declared. In a case where a person states his/her intention to keep the admissible gift of a value above the set limit, s/he has the right to redeem it, by paying to the public entity's budget its value.

There are also relevant provisions in the *Code of ethics and professional conduct of judges* (approved by the General Assembly of Judges as of September 11, 2015). According to art. 5 of the Code, the judge shall not solicit or accept, directly or indirectly payments, gifts, services and other benefits for him/herself, his/her family members and friends, as appreciation for performing or abstaining from performing his/her obligations in relation to a matter s/he will examine. Also, similar provisions can be found in the *Code of ethics for prosecutors* (approved by the General Assembly of Prosecutors dated May 27, 2016). There are also dedicated Regulations issued by the Superior Council of Magistracy (SCM) and Prosecutor General, detailing the handling of gifts.

101. Is there a probation period for judges / prosecutors? If so, please describe it. Are there objective and pre-determined procedures to evaluate the work during the probationary period? Who is responsible for this evaluation? Are decisions on end of probation subject to judicial or administrative scrutiny?

Until April 2022, judges appointed for the first time in office were appointed on a five-year term probationary period. The five-year period used to end with a performance evaluation procedure, and reconfirmation by the President at the proposal of the Superior Council of Magistracy. In case the judge failed the evaluation, or SCM simply did not reconfirm the judge until tenure, the latter had to resign or be dismissed from office at the end of the 5-year mandate.

The probation period was excluded by the amendments to the Constitution of the Republic of Moldova (Art. 116), and the amendments entered into force on 1st of April 2022. Thus, the exclusion of the probationary initial term of 5 years for the appointment of judges was done to ensure the stability of the mandate. These changes were welcomed by the Venice Commission of the Council of Europe, which considered them a clear improvement of judicial independence which requires stability and

irremovability.⁴⁶⁰ Judges will have life tenure that will last until the mandatory retirement age (65 years). The security of the mandate is a fundamental element of the independence of judges.

With regard to prosecutors, there is no probation period, and they are appointed until the retirement age of 65 years, which is set in the Law No. 3/2016 on the prosecution Service (Art. 57).

102. Is the guaranteed tenure of office set out in legislation? Is there a mandatory legal retirement age? Who decides on granting permanent tenure and on the basis of which criteria?

Constitution of Moldova, art. 116, provides for judges of the courts to be appointed in office, in accordance with the law, until reaching the age limit, by the President of the Republic of Moldova, at the proposal of the Superior Council of Magistracy.

The limit of tenure is not provided by the Constitution, but regulated by the Law on judges' status, No. 544/1995. Article 11 from the Law envisages that judges are appointed until the 65-year limit. An identical wording is provided in the law on Supreme Court of Judges, No. 789/1996 for SCJ judges (art. 11).

There is no probation period for the prosecutors, and they are appointed until the retirement age of 65 years, which is set in the Law No. 3/2016 on prosecution Service (Art. 57).

The Prosecutor General is appointed by the President of the Republic of Moldova, at the proposal of the Superior Council of Prosecutors, for a 7-year mandate.

C. Impartiality

103. Impartiality of the judiciary: Please provide information on the constitutional/legal provisions and the institutional arrangements in place providing for the impartiality of the courts and the prosecution service.

The Judiciary is a constitutional authority in the Republic of Moldova, separated and independent from other state powers. Its independence and impartiality is laid down in the Constitution of the Republic of Moldova (Article 116), which proclaims that independence and impartiality is guaranteed for all judges. The dismissal of judges and prosecutors cannot take place without the proposal of the SCM and SCP.

Judges are obliged (article 15 para. 1 of the Law on the status of the judge) to act impartially. They can be recused if acting partially. Judges are also banned from communicating with the parties *ex parte* (Article 8 para. 3/1 of the Law on the status of the judge). The attempt of the judges to influence another judge is a disciplinary offence (Article 4 para. 1 d) of the Law on disciplinary responsibility of judges). The law further prohibits interference in the administration of justice, the exercise of

⁴⁶⁰ Venice Commission, Opinion No. 983/2020, CDL(2020)009, para. 15, available online at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2020\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2020)009-e).

pressure on judges in order to prevent the complete and objective judgement of the case, or to influence the issuance of the court decision, attracts contravention or criminal liability according to the law⁴⁶¹.

The activity of judging the cases is carried out in compliance with the principle of random distribution of files through the Integrated File Management Program. The random distribution is automated, and the court presidents are involved in this process.

A criminal investigation against a judge can only be started by the Prosecutor General or one of their deputies, but not without the prior consent of the SCM. SCM's consent is not required for crimes of corruption and when they are caught red-handed (in *flagrante delicto*) (Article 19 para. 4 of the Law on the status of the judge). The Prosecution Service is also a constitutional judicial authority, which has its own self-governing body – the Superior Council of Prosecutors (SCP) (Article 125/1 of the Constitution). The SCP guarantees the independence of prosecutors and shields them against undue influence, as prosecutors are independent, both from their management, as well as from outside factors, in their criminal investigative work, according to the law on the Prosecution Service.

The appointment, demotion and promotion of the prosecutors is discussed and voted upon by SCP and enforced by the order of the Prosecutor General. The Prosecutor General is appointed by the President of the Republic, based on the proposal issued by the SCP for a term of 7 years. The prosecutors enjoy immunity against prosecution, under the same terms as judges do.

The prosecutor, just like any judge, has no right to be a member of any political party or formation, to engage in or participate in any political activity, to express in any way his or her political beliefs in the performance of his or her duties; make public statements about cases that he does not handle or about cases that he handles, if this could violate the presumption of innocence, the right to privacy of any person or could affect the prosecution.

Procedural law (civil, administrative, criminal) provides guarantees for the elimination of any doubts regarding the impartiality of the prosecutor and the judge. Thus, both the judge and the prosecutor can be recused if there are appearances of a bias attitude. The judges and prosecutors are also obliged to withdraw from the case if they believe that their impartiality might be called into question. The recusal or the abstention of the judge shall be decided by another judge. The recusal of the prosecutor shall be decided by the superior prosecutor or by the judge dealing with the merits of the criminal case.

104. What are the measures in place to prevent conflict of interest in judiciary and prosecutorial service? Who can decide on it, including the question of recusal? How is implementation ensured and what are the practical challenges in the implementation of these measures? Is the integrity of judges and prosecutors being checked throughout their career, and how?

In order to prevent conflicts of interest among judges and prosecutors, criminal and civil procedural legislation regulates the institution to abstain from hearing the case and recusal. The general provision on conflict of interests (Law No. 133/2016 on the

⁴⁶¹ https://www.legis.md/cautare/getResults?doc_id=127868&lang=ro# art. 13 (2)

declaration of wealth and personal interests, Articles 11-15) also apply to judges and prosecutors. The breach of the rules on conflict of interests may lead to their dismissal.

The judge cannot judge a case (any: criminal, civil and administrative) and has to abstain, or to be recused, if there are circumstances that reasonably bring doubt about the impartiality of the judge (e.g. s/he is in kinship relationship up to the fourth degree inclusive or family affiliation up to the third degree inclusive, with one of the parties, with other participants in the procedure or with their representatives; s/he is the legal representative of one of the parties; s/he has a personal interest, direct or indirect, in solving the case, etc.).

Thus in case of a conflict of interest or another incompatibility the judge is obliged to notify the court and abstain from judging the case. Alternatively, parties to a case may request that the judge is recused from the case. This decision shall be motivated.

The recusal or abstention of the judge shall be resolved by another judge or panel of judges assigned randomly. The request for recusal or the declaration of abstention shall be decided after hearing the parties and, if the situation requires, the judge whose recusal is requested. This decision shall be motivated. If the recusal or abstention is accepted, the case will be reallocated to another judge randomly, using the case-management system. The decision on recusal or abstention is final and may not be appealed. Recusals are relatively rare in practice due to having a negative effect on the workload by other judges, and overall being perceived as not reflecting well on the judge.

Another instrument that is used and helps prevent conflicts of interest in the public sector, is the Declaration of personal interests and wealth and the information contained in it regarding relatives and stakes in companies. The declarations are published online, but the personal data from the Declarations is blurred and is only seen by the Integrity Authority. In case of potential conflict of interest, the judge or prosecutor shall seek for the opinion of the higher authority and take no action in between (Article 14 of the Law No.133/2016).

In terms of individual integrity, according to the law, an impeccable reputation is one of the conditions for becoming and working as a judge and prosecutor. Reputational failures entail the initiation of sanctioning proceedings, including dismissal. Also compliance with ethical and integrity standards are considered for the appointment of judges and prosecutors, and during the evaluation the performance.

All, the Superior Council of Magistrates (SCM), Superior Council of Prosecutors (SCP) and Prosecutor General (PG) issued relevant regulations detailing conflict of interest and promoting integrity among judges and prosecutors.

Although the legal framework contains multiple tools, in practice the issue of the integrity of judges and prosecutors is precarious. For these reasons, the Parliament initiated a reform to externally evaluate all candidates for the self-regulatory bodies for judges and prosecutors (SCM, SCP) and its committees (pre-vetting) to be completed by end of 2022; and plans to initiate a reform for external and extraordinary evaluation of all judges and prosecutors (vetting). The aim of the reform is to exclude from the system persons lacking integrity. The Government is also considering putting in place a mechanism for verification of the integrity of judges and prosecutors throughout their career (vetting). It shall be introduced by 2023.

105. Can judges be subject to sanctions if they disrespect the obligation to withdraw from adjudicating a case in which their impartiality is in question or is compromised or where there is a reasonable perception of bias?

Intentional or gross negligence of the duty to abstain, when the judge knows or should have known that there are some of the circumstances provided by law for her/his abstention, constitutes a disciplinary violation and is punishable by warning, reprimand, reduction of salary or dismissal from office (Articles 4 and 6 of the Law No. 178/2014 on disciplinary liability of judges and Articles 38 and 39 of the Law No. 3/2016 on prosecution office). In practice, there have been no cases where this offence would have been applied.⁴⁶²

106. Does the law provide remedies against attempts to influence judges and prosecutors in taking decisions on a concrete case? Are sanctions in place against persons seeking to influence judges? Please describe the relevant procedures.

Interference in the administration of justice and criminal prosecution is a criminal offence and is punishable by criminal law. Thus, according to art. 303 para.(1) of the Criminal Code, an offence is – the interference, in any form, in the trial of cases by national or international courts with the aim of preventing the complex, comprehensive and objective examination of a particular case or to obtain an illegal court decision. This is punishable by a fine, unpaid community work or imprisonment for up to 2 years. Similarly, art. 303 para.(2) criminalises - any interference in any manner, in the law enforcement process or in the activity of an international court staff with a view to prevent speedy, comprehensive and objective resolution of a criminal case. This is punishable by a fine or unpaid community work. In addition, the Criminal Code criminalises other actions that are likely to compromise the application of justice, such as active corruption (art.325), traffic of influence (art.326), etc.

In practice, interference means any action which is capable of illegally influencing the activity of the application of justice by the courts, as well as the activity of the criminal investigation bodies in investigating a criminal case, for example imposing restrictions, undue pressure, threats, unsolicited guidance, false information, etc.

In addition to criminal liability, there is also contraventional (misdemeanor) liability, sanctioning actions such as disrespect towards any court (including the Constitutional Court); interference unrelated to procedural matters in the activity of judges, the attempt to exercise influence over them (Contravention Code, Art. 317).

Judges are also banned from communicating with the parties *ex parte* (Article 8 para. 3/1 of the Law on the status of the judge). The attempts of the judges or prosecutor to influence another judge or prosecutor is a disciplinary offense (Article 4 para. 1 d) of the Law on disciplinary responsibility of judges and Article 38 c) of the Law on prosecution office).

⁴⁶² *The disciplinary liability of judges in the Republic of Moldova. An evaluation of laws and practices*, Cristi Danileț, Legal Resources Center from Moldova, Chișinău, 2020, p. 18: <http://old.crjm.org/wp-content/uploads/2020/11/CRJM-2020-07-Raspundere-discipl-in-MD-En.pdf>

107. Is there any analysis carried out by public institutions and/ or by independent organisations of the public perception of the level of corruption in the judiciary? If so, please provide it

There are no public institutions that periodically measure the perception of corruption. However, there are several independent organizations that periodically conduct surveys that cover the phenomenon of corruption in Moldova.

Public perception and research studies by Moldovan and international organizations indicate that corruption is present in the judiciary and is, therefore, a serious social problem. A 2018 survey of the World Bank regarding the judiciary showed that 76% of citizens⁴⁶³ and 75% of companies⁴⁶⁴ believed that corruption in the justice sector has increased or remained at the same level since 2011. According to the 2018 survey done by the USAID Program for a Transparent Judiciary,⁴⁶⁵ 76% of both the general population and persons who have interacted with the courts considered that judges were corrupt, and only politicians had higher corruption perception rates. 74% of the general population and 77% of the persons who have interacted with the courts believed that prosecutors were corrupt. Citizens who have interacted with the courts (83%) tended to point out more than the general public (75%) that the phenomenon of corruption is present in the judiciary. 24% of respondents said they were unofficially asked for gifts or money, and 13% said they offered gifts or money.

According to the Public Opinion Barometer,⁴⁶⁶ the most acclaimed survey conducted since 2001 by an independent CSO, in June 2021, 28.4% of the respondents had confidence in Moldovan courts, and others 65.5% did not trust them. The results in February 2021 are almost similar - 28.4% trust vs. 65.8% distrust. At the same time, in June 2021 more respondents thought that judges are more independent (relatively or totally independent – 41.3%, relatively or totally dependent – 48.8%) than in February 2021 (relatively or totally independent – 19.5%, relatively or totally dependent – 67.2%). The trust in the Judiciary is generally stalled at the same low level throughout the years (18.5% in June 2019, 19% in October 2020). Most of the respondents did not trust the Judiciary at a constant level (74% in January 2019, 76.3% in June 2019, 70.7 in October 2020).

A national survey done at the end of 2020 showed that judges, prosecutors, and lawyers have different opinions about corruption in the judiciary.⁴⁶⁷ When asked about the evolution of corruption in the justice sector since 2011, judges (49%) and prosecutors (46%) tended to think that corruption had decreased, while a smaller proportion of lawyers (27%) agreed. On the contrary, a bigger number of lawyers (61%) considered that, during this period, the corruption in the justice sector had not changed or had increased, compared to a smaller proportion of judges (22%) and prosecutors (40%).

⁴⁶³ World Bank, Republic of Moldova. Improving access to justice: From resources to results (Romanian), 2018, page 72, available at <https://documents1.worldbank.org/curated/en/295451537501885223/pdf/UPDATED-Moldova-JSPEIR-Final-Romanian.pdf>.

⁴⁶⁴ Idem, pag. 83.

⁴⁶⁵ USAID Program for a Transparent Judiciary, Increased Efficiency, Accountability and Transparency of Courts in Moldova (ATRECO), Public Opinion Survey Results on Moldova Judicial System (Romanian), 2018, page 10, available at <https://www.justitiatransparenta.md/rezultatele-sondajului-privind-opinia-publica-despre-sistemul-judecatoresc-din-moldova/>.

⁴⁶⁶ Institute for Public Policy, Public Opinion Barometer, available at <http://bop.ipp.md/en>.

⁴⁶⁷ Legal Resources Centre from Moldova, Perception of judges, prosecutors and lawyers on justice reform and fight against corruption, December 2020, pages 12, 63-71, available at <http://old.crjm.org/wp-content/uploads/2021/02/Perceptia-judecatorilor-procurorilor-si-avocatorilor-ENG-2020-web.pdf>.

Most of the judges (34.9%), prosecutors (36.3%) and lawyers (45.1%) considered that corruption is widespread at all levels (both management and regular employees) in the justice sector (the judiciary, the prosecution system, the bar, the police). When asked what courts are the most corrupt, respondents from all three professions indicated the courts of appeals, followed by the Supreme Court of Justice. When asked about the causes of corruption, respondents from all three professions indicated small salaries, failure to hold the corrupt officials liable, lack of transparency in management and self-governance bodies, and shortcomings in the career advancement system. Similar surveys were also conducted in 2015⁴⁶⁸ and 2018⁴⁶⁹.

The current Moldovan Government admits that corruption in the judiciary is a critical problem endangering the development of the country and its security and made it one of its top priorities. As a result, the vetting of judges and prosecutors by independent experts will start in 2022, the institutions called to fight grand corruption will be vetted and enforced with sufficient personnel and resources, the verification of assets of all judges and prosecutors will be conducted efficiently, etc. We are also analysing putting in place additional measures aimed at preventing corruption, such as raising salaries for vetted judges and prosecutors, increasing the transparency of the judiciary and harsh sanctions applied in practice for grand corruption.

D. Accountability and discipline

108. Is there a code of ethics/code of conduct for members of the judiciary and prosecutors? If so, who has adopted the code? What is its legal status? How is it being effectively implemented? Is integrity and ethics training part of the curriculum for initial training?

For judges there is the *Code of Ethics and Professional Conduct of the Judge*, approved by the General Assembly of Judges on September 11, 2015. It is a public document, comprising a set of principles and rules of conduct for judges, which they must follow during and outside their duties.

The obligation to comply with the provisions of the Code is expressly provided in art. 15 para.(1) let. e) of the *Law #544/1995 on the status of the judge*. At the same time breaches of the provisions of the *Code* is not a disciplinary violation and does not constitute grounds for disciplinary liability. However, compliance with the rules of ethics is a criterion for evaluating the judge's performance, by the SCM and its Board for Evaluation of Judges.

For prosecutors, there is the *Code of Ethics for Prosecutors*, approved by the General Assembly of Prosecutors on May 27, 2016. Similarly, it is a public document that sets out the principles and standards of professional ethics that are binding on prosecutors. It contains rules of conduct of the prosecutor in exercising her/his duties and in her/his private life.

The obligation to comply with the *Code of ethics for prosecutors* is expressly provided in art. 3 para.(7) of the *Law #3/2016 on the Prosecution Service*. The violation of the

⁴⁶⁸Legal Resources Centre from Moldova, Perception of judges, prosecutors and lawyers on justice reform and fight against corruption, December 2015 http://old.crjm.org/wp-content/uploads/2016/01/CRJM_2016_SurveyJustice-ENG-1.pdf

⁴⁶⁹Legal Resources Centre from Moldova, Lawyers' perception regarding the independence, efficiency and accountability of the justice sector in the Republic of Moldova http://old.crjm.org/wp-content/uploads/2019/04/Sondaj-2018_ENG-web.pdf

provisions of the *Code* is a disciplinary breach and is a ground for disciplinary liability (art. 38 of the *Law #3/2016*). The application of disciplinary sanctions is carried out by the Board for Discipline and Ethics, which examines the disciplinary cases initiated against prosecutors, received from the Inspectorate of Prosecutors, and applies, as appropriate, disciplinary sanctions; as well as adopts recommendations regarding the prevention of disciplinary violations within the Prosecutor's Office and the observance of the ethics of prosecutors.

Professional ethics and deontology are priority topics in the judicial training activity and are part of the Plan for the initial training of candidates for the positions of judge and prosecutor (simulated activities in the field of professional ethics and deontology, separately for judges and prosecutors - 24 training hours, and a separate electronic course for each category of beneficiaries, developed by the Council of Europe's HELP team⁴⁷⁰ and adapted to national legislation - 8 hours of training). Integrity issues are addressed in mock trials for both judges and prosecutors.

The professional ethics and deontology of the judge and the prosecutor has been included in absolutely all plans for the initial training of candidates for the positions of judge and prosecutor, i.e. since the creation of the NIJ (National Institute of Justice). Therefore, since the first promotion till now, the future judges and prosecutors are trained in this field. Each year, the NIJ Board approves the Initial Training Plan per promotion. Currently, the discipline *Ethics and professional ethics for judge and prosecutor* is carried out in the form of a full course, through simulative activities.

109. Do the laws provide immunity to judges/prosecutors? If so, what does immunity cover? What is the procedure for lifting the immunity? What is done to ensure that this is clear and transparent? Please give examples of how this has been implemented. What are the possible sanctions if the immunity is lifted?

Following constitutional amendments made by Law No. 120/2021 (in force since 1 April 2022), Art.116 of the Constitution of the Republic of Moldova was amended by a new provision that enshrines the principle of functional immunity of judges. Previously, the Constitution only provided that judges were independent, impartial and irremovable according to the law.

In line with this safeguard, the law governing the status of the judge provides that a judge shall not be held liable for his opinion expressed in the application of justice or for the judgement rendered. At the same time, given that the constitutional principle of judicial independence implies the principle of accountability, a judge cannot be sheltered by absolute immunity. Accordingly, the law establishes the conditions for a judge's liability under certain circumstances (art. 19 para. (3) of Law No. 544/1995 on the Status of the Judge). Thus, the exception to the default rule is when judge's guilt has been established by a final judgement or, within disciplinary proceedings, it is established that due to intent or gross negligence of the judge his actions or inactions led to the European Court of Human Rights finding a violation of a person's fundamental rights or freedoms, or by a ruling of national court following the condemnation of RM by the European Court, which ordered a financial payment from Moldova.

⁴⁷⁰ About HELP team see at: <https://www.coe.int/en/web/help/home>

The Superior Council of Magistracy (SCM) is the key guarantor of the constitutional safeguards governing the status of the judge and of compliance with a special and rigorous procedure for applying criminal liability to judges. Hence, criminal investigation against a judge can be initiated only by the Prosecutor General or his first deputy, with the consent of the Superior Council of Magistracy. Additionally, a judge may not be detained, brought in by force, arrested, or searched without the consent of the Superior Council of Magistracy.

The consent of the Superior Council of Magistracy for initiating criminal proceedings against a judge is not necessary if the judge is investigated for the offences specified in Articles 243 (Money Laundering), 324 (Passive Corruption), 326 (Influence Peddling) and 330/2 (Illicit Enrichment) of the Criminal Code, as well as in case of flagrant crimes.

To ensure the transparency of this process, the decisions by which the Superior Council of Magistracy shall be reasoned and published on the official website of the Superior Council of Magistracy, by anonymizing the data on the judge's identity. The lifting of immunity is examined behind closed doors.

Should the SCM decide to lift the judge's immunity it may at the same time order the suspension of the judge from office. If the guilt of the judge is not proven or a decision of acquittal or termination of the criminal case is issued, the suspension from office ceases and the judge is reinstated in all his previous rights. Should the judge be found guilty by a final court decision, he is released from office, which results in him/her losing his right to the lump-sum end of service pay and to special pension.

Similarly, according to Law No. 544/1995, the principle of inviolability extends onto the judge's home and place of work, vehicles and means of telecommunication, on his correspondence, assets and personal documents.

The prosecutors do not have any statutory immunity in Moldova, but criminal charges against them can be brought only by the Prosecutor General (Article 34 para. 4 of the Law on prosecution office). However, the law guarantees a prosecutor's inviolability. A prosecutor shall also not be held legally liable for statements made in compliance with professional ethics (Art. 34 Law on Prosecution Service).

Upon the initiation of the criminal investigation, the Prosecutor General shall notify the Superior Council of Prosecutors. Criminal investigations against the Prosecutor General may only be initiated by a prosecutor appointed by the Superior Council of Prosecutors. (Art. 34 Law on Prosecution Service and Art. 270 of the Civil Procedure Code)

110. Is there an Inspection Service for the judiciary? Is it within the Judicial Council or the Ministry of Justice? If so, describe its composition, role, way of functioning, budget and number of cases it is dealing with. In case of no specific inspection service, are there other internal control mechanisms established, and if yes, how do they operate?

The Judicial Inspection is a specialised body of the Superior Council of Magistracy (SCM) and has limited functional autonomy. It is composed of seven inspector-judges who, while performing their duties, enjoy inviolability similarly to judges. To be eligible to inspector-judge position candidates must have bachelor's degree in law, at

least 7 years of experience in law, an impeccable reputation and not having held the judge position during the past 3 years. The inspector-judges are elected by the Superior Council of Magistracy based on a public competition. The candidate who has obtained more than half of the votes of the Council members is declared elected. The term of office of an inspector-judge is 6 years (this position can only be held for one term). The judicial inspection is led by a chief inspector-judge, appointed by the Superior Council of Magistracy for the term of office from among the inspector-judges. The legal framework for the Judicial Inspection is set forth in the Law on Superior Council of Magistracy (No 947, 22/01/2013) and its organisation is detailed in a dedicated regulation by the SCM.⁴⁷¹

Judicial inspection does not have a separate budget. Its operational costs are included in the annual budget of the Superior Council of Magistracy. It also does not have separate personnel and is assisted by the staff of the SCM. The costs allocated to the Judicial Inspection for 2022 amount to 2,447,852.40 lei (approximately 122,392.6 euros), representing payments to be made for judicial inspectors.

The main competencies of the Judicial Inspection are to verify/analyse:

- the organisational activities of courts in the administration of justice – this is carried out by performing ordinary controls (reviewing a specific case or an area of operation by the court or judges) and complex controls (reviewing the entire activity of a court, which takes place every 3 years). The purpose of such controls is to ascertain the performance of the court, the transparency of its activity, the professional conduct of the judicial body and court staff, and to identify any vulnerabilities in the judicial system.
- reports about acts that may constitute disciplinary infringements – as a result the inspector-judge either issues a report to be submitted together with the case file to the Disciplinary Board, or issues a reasoned decision to reject the complaint as unfounded.
- accuracy of random allocation of cases for examination in courts;
- petitions of citizens in matters related to judicial ethics, addressed to the Superior Council of Magistracy, and at the same time the inspector-judge must request that the judges in question submit a written explanation of the matters brought up in the petition;
- requests to the Superior Council of Magistracy to initiate criminal proceedings against a judge;
- the grounds for the rejection by the President of the Republic of Moldova of a candidate proposed for appointment as judge, with presenting an informational note to the Superior Council of Magistracy.

While performing its duties, the Judicial Inspection must not get involved in case examination; rule on or question the essence of court decisions; order a review or

⁴⁷¹ Law on Superior Council of Magistracy, No 947, dated 22/01/2013, see at: https://www.legis.md/cautare/getResults?doc_id=118692&lang=ro and SCM Regulation No 06/24 dated 13.11.2018, see at: https://www.legis.md/cautare/getResults?doc_id=112154&lang=ro

execution of any proceedings on civil, criminal, administrative cases; thus, preserving the principles of independence of judges, the applicable laws and procedures, the authority of *res judicata*.

According to the activity reports of the Judicial Inspection for the last 3 years, note the following data on the number of materials examined:

- in 2021 – 1671 complaints and 758 petitions examined;
- in 2020 – 1188 complaints and 717 petitions examined;
- in 2019 – 1527 complaints and 411 petitions examined.

Of the total number of complaints pending before the Judicial Inspection during the last 3 years, approximately 75-80% are rejected/returned annually, and in relation to about 4% of the number of complaints, reports are prepared and submitted to the Disciplinary Board for examination. Looking at the trends of the total number of complaints and petitions examined from 2015 to 2017, one finds that the lowest number was registered in 2018 (1639) and the highest in 2015 (2629). It must be noted that key complaints submitted to the Judicial Inspection concerned: disagreement with the court case result, incorrect application of law and breach of the law when applied by the court, incompetence of judges, exceeding deadlines, illegal case allocation, etc. Often the Judicial Inspection has no authority to investigate the subject matter of the complaint.

111. What are the grounds for disciplinary proceedings against judges and prosecutors? Who may initiate disciplinary proceedings? Who investigates/prosecutes/adjudicates? Is there an effective legal remedy allowing for challenges against disciplinary decisions?

Disciplinary proceedings against judges

National law regulates the grounds for disciplinary liability, the categories of disciplinary infringements committed by judges, the disciplinary sanctions applied to them, the stages of disciplinary proceedings, the powers of institutions involved in disciplinary proceedings, and the procedure for examining, adopting and challenging the judgments in disciplinary cases involving judges. (Law No. 178/2014 on disciplinary liability of judges)

Examination of disciplinary complaints is carried out by the following authorities: the Judicial Inspection, the Disciplinary Board and the Superior Council of Magistracy.

Judges are subject to disciplinary proceedings, for example, for intentional or gross negligence of the duty to abstain when the judge knows or should have known that there is one of the circumstances provided by law for his abstention; issuing a court decision that, intentionally or through gross negligence, has violated the fundamental rights and freedoms of individuals or legal entities; serious and obvious professional incompetence; interference in the administration of justice by another judge, etc. (Art. 4 of the above mentioned Law). The list of disciplinary offences is exhaustive.

The persons whose rights have been infringed upon and any other person with legal interest may file a complaint about acts that may constitute disciplinary offences by

judges. Additionally, the following may file a complaint against a judge, the Superior Council of Magistracy; the Performance Review Board, the Judicial Inspection; and, in some specific cases, the Ministry of Justice (in connection with ECtHR proceedings or judgments). (Art. 19)

The disciplinary proceedings has four stages:

- (1) Submission of complaints on acts that may constitute disciplinary violations;
- (2) Verification of the complaints by the Judicial Inspection and disciplinary investigation;
- (3) Examination of disciplinary cases by the Disciplinary Board; Decision of the Disciplinary Board following examination of disciplinary cases may be challenged with the Superior Council of Magistracy and if a decision has not been challenged or expired, the decisions of the Disciplinary Board become irrevocable;
- (4) Adoption of decisions in disciplinary cases by the Superior Council of Magistracy.

The decisions of the Superior Council of Magistracy can be appealed to the Chisinau Court of Appeal by the persons who had filed the complaint, by the judicial inspection or by the judge concerned in the decision, within 30 days from the date of receipt of the reasoned decision. Such appeals are examined in the order established by the Administrative Code. The dissatisfied party may appeal the decision of the Court of Appeals to the Supreme Court of Justice.

Disciplinary proceedings against prosecutors

The regulations regarding the disciplinary proceedings against prosecutors are provided by Law No. 3/2016 on the Public Prosecutor's Office and include such grounds as the improper performance of duty, non-application or improper application of the legislation, unlawful interference in the work of other prosecutors or public authorities, deliberate obstruction of the activity of the Inspection of Prosecutors, serious violation of the law, as well as unworthy behaviour or lifestyle which violates the Code of Ethics of the Prosecutors or is prejudicial to the honour, integrity, professional probity and prestige of the Public Prosecutor's Office (art. 38). This list is also exhaustive.

Persons who may file a complaint about prosecutor's misconduct are: members of the Superior Council of Prosecutors; the College for the Evaluation of Prosecutor Performance; the Inspection of Prosecutors; the Ministry of Justice (upon information from the Governmental Agent about the damages caused to individuals and legal entities by unlawful actions or inactions of the prosecutor); any other interested person (art. 43). These subjects may file a complaint based on facts known to them either in the exercise of their rights or their functional duties or based on information in the media or other sources of information.

The body responsible for verifying complaints about acts that may be qualified as disciplinary misconduct is the Inspection of Prosecutors, a subdivision of the General Prosecutor's Office. If grounds for disciplinary liability are established, the report and the case files are forwarded to the College for Disciplinary Proceedings and Ethics. The disciplinary case is examined by the College with the compulsory summoning of the prosecutor concerned, the representative of the Inspection of Prosecutors, and the person who filed the complaint. The Inspection of Prosecutors shall be represented by

the inspector who has verified the complaint or by another inspector designated by the head of the Inspection of Prosecutors. The presence of the representative of the Inspection of Prosecutors is mandatory (art. 50).

There are several legal remedies that can be used to challenge the decisions issued within disciplinary proceedings. Upon completion of the verification of the complaint about disciplinary misconduct, the inspector shall make one of the following reasoned decisions: 1) terminate the disciplinary proceedings, if he/she does not identify any grounds for disciplinary liability; or 2) refer the material to the College for Disciplinary Proceedings and Ethics, if he/she identifies grounds for disciplinary liability. The decision to terminate disciplinary proceedings may be challenged by a complainant to the College for Disciplinary Proceedings and Ethics within 10 working days from its receipt. The decision of the College for Disciplinary Proceedings and Ethics may be challenged to the Superior Council of Prosecutors by the complainant, the Inspection of Prosecutors or the prosecutor concerned in the decision, within 5 working days from its receipt. The decision of the Superior Council of Prosecutors may be appealed to the Chisinau Court of Appeal, in administrative proceedings, within 30 days from its receipt. The appeal shall be examined by a specialised panel and/or a college of judges of the court. The decision of the Chisinau Court of Appeal may be appealed to the Supreme Court of Justice. Such appeal shall also be examined by specialized panels and/or colleges of judges.

112. Are judges and prosecutors obliged to declare their assets? Which body is responsible for verifying the accuracy of assets' declarations and what happens with its findings? Are these declarations cross checked with other information databases, such as tax or property? Are there sanctions for falsifying declarations?

Judges and prosecutors are required to declare their assets and personal interests, in accordance with Law No. 133/2016 on the Declaration of Assets and Personal Interests.

The authority responsible for verifying the veracity of the declarations of assets and personal interests is the National Integrity Authority (NIA). NIA is a completely independent authority, governed by the Integrity Council composed of 9 members designated and appointed by various public authorities (e.g. Parliament, Government, etc.) and civil society (Art. 12, Law No 132 dated 17-06-2016 on National Integrity Authority)

If an integrity inspector finds that the assets and personal interests have not been properly declared or that there is a substantial difference between the assets acquired by a person while in office and the income obtained and the expenses incurred during the same period, s/he shall issue a finding document stating the violation of the legal regime of the declaration of property and personal interests, and apply a sanction provided in the contravention law and other measures provided by law, such as: (i) order termination of office; (ii) apply the prohibition on holding a public office; (iii) or submit a request to the court for seizing the unjustified property for the benefit of the state. The finding document shall be published on the official website of the National Integrity Authority.

In order to carry out a control of assets and personal interests, the entities holding state registers, including the fiscal bodies, as well as other information necessary for an efficient performance of the control function, regardless of their legal form of

organisation, shall grant free access to the National Integrity Authority via a dedicated interoperability platform, created and maintained by the Government, at its own expense, ensuring terms and conditions for access that preserves security and confidentiality of the data in connected registries (Art. 1 of the Law No 132 dated 17-06-2016 on National Integrity Authority). Currently, such access is realised through the Government platform M-Connect and NIA is granted access to all electronic registers that feed into M-Connect, including tax authorities databases, cadaster, and others.

Violation of the rules for declaring one's assets and personal interests constitutes a contravention and is sanctioned in accordance with art. 330/2 of the Contravention Code. False statements, intentional entry of incomplete or false data, as well as intentional failure to enter data in the declaration of assets and personal interests is a crime and is punishable by criminal law, according to art. 352/1 para. (2) of the Criminal Code of the Republic of Moldova, with a fine or imprisonment of up to 1 year, in both cases with deprivation of the right to hold certain positions or to exercise a certain activity for a period of 2 to 5 years.

113. How can a decision by a prosecutor not to press charges or to drop a case be challenged, in particular in cases where there is no obvious victim apart from the public interest?

See the answer to Q 87

114. Have there been any allegations on corruption in the judiciary and, if so, are there any convictions in such cases? Is there a strategy/action plan to fight corruption in the judiciary? If so, what are the practical results in their implementation? Please provide statistics on indictments and convictions in cases of corruption in the judiciary over past 5 years.

Allegations on the presence of the phenomenon of corruption in the judiciary are persistent in Moldova. There are several illustrative cases that prove the need for extraordinary measures to tackle this phenomenon, which the Government of Moldova is currently addressing.

In 2017-2021, the prosecution office sent to court 5 criminal cases against 9 judges on corruption charges. In the same period, 13 criminal cases against prosecutors have been sent to court on corruption charges.

During 2010 – 2014, reportedly, at least USD 20 billion have been laundered from Russia to various European states, via Moldova, with the involvement of Moldovan judges.⁴⁷² While a grand investigation has been initiated, leading to the pre-trial arrest of 15 judges and three bailiffs, by 2021, only two judges were finally convicted (although judgments are not final)⁴⁷³. No real sanctions were applied due to the expiration of statute limitations.

⁴⁷² Journalistic investigation „Laundromat” (2014) <https://www.rise.md/articol/operatiunea-ruseasca-the-laundromat/>; see also The Guardian „The Global Laundromat: how did it work and who benefited? ” <https://www.theguardian.com/world/2017/mar/20/the-global-laundromat-how-did-it-work-and-who-benefited>.

⁴⁷³ The case against former judge Vornicescu Igor, involved in the Laundromat scheme: https://jc.instante.justice.md/ro/court-decisions?dossier_number=22-1-732-31012017&dossier_date=2021-02-24&type=Penal&apply_filter=1.

In 2016, a judge appointed to the Supreme Court of Justice filed a declaration of income, declaring a luxurious SUV (Porsche Cayenne) allegedly purchased for the price of 11.000 lei (~600 EUR). At the time, neither the National Integrity Authority (NIA) nor the Judges Disciplinary Board investigation into the case led to the dismissal of the judge from the system or any sanction at all.⁴⁷⁴ On the contrary, she was later elected as chair of the NIJ Board.

In 2018, four judges and a judicial assistant were charged in 2018 with participation in a criminal scheme by which they issued multiple court judgments, during both first and appeal courts, in exchange for money. One of the judges was even video recorded⁴⁷⁵ transmitting the money to another judge. By 2021, all the four judges were acquitted by the first instance court. The case is pending in the appellate court.⁴⁷⁶

In 2019, the Prosecutors Office initiated a criminal investigation against the then Chief of the Supreme Court of Justice under the unlawful enrichment charges.⁴⁷⁷ The prosecution found large discrepancies between the declared legal income and held properties, the difference amounting to more than 12 million lei (0.5 million USD). After the searches in the judge's office, the prosecutors had found notes with succinct descriptions from many cases pending before the SCJ or already examined, with the indication of the judges who would be assigned to them and the solutions to be adopted. This ended up in another criminal case being started against the judge. Following this, the judge resigned. The Prosecution further closed both cases in 2021, and allegedly restarted them in 2022, after the change of the leadership of the Prosecution Office. In 2021, the National Integrity Authority found that, a judge at the Chisinau Court, possessed approximately MDL 3,000,000 (150.000 EUR) of unaccounted assets.

In 2022, another case involving a former chief judge of the Rîșcani Office is pending in the Appellate Court, after the first instance court sentenced him to seven years in prison. According to the court's sentence, from 2014 to 2016, the judges' family expenses exceeded their earnings by at least MDL 640,000 (EUR 31,000).

Between 2010 and 2022, only one Moldovan judge charged with corruption was convicted by a final judgement, back in 2014. Immediately after the delivery of the judgement, the judge left the Republic of Moldova and went missing.⁴⁷⁸ The number of prosecutors convicted for corruption in 2017-2021 is 5.

The fight against corruption within the judiciary is a paramount challenge acknowledged by the national authorities of Moldova. Therefore, the new Justice Reform Strategy for 2022 - 2025⁴⁷⁹ foresees the implementation of the extraordinary

⁴⁷⁴ Ziarul de Gardă Newspaper (zdg) Investigation into Supreme Court of Justice Pitic Mariana (2016), <https://www.zdg.md/investigatii/ancheta/la-csj-cu-porsche-casa-de-lux-si-sot-cu-afaceri-uitat-in-declaratii/> c

⁴⁷⁵ Footage leaked to the press where Prosecutors and anti-corruption officers have documented a criminal scheme in several episodes, involving 5 judges, 1 prosecutor, 1 lawyer, 1 nurse, 1 doctor and a defendant in a case: https://www.youtube.com/watch?v=JxwyO47oriE&ab_channel=pavelmaftei

⁴⁷⁶ First instance court judgement on the cases involving judges charged with corruption (2021) https://jc.instante.justice.md/ro/pigd_integration/pdf/2abbde45-c422-44e1-b48f-b85653274870

⁴⁷⁷ Press release announcing the investigation of the former chief-justice of Moldova, Ion Druță: https://www.ipn.md/en/supreme-court-judge-to-be-charged-with-illicit-enrichment-7967_1088811.html.

⁴⁷⁸ <http://beta.deschide.md/ro/news/social/2696/Judec%C4%83toarea-condamnat%C4%83-A-FUGIT-din-sala-de-judecat%C4%83.htm>

⁴⁷⁹ The Strategy for Ensuring the Independence and Integrity of the justice sector for the years 2022–2025 and the Action Plan for its implementation: https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro

(external) evaluation mechanism of the integrity and professionalism of the Judiciary. The vetting is an extraordinary measure necessary and justified as a remedy to eradicate an extremely high level of corruption, and lack of professional competence. The extraordinary (external) evaluation exercise of judges and prosecutors does not exclude the concomitant setting of measures to streamline the ordinary mechanisms for evaluating the professionalism and accountability of actors in the justice sector, but also to verify the integrity and interests. An exercise similar to the vetting mechanism already started in March 2022 on a smaller scale (pre-vetting) for the candidates aspiring to become members of the Superior Council of Magistracy and Superior Council of Prosecutors (High Judicial/Prosecutorial Council).

E. Professionalism/Competence

115. Initial training (delivered before or upon appointment): Please describe the training system for judges and prosecutors. Is it compulsory? Which institution is responsible for the legal framework of initial training and which institution implements the initial training, including the enrolment process, delivery of training, its final evaluation? How long does the initial training take? In the case where initial training is an obligatory requirement for entering the career of a judge or prosecutor, what are the selection criteria for being admitted to such training? If there is a requirement to have passed a final examination, how is such an examination organised?

The legal framework that regulates the activity of the National Institute of Justice (NIJ) and the initial training of candidates for the positions of judge and prosecutor is established by *Law #152/2006 on the National Institute of Justice*.

As has been noted in questions about the appointment in the judiciary and prosecution service, there are two possibilities to qualify for the position of judge and prosecutor: (i) admission to and completion of initial training courses at the NIJ; (ii) passing the exam for persons applying on the basis of required work experience.

Admission to the initial training of candidates for judges and prosecutors is based on competitive selection, the access to the initial training course being determined by the level of skills and competencies of the participants in the selection, i.e. quality of performance, the correctness of answers, the argumentation of answers, ability to interpret and apply the material and procedural law, the ability to analyse and synthesize, the ability to answer questions promptly and correctly, etc. The persons who have passed the admission competition (both for the candidates for the position of judges and for those of prosecutors), acquire the status of trainee of the initial training courses. Also, see the answers to Q. 89.

The initial training is carried out in accordance with the Initial Training Plan and the curricula, approved by the NIJ Board (every year before September 1), after the mandatory consultation of the opinion of the Superior Council of Magistracy and the Superior Council of Prosecutors.

The initial training course for trainees lasts 18 months, is divided into three semesters: (1) semester I – developing pre-judicial professional skills (21 weeks); (2) semester II – developing professional skills in the examination of cases on merits, based on the direct involvement of the trainees in simulations of trials on specific categories of criminal and civil cases (21 weeks); (3) semester III - the internship for the positions of

judge and prosecutor, which takes place in the courts, prosecutor's offices and criminal prosecution bodies (30 weeks).

The initial training provided by the NIJ focuses on the priority areas established by the strategic documents and the dynamics of the legislative process. The education process insists on in-depth knowledge of the national and international law to which the Republic of Moldova is a party, the jurisprudence of the courts and the Constitutional Court, the jurisprudence of the European Court of Human Rights and the Court of Justice of the European Union, comparative law. Likewise, it is very important to obtain in-depth legal knowledge of the procedure, without repeating what was studied by the faculty. In particular, the emphasis is on problematic and interpretive aspects of the law in the light of jurisprudence. Applying the acquired knowledge: mastering the deontological norms regarding the profession of judge or prosecutor; training through a process of simulation; studying foreign languages of international circulation; training in computer skills and Internet, training in non-legal skills, etc. - all this is the core of the initial training.

The initial training courses end with a graduation exam, organised by the NIJ and held before the Graduation Commission approved by the NIJ Board. The graduation exams are held in Romanian and are carried out in two stages: (1) written test - preparation of two procedural documents based on solving specific cases (civil and criminal) and (2) oral test - evaluation of the internship. The criteria for evaluating the written test are the following: compliance by form and content of the relevant procedural provisions; the fullness and quality of writing the procedural documents depending on the field of specialisation; analysis of the factual and legal grounds on which the final conclusions are based; reasoning the acts using logical-legal arguments based on the interpretation of national and international law to which the Republic of Moldova is a party; quoting the case-law of the European Court of Human Rights, if applicable. The evaluation criteria of the oral test (the evaluation of the internship), are the following: the organisation and accomplishment of all the activities programmed according to the objectives and contents for each stage within the established terms, the degree of completion and quality of tasks; the level of coordination of the activities included in the internship curriculum with the internship leader; filling out the compartments in the Internship Agenda; the completeness and quality of developing the procedural documents depending on the field of specialisation; compliance with the established work schedule, compliance with the internal rules of the institution where s/he completed the internship and the professional behaviour of the trainee during its implementation; the extent to which the trainee has managed to acquire knowledge and develop practical skills and competencies, the level of professional training and knowledge of the legislation governing the activities provided in the internship curriculum; the report of the practice leader; the level of professional training and knowledge of the legislation that regulates the activities provided in the internship curriculum; the report of the internship leader.

After completing the initial training courses and passing the graduation exam, the graduates hold the position of a candidate for the position of judge, or prosecutor, respectively, until the appointment and shall be registered in the Register of candidates. Also, see the answer to Q. 89.

116. Continuous training: Are specific training courses organised for judges and prosecutors in areas such as company law, cybercrime, organised and financial crime, corruption, EU law, procedural rights, victims' rights, rights of the child, non-discrimination, ECHR case-law, etc.? Are training needs assessed as part of the overall annual evaluation of judges, prosecutors and other court and prosecution offices' staff? What is the system of the evaluation of judicial training? What is the average time a judge or prosecutor spends annually on continuous training? Is continuous judicial training compulsory in any circumstances? What percentage of judges, prosecutors and other staff in the judicial sector has received further training over the last 5 years (compared with the profession as a whole)?

The National Institute of Justice (NIJ) has as one of its key duties to provide high quality continuous professional training to its beneficiaries: 1) judges, 2) prosecutors, 3) clerks (registrar), 4) legal assistants, 5) heads of the court secretariats, 6) consultants to the prosecutor, 7) probation counsel, 8) lawyers who provide free legal aid guaranteed by the state, 9) as well as other persons working in the justice sector, in the case provided by legislation, for a better efficiency, independence, and integrity of the act of justice in the Republic of Moldova. All these beneficiaries are granted free access to continuous vocational training activities, which in turn are largely organized from the NIJ budget, except for activities made in cooperation with development partners.

All judges and prosecutors are required to train continuously for at least 40 hours per year, mainly at the NIJ. Also, the continuous training of prosecutors takes place not only in the continuous vocational training programs organized by the NIJ, but also in the programs organized by other higher education institutions in the country or abroad, as well as in other forms of professional development (see art.32 (3) of the Law).

Taking into account the need for continuous training in certain priority and specific areas, NIJ organizes annually, every six months, continuous training activities in the field of cybercrime, organized and economic crime, corruption, procedural rights, victims' rights, children's rights, non-discrimination, ECHR case law, etc.

NIJ organizes the continuous professional training of beneficiaries according to the plans for continuous training (modulation) based on the needs identified according to the Methodology for determining the needs for continuous training of NIJ beneficiaries, taking into account the proposals of the Superior Council of Magistracy, Superior Council of Prosecutors, Supreme Court of Justice, the Prosecutor General's Office, the Ministry of Justice, the National Council of State Guaranteed Legal Aid, etc.; the recommendations of experts, the proposals of NIJ trainers, development partners on the topics and the format of the continuous training; the priority areas resulting from the strategic documents and concern the activity of the NIJ. For the approval of the Continuous Education Plans by the NIJ Board, it is mandatory to consult the opinion of the Superior Council of Magistracy, the Superior Council of Prosecutors, the Ministry of Justice, and the National Council of State Guaranteed Legal Aid. Based on the proposals received, two training plans are developed, i.e. one for judges and prosecutors, and one - for other categories. Thus, continuous professional training of judges and prosecutors is carried out taking into account the need for their specialization, emphasizing the development of professional skills applied through a multidisciplinary approach, based on a high professional ethics, the attainment of non-legal techniques and skills, on the unification of judicial practice in priority areas.

In order to monitor the continuous / initial training process and improve the training services provided, the satisfaction of NIJ stakeholders / beneficiaries is assessed, which

is a continuous process and takes place throughout the year, through evaluation questionnaires. In continuous training, e.g., the participant fills out the evaluation questionnaire on the continuous training activity before the end of the training activity. After collecting the anonymous electronic satisfaction assessment questionnaires, the data are put together and compiled, and a general information note on the results of the evaluation is prepared at the end of the calendar year.

Referring to the initial training, the satisfaction assessment takes place at the end of the completion of the curriculum subject, and before the exam. The compilation procedure is the same as for continuous training.

Judges and prosecutors have the opportunity to accumulate between 40 and 80 hours of training per year and have free direct and personal access to the NIJ Information System, having the opportunity to select their educational path every six months.

In the last 5 years (2017-2021), on average 87.3% of the total number of judges and 73.7% of prosecutors were annually trained by NIJ.

Table. Percentage of judges and prosecutors trained per year

#	Year	Trained judges %	Trained prosecutors %
1.	2017	89.1	71.1
2.	2018	84.5	79.7
3.	2019	89.05	77.6
4.	2020	99.7	64.4
5.	2021	86.6	75.7
TOTAL		87.3	73.7

117. Are the following subjects part of initial and continuous training of judges, public prosecutors or lawyers: rule of law, fundamental rights, digitalisation, judgecraft (set of skills and attitudes of being a justice professional), foreign languages, non-legal knowledge (e.g. behavioural sciences, psychology, anthropology, economics and cognitive linguistics)?

The initial training plan and the continuous education plan are based, as a matter of priority, on the principle of the rule of law and on respect for fundamental rights.

The Initial Training Plan also includes subjects on digitization (judges and prosecutors are trained in making use of information technology in the professional field), English

(studied at various levels, in accordance with the knowledge of the trainee), subjects from the non-legal field (e.g. psychology, persuasive communication, stylistics and legal writing, court management and prosecutor's office management, professional ethics and deontology) etc.

Modular continuing education plans include individualized training needs by category of beneficiaries in a range of legal, non-legal and interdisciplinary modular topics, taking into account national policy documents. Thus, a relevant component in professional and personal training is the non-legal and interdisciplinary modules, which aim at training and developing non-legal skills and competences and various interdisciplinary connections inherent to them. They address separately and comprehensively the topics such as the rule of law, fundamental human rights, digitization (Integrated Case Management Program - PIGD, using information technology in the professional field, E-Case, etc.), communication skills and personal development, judicial management and leadership dedicated to judges/ prosecutors; psychology, psychiatry, forensic psychology, legal English (including webinars, e-courses), court activity management, etc.

118. Is there an entity providing judicial training? If so, what are its exact role and status (independence)? Are there any other training facilities? Are there sustainable and adequate resources (financial, human and material) for the judicial training body?

The National Institute of Justice (NIJ) was inaugurated on 9 November 2007 and is the key public institution in charge of training of judges and prosecutors. Its activity is governed by the Law 152/2006 on the NIJ. The expenses for the maintenance and operation of the Institute are financed from the means provided separately in the state budget. Other sources of funding, not prohibited by law, may be accepted only if they do not undermine the autonomy of the Institute and do not impede the conduct of the duties established by law. The institute is not part of the national education system, it is not subject to the legal provisions in force regarding the accreditation and licensing of educational institutions and those working in the field of science and innovation. The governing bodies of the NIJ are the INJ Board and Director. The Board is the supreme governing body of the NIJ. It is composed of judges and prosecutors appointed by the SCM and SCP. The Director, who is elected by the NIJ Board, is responsible for the day-to-day running of the NIJ business. The director is assisted by a Deputy Director. NIJ staff consists of administrative staff, trainers, and supporting staff.

The NIJ carries out the initial training of candidates for the positions of judge and prosecutor, the continuous training of judges and prosecutors in the office, clerks (registrars), legal assistants, heads of court secretariats, prosecutor's advisers, probation counsellors, lawyers who grant state-guaranteed free legal aid, as well as the initial and continuous training of other persons working in the justice sector, where required by law. The NIJ also fulfils duties in the field of organising and conducting examinations for persons with seniority in legal professions, training of trainers, initial and continuous training, on a contractual basis, of other persons working in the justice sector, in cases provided by legislation, international cooperation in the field, conducting scientific research studies in the field of law and justice, publishing studies, teaching materials and other materials developed in the process of activity, etc.

NIJ has sustainable and adequate financial, human and material resources. As a public institution, the National Institute of Justice manages public financial resources and is

financed from the state budget. NIJ allocated budget for 2021 was 19 988 600 lei (appx 1 001 839 euro), and executed 18 149 016 lei (appx 909 638 euro).

NIJ also uses income from special means. The financial means resulting from the provision of paid services have special purposes and may be used only for the initial and continuous training of persons working in the field of justice and trainers, distance learning of persons working in the field of justice (hour/person), conducting tutoring in the framework of distance learning for persons working in the field of justice, conducting scientific studies and research in the field of justice, publishing articles in the Journal of the National Institute of Justice and in other publications of the institution and leasing the public patrimony. The share of revenues in the NIJ budget is about 1%.

In terms of material endowment, NIJ has a renovated and modernized headquarters, with improved and accessible infrastructure for people with special needs, with rooms equipped with modern equipment (including rooms for mock trials), e.g. computers, interactive smartboards, network equipment, licensed software, video cameras with accessories for filming exams and mock trials, high-performance electric generator, access ramps, tactile pavements, lift adapted for people with disabilities, etc.

At the same time, NIJ holds 2 certificates of conformity of the international quality management system, i.e.: (1) SM ISO 210001: 2018 Educational organizations. Management systems for educational organizations; and (2) MS ISO 9001: 2015 Quality Management Systems.

F. Quality

119. What is the annual budget of the judiciary, in absolute terms and in percentage of the national budget? Please provide a breakdown for courts and prosecution offices. What is the budget of the judiciary per inhabitant? Please provide an overview for the last five executed years. What is the procedure for deciding the budget? Who is managing the budget in judiciary? How is the financial autonomy of the judiciary guaranteed?

Prosecution. The Prosecution Service is financed from the state budget within the limits of the budgetary allocations approved by the annual budget law. The budget of the Prosecution Service is unitary and is approved and administered by the Prosecutor General's. The budgets of the specialised prosecutor's offices are reflected separately in the budget of the Prosecution Service and should be administered by the chief prosecutors of the specialised prosecutor's offices.

The budget of the Prosecution Service is drafted by the Prosecutor General's Office, and consulted with the Superior Council of Prosecutors (SCP) (Art. 70 Law on prosecution Service), before being submitted to the Ministry of Finance for inclusion in the annual state budget.

Judiciary. Each court decides and administers its budget. On the central level the final consolidated budget is approved by the Superior Council of Magistracy (SCM). Once approved the budget is forwarded to the Ministry of Finance for inclusion in the law annual state budget. (Art. 22, 23¹, 23², 23³, 24 of the Law on organisation of courts, No. 514/1995).

The financial autonomy of the prosecution service and of the judiciary is ensured by the principle of auto-administration expressly provided for in the Law on prosecution Service (Art. 65) and Law on organisation of courts (Art. 23¹). This principle stipulates that the prosecution service and judiciary shall be independent and governed by self-regulatory bodies, including on the question of finance: for prosecution service by the General Assembly of Prosecutors, Superior Council of Magistracy and its Boards.

The table Annexed includes the budget of the judiciary (i.e. all courts in the country, excluding SCM and the Constitutional Court), of the prosecution service (i.e. all prosecution offices - central, territorial and specialised, excluding SCP) for the last five executed years: 2017-2021. The percentage of total allocation from the state budget has decreased over the years, from 2.0 (2017) to 1.4 (2021), however in absolute monetary terms it has significantly increased. Similarly, the percentage of the allocation per inhabitant has increased due to higher monetary allocation and decrease in population.

Table. Budget for the judiciary and prosecution service for executed 2017-2021 (Please see Annex to Q119)⁴⁸⁰

120. Is jurisprudence consistent across the legal system and are measures in place to ensure consistency? Are verdicts and their reasoning electronically available to other judges within a reasonable amount of time? Are court rulings publicly available? Is it easily accessible?

The legislation of the Republic of Moldova provides for many levers to ensure the uniformity of judicial practice.⁴⁸¹ Ensuring consistency of the court practice is the primary responsibility of the SCJ. In order to ensure consistent jurisprudence, until March 2022, the Supreme Court of Moldova has issued and updated over 30 Judgements of the Plenary and came up with over 100 recommendations and over 50 opinions.⁴⁸² Also, a search engine that makes available all the Supreme Court jurisprudence is available on the SCJ's website www.csj.md.

While not extensively and not across all types of cases, inconsistent judicial practice is perceived as a problem of the judiciary from Moldova, and one of the main causes that negatively affects the quality of the reasoning of court judgements.⁴⁸³ Unification of the judicial practice is generally perceived by judges as a formal exercise that should belong to the Supreme Court. The judges have limited communication between themselves about ensuring a better consistency of their practice and the lower courts play a limited, if any, role in that. The factors which influence the quality of judicial reasoning are lack of traditions to follow the interpretations of the law given in hierarchically superior

⁴⁸⁰ All data is collected from annual state budgets.

⁴⁸¹ Some of them are: Advisory opinions of the SCJ in civil cases (Article 122 of the Civil Procedure Code); Mandatory nature of the European Court of Human Rights case law in criminal cases (Articles 7 (8) and 427 (1) paras. 16 of the Criminal Procedure Code); Appeal in the interest of the law in criminal cases (Articles 7 (9) and 465/1 of the Criminal Procedure Code); Appeal in the interest of the law on criminal judgements that are contrary to the previous practice of the SCJ (Article 427 (1) para. 16 of the Criminal Procedure Code); Judgements of the SCJ Plenary, etc.

⁴⁸² Please see: www.csj.md, section „Unificarea practicii judiciare”:

⁴⁸³ LRCM report „From Judgements to Justice”, p. 24-25, (2021) available at: https://old.crjm.org/wp-content/uploads/2021/11/2021-25-10-De-la-hotarari-judecatoresti-la-justitie_2021-EN_FINAL.pdf.

court decisions, systemic scarce motivation of judgments, but also the divergent jurisprudence of the SCJ and the courts of appeal.⁴⁸⁴

The access to judicial decisions derives from the principle of publicity of judicial debates, enshrined in art. 117 of the Constitution. Since 2012, most court decisions in Moldova are published on the Internet in free and open access. A unified National Courts portal is available, hosting electronically judgements from across the System⁴⁸⁵, except Supreme Court of Justice, which has a separate portal⁴⁸⁶. A judgement from the SCJ is considered pronounced only if published on the SCJ website. 96% of all court rulings are widely accessible and available on the internet. According to the latest report⁴⁸⁷ of the Agency for Judicial Administration (AAIJ) and data generated by the Integrated Case Management Program for 2021, 168,941 judgments and 340,375 judgments were handed down by district courts and courts of appeal are published. The remaining 4% are judgments of the investigative judge adopted based on confidential materials (arrest in remand, wiretap, searches) or cases examined in camera (“closed” hearings), which are not publicly available.

While court rulings are mostly widely accessible and available, there are important challenges with compliance of the rules regarding the publication and de-identification of court decisions.⁴⁸⁸

121. Which measures are in place to ensure transparency of justice? Are trials recorded? Are trials open to public, along which modalities?

In the Republic of Moldova, court public hearing is a principle enshrined in the Constitution, as a measure of a fair trial. Thus, according to this principle (reflected also, in both civil proceeding legislation and in criminal proceeding legislation) hearings are public in all courts.

Publicity of the hearing means that any person who does not have standing in a particular case is guaranteed free access to the courtroom. In practical terms, in the vast majority of cases reviewed by the courts, only the participants in the trial are present. The participation of other persons, in particular representatives of the media, takes place in trials in which certain high-profile cases are examined (in these cases, certain practical constraints regarding the physical access to the courtroom could be dictated by the available capacity in the courtroom).

Concurrently, the Constitution also admitted an exception to the general rule of publicity, granting the right to regulate them by law in compliance with all procedural rules. In accordance with the constitutional provisions, certain exceptions to the general rule of this principle have been established in the legal framework which governs court proceedings. Thus, when examining civil or criminal cases, Access to the courtroom may be prohibited to the press or public in a reasoned ruling for the entire duration of

⁴⁸⁴ Ibid, p. 25.

⁴⁸⁵ Unified National Courts portal, hosted by the Ministry of Justice: <https://instante.justice.md/en>.

⁴⁸⁶ Supreme Court of Justice online portal www.csj.md / see „Jurisprudenta CSJ”

⁴⁸⁷ Monitoring Report of the Unified National Portal on publication of Judgments (2021), available at: <https://aaij.justice.md/files/document/attachments/RAPORT%20PUBLICARE%20HOT%C4%82R%C3%8ERI%20IN%20ANUL%202021%20Final.pdf>.

⁴⁸⁸ For more details, please see LRCM report „Transparency of Justice versus Data Protection” (2020) available at: https://pdf.usaid.gov/pdf_docs/PA00XDF8.pdf.

the proceeding or for a part thereof in order to ensure the protection of morality, public order or national security; when the interests of juveniles or the protection of the private lives of the parties in the proceeding so require or to the extent the court considers this measure strictly necessary due to special circumstances when the publicity could damage the interests of justice (art. 23 of the Civil procedure code and art. 18 of the Criminal procedure code).

Secret court hearings may be held for the entire proceeding or only for carrying out certain procedural actions. At the same time, for all proceedings, court judgments are delivered in open hearings.

In addition, pursuant to art. 18 of the Civil procedure code, in order to exercise procedural rights and obligations, participants in the trial may perform audio recording of the court hearing. At the same time, video recording and photography may be allowed only by the presiding judge and only with the consent of the parties and other participants in the proceedings and, in the case of the hearing of witnesses, with their consent. When examining criminal cases, the law establishes that the presiding judge may allow media representatives, in cases where the proceedings are of public interest, to make audio and video recordings and take photographs of certain sequences from the hearing opening, provided these do not disrupt the standard conduct of the hearing and do not bring prejudice the interests of the participants in the proceedings (art. 316 para. (3) of the Criminal procedure code).

As for the courts, in order to document court hearings and preserve evidence, court hearings are audio recorded via Femida information system. The recording is not available to the broad public, it is stored with the materials pertaining to the case and can be requested by participants in the proceedings (it can be released on a digital device or the recording can be consulted in court).

The information about the public court hearings and the texts of most of the judgments are available online, on the portals of the courts.⁴⁸⁹

122. Is there a system of monitoring the day-to-day activity of the courts based on data collection (e.g. number of incoming cases, number of decisions, and number of postponed cases, timeframes for judicial proceedings)?

The Judicial Information System (JIS), which has several components, is implemented in all courts in Moldova. The main component of the system is the Integrated Case Management System (ICMS). ICMS incorporates a variety of functionalities including, but not limited to the Performance Dashboard, the Electronic Statistical Reporting Module etc.

The Performance Dashboard generates data automatically by case type and case category (about 1004 case categories entered into the system). The data can be generated for any selected period and cover 17 key performance indicators approved by the Superior Council of Magistracy in 2017, including case clearance rate, disposition time, age of pending caseload, postponements rate, on-time case processing, cost per case, rate of appeals etc. In addition, the Performance Dashboard generates graphs and tables per judge, per court, and per the judiciary as a whole.

⁴⁸⁹ See at: <https://instante.justice.md/>

The Statistical Reporting Module automatically generates statistical reports for first instance courts, courts of appeals, and Supreme Court of Justice for any selected period. The reports can be generated for all case types and each separate case type and category. They primarily include information about the pending cases in the beginning of the reporting period, incoming cases, solved cases by the end of the reporting period, workload per judge etc. The Module also generates an important set of data with persons as reference unit (trial participants - witnesses, victims, convicted persons, domestic violence perpetrators etc.). Data in relation to participants are disaggregated by age, gender, occupational status, education, living environment (urban/rural) etc. The Module is also designed to generate compiled national level data used by the Superior Council of Magistracy and the Agency of Court Administration under the Ministry of Justice.

The Module generates 162 statistical reports. The national courts do not use any manually filled-in statistical reports. All reports are generated automatically.

The court performance and statistical data are available to the court presidents and judges, Superior Council of Magistracy, and Agency of Court Administration. Some data on key performance indicators (case clearance rate, rate of appeals, workload per judge, cost per cases etc.) are available in a graphic format to the public via the web report card on the webpage of the Superior Council of Magistracy⁴⁹⁰.

The Superior Council of Magistracy and the Agency of Court Administration regularly post statistical reports on their webpages: (1) <https://csm.md/ro/statistica-judiciara.html> and (2) <https://aaij.justice.md/ro/reports>.⁴⁹¹ The posted data are available to interested professionals and the general public and include data about the number of incoming cases, number of solved cases, workload per judge, disposition time, random case assignment, audio recording of court hearings, general and disaggregated data on court operations etc.

The Republic of Moldova biannually reports to the European Commission for the Efficiency of Justice (CEPEJ) on performance indicators.

123. The availability of alternative dispute resolution methods (ADR).

a) Is there a judicial mediation mechanism in place?

Judicial mediation: Judicial mediation, i.e. mediation by judges as a separate preliminary step of the procedure was available in Moldova from 2017 until April 2022, when it was abolished. Judicial mediation was introduced in 2017, via an amendment to the Civil Procedure Code of the Republic of Moldova (CPC), introducing a new chapter XIII/1 on judicial mediation. However, judicial mediation led to significant delays in court proceedings and proved ineffective. During 2018-2021, only 2.6% of the total number of 43,487 civil cases examined in the judicial mediation procedure resulted in a mediated settlement agreement. As a result, the Ministry of Justice proposed that judicial mediation is excluded from the CPC. The proposal passed the

⁴⁹⁰ <https://statistica.instante.justice.md/>

⁴⁹¹ See at: <https://statistica.instante.justice.md/>; <https://csm.md/ro/statistica-judiciara.html> and <https://aaij.justice.md/ro/reports>

second reading in the Parliament on 14 April 2022,. Despite this amendment, the civil judge has the duty to take all reasonable measures to facilitate an agreement between the parties (see below).

b) **Are there non-judicial mediation mechanisms in place?**

Non-judicial mediation mechanisms: In Moldova, there is a mechanism of non-judicial/private mediation, operational since 2015, regulated by the Mediation Law (No. 137/2015). The Law regulates the status of the mediator, the forms of organization of the mediation activity and the requirements for the registration of mediation organizations, the principles of the mediation process and its effects, the particularities of mediation in specific areas, as well as the competence of state authorities and institutions in mediation. Mediation is available for a wide range of cases, including civil, family, employment, consumer rights, commercial, criminal, administrative, and misdemeanor (contravention) cases. In 2021 there were 877 cases resolved through non-judicial mediation, of which: 386 in civil cases; 7 in criminal cases; 2 in contravention cases; 459 in commercial cases; 20 in family cases, and 3 in employment cases. Generally, there is a steady increase in cases resolved through non-judicial mediation: in 2017 - 164 cases; in 2018 - 331 cases; in 2019 - 479 cases and in 2020 - 964 cases. This number will most likely increase with the abolition in 2022 of the mandatory judicial mediation.⁴⁹²

c) **Is arbitration available?**

Arbitration: Arbitration has been available and functional in Moldova since 2008. There are two separate laws for domestic and international arbitration in Moldova. The Law on Arbitration (Law No 23/2008) regulates domestic arbitration, while the Law on International Commercial Arbitration (no 24/2008) applies to international commercial arbitration, i.e. arbitration conducted in Moldova where the parties or the subject matter exhibits a foreign element. Both laws are based on the UNCITRAL Model Law. Distinct from the above laws, the Moldovan Civil Procedure Code is the main law regulating the recognition and enforcement of arbitral awards, as well as the setting aside of the arbitral awards. Generally, any patrimonial right may be subject to arbitration, unless there are mandatory rules of law providing for the exclusive competence of the Moldovan courts. Article 3(1) of the Law on Arbitration establishes that the non-patrimonial (personal) rights may, equally, be subject to arbitration as long as the law permits the parties to conclude a settlement on the dispute.

The Law on International Commercial Arbitration includes disputes arising out of contractual civil relationships, including the international commercial agreements and other international economic relationships, provided that the headquarter of at least one of the parties is situated outside the Republic of Moldova; and between the companies with foreign investments and international associations or organizations founded in

⁴⁹² Commercial mediation and arbitration in Moldova, European Bank for Reconstruction and Development, 2021, p. 3: https://redrocketdigital.co.uk/eBook/Commercial-mediation-and-arbitration-in-Moldova_english/index.html

Moldova, between their participants, as well as disputes between them and other Moldovan persons. Permanent arbitral institutions may be established under chambers of commerce, NGOs, stock exchanges, unions, associations, or other organizations, except under central and local public authorities. They operate on the basis of internal regulations and should be registered with the Moldovan Supreme Court of Justice.⁴⁹³

Arbitration use in Moldova remains modest in comparison to national courts, in spite of an impressive number of 34 registered permanent arbitral institutions. In 2019, approximately 1,000 arbitration proceedings took place, conducted by various arbitral institutions. By contrast, in 2019, the courts resolved 8,638 commercial cases, while 12,311 commercial cases were pending.⁴⁹⁴

d) **Is judicial conciliation available?**

Judicial conciliation: This mechanism is available to all parties in any civil proceedings and at any stage of the proceedings, it is called a „conciliation transaction” (Article 60 (2) of the Civil Procedure Code). During the preparation for trial, the judge must inform the parties and take measures ‘to reconcile the parties, explain to the parties the right to resort to mediation, inform them of the essence, advantages, and effects of mediation or propose to them to attend an information meeting on the settlement of disputes through mediation (Article 185 para. (1) d) of the Civil Procedure Code). Additionally, the chair of the trial must take measures so that the parties settle the dispute or some of the issues amicably (Article 212 para. (2)). To this end, the court may grant the parties, on request: a conciliation term and may request them to personally appear in court even if they are represented in the process.

124. Is confidentiality of mediation guaranteed? What is the enforceability of agreements resulting from mediation?

Confidentiality is one of the key principles of mediation, duly enshrined in the Law No. 137/2015 on mediation (Article 4). The Law provides further guidance on confidentiality and states that, unless the parties agree otherwise, the mediation process is not public. Mediator’s confidentiality obligation remains in place even during the suspension of the activity and after ceasing the mediator activity. In relation to the parties, the mediator is obliged to warn the participants in the mediation process about the obligation to maintain the confidentiality of the information, being entitled, as the case may be, to request the signing of an agreement or a confidentiality clause. Connected is the rule that the mediator and the parties may not disclose or invoke in another mediation process, in court or arbitration or outside a process the information which he became aware of in connection with the mediation process. Furthermore, the mediator and the participants in the mediation may not be called to make statements in court regarding the facts or acts of which they became aware during the mediation process. (Article 7 of the Law)

⁴⁹³ List of permanent arbitral institutions: <http://csj.md/index.php/despre-curtea-suprema-de-justitie/arbitraje>

⁴⁹⁴ *Assessment of Arbitration Law and Practice in Moldova*, European Bank for Reconstruction and Development, 2021, p. 7.

During the mediation process, the mediator shall not have the right to disclose the information which he has become aware of during the separate sessions with the parties and shall not have the right to discuss such information with the other party without the consent of the party concerned.

There are several instances when the confidentiality duty is trumped by other considerations. One of them is when the dispute under mediation entails complex and difficult issues. In such cases, the mediator may, with the agreement of the parties, request the views of one or more specialists in the field. Finally, an important exception is concerned with the disclosure of the information obtained during the mediation process which aims to protect the best interests of the child or to prevent and / or stop a crime. In such circumstances, the mediator is obliged to notify the competent authorities and may be called in court as a witness.

Finally, an important derogation from this rule is the permission to disclose confidential information, by written agreement of the parties, if it is necessary in the legal proceedings regarding the enforcement of the rights resulting from the transaction.

Mediators are subject to disciplinary proceedings for the breach of confidentiality (Article 19 Mediation Law).

Enforcement: The mediated settlement agreement benefits from a simplified enforcement procedure via the courts or notaries, which may vest it with an executory power. Article 33 of the Law on Mediation regulates the enforcement procedure and provides that the mediated settlement agreement is binding on the parties and shall be enforced voluntarily within 20 days unless the parties agree otherwise. If the mediated settlement agreement is not performed voluntarily, in order to be enforced, it may be, as the case may require: a) confirmed by the court within a simplified short proceeding (up to 15 days) in line with the Code of Civil Procedure; or b) invested with executory formula by the notary, under the conditions established by law. This latter mechanism is available to the mediated settlement agreements concluded between legal entities. Further on, if the dispute has been resolved through mediation during an arbitration process, but the transaction has not been executed voluntarily, in order to enforce the settlement, at the request of the interested party, the transaction shall be approved by an arbitral award under the law.

In practice, parties seek an enforcement title to enforce the settlement agreement primarily via the simplified court proceedings. Obtaining an enforcement title via an executory writ is less popular and not well-practiced.

125. Have there been provisions adopted providing a legal basis for conducting oral hearings through videoconference or other distance communication technology in cross-border judicial proceedings in civil, commercial and criminal matters?

The national legislative framework provides for the possibility of conducting court hearings through videoconference for certain categories of cases. In criminal procedure, cases involving persons deprived of liberty (matters related to the execution of a sentence and complaints against the prison administration) can be heard via videoconferencing. The guarantees of persons in detention taking part in the hearing via videoconferencing are observed: s/he has the right to access the case files upon

request and via electronic connections; s/he has the right to file requests, including requests for recusal, to give explanations, to present evidence. Similarly, at the request of the convicted person, the lawyer may be present in the videoconference room.

The challenges posed by the COVID-19 pandemic have facilitated and strengthened the use by the judiciary of digital tools, including videoconferencing. During this period, all courts and prisons were equipped with videoconferencing equipment and secure licenses. To prevent the spread of COVID-19, during the public health emergency adopted by the Decision No. 10 of the National Extraordinary Public Health Commission of 15 May 2020, the videoconferencing system was used in cases related to issuing and extending arrest warrants.

The videoconferencing system in criminal cases was implemented in 2018. 46829 court hearings in the criminal procedure were held through this system from 2018 to 2022 (April 14).

In civil proceedings, the regulatory framework provides for the possibility to participate in court hearings by videoconference to the following categories of participants: witnesses, experts, persons who cannot attend the court hearing due to being outside the Republic of Moldova, persons serving their sentence in the prisons of the Republic of Moldova, persons in a medical institution or failing to appear due to locomotor disabilities.

The hearings through videoconference involving trial participants listed above may take place, as appropriate, at the premises of the diplomatic mission or consular office of the Republic of Moldova, at the premises of the penitentiary institution, medical institution, social welfare institution, guardianship or probation authority, which have appropriate technical means and can verify the identity of the participant.

Although allowed by law, in civil cases, courts conduct hearings through videoconference on a smaller scale. The legal framework needs to be amended to extend the categories of participants taking part in hearings through videoconference and to exclude barriers preventing a large-scale application of videoconference (in 2021, courts conducted 498 hearings through videoconference in civil cases).

Considering the impact of new technologies on efficient administration of justice and the fact that information systems contribute to facilitating communication between courts and court users, the objective of extending the use of videoconferencing system to other categories of cases is a priority set in the Strategy for Ensuring the Independence and Integrity of the Justice Sector for 2022-2025. At the same time, the use of other distance communication technologies in court hearings is on the agenda of the justice sector.

G. Efficiency

126. What is the average length of (a) a civil/ commercial case, including a small value cases, (b) a criminal case and (c) administrative law cases? In case of delays in handling cases, which problems are they mainly linked with? (For example: complex summoning process, prolonged period for collection of evidence; police evidence not being accepted in courts; failure by witnesses to appear; failure by judicial experts to appear; workload associated with enterprise registration; workload associated with high number of appeals; absence of alternative dispute resolution mechanisms; complex case management; lack of technical equipment.)

In 2020, it took on average 319 days for a civil/commercial case, 325 days for a criminal case and 332 days for administrative disputes to go through all three layers of Moldova court system. The following table shows the average total length of proceedings for 2016, 2018 and 2020 in all three levels of the Moldovan court system. The figures for 2020 confirm that the duration of court proceedings in Moldova increased by one or two months, most likely because of the pandemic. This is what the statistical data for 2020 might not be the most reliable.

Type of cases	2016 (days)	2018 (days)	2020 (days)
Civil and commercial	267	242	319
Administrative	263	300	332
Criminal	246	299	325
Average	259	280	325

Moldova did not have and does not have chronic problems related to the length of court proceedings. On the contrary, in 2016 Moldovan courts deal with all types of cases, in the first instance, appeal and cassation in just 259 days, which is 2.8 times faster than the average of Council of Europe (CoE) countries (according to 2018 CEPEJ report). In 2018 the cases were dealt with, on average, in 280 days, which is 1.9 times quicker than the CoE average (529 days) (according to 2020 CEPEJ report). The downside of the high speed of the Moldovan judiciary is often the insufficient quality of court judgements.

Protracted examination of cases in the Republic of Moldova is an exception, which, as a rule, is due to frequent postponement of court hearings and returning of cases for retrial. Some cases are also delayed because of the lengthy procedures for producing expert reports. Until 2009, Moldova also had several thousand final court judgments that were not enforced by the state for many years, which led to numerous cases lost at the European Court of Human Rights. This number was reduced to several hundred old judgements, mostly related to the allocation of social housing to police officers, prosecutors, and judges. The right to social housing for these categories was excluded in 2009.

On 21 April 2011, the Parliament passed Law No. 87⁴⁹⁵ (which entered into force on 1 July 2011) on the compensation by the state for the damage caused by the violation of the reasonable time requirement. Under this law, persons who believe that their cases are examined with excessive delays, or judgments in their favor have not been enforced for too long, may apply to the court for compensation. The court practice of application of this law was recently criticized by the civil society for insufficient compensations offered and excessive duration and led to several violations at the European Court of Human Rights⁴⁹⁶.

The Moldovan Government is committed to deal with systemic problems that excessive length of proceedings (unwarranted retrials, poor case planning and lengthy expert report procedures) and to find a solution for the outstanding number of unenforced judgements issued against the state.

⁴⁹⁵ Available in Romanian at https://www.legis.md/cautare/getResults?doc_id=106544&lang=ro

⁴⁹⁶ See https://old.crimj.org/wp-content/uploads/2021/04/2021-04-22_Moldova_LRCM_communication_Olaru-and-others_fin_sent.pdf

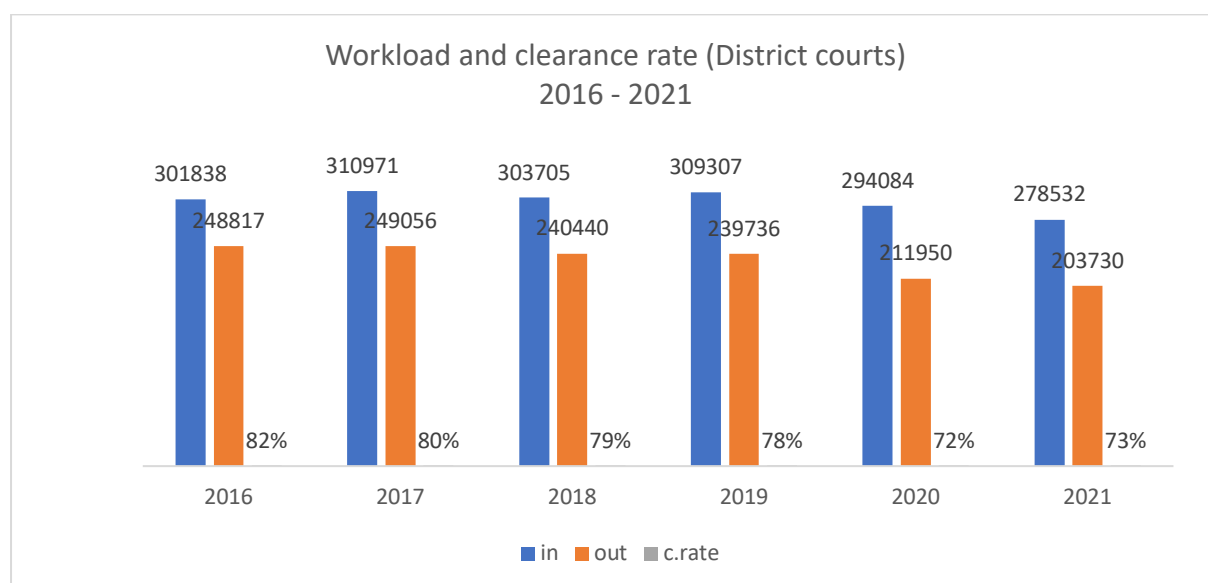
127. What is the clearance rate, i.e. the ratio of the number of resolved cases over the number of incoming cases in a given year:

- a) In first instance for civil/commercial, administrative and criminal cases;
- b) In appeal for the same categories of cases;
- c) At the Supreme Court;
- d) At the Constitutional Court;

The overall workload of the judiciary did not vary substantially in the last decade. In 2013, the justice system received some 300,000 cases, just as many as in 2020 (the first year of the pandemic).⁴⁹⁷ Since 2012, the number of judges did not change either.

Available data on the Workload and clearance rate shows that the clearance rate is roughly around 78% each year in the first instance court, 82% at the Courts of Appeal, and around 90% at the Supreme Court of Justice. A visible decrease in the clearance rate is more visible in 2020 and 2021 (due to the pandemic, with the exception of the Supreme Court of Justice, which was not affected). This trend seems similar to the European average, at least from the perspective of the resolved cases. More details are available in the graphs below:

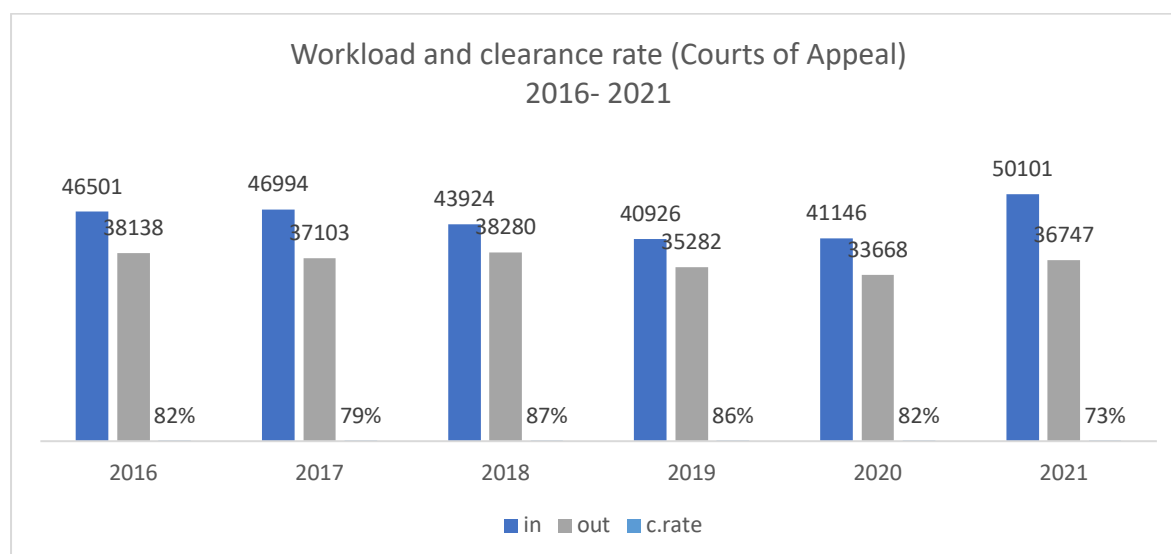
Clearance rate in the first instance (civil/commercial, administrative and criminal cases)



Source: SCM Annual activity reports (2016 – 2020) and AAIJ report for 2021

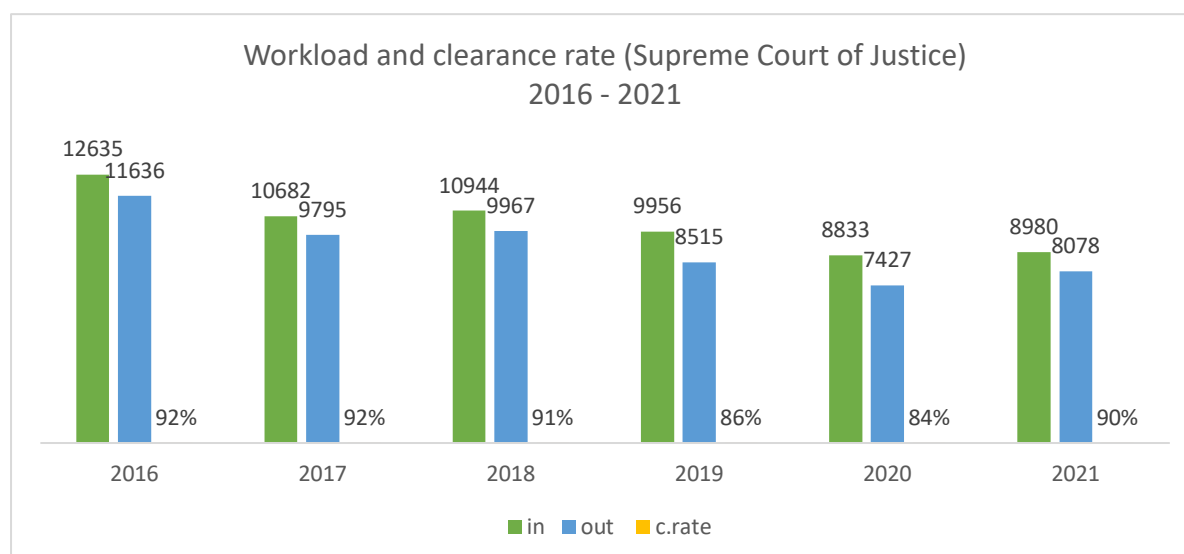
⁴⁹⁷ LRCM report „From Judgements to Justice”, section on workload, (2021) available at: https://old.crjm.org/wp-content/uploads/2021/11/2021-25-10-De-la-hotarari-judecatoresti-la-justitie_2021-EN_FINAL.pdf.

Clearance rate at the Courts of Appeal (civil/commercial, administrative and criminal cases)



Source: SCM Annual activity reports (2016 – 2020) and AAIJ report for 2021

Clearance rate at the Supreme Court of Justice (civil/commercial, administrative, and criminal cases)



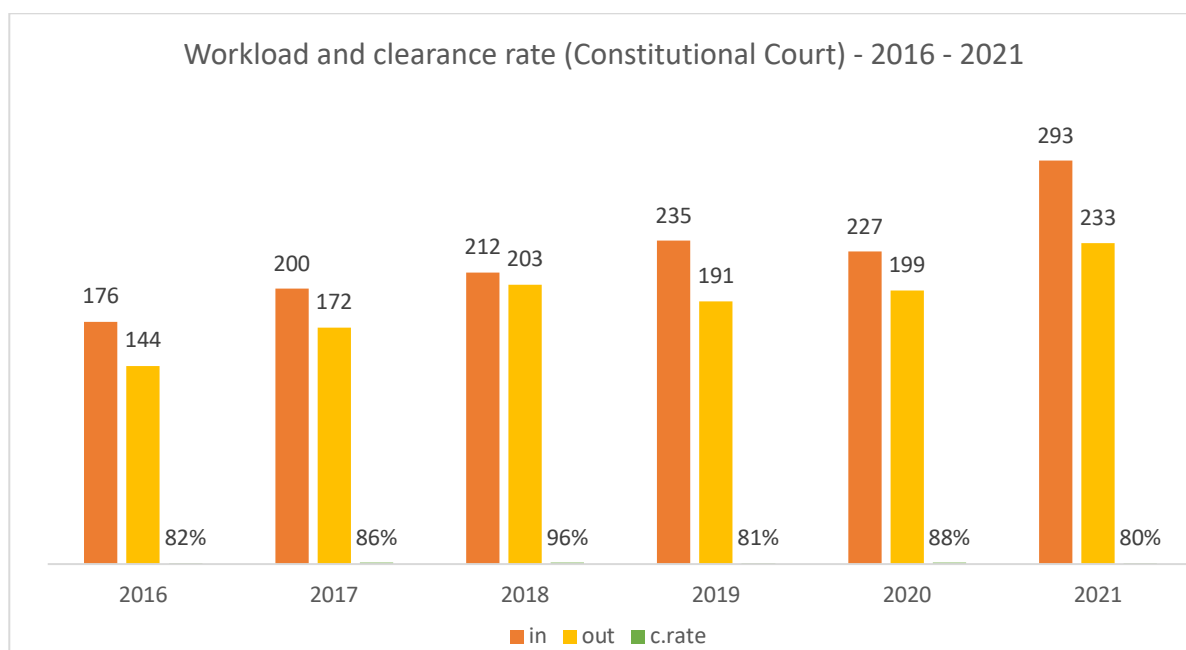
Source: SCM Annual activity reports (2016 – 2020) and AAIJ report for 2021

Constitutional Court

Individual citizens have no right to petition the Constitutional Court and the Constitutional Court generally may not examine cases of its own motion either. However, individual citizens have access to the Constitutional Court through the courts in case of rising by the latter of the plea of unconstitutionality established during the trial. They may also refer the Court through the Ombudsman and other subjects entitled to address the Constitutional Court. Therefore, the number of cases at the Courts is limited and issues with the clearance rate are registered. In recent years, the

Constitutional Court received 200 – 290 cases per year, while the clearance rate was on average 85%. More details are available in the graph below:

Clearance rate at the Constitutional Court



Source: Constitutional Court Annual activity reports (2016– 2021)

128. Are there dedicated measures/plans to reduce the backlog of cases?

There are no systemic issues with the court backlog in Moldova (see above the clearance rate). According to CEPEJ (see Q126), the case processing speed in Moldovan courts is much higher than the European average. However, Moldova is considering putting in place further measures to boost court efficiency. The Action Plan for the implementation of the new Justice Strategy, in force from January 2022, provides in p. 2.1.3 that the procedural legislation will be simplified to boost efficiency. Further measures are put in place to facilitate the case processing, such as electronic correspondence with the parties and granting the courts access to public registers relevant to their activities (such as land register, database of population, the bureau of addresses, etc.), authorization of the videoconferences for witnesses resided abroad, creation of the templates of procedural documents that will be integrated in the Integrated Case Management System, etc.

129. Which roles / competencies do judges have (including outside normal proceedings such as in the execution of judgements, in registry issues etc.)? Which roles / competencies do prosecutors have (including outside criminal proceedings such as in the execution of judgements, civil or family law cases etc.)?

Judges' roles: The activity of courts in the field of administration of justice is led by the president of the court. Court presidents are assisted by vice-presidents. Hence, only judges who hold the said functions, in addition to the constitutional duty of

administering justice, ensure the organizational and administrative activities of courts. Their competence is to approve the composition of colleges, to set up court panels, and examine petitions under the law, except for those related to actions of judges in the administration of justice and to their conduct. In the same context, court presidents check the process of random assigning of cases filed in the court for examination; exercise control over the preparation and display, within the time limit established by the procedural rule, of information on cases set for trial, including their subject matter; represents the court in relations with public authorities and the media; and performs other duties according to the law (art. 16/1 of the Law on the Organization of the Judiciary).

In addition to the case examination duties, judges may run for the functions of judicial self-administration bodies, the Superior Council of Magistracy, and its colleges.

According to the Law on the Status of the Judge (art. 14), judges are entitled to membership of commissions for the examination or drafting normative acts, domestic or international documents; membership in scientific or academic societies, as well as in associations or foundations with scientific purposes, as well as to participate in developing publications or specialized studies, literary or scientific works, except for those of a political nature.

In addition to the competencies related to the judicial stage, judges may also express themselves on issues related to the execution of certain judicial acts, such as substituting a form of ensuring the execution of an enforcement act (art. 63 of the Enforcement Code, art. 179 of the Civil Procedure Code).

Usually, the writs of execution are submitted by creditors. However, the regulatory framework also establishes legal situations when the court should submit a writ of execution *ex officio*. These are cases related to the pursuit of amounts to be made income to the state; pursuit of amounts collected from the state account, from the account of state and municipal enterprises, of trade companies with majority state capital; pursuit of maintenance allowances; collection of sums for the reparation of damages caused by bodily injuries, or by another damage to health or by death, if the reparation was made in the form of periodic monetary allowances; reparation of the damage caused by the illicit actions of criminal prosecution bodies and of courts; collection of expenses for the provision of state-guaranteed legal aid and related to the collection of allowances for temporary work incapacity and other social insurance allowances provided by law (15 para. (2) of the Enforcement Code). In other cases, writs of execution are issued and submitted for enforcement at the request of creditors. In this respect, to note that the law apparently provides for the possibility of obtaining an enforceable writ under all final and enforceable judgments, but the issuance of such a document is in fact determined by the need for the forced enforcement of a judicial act that contains obligations likely to be enforced in a forced manner.

Prosecutor roles: As for the prosecutors, in addition to the basic functions of leading and performing criminal prosecution, as well as representing accusations in courts, they also have duties related to the control of the operation of criminal prosecution bodies in criminal proceedings, and to the control of the compliance with the legislation on special investigation activities. Accordingly, prosecutors may initiate disciplinary proceedings for violations of the law, for failure to fulfill or improper fulfillment of obligations in criminal proceedings by prosecuting officers, workers of ascertaining

bodies, workers of bodies exercising special investigation activities, as well as by the workers responsible for the registration of complaints. They also have the function of applying measures to protect witnesses, victims of crime and other participants in criminal proceedings, and may exercise control over compliance with the law in the application of measures to protect witnesses, victims of crime and other participants in criminal proceedings. Similar to judges, prosecutors examine requests and petitions according to their assigned competence and may be elected to functions of self-governing bodies, the Superior Council of Prosecutors and its colleges.

The Prosecutor General of the Republic of Moldova, the prosecutor who exercises control over the execution of criminal judgments in the respective territory may visit the prisons, so they have competencies in verifying the observance of the rights of persons held in state custody as well as in investigating ill-treatment cases.

Since 2016, prosecutors have had no competencies of general oversight over civil relations, and their powers are generally focused on criminal matters. However, the prosecutor may file a complaint in court for compensating damages caused to the public authorities through a crime, or for canceling the acts that caused the damage, if criminal investigations have been terminated or have not been started if the statute of limitations or amnesty has intervened; the perpetrator's death has occurred; there are other circumstances provided by law that condition the exclusion or exclude criminal investigations, as applicable. A complaint may be filed in court in such case regardless of the consent of the public authority.

130. Please describe the procedure for executing civil / criminal judgements. How are effectiveness and promptness in the execution of judgments ensured? What legal remedies exist against non-execution of judgments and how frequently are they used? Have structural causes for delays in execution, if any, been addressed by competent authorities and how?

I. Regarding civil cases, the enforcement of judgments may be carried out only when they are final, except for cases of immediate enforcement after delivery. The court order or decision that requires a defendant to reinstate an employee, on payment of a maintenance allowance or of salaries is to be enforced immediately.

The debtor of the obligation enshrined in the court act has the possibility to execute it voluntarily. If he refuses to do so, the creditor has the possibility to request the issuance of writ of execution. In this connection, to note that there is a difference in approach enshrined in the regulatory framework, the general rule being that the writ of execution is submitted for forced enforcement by the creditor while, as an exception, the court itself may submit a writ of execution *ex officio* in some specific causes (for example, pursuit of the amounts to be made income to the state, pursuit of a maintenance pension, collection of the average salary for the entire period of forced absence from work, etc.).

The creditor is free to submit the writ of execution to any bailiff, taking into account the legal provisions regarding territorial jurisdiction. Within 3 days of receipt of the writ of execution, the bailiff issues a ruling on the initiation of enforcement proceedings, which he sends to the parties in the enforcement proceedings within three days of issuance and proposes to the debtor to execute the enforcement document within 15 days, without taking any action to enforce the writ of execution.

For enforceable documents with immediate execution, with some exceptions expressly provided by law, the bailiff proposes to the debtor the execution of the enforceable

document within three days, without taking action to enforce the enforceable document within this period.

If the debtor does not execute the enforcement act within the given term, the bailiff continues the enforcement procedure, issuing to the parties a conclusion in this respect, accompanied by the calculation schedule of other enforcement costs.

In some cases, the bailiff may refuse to initiate enforcement proceedings. However, the refusal of the bailiff to initiate the enforcement procedure is not an obstacle to a repeated submission of the enforcement act for enforcement after the shortcomings have been removed.

If forced enforcement proceedings have been instituted within the time limit set by the bailiff in the ruling for starting enforcement proceedings, the parties shall be required to appear before the bailiff in order to be informed of their rights and obligations, including the possibility of conciliation or, as applicable, to determine the manner of enforcement and/or the sequence of pursuit of the debtor's assets.

If the parties agree on the conditions of execution, the bailiff shall prepare a report to indicate those conditions, which shall become binding on the parties.

If the parties or one of the parties do not appear or the conciliation does not end with the conclusion of a transaction, the bailiff records this fact in a report and continues the pursuit of the debtor's assets.

The particularities of the direct enforcement procedure differ depending on the concrete object of the enforcement, the regulatory framework dedicating express provisions for each concrete case.

II. A **court's criminal judgment** becomes enforceable on the date when it became final. The court that tried the case in the first instance is responsible for sending the judgments for enforcement.

The order for the enforcement of the court judgment, within 10 days from the date when the judgment became final, is sent by the court president, together with a copy of the final judgment, to the body in charge of enforcing the sentence. If the case has been tried on appeal and/or on second appeal (recourse), a copy of the court of appeal and/or second appeal judgment shall be attached to the copy of the sentence.

The enforcement bodies shall immediately, but not later than 5 days, notify the court that sent the judgment on its enforcement. The administration of the place of detention must communicate to the court which sent the judgment to the place where the convict is serving his sentence. The court that handed down the sentence is required to follow the enforcement of the judgment.

A judgment sentencing to imprisonment or life imprisonment in respect of a person who, until it became final, was not held in pre-trial detention shall be sent to the internal affairs body in whose territorial area the convict's domicile is located for escorting him to his place of detention.

A judgement on the application of a security measure shall be sent to the competent institution or body to ensure that the security measure is implemented. A judgment on the application of a preventive measure shall be sent by the institution or body which adopted it to the institution or body competent to ensure that the preventive measure is implemented.

The probation body shall ensure enforcement of the penalty of deprivation of the right to hold certain positions or to exercise a certain activity; of the punishment of unpaid community work; enforcement of judgments on conviction with conditional suspension of enforcement of the sentence; on replacing the unexecuted part of the sentence with a milder sentence, on releasing juveniles from punishment, on postponing enforcement of the sentence applied to pregnant women and persons with children up to 8 years of age, as well as enforcement of punishments applied to legal entities other than a fine.

The enforcement of the prison sentence and life imprisonment is ensured by prisons.

The enforcement of the obligation not to leave the locality or the country is ensured by the internal affairs body in whose jurisdiction the domicile of the defendant is located.

Surveillance of the enforcement of house arrest is ensured by the internal affairs body in whose jurisdiction the defendant's domicile is located.

Enforcement of pre-trial detention is ensured by prisons, including by criminal investigation remand prisons of the National Administration of Penitentiaries.

Detention of up to 72 hours, as a procedural measure of coercion, is ensured in remand prisons.

The operation of the institutions and bodies that ensure the enforcement of criminal judgments, as well as the manner in which such judgments are enforced, are subject to judicial, departmental control, control exercised by national and international organizations that ensure the protection of fundamental human rights and freedoms, and to civil control, exercises by the monitoring commissions.

131. Equipment: Is there an IT-supported case management system in the courts? Are systems and software compatible across Moldova? (The need to manage the computerisation on the national level calls for a central capacity to define needs, implement computerisation, including procurement of software and hardware, as well as to advise and help computerised courts.) Please describe briefly the main tools provided by the system.

There is an IT-supported case management system in the courts. As mentioned in Question 122, the Judicial Information System (JIS) is implemented in all courts in the Republic of Moldova. The implementation, maintenance and development of the judicial information system is the responsibility of the Ministry of Justice through the Agency of Court Administration. The JIS equipment is compatible in all courts – they may exchange files and procedural documents electronically.

JIS maintenance services are purchased annually and include a set of specific services for both hardware and software equipment in courts (antivirus systems, technical revision services, resolution of incidents reported by the courts, etc.). A survey on the courts' satisfaction with maintenance services is conducted at the end of each year. At the same time, requests from the courts to add, modify or delete new functionalities in the system are analysed and approved by a permanent working group composed of representatives of the courts, the Superior Council of Magistracy, and the Agency for Court Administration.

As regards training in the use of JIS, the National Institute of Justice systematically organises continuous training courses on how to use the JIS, both for judges and other categories of court staff.

The JIS organisation and operation is regulated by the Government⁴⁹⁸. JIS consists of four components as follows:

- *Integrated Case Management System* (ICMS/PIGD) ensures automatic random assignment of cases according to the degree of complexity; electronic case records; electronic records of court hearings; electronic transfer of cases among courts; generation of electronic statistical reports; audio recording of court hearings etc.
- *e-Case application* allows filing of the application with the court in electronic format and distribution of file materials among parties in electronic form. This IT application is currently being piloted. (<https://edosar.instante.justice.md/>)
- *National Courts Web Portal* includes courts' web pages where court users can access information about the date and time of court hearings, court judgments, judicial practice and other information relevant for litigants. (<https://instante.justice.md/>)
- *Court hearing application* is designed for conducting videoconferences and audio/video recording of court hearings.

132. Is there a Supreme Court database with case law accessible to courts, legal and judicial professions?

The Supreme Court of Justice (SCJ) has a database of judgments issued by the SCJ. This database can be accessed from the SCJ website⁴⁹⁹ or from the National Courts Web Portal⁵⁰⁰. It is accessible to the general public, the judiciary professionals, and representatives of legal professions.

133. Are databases of law enforcement agencies accessible by courts? Is there a centralised electronic criminal register accessible by relevant authorities?

The courts **have access** to several databases of the law enforcement agencies, such as the Register of Forensic and Criminological Information and the Integrated Automated Information System for recording crimes, criminal cases and persons who have committed crimes (centralized electronic criminal register).

The electronic Register of Forensic and Criminological Information is the only official database of forensic and criminological information. Access to this Register is given to a set of institutions entitled 'participants' that represent central public administration authorities that use and process such data. The System was created by *Government Decision No. 328/2012*, and the Ministry of Internal Affairs (MIA) is the owner of the Register and ensures the legal, organisational and financial conditions for its creation

⁴⁹⁸ https://www.legis.md/cautare/getResults?doc_id=110139&lang=ro - Government Decision No. 593/2017 on the Approval of the Technical Concept of the Judicial Information System;
[HG794/2018](#) - Government Decision No. 794/2018 on the Approval of the Regulation on the Organization and Operation of the Judicial Information System.

⁴⁹⁹ <http://csj.md/>

⁵⁰⁰ <http://www.instante.justice.md>

and maintenance. The Integrated Automated Information System is an information system intended for the collection, storage, processing, transmission and use of information on offences, criminal cases and perpetrators. The system was established by Law No. 216/2003.

The databases and electronic registers which the Courts **do not have access to** are the following: Register of detained, arrested and convicted persons, the e-File (in Romanian e-dosar) managed by Prosecutors, the database of probation subjects, of prison population, border police, fiscal authorities, etc.

The Register of apprehended, arrested and convicted persons (*AIS RDACP*) regulated by *Government Decision No. 716/2014*. It contains information about the following: apprehended persons suspected of committing a crime, apprehended persons suspected of committing misdemeanours/contraventions, persons on home-arrest; the suspected, accused, or defendant for whom the presentence report was requested; juveniles exempted from criminal liability; persons who are conditionally exempted from criminal liability; persons who are conditionally convicted with fully or partially suspended imprisonment; conditionally released prisoners; released prisoners who have requested post-penitentiary assistance, persons convicted or sanctioned with community service (unpaid work for the benefit of the community), persons deprived of the right to hold a certain position or to exercise a certain activity. Currently, the following agencies have access to this Register: General Prosecutor's Office, National Anti-corruption Centre, General Police Inspectorate of MIA, Office for preventing Money Laundering, National Probation Inspectorate and the bailiffs.

The General Prosecutor's Office of the Republic of Moldova has its own Automated Information System on Criminal Investigation - e-File, which is intended for registration, storage, processing, use of information on criminal cases at the stage of criminal investigation and prosecution. All prosecutors have access to this System, within the limits of their functional and hierarchical competence, with the right to enter and/or view data.

Prosecutors have access to databases managed by public agencies for exercising their powers:

- Integrated information system of the State Fiscal Service (SIISFS);
- The integrated information system of the State Fiscal Service "Cadastre";
- The automated information system of the Public Services Agency "ACCES-Web";
- Integrated information system of MIA;
- Integrated Border Police Information System;
- The system of the Information Technology and Cyber Security Service "MoldLex".

According to the Law No. 8/2008 on probation, the record of the probation subjects is kept in electronic registers and on paper (art. 23). The National Probation Inspectorate subordinated to the Ministry of Justice has an electronic database for keeping the record of probation subjects. Currently this database is not yet connected to a centralised platform, which judges and prosecutors would have access to.

134. Do judges and prosecutors have access to the archives and legal databases? How is access to recently adopted laws ensured? Are archives computerised?

Both judges and prosecutors have access to archives, legal databases and separate records. Judges and prosecutors have access and use the online State Register of Legal Acts of the Republic of Moldova (www.legis.md) and the MoldLex Information System⁵⁰¹. The State Register of Legal Acts, launched on 1 January 2019 and created to implement a high-performance and operational electronic system, currently provides free and open internet access to all legislative and normative acts published after June 23, 1990, as well as the updates deriving from legal amendments or completion. The register ensures the record of the legislation through an automated information system and brings transparency in the decision-making process. The register currently contains over 75 thousand documents.

The Information System "Legislation of the Republic of Moldova" (Jurist / MoldLex) - contains data and information on the legislation of RM, caselaw and an explanatory dictionary. The System contains legal acts adopted and published in the Official Gazette of the Republic of Moldova and other official publications starting with 1989, in both Romanian and Russian.

The archives in most courts were not digitised until 2010, except for the Chisinau district Court, which partially digitised its archives. Starting with 2010, following the implementation of the Integrated File Management Program (PIGD), all information is entered and stored in this system and most of it is accessible to all judges, prosecutors and lawyers.

135. Please describe the domestic legal and institutional framework for processing war crimes, crimes against humanity and genocide, and the situation with any proceedings initiated; please provide a translated copy of the relevant laws.

The war crimes, crimes against humanity and genocide are criminalised in the Criminal Code of the Republic of Moldova as follows:

a. war crimes are criminalised according to Article 137 War crimes against persons; Art. 137/1 War crimes against property and other rights; Art. 137/2 The use of forbidden means of warfare; Art.137/3 The use of prohibited methods of warfare; Art. 137/4 The unlawful use of distinctive signs of international humanitarian law; Art. 138 Giving or executing a manifestly illegal order (oriented towards committing the crimes stipulated in article 135-137/4) and failure to exercise or inappropriately exercise due control; and Art. 141 The activity of mercenaries.

b. crimes against peace are criminalised according to the following articles: Art. 139 Planning, preparing, launching or conducting the war; Art. 140 War propaganda; Art.140/1 Use, development, production, acquiring, processing, holding, storing or preserving, directly or indirectly transferring, storing, transporting of weapons of mass destruction; Art. 142 Attack on the person benefiting from international protection.

⁵⁰¹ <http://www.lex.md>

c. crimes against human security: Art. 135 Genocide; Art. 135/1 Crimes against humanity; Art. 136 Ecocide; Art. 144 Cloning.

These incriminating norms are applicable to nationals of the Republic of Moldova, foreign nationals or stateless persons, since according to the art. 11 para.(3) of the Criminal Code, foreign citizens and stateless persons who do not permanently reside on the territory of RM and who committed offences outside the territory of the country are subject to criminal liability if the committed offences are directed against the interests of the Republic of Moldova, against the rights and freedoms of its citizens, against the peace and security of mankind or constitute war crimes, as well as for the offences provided by the international treaties to which the Republic of Moldova is a party, even if such persons were not convicted in the foreign states.

The national legislation establishes a derogation from the general rule on the limitation period of criminal liability for committing such acts. According to art. 60 para.(8) of the Criminal Code, the prescription does not apply to the persons who committed offences against human peace and security, war crimes, torture, inhuman or degrading treatment or other offences provided by the international treaties to which the Republic of Moldova is a party, irrespective of the date when they were committed.

According to the provisions of the Criminal Procedure Code of the Republic of Moldova No.122/2003, the Prosecutor's Office for Combating Organized Crime and Special Cases (PCOCSC) is competent to conduct criminal prosecution on war crimes, crimes related or similar to them. During the process of investigation and prosecution PCOCSC prosecutors interact with the officers from Security and Intelligence Service and the Ministry of Internal Affairs. The investigation of such crimes can be initiated based on information from special services, but also prosecutors' ex-officio reaction based on public information. In such cases, the criminal proceeding is the general one, applicable also for other crimes, including special investigative measures (visual tracking, wire-tapping, communication recording, use of specific procedure on illicit goods execution and evidence gathering).

Currently, the Prosecutor's Office for Combating Organised Crime and Special Cases has initiated 3 criminal cases based on the reasonable suspicion of committing propaganda of war (Article 140 para. (1)) and Intentional actions aimed at enforcing national, ethnic, racial or religious dissension, differentiation or disunity (Article 346 of the Criminal Code).

Aside from the above-stated domestic legal and institutional framework dealing with war crimes, crimes against humanity and genocide, the Republic of Moldova is also a Party to such relevant international instruments: Convention on the Prevention and Punishment of the Crime of Genocide, Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Convention on the Treatment of Prisoners of War, Convention on the Protection of Civilian Persons in Time of War and the 1977 Additional Protocols Nos I and II to these instruments, the Convention on the Non-Prescription of War Crimes and Crimes against Humanity), and the Rome Statute of the International Criminal Court.

For the English text of the above-specified articles incriminating in the Moldovan Criminal Code the war crimes, the crimes against humanity and genocide, please see the Appendix titled Moldovan Criminal Code – War Crimes, Crimes against Humanity, and Genocide.

VIII. Anti-Corruption Policy and strategy

136. Please give an overview of the efforts geared towards tackling the prevention and repression of corruption (i.e. adoption of legislation, alignment with international conventions, adoption of strategies and action plans to implement legislation, reinforcement of institutional and human resources capacities to deal with corruption). Which are the main priorities in this field? Which are the bodies responsible for the fight against corruption? How is coordination between different services ensured horizontally as well as across the levels of governance?

Prevention and repression of corruption is one of the top priorities for the Republic of Moldova. This goal is part of the country development strategy, government program and action plan, legal documents, as well as a commitment in the Association Agreement, IMF Memorandum and Multiannual Financial Assistance of the European Union. Thus, the Republic of Moldova designed the National Integrity and Anti-Corruption System with a set of institutions with National Anticorruption Centre, Anti-corruption Prosecutor Office and National Integrity Agency on top of it.

The main policy document for corruption prevention and increasing integrity is the National Integrity and Anti-Corruption Strategy (NIAS) for 2017-2023 which is the 3rd national strategy in the field of anti-corruption. The 2017-2023 NIAS includes actions regarding recovery of criminal assets, enhancing the integrity of the private sector, guaranteeing respect for fundamental human rights and freedoms, protecting whistleblowers and victims of corruption, strengthening ethics and integrity in the public, private and non-governmental sectors, ensuring transparency of public institutions, transparency of political party financing and media. The Strategy was developed based on the National Integrity System (NIS) assessment carried out by Transparency International Moldova and is built on eight pillars of integrity: I. Parliament; II. Government, public sector and local public administration; III. Justice and anti-corruption authorities; IV. Central Electoral Commission and political parties; V. Court of Auditors; VI. Ombudsman; VII. Private sector; VIII. Civil society and the media.

According to the National Integrity and Anti-corruption Strategy, the main priorities in combating and prevention of corruption, are to align the national legal framework with the international treaties⁵⁰²; Efficient application of the corruption preventive measures (corruption proofing of the draft normative acts; institutional integrity assessment; anti-corruption education and awareness raising); Repression of the systemic and high-level corruption; Strengthening the analytical capacities in relation to the investigation of corruption and related offences as well as of the illicit enrichment offence; Recovery of criminal assets by establishing an efficient cooperation with the relevant foreign authorities;

Subsequently, the purpose and objectives of the NIAS are interlinked with the United Nations Sustainable Development Goals (SDGs) and namely the Goal 16 of the 2030 Agenda for Sustainable Development which is aimed at promoting peaceful and inclusive societies for sustainable development, ensuring access to justice for all and creating effective, accountable and inclusive institutions at all levels. In particular, the measures set out in this goal should be taken into account to: [...] significantly reduce

⁵⁰² Recommendations from the 1st and 2nd UNCAC review cycles; GRECO recommendations

illicit financial flows [...], strengthen the recovery and return of stolen assets [...] (16.4); significantly reduce corruption and bribery in all its forms (16.5); develop effective, accountable and transparent institutions at all levels (16. 6.); ensuring responsive, inclusive, participatory and representative decision-making at all levels (16.7); ensuring public access to information and protecting fundamental freedoms [...] (16.10) and promoting and enforcing non-discriminatory laws and policies for sustainable development (16.b).

The Republic of Moldova has signed and ratified the UN documents like United Nations Convention against Corruption (2004) and the United Nations Convention against Transnational Organized Crime (2000), as well as Council of Europe documents, including the Convention on Laundering, Search, Seizure and Confiscation of the Criminal Assets and on the Financing of Terrorism (2005), Convention on the Manipulation of Sports Competitions (2016), Criminal Law Convention on Corruption (1999), Additional Protocol to the Criminal Law Convention on Corruption (2003), Civil Law Convention on Corruption (1999).

One of the main activities for corruption prevention is the Anti-Corruption Education activities intended to strengthen institutional and professional integrity. Training, and awareness-raising activities in the field of integrity and anti-corruption are offered periodically to public sector public agents, private sector representatives, and students.

These activities are planned and carried out based on the institutional priorities of the NAC, the needs identified by each entity or based on the results of institutional integrity assessments (internal or external), as well as the provisions of the Action Plan on implementing the National Integrity and Anticorruption Strategy for the years 2017-2023. Any public or private entity can request from anti-corruption and integrity agencies to conduct training on the same topics. Also, in order to ensure a wide range of training/information tools, the NAC developed, with the support of the UNDP Moldova, the self-training course "Anticorruption and Integrity"⁵⁰³, which is used by the governmental distance learning platform, and all public agencies have access to the course, depending on their time availability.

At the same time, the National Anti-Corruption Centre (NAC), in its capacity as the Secretariat of the Strategy Monitoring Groups, is responsible for ensuring the effective management of the Strategy by coordinating, monitoring and objectively evaluating the implementation of the Action Plans by all public entities. The coordination mechanism between different national and international institutions responsible for anti-corruption measures is ensured via:

- National Integrity and Anti-Corruption Strategy Monitoring Groups;
- Prime-Minister's Anti-corruption and Justice Reform Council;
- Supreme Security Council,
- Joint Investigation Teams
- Task Forces and Working Groups;
- Information exchange between the authorities;
- Public consultations.

⁵⁰³ <https://elearning.gov.md/course/index.php?categoryid=14>

137. Is there a national anti-corruption strategy and multi-annual action plan? Was this strategy the subject of broad consultation at all levels (e.g. interdepartmental, consultations with stakeholders in the private sector, civil society and the media)? What is the status of adoption of strategic policy documents, including the action plans, at all levels of governance? Which sectoral anti-corruption plans are in place?

The National Integrity and Anti-Corruption Strategy (NIAS) for 2017-2023⁵⁰⁴ is the main public policy document aimed at systematizing and streamlining the efforts of public entities in the field of anti-corruption and strengthening integrity.

The Strategy is built on 8 integrity pillars:

- I.** Parliament;
- II.** Government, public sector, and local public administration;
- III.** Justice and anti-corruption authorities;
- IV.** Central Electoral Commission and political parties;
- V.** Court of Auditors;
- VI.** Ombudsman;
- VII.** Private sector;
- VIII.** Civil society and the media.

The 2017-2023 NIAS includes actions regarding the recovery of criminal assets, enhancing the integrity of the private sector, guaranteeing respect for fundamental human rights and freedoms, protecting whistleblowers and victims of corruption, strengthening ethics and integrity in the public, private and non-governmental sectors, ensuring transparency of public institutions, transparency of political party financing and media.

The aims and objectives of the Strategy are achieved through the implementation of the action plans set out for every integrity pillar. The implementation of the action plans is monitored through the monitoring groups, whose work is facilitated by the secretariat of the monitoring groups provided by the National Anti-Corruption Centre.

The consultation process on the draft NIAS was launched at a public event attended by representatives of the Moldovan Parliament, the main public authorities, the non-governmental organizations, and development partners. The draft strategy was submitted for endorsement to the interested authorities, civil society and other stakeholders, and several rounds of discussions for each of the pillars of the Strategy were held with representatives of the implementing institutions, as well as representatives of civil society and representatives of the European Union High-Level Advisers Mission to the Republic of Moldova.

In total, 14 public events were organized in the framework of the public consultation on the draft strategy with the participation of all interested authorities, civil society, and other stakeholders. A total of 664 proposals for amendments to the Action Plans for Integrity Pillars and the Strategy were made and agreed upon during the consultations.

⁵⁰⁴ The National Integrity and Anti-Corruption Strategy (NIAS) for 2017-2023, approved by Parliament Decision No.56/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129679&lang=ro

In addition, 354 objections and proposals were received during the endorsement process, of which 277 were accepted in full or in part and 78 were rejected. Therefore, the participatory consultation process on the draft Strategy, action plans, and grid indicators resulted in 1018 proposals, of which 92% were fully or partially accepted.

At the same time, in order to reduce corruption risks in the most vulnerable sectors, NIAS included a sectoral approach to corruption, by coordinating the approval and implementation of nine sectoral anti-corruption plans in the following vulnerable areas: customs, public order, public property management, and disposal, taxation, environmental protection, agri-food, education, health and compulsory health insurance and public procurement, as well as local anti-corruption plans, developed by the second-tier local public authorities.

As a result, during the reporting period, the nine sectoral anti-corruption plans were approved and implemented. Subsequently, in order to strengthen the public integrity among the local administration authorities, the Action Plan of the Strategy has foreseen a set of actions to increase the impact as well as the efficiency, transparency, and integrity of the local public administration authorities, the provision of quality public services, the adequate and efficient use of public funds, the improvement of the public image and the increase of the society's trust, as well as the establishment of conditions for a sustainable development process, thus ensuring the approval and implementation of the Local Anti-Corruption Action Plans for the period 2018-2020 by 97% of the local district's councils.

At the same time, in order to ensure the continuity of the implementation process of public anti-corruption policies at the sectoral and local levels, in accordance with the provisions of action No.19 of Pillar II, Priority II.2 "Anti-corruption sectoral approach" of the Action Plan of the Strategy, the responsible public authorities will ensure the approval and implementation of sectoral and local anti-corruption action plans for the next period, the deadline for adoption being the first quarter of 2022.

138. Is there a monitoring/evaluation mechanism or is there mid-term review planned and is there an impact assessment planned at the end of the implementation to see whether or not the strategy/action plan generated tangible results (e.g. does the strategy contain a clear vision and how does it focus on priorities that are likely to bring about real change)? Is there a designated monitoring body, which meets regularly and oversees effectively the implementation? Please provide information about budget allocated in this regard.

The monitoring and evaluation of the National Integrity and Anti-Corruption Strategy is ensured via the mechanism that includes internal evaluation and report and external independent monitoring efforts. In order to build on the progress and identify shortcomings in the implementation of the Strategy, public institutions report to the Secretariat of the monitoring groups provided by the NAC, using the Institutional E-Integrity information, the "National Anti-Corruption Strategy Reporting" module. Based on the institution reports, the Secretariat of the monitoring groups prepares the Monitoring and Evaluation Reports on the implementation of the Strategy, which include an the progress of the institutions responsible for the implementation of the outstanding actions and the achievement of the progress indicators; an assessment of quantitative progress towards the achievement of expected results and priority result indicators; description of the risks related to the activity of responsible institutions that may lead to delays in the implementation; impact indicators, indicators of the overall

objectives and purpose of the Strategy; Strategy's impact indicators according to alternative data sources (other surveys carried out by NGOs, national and international organisations).

The Strategy monitoring activity is organized into three monitoring groups.

Monitoring Group 1 is responsible for pillars I. “Parliament” and IV. “Central Electoral Commission and political parties”. Group 1 includes the Speaker and Deputy-Speaker of the Parliament, Chairpersons of parliamentary standing committees, One representative from the factions that do not hold the leadership of the parliamentary standing committees, The President, Deputy-president, and secretary of the Central Electoral Commission, Representatives of 5 extra-parliamentary parties and representatives of 4 public associations.

Monitoring Group 2 is responsible for pillars II. “Government, public sector and local public administration” and VII. “Private sector” and includes the Prime Minister, Members of the Government, Presidents of second-tier local government authorities from at least one-third of the administrative-territorial units in the central, northern, and southern regions (participation by rotation); Mayors of Chisinau, Balti and Comrat municipalities; President of the Chamber of Commerce and Industry; One representative of the National Confederation of Trade Unions and the National Confederation of Employers; Representatives of 6 public associations.

Monitoring Group 3 is responsible for pillars III. “Justice and anti-corruption authorities”, V. “Court of Auditors” and VI. “Ombudsman” and includes the president and 3 appointed members of the Superior Council of Magistracy; the president and 3 designated members of the Superior Council of Prosecutors; the chief prosecutor and deputy prosecutors of the Anti-Corruption Prosecutor’s Office; the director and deputies of the director of the National Anticorruption Center; the president and vice-president of National Integrity Authority; the director of the Security and Intelligence Service; the president and members of the Court of Auditors; the ombudsman and the secretary-general of the Ombudsman’s office; representatives of 4 public associations.

Additional tools for monitoring and evaluating of the NIAS implementation includes alternative reports of the civil society on the implementation by public entities of the Strategy. Civil society and the media play an important role in the national integrity system and can contribute to the effective implementation of the Strategy through independent and impartial monitoring, but also by impartially informing society about the shortcomings in the system.

The impact assessment of the actions envisaged in the Strategy's Action Plan is one of the key elements of the Strategy's monitoring process. As a result, surveys on the evolution of the Strategy's impact indicators were carried out. Social surveys measure the perceptions and experiences of the population, private sector representatives, and public officials on corruption, including from the gender perspective. At the same time, the findings of the sociological reports, which include a comprehensive assessment of the effectiveness and impact of the implementation of the Strategy, have been reflected in the Monitoring and Evaluation Reports on the implementation of the Strategy.

The funding for the strategy implementation is allocated from the state budget and other external sources. The budget for 2017-2020 equals MDL 909,629,670 (EUR 45 000) out of which 3.2% was covered by the development partners. The involvement of international donors in the financial support of the actions key for the implementation of the Strategy contributes essentially to a qualitative implementation of some of the

actions foreseen, such as the drafting of sectoral anti-corruption plans, the provision of electronic services, support for training activities, adequate technical equipment of anti-corruption institutions, as well as support for monitoring and reporting on the implementation of the Strategy, given their capacity to attract valuable international expertise, support capacity building and provide other forms of technical assistance.

139. Are civil society and non-governmental organisations associated to developing and monitoring the national anti-corruption policy? Is there a transparent mechanism to ensure/monitor follow up of their recommendations (and at what frequency does it meet)?

Civil society has an important role in the implementation process of the Strategy and contributes to the effective implementation of the Strategy through independent and impartial monitoring, but also by informing society about the shortcomings in the system.

According to the monitoring mechanism of the National Integrity and Anti-Corruption Strategy each monitoring group includes representatives of Civil Society Organizations: Monitoring group 1 - Representatives of 4 public associations; Monitoring Group 2 - Representatives of 6 public associations; Monitoring Group 3 - Representatives of 4 public associations.

The appointment of civil society representatives to the monitoring groups is done by the National Council of NGOs and the Anti-Corruption Alliance based on specific criteria that includes: expertise in the field of activity of the lead institutions monitored by the respective monitoring group; absence of personal interests in relation to the anchor institutions monitored by the respective monitoring group; transparency of funding and activities of the non-governmental organization to which it belongs; willingness to participate in meetings of the monitoring group.

In order to ensure the participatory implementation and monitoring of the Strategy, as well as to stimulate and support the involvement of civil society in corruption prevention activities, the Small Grants Programme – “*Monitoring the National Integrity and Anti-Corruption Strategy through the elaboration of alternative monitoring reports of sectoral and local anti-corruption action plans*” was launched with the support of development partners. Thus, the efforts of civil society were encouraged, especially considering the specificity of the areas addressed by the sectoral anti-corruption plans and the analytical efforts needed for independent and impartial monitoring, but also in informing society fairly about the shortcomings in the system.

140. Please describe efforts to strengthen implementation of the above and provide concrete results related to the fight against corruption.

In line with the provisions of the National Integrity and Anti-Corruption Strategy, public entities share a common responsibility to achieve the goal of “*Integrity instead of corruption*”, primarily by strengthening institutional integrity. To this end, in order to strengthen the capacities of public agents at the central and local levels, on how to make the process of monitoring and reporting on progress and shortcomings in the implementation of the Strategy more effective, a cycle of practical training workshops on “*Procedures for monitoring and reporting on anti-corruption policies*” were held.

Thus, the trained persons act as focal points within public entities in the field of corruption prevention and facilitators in the implementation of measures to ensure institutional integrity, including those provided for in the Strategy's Action Plan.

At the same time, in order to assess progress and difficulties in the implementation of the Anti-Corruption Sectoral Plans, a series of public consultation meetings were held on the implementation of the Anti-Corruption Sectoral Plans. Therefore, the standardized quarterly report for the implementation of the Anti-Corruption Sectoral Plan for 2018-2020, presents the current situation in regard to the achievement, by the responsible public entity, of progress indicators and allows the identification of actions that might be difficult to implement and the provision of consultative support in solving the challenges, including the risks related to the implementation of the outstanding actions. In addition, it was ensured that each of the responsible institutions is committed to active involvement in the sectoral plans implementation and reporting on progress achieved.

In line with the provisions of the National Integrity and Anti-Corruption Strategy, one of the key elements of the monitoring process of the Strategy is to assess the impact of the actions envisaged in the Strategy's Action Plan. As a result, surveys on the evolution of the Strategy's impact indicators were carried out. Social surveys measure the perceptions and experiences of the population, private sector representatives and public officials on corruption, including from the gender perspective. At the same time, the findings of the sociological reports, which include a comprehensive assessment of the effectiveness and impact of the implementation of the Strategy, were reflected in the Monitoring and Evaluation Reports on the implementation of the Strategy⁵⁰⁵.

Additionally, in order to facilitate the monitoring and reporting process of the Strategy, with the support of the project, the electronic platform "Institutional e-Integrity" was developed, which contains the "National Anti-Corruption Strategy Implementation Reporting" module, intended for reporting the progress and shortcomings recorded by the responsible public authorities in the implementation process of the Strategy. The pilot of the module was applied in the process of reporting on the progress made in the implementation of the Strategy, the reporting period - the first semester of 2020. Moreover, the public entities used the electronic platform to report on the progress and shortcomings in the implementation of the NIAS for the reporting periods 2020 and 2021.

In order to assess the progress in achieving the expected results set for each priority of the Sectoral Anti-Corruption Action Plans in the vulnerable areas set out in Pillar II of the Strategy, an extensive impact assessment exercise of the Sectoral Anti-Corruption Action Plans in the area of taxation for the years 2018-2020, as well as the Sectoral Anti-Corruption Action Plan in the area of environmental protection for the years 2018-2020, was initiated.

At the same time, the impact of the National Integrity and Anti-Corruption Strategy is dependent on the effectiveness of the mechanism for punctual implementation of jointly agreed actions, as well as the timely and qualitative reporting of the progress achieved by the implementing public authorities, in strict compliance with the committed progress indicators.

⁵⁰⁵ <https://cna.md/pageview.php?l=en&idc=67&t=/National-Anti-corruption-Strategy/Strategy-implementation/Evaluation-reports/Evaluation-reports/>

Among the successes achieved jointly by the actors involved in the implementation of the policy document, the following can be highlighted:

- the approval and implementation of the nine anti-corruption sectoral plans, thus strengthening the joint commitment of public entities to fulfill their sector-specific activities. Similar progress is noted at the level of local anti-corruption plans, revealing an approval rate of 97%;
- the establishment and proper functioning of the Criminal Assets Recovery Agency;
- adoption of Law No 122/2018 on whistle-blowers and the Regulation on internal examination and reporting procedures for disclosures of illegal practices;
- adoption of the Methodology for ex-post evaluation of the implementation of regulatory acts;
- development by the Central Electoral Commission of the „Financial Control” Information System, which allows the open publication of data related to the financing of political parties and electoral campaigns;
- continued improvement of training activities for public officials, private sector representatives and non-governmental organizations on the requirements of professional and institutional integrity;
- development and promotion of the model code of business ethics and corporate governance;
- moderate improvement of the results regarding the development and application by public entities of institutional integrity tools.

141. Which measures are taken to raise awareness of corruption as a serious criminal offence (e.g. campaigns, media and training)? Who is responsible for awareness-raising? Are measures that include awareness raising included in the national anticorruption strategy and other policy documents? Please provide some practical example.

The manager of the public institution is primarily responsible for raising awareness and ensuring the intolerance of corruption, which is obliged to implement and ensure intolerance of integrity incidents at the level of the public entity.

The information and awareness campaigns are carried out in partnership with the public entity and usually have 2 target groups: public agents and citizens, beneficiaries of public services or who interact in one way or another with the entity. All campaigns are publicized, including by recording or broadcasting live on social networks the activities carried out.

For example, one of the vulnerable areas to manifestations of corruption is the police, based on the number of cases managed by the NAC on criminal cases against police officers. Thus, following the request from the General Inspectorate of Police in the year of 2021, NAC organized and carried out the awareness campaign “Report! Your attitude matters!”. Information sessions and awareness-raising activities took place within the police inspectorates and their locations.

The campaign has been also attended by the NAC volunteers, who, along with the NAC and police representatives, distributed information leaflets (ways to report corruption to the NAC and PGI) to citizens. The NAC representatives also, in discussions with citizens, provided the information on illegal actions, which they are often tempted to commit, as well as the legal liability for which they are liable.

Another information campaign will be launched soon, due to the large number of negative results of professional integrity tests applied in the process of assessing the institutional integrity applied to the Moldsilva Agency. Thus, the Ministry of Environment of the Republic of Moldova has been decided to carry out an awareness and information campaign, in partnership with the NAC and the involvement of several actors, including civil society, to increase responsibility and awareness of the impact of corruption on the environment.

The National Integrity and Anti-Corruption Strategy for the years 2017-2023, was adopted in the format of a document harmonizing the activities of all responsible entities, in order to achieve the proposed priorities and make a significant contribution to achieving the General Objectives of the Strategy. Directly, they provide for strengthening the integrity, reliability, transparency, impartiality and incorruptibility, in line with the concept of integrity developed in the United Nations Charter. In this context, it is relevant to mention the concept of synergy foreseen in the structure of the National Integrity and Anti-Corruption Strategy, according to which the successes achieved in one pillar will be reflected in the progress made in other pillars, and similarly, the challenges encountered in one category will have an impact on the implementation process of all the actions foreseen in the strategy.

In addition, the Action Plans summarise the efforts of public entities to achieve the Strategy's objectives, namely, deter from committing acts of corruption, recover the proceeds of corruption, strengthen ethics and integrity in public, private and non-governmental sectors, protect whistle-blowers and victims of corruption, ensure transparency of public institutions, party financing and media, educate society and civil servants. Thus, in order to ensure the general objective "Educate society and civil servants", the Strategy's Action Plan provides for a series of measures aimed at cultivating integrity in the public sector and the policy of zero tolerance to corruption in public entities of the Republic of Moldova by:

- increasing society's confidence that public entities and agents fulfil their mission in line with the public interest, including in the process of interaction with the private sector;
- regulating mandatory measures to ensure and strengthen institutional and professional integrity;
- encouraging whistleblowing by public officials and ensuring their protection against retaliation;
- identifying and eliminating corruption risks within public entities;
- sanctioning public officials for corruption and the heads of public entities for lack of institutional and professional integrity.

142. What are the measures, approaches, strategies etc. targeting prevention of corruption (transparency and integrity measures, corruption-proof legislative drafting, etc.)? What is

the practical experience with their implementation? How effective is the compliance with these mechanisms and what sanctions exist in case of non-compliance?

One of the principles of NAC's activity is the **priority application of methods to prevent corruption over those to combat it**. In this regard, the prevention measures implemented by the institution include monitoring and evaluation of anti-corruption policies; corruption proofing of draft normative acts; institutional integrity assessment; professional integrity testing; anti-corruption awareness and education, and strategic and operational analysis of corruption.

In 2017, the anti-corruption legislation was systematized and incorporated into the Integrity Law, while one of the pillars of institutional integrity is the corruption proofing of the legislation. The corruption proofing of draft normative acts is the process of detailed analysis of the content and identification of potential risks of corruption in the content of draft normative acts and the elaboration of recommendations for removing or reducing their effects. In this sense, a methodology for performing the corruption expertise was developed in 2017. The draft authors with the right of the legislative initiative have the obligation to submit to corruption proofing the draft normative acts, except for policy documents; individual acts of human resource management; decrees of the President of the Republic of Moldova; Government orders; Government decisions approving opinions on draft laws; international treaties, acts of granting full powers and expressing the consent of the Republic of Moldova to be bound by the international treaty.

In 2021, 586 corruption proofing reports were elaborated and 377 opinions on draft normative acts were issued. Carrying out the substantive evaluation of the draft normative acts subject to corruption proofing, 2687 corruption factors were identified. The most common of these were:

- lack/ambiguity of administrative procedures – 458;
- ambiguous wording that admits misinterpretations– 337;
- gap in law – 327;
- tasks which allow derogations and misinterpretations– 275.

By 2021, about 50% of the total recommendations submitted by the experts of the Legislation and corruption proofing Directorate of NAC in the corruption proofing reports were accepted by the draft authors. The effectiveness of the corruption proofing of legislation is measured by reporting the number of corruption risks formulated in the expert reports to the number of recommendations accepted and the risks eliminated by the authors from the text of approved/adopted drafts, withdrawn, rejected or declared null.

One of the measures to prevent corruption established aims to implement measures to ensure institutional integrity. NAC carries out the training of public agents within the public entities regarding the observance of the procedures established by the mentioned measures, in order to ensure professional and institutional integrity. At the same time, it offers advice, if necessary, on the implementation of mechanisms to ensure the integrity of the institution, to identify, and assess the risks of corruption and the risk factors that generate them in the risk management process.

Testing the professional integrity of public agents is one of the tools to prevent corruption applied by the NAC, implemented since 2018. The assessment of

institutional integrity is initiated by: NAC - in respect of all public entities and by the Security and Intelligence Service (SIS) - in respect of NAC and in respect of its employees. The depersonalized version of the report on the results of the institutional integrity assessment shall be made public on the official website of the institution assessing the institutional integrity.

During the years 2018 - quarter I / 2022, the instrument of institutional integrity assessment was applied to 20 public entities. All reports on the results of the institutional integrity assessment are posted on the NAC website⁵⁰⁶. The institutional integrity assessment is a proactive tool to prevent corruption, by identifying the risks of corruption in the activity of public entities, analyzing the problems that generate these risks, and providing recommendations on excluding or reducing their effects (integrity plans).

A. Institutions

143. What specialised anti-corruption bodies exist? Please describe them, indicating their legal and institutional status, composition, functions, powers and resources including staffing (i.e. public and private sector corruption). How are the independence and appropriate level of expertise and resources for these bodies ensured?

At the institutional level, the anti-corruption competencies were spread across several law enforcement and prosecutor institutions, however after an institutional reform, a set of 3 institutions were brought in the front line and empowered with competencies, technical resources, and expertise to prevent and investigate corruption cases, there are: National Anti-Corruption Centre (NAC), Anticorruption Prosecutor Office (APO) and National Integrity Agency (NIA). NAC also includes the Criminal Assets Recovery Agency, an autonomous unit responsible for criminal assets recovery. The legal framework has been significantly improved with prevision in criminal code and criminal procedures code with competence for the APO and the NAC, as well as prevention norms such as is the National Anticorruption Strategy.

1. National Anticorruption Centre is the national authority specialized in the prevention and fight against corruption, corruption-related acts, and acts of corruptive behavior. NAC has organizational, functional, and operational independence in accordance with the terms established by the law. Its tasks, according to the law includes:

- preventing, detecting, investigating, and curbing corruption contraventions and offenses and those related to corruption offenses, as well as acts of corrupt behavior;
- performing anti-corruption expertise of draft normative acts of the Government, as well as other legislative initiatives submitted to Parliament, to ensure their compliance with state policy to prevent and combat corruption;

⁵⁰⁶ <https://cna.md/lib.php?l=ro&idc=83&t=/Evaluarea-integritatii-institutionale/Rapoarte-de-evaluare/Rapoarte-privind-rezultatele-evaluarii>

- performing the institutional integrity assessment, according to Law No. 325/2013 on institutional integrity assessment, monitoring the implementation of integrity plans and assessment of the progress that is achieved;
- carry out an operational and strategic analysis of corruption and related acts, as well as acts of corrupt behavior, of information on analytical studies on the corruption phenomenon;
- recovery of criminal assets.

NAC is an independent legal entity, centralized and hierarchically structured, composed of a central office and territorial subdivisions (North, Centre and South) and is funded entirely from the State Budget, operating a treasury account and endowed with other necessary attributes. As of April 2022, NAC staff includes 359 units, out of which 39 are vacant (8 temporary vacancies and 31 vacancies).

2. Anti-Corruption Prosecutor's Office (APO) is a specialized prosecutor office, created according to the Law on Prosecutor Office and the Law on specialized prosecution offices, responsible for fighting corruption and corruption-related offenses. After the legal reform in 2016 specialized prosecutor offices have high independence, while APO has specific competencies to lead the criminal investigation regarding high-level public officials or cases of high value (100 thousand Moldovan lei and 1 million Moldovan lei. Also, APO leads the cases initiated by the National Anti-corruption Centre officers and represents the prosecution in the first and appeal courts.

3. National Integrity Authority (NIA) ensures integrity and prevents corruption by controlling wealth and personal interests and respecting the legal regime of conflicts of interest and is responsible for applying the following integrity control measures in the public sector:

- collect and analyze the declarations of personal assets and interests;
- verify and control assets and personal interest and apply sanctions, including initiation of civil confiscation procedure for unjustified assets (illicit enrichment);
- monitor and investigate the legal regime on conflicts of interest;
- monitor and investigate the legal regime of incompatibilities, restrictions and limitations.

Likewise, a set of specialized institutions or law enforcement agencies have specific corruption prevention and fighting competencies:

1. Security and Information Service, the Moldovan national intelligence agency, is responsible for applying the following integrity control measures in the public sector:

- verification of public positions' holders and candidates under the Law on the verification of the candidates for public office;
- testing the professional integrity of own public agents and those from the National Anticorruption Centre, and managing their professional integrity records.

2. Internal Protection and Anti-corruption Service is a subordinated agency of the Ministry of Interior. Its main task is to prevent the corruption and conflict of interest within the Ministry of Interior and its subordinated institutions.

3. Service for Preventing and Combating Money Laundering (Financial Intelligence Unit) - is the national center for collection, analysis, and dissemination of financial data and is also an important synapse between the financial sector, specialised professional services on the one hand, and law enforcement system on the other hand. Thus, the mission of the FIU is to reduce the vulnerability of banking and non-banking sectors to the risk exposure of money laundering and terrorism financing.

The control over the enforcement of the legal provisions in key areas, for ensuring the integrity in the public sector is carried out by the following competent authorities:

- **Ombudsman's Office** - responsible for the protection of whistleblowers.
- **Central Election Commission** – responsible for verification of the financing of political parties and electoral campaigns;
- **State Chancellery** – monitoring the central public authorities regarding the implementation of rules of conduct within public service, legislation in the field of personnel policies, as well as of the legislation in the field of ensuring transparency in the decision-making process;
- **Court of Accounts** – external public audit, control over the state budget development and managed, including the resources allocated to political parties;
- **Ministry of Finance** – preparing and certifying the internal auditors within public entities, as well as for monitoring the implementation of the national internal control standards;
- **Public Procurements Agency** – control over the implementation of the public procurement legislation;
- **Special Investigation Unit under the Tax Service Financial Inspection** – audit of the economic-financial activity of public entities, including through investigations and documents' analyses.
- **Heads of the public institutions** - shall be responsible for applying the following integrity control measures in the public sector: avoiding corruption risks in the development of draft legislative, normative, and departmental acts (future risks); managing corruption risks (existing risks)
- **Civil society and mass-media** are exercising measures of civic implication and public control over all the areas of public interest, especially through:
 - participation in public entities' decision-making processes;
 - ensuring access to information, request of official information held by the public entities and adequate information of the society regarding the topics of public interest;
 - conclusion and publication of articles, studies, analyses, surveys, monitoring, reports and other types of information about corruption phenomenon, corruption risks, corruption manifestations, integrity incidents within public entities, national, sector and institution policies for integrity promotion in the public sector.

144. In case there is a dedicated anti-corruption body in line with the UNCAC provisions

National Anticorruption Centre (NAC)⁵⁰⁷ is the national authority specialized in the prevention and fight against corruption, corruption-related acts, and acts of corruptive behavior.

145. Has it sufficient budget, staffing, equipment and a clear mandate? Describe its legal status and mechanisms of accountability.

National Anticorruption Centre (NAC) is an independent law enforcement institution, funded entirely by the State Budget, possessing treasury accounts, a seal with the representation of the Coat of Arms of the Republic of Moldova, and other necessary attributes. The staff limit of the NAC is 359 units and it's approved by the Parliament. The Director of NAC is appointed by the Parliament with a simple majority of votes.

Pursuant to the Criminal Procedure Code, the criminal investigation body of NAC has a well-described mandate in the prevention and investigation of corruption offenses and offenses related to corruption, as well as acts of corruption; carrying out the anti-corruption expertise of the draft legislative acts; carrying out the operational and strategic analysis of corruption acts; carrying out the assessment of institutional integrity, and recovery of criminal assets. The competencies are described by the Law on National Anticorruption Centre, Criminal Code and Criminal Procedure Code.

NAC's activity is subject to monitoring by the society, parliamentary oversight, and judicial control within the powers established by the law. The control of NAC employee's activity within the criminal process, as well as of the special investigation activities, is exercised by the prosecutor, in accordance with the law. External public auditing of the use of budgetary funds allocated to NAC are performed by the Court of Accounts. Also, two representatives of the civil society are part of the NAC Board, one selected via a public call, by the parliamentary commission and the second from the Civil Council on the monitoring of the National Anticorruption Centre.

The Parliamentary oversight of NAC's activity is exercised by the Parliamentary Committee for national security, defense, and public order and the legal, appointments, and immunities Committee.

NAC annually presents (*to the President, Government and the Parliament*), March 31, the report on carrying out its institutional activities. At the MPs' request, NAC director can be called to report in a Parliamentary plenary meeting⁵⁰⁸.

The MPs' can request the hearing of the NAC director in a Parliamentary plenary meeting, at the meetings of the permanent committees, special committees, or of the committees of inquiry regarding other issues. NAC director is right to refuse his participation at those meetings if the disclosure of the requested information affects the interest of the criminal prosecution, the principles of legality, the presumption of innocence, protection of personal data, and confidentiality of the criminal investigation.

⁵⁰⁷ https://www.legis.md/cautare/getResults?doc_id=127720&lang=ro

⁵⁰⁸ <https://cna.md/lib.php?l=en&idc=143&t=/Studies-and-Analyses/Annual-Report/>

146. Does it enjoy the necessary independence and is it protected from political influences? Is it cooperating with other anti-corruption bodies, national security agency, NGOs?

National Anti-corruption Centre (NAC) is an apolitical agency and shall not provide assistance to nor shall it support any political party. Among others, the candidate for the function of NAC director must meet the requirement of not being a member of a political party for the last 2 years, not being employed within the permanent bodies of any political party.

NAC employee is prohibited from using the service in the interests of political parties, public associations, including trade unions, and religious communities; and to be a member of a political party or participating in raising funds for them, to give logistical support to candidates for positions of public dignity.

The representative of Civil Society in NAC's Board and NAC's Disciplinary Board must meet also the requirement of not being a member of any political party and/or not carrying out agitation for any of the electoral candidates during the last two years. An additional protection mechanism is in the fact that one seat in the NAC Board is allocated to the Representative of the National Security, Defense, and Public Order Commission of the Parliament, who is also a representative of the opposition faction in the Parliament.

The National Anti-corruption Centre is cooperating with other law-enforcement authorities, Security and Intelligence Service, NGOs, based on cooperation agreements, or joint orders. Cooperation involves common activities, the exchange of information, joint investigation teams, and working groups.

147. Is able to rely on other agencies for obtaining data? It is well connected with the law enforcement bodies and receives feedback on potential cases handed over to these bodies. Is the non-delivery of requested data punishable?

According to the existing legal framework, NAC can request and receive from public authorities, and from individuals and legal persons, any documents, records, information, and data necessary for the NAC to be able to exercise its duties of preventing and analyzing acts of corruption and related acts, as well as of examining requests or reports, registered in the manner prescribed by the law, which reports misdemeanors or offenses that fall under its jurisdiction;

Additional, NAC has concluded collaboration or data exchange agreements with several public authorities and private entities that manage systems, information registers and databases. Currently, NAC has access to 30 external information resources (information systems, information registers, databases), including General Prosecutor's Office, Ministry of Internal Affairs, Customs Service, Office for Prevention and Fight Against Money Laundering, National Integrity Authority.

The Code of Criminal Procedure broadly regulates the powers of the criminal investigation body to obtain information from any authority, regardless of the form of organization. In this regard, we mention the competencies of the criminal investigation officer, provided in the general part of the Code of Criminal Procedure, which offers him wide possibilities in this regard, from the preliminary stage of examining the notification/reporting documents.

148. Has the Agency/Commission/Department or any other authority operational responsibilities (including the power to start administrative investigations) related to:

i. Asset declarations and verifications?

National Integrity Authority (NIA) is entitled to collect, analyse, verify and control the assets and conflict of interest declarations. NIA is entitled to apply sanctions and in case of identified illegal enrichment can initiate the procedure for civil confiscation of unjustified assets.

ii. Conflicts of interest?

National Integrity Authority (NIA) is entitled to collect, analyse, verify and control the assets and conflict of interest declarations. NIA is entitled to apply sanctions and in case of identified illegal enrichment can initiate the procedure for civil confiscation of unjustified assets.

iii. Political party financing?

Central Electoral Commission (CEC) is entitled to collect, analyze and verify the funding of political parties and electoral campaigns. Also, it has the competencies to apply certain sanctions. CEC can refer the information regarding the party funding to NAC, APO, or State Fiscal Service for in-depth investigation. In case of party funding from the state budget, the Court of Account is also entitled to conduct an external audit mission.

iv. Lobbying (keeping register)?

There is no legal regulation of lobby activity.

149. To what extent and from which sources are statistical data available on corruption cases (investigations, cases in court, convictions and sanction level), international co-operation in corruption cases, the link between corruption and organised crime and the link between corruption and money-laundering?

Corruption statistics are available from the official platform of the first and appeal courts, as well as the official platform of the Supreme Court of Justice, where the decisions adopted in criminal cases of corruption are published⁵⁰⁹. The information is publicly available. Additionally, NAC publishes annual activity reports and annual strategic analyzes of judicial practice on corruption cases⁵¹⁰.

The law enforcement institutions have specific access to statistical data available via the Automated Information System “Register of forensic and criminological information”. The system represents the information resource of law enforcement bodies as an integral part of the National Information System, the information assurance of law enforcement by using operative and truthful information about offenses, criminal cases, offenders and other evidence, data protection requirements when collecting, accumulating, updating, storing, processing and transmitting criminal information. The Register creates a unitary information space and is the only official source of criminal

⁵⁰⁹ <https://instante.justice.md/>

⁵¹⁰ <https://cna.md/lib.php?l=ro&idc=143&t=/Studii-si-analize>

information for participants in the Register and for all information systems of central government authorities that use and process such data.

Statistical data related to International Cooperation are kept by the General Prosecutor's Office and / or the Ministry of Justice⁵¹¹.

In order to implement a mechanism of data collection at the national level, on cases of money laundering, a separate action was introduced in the National AML/CFT Strategy, approved by the Parliament in 2020, that provides „Creating a collection mechanism of statistical data regarding the money laundering cases” .

150. Is there any specific training on combating corruption or training on ethics for public officials, the judiciary and the law enforcement?

The Anti-Corruption Education Unit within NAC provides training to all public officials in the field of integrity and anti-corruption, including ethical conduct. Mostly for the mentioned groups, the training on aspects of ethics and professional deontology are provided within the trainings carried out by institutional trainers (subdivisions of internal security, human resources) or within the thematic trainings at the Academy of Public Administration, National Institute of Justice, Police Academy or Public Authority Training Centres.

151. Does Moldova take any measures to protect whistle-blowers in the fight against corruption? If yes, please provide detail on such measures, their legal basis and their implementation.

In the Republic of Moldova, the whistleblower protection is guaranteed by the Law on integrity whistleblowers from 2018 *and the* Regulation on the procedures for the examination and internal reporting of disclosures of illegal practices, approved by the Government in 2020. The national law regulates disclosures of illegal practices by public and private entities, the procedure for examining such disclosures, the rights of whistleblowers and their protection measures, the obligations of employers, and the powers of the authorities responsible for examining such disclosures, and the protection of whistleblowers integrity. The law seeks to increase cases of disclosure of illegal practices and other disclosures of public interest by ensuring the protection of whistleblowers against retaliation in the context of examining disclosures of illegal practices which are of public interest and preventing and sanctioning retaliation against whistleblowers.

The disclosures, by whistleblowers can be made through the internal channels (via employers), externally (via the National Anti-corruption Centre), or publicly. The national legal framework requires public and private institutions to establish internal reporting mechanisms.

The investigations of the disclosures of illegal practices are made by the employers, in case of disclosures of internal illegal practices, and the National Anticorruption Center, in case of disclosures of external illegal practices. The protection of whistleblowers is provided by the employer, in case of internal disclosures of illegal practices; by the

⁵¹¹ <http://procuratura.md/md/d2004/>

People's Advocate (Ombudsman Office), in case of external and public disclosures of illegal practices. The same actor also examines the request for protection of whistleblowers and contributes to their defense.

Since 2019 the National Anticorruption Center has registered and examined 10 external reports of illegal practices. The status of whistleblower was assigned to 6 persons, and another 4 persons did not request the assignment of this status. The Human Rights Ombudsman reported, for the same period, 11 requests for protection from people who consider themselves as whistleblowers.

152. Are internal control and audit bodies in place and do they regularly perform checks and report on them?

Internal control and internal audit functions are in place in the public sector based on the PIFC Law No.229 / 2010 requirements. The framework applies to central and local public authorities, public institutions, to autonomous authorities/institutions managing funds from the national public budget, as well as SOEs and Joint Stock Companies with state share capital.

To facilitate the implementation the PIFC Law, the Ministry of Finance issued a set of Standards and Methodologies for both, the internal control systems and internal audit function, in line with European and internationally accepted good practices.

According to Internal Control Standards in place, the responsibility for organizing and strengthening the internal control system, rests with the top management of each public entity, delegating its implementation in each unit/subdivision, in order to ensure the management of public funds and property, according to good governance principles and managerial accountability.

The internal control environment is based on the legal framework and allows for specific roles and responsibilities, segregation of duties, and operating processes. The system embeds access controls and audit trails that support the internal control framework.

A strengthening risk-based approach supported by a developing internal and external audit and oversight function is in place. The financial inspection process covers procurement and all payments.

The above-mentioned PIFC Law, states that an internal audit unit is mandatory to be established in each ministry, National Social Insurance House, National Health Insurance Company (with minimum 3 staff members) as well, in second level local authorities (with minimum 2 staff members). As a result, an internal audit unit is established in each of 13 ministries, 11 central authorities. Out of 35 second-level local authorities, 32 have an IA unit in place.

The Central Harmonization Unit within MoF has the authority to further develop the PIFC, covering both IA and IC. The CHU is supported by the PIFC Council, chaired by a State Secretary, to review strategies, plans, and legislation and to monitor the progress. In order to ensure the quality of internal control and audit activities, the CHU regularly provides capacity-building measures within a nationally established Training Program and Certification scheme for internal auditors. Out of 48 certified internal auditors, 37 are performing their activity in the public sector.

The MoF annually receives reports on IA and IC from public bodies and consolidates them in an Annual PIFC report and submits it to Government. Therefore, the Government is regularly informed about, monitors and takes action on the PIFC reform implementation process.

153. Are integrity plans in place in key parts of the public administration and judiciary? Are there commonly accepted guidelines available for designing and monitoring integrity plans? Do such plans/guidelines contain safeguards with respect to the use of public resources?

The legal framework set up the national system of integrity of public officials where the National Integrity Agency (NIA), holds the main role and competence to review the income and property statements of public officials. Thus, the law sets the framework for the presentation by public officials of their statements.

The Integrity Law describes the process to ensure the management of institutional corruption risks. Thus, public institutions should internally assess the corruption risks, so as to identify and manage the corruption risks related to the professional activity. The head of the public institution shall be responsible for ensuring the management of corruption risks in the context of implementing the standards of ethics and professional integrity.

The integrity plan is an internal plan approved by the head of the public entity following the institutional integrity assessment, as a result of the institutional integrity assessment. The integrity plan shall ensure, at least, the fulfillment of the recommendations and minimum requirements formulated in the given report.

According to the Law on institutional integrity assessment, during 2018 - 2022, the instrument for institutional integrity assessment was applied for 20 public entities. Consequently, all these entities have adopted their integrity plans. NAC monitored the implementation of these plans; all monitoring reports being placed on NAC website⁵¹².

B. Domestic legal framework

154. Please provide succinct information on legislation or other rules governing this area. In particular, please mention:

a) Whether there is a clear definition of corruption (passive and active) and in which type of acts: policy documents and/or legal texts? Which type of conduct can be sanctioned as corruption? Is active and/or passive bribery sanctioned? In the public and/or private sector? Trading in influence? Corruption of foreign and international public officials? What kind of sanctions exist (e.g. possibility of confiscation of proceeds, disqualification measures)? Does legislation contain provisions designed to prevent corruption?

The Criminal Code provides clear definitions on passive corruption (Art. 324) and active corruption (art. 325). Corruption is defined as abuse, active or passive, of civil servants (either appointed or elected) for the purpose of obtaining private financial advantages or other benefits. Both active and passive corruption are sanctioned in both the public and private sectors (Art. 324, 325, 333 and 334 of the Criminal Code. Likewise, the crime of trading in influence is incriminated (Art. 326 of the Criminal

⁵¹² <https://cna.md/lib.php?l=ro&idc=165&t=/Evaluarea-integritatii-institutionale/Rapoarte-de-monitorizare>

Code). The same time, articles of the Criminal Code provide for the sanctioning of corruption activities of foreigners and international public officials. The sanctions applicable for acts of corruption, according to the Criminal Code, include imprisonment from 3 to 15 years, fine ranging from 4000 - 10 000 conventional units, and interdiction to hold public office for a certain period or conduct specific economic activities in case of legal entity. Likewise, in the case of committing corruption and related crimes, there are the provisions of Art. 106 of the Criminal Code (Special confiscation) and Art. 1061 Criminal Code (Extended confiscation).

b) Whether the criminal code criminalises the following offences: bribing national and international public officials, money-laundering embezzlement, misappropriation or other diversion by a public official, trading of influence, abuse of office; bribery and embezzlement in the private sector, laundering of proceeds of crime, concealment and obstruction of justice.

The Criminal Code of the Republic of Moldova criminalizes the following crimes: Money laundering (art. 243); Interference with the Dispense of Justice and with Criminal Investigations (art. 303); Passive corruption (art.324); Active corruption (art.325); Trading in influence (art.326); Exercising the attributions in the public sector in situations of conflict of interests (art.326¹); Abuse of power or abuse of office (art.327); Excess of Power or Excess of Official Authority (art.328); Negligent Performance of Duties (art. 329); Fraudulent obtaining of funds from external funds (art.332¹); Embezzlement of funds from external funds (art.332²); Tacking bribes (art.333); Giving bribes (art.334).

c) Whether illicit enrichment is criminalised.

Illicit enrichment is criminalized in the Republic of Moldova by prevision of art. 330² of the Criminal Code: Ownership by a person with a responsibility position or by a public person, in person or through third parties, of goods if their value substantially exceeds the means acquired and if it was found, based on evidence, that they could not be obtained legally shall be punished by a fine from 6000 to 8000 conventional units or by imprisonment from 3 to 7 years, in both cases with the deprivation of the right to hold certain positions or exercise a specific activity for a period of 10 to 15 years. The same actions committed by a person with a public dignity position shall be punished by a fine from 8000 to 10000 conventional units or by imprisonment from 7 to 15 years, in both cases with the deprivation of the right to hold certain positions or exercise a specific activity for a period of 10 to 15 years.

155. Protection of the financial interests of the European Union (criminal aspects)

The Criminal Code includes specific articles regarding the resources from external funds, specifically financial and material means allocated as grants, subsidies, credits, donations, loans, humanitarian aid by other states, the European Community or international institutions, organizations and associations, foreign natural or legal persons, guaranteed or contracted by the State, as well as the non-refundable ones. In case of fraudulent use of resources from external funds shall be punishable by a fine from 4000 to 5000 conventional units or by imprisonment from 2 to 5 years, in both

cases with the deprivation of the right to occupy certain positions for a period from 2 to 5 years, and the legal person shall be punishable by a fine from 5000 to 6000 conventional units, with the deprivation of the right to exercise a particular activity for a term of up to 3 years.

In case of fraudulent activity committed by two or more persons and which caused extended damages, shall be punishable by a fine from 4000 to 6000 conventional units or by imprisonment from 3 to 7 years, in both cases with the deprivation of the right to occupy certain positions for a period from 3 to 7 years, and the legal person shall be punishable by a fine from 6000 to 8000 conventional units, with the deprivation of the right to exercise a particular activity for a period from 3 to 5 years or with the liquidation of the legal person.

In case of exceptionally high proportions the applicable fine is between 7000 to 9000 conventional units or imprisonment from 4 to 8 years, in both cases with the deprivation of the right to occupy certain positions for a period from 5 to 8 years, and the legal person shall be punishable by a fine from 8000 to 10000 conventional units, with the deprivation of the right to exercise a particular activity for a period from 3 to 5 years or with the liquidation of the legal person.

National Anticorruption Centre signed a cooperation agreement with European Anti-Fraud Office (OLAF) and the head of international cooperation unit was appointed as the contact person.

156. Does the law criminalise fraud against the Union's financial interests, covering both expenditure and revenue?

The Criminal Code, specifically the article 240 criminalises the fraudulent use of funds from internal loans or external funds, while the art. 332/1 and 332/2 criminalise the fraudulent activity to obtain the funds from external sources, and embezzlement of funds from external sources, including European Union's funds.

157. Does the law provide for the concepts of criminal liability of heads of businesses and liability of legal persons for these offenses?

The Criminal Code provides for criminal liability for all the mentioned offenses.

158. Has Moldova established jurisdiction over all of these offenses?

According to art. 11 from the Criminal Code, all persons who committed offenses in the territory of the Republic of Moldova shall be held criminally liable. Citizens of the Republic of Moldova and stateless persons with permanent domiciles in the territory of the Republic of Moldova who commit offenses outside the territory of the country shall be liable for criminal responsibility hereunder. If not convicted in a foreign state, foreign citizens and stateless persons without permanent domiciles in the territory of the Republic of Moldova who commit offenses outside the territory of the Republic of Moldova shall be criminally liable under this Code and shall be subject to criminal liability in the territory of the Republic of Moldova provided that the offenses

committed are adverse to the interests of the Republic of Moldova or to the peace and security of humanity, or constitute war offenses including offenses set forth in the international treaties to which the Republic of Moldova is a party.

159. What measures have been taken to implement Council of Europe Group of States Against Corruption (GRECO) recommendations? Which recommendations are pending? Why? Please provide reasons and plans of action with clear indicators to fulfill the recommendations.

The Fourth Round Evaluation Report on the Republic of Moldova was adopted at GRECO's 72nd Plenary Meeting in 2016. The Republic of Moldova has received 18 recommendations (6 regarding members of Parliament, 7 – regarding judges and 5 – regarding prosecutors). The subsequent Compliance Report was adopted by GRECO at its 81st Plenary Meeting in 2018. In the Compliance report, GRECO concluded that the Republic of Moldova has implemented satisfactorily or dealt with in a satisfactory manner four of the eighteen recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, nine have been partly implemented and five have not been implemented. The Second Compliance Report was adopted at the 85th Plenary September 2020, which concluded that only four of the eighteen recommendations had been implemented and that this low level of compliance with the recommendations was “globally unsatisfactory” in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure and therefore decided to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report.

On 3 December 2021, GRECO adopted the interim Compliance Report at its 89th Plenary Meeting December 2021 and concluded that the Republic of Moldova has implemented satisfactorily or dealt with in a satisfactory manner only six of the eighteen recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, nine have been partly implemented and three have not been implemented. Therefore, GRECO has ascertained that the current low level of compliance with the recommendations remains “globally unsatisfactory” in the meaning of Rule 31 revised, paragraph 8.3 of the Rules of Procedure and it decided to continue to apply Rule 32, paragraph 2 (i) concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report. The authorities of the Republic of Moldova are invited to provide a report on the progress in implementing the pending recommendations (i.e. recommendations i to iv, vi to x, xiii, xv and xviii) by 31 December 2022, via the Head of delegation in GRECO. The interim Compliance Report was made public on 9 February 2022, following authorisation of the Republic of Moldova.

Brief achievements and shortcomings identified by GRECO in the framework of recommendations' implementation process by the Republic of Moldova:

- Concerning members of Parliament: Too many laws are still adopted without adequate timeframes and consultation and at an accelerated speed. The parliamentary website has not been updated and the unified e-Legislation is not operational yet. A Code of conduct for parliamentarians remains to be adopted, including rules for various situations of conflicts of interest, as well as a Code of Parliamentary Rules and Procedures. Clear and objective criteria for lifting

parliamentary immunity are still not in place. Rules remain to be introduced on how parliamentarians can interact with third parties.

- The National Integrity Authority (NIA) has carried out controls of the declarations of assets and personal interests of parliamentarians (as well as of judges and prosecutors). In 2021, the Parliament amended the legal framework to strengthen the integrity system.
- Concerning judges: The law providing for a general vetting of judges is underway. In 2022 the Parliament passed a law on pre-vetting, an external assessment of all judges and prosecutors, and of the members of the Superior Council of Magistracy, and Superior Council of Prosecutors aimed to restore confidence and enhance the quality of justice. This exercise is set up to be proportionate and compatible with the requirements of judicial independence. Essential progress has been made with the adoption of the new constitutional framework for a twelve-member composition of the Superior Council of Magistracy, including six judges elected by their peers and six lay members elected by Parliament.
- Concerning prosecutors: Verbal instructions to prosecutors are confirmed in writing, and progress has been made to ensure that all hierarchical interventions regarding a case are properly documented. Written guidance to the Code of Ethics of prosecutors has been developed, and a system of confidential counseling has been set up. Regular training of a practice-oriented nature is organized on ethics and deontology, concerning a growing number of prosecutors. Finally, a system for the disciplinary liability of prosecutors is operational, and the decisions on the disciplinary liability of prosecutors are published, which goes in the right direction. However, the legal framework for this system remains to be strengthened.

160. Has Moldova aligned its legislation to UN Convention against Corruption (UNCAC), Merida 2003 PDF 31/10/2003?

UNCAC was signed by the Republic of Moldova on 28 September 2004. The first review cycle began in 2013 and was completed in 2016. The second review cycle started in 2017, however the process was not finished by April 2022.

In order to bring the national legal framework in line with the UNCAC, a number of normative acts have been adopted/amended, among which: Law on Integrity approved in 2017⁵¹³; National Integrity and Anticorruption Strategy 2017-2023; Law on Criminal Assets Recovery Agency⁵¹⁴; Law on criminal assets recovery system (supplementing certain legislative acts) approved in 2017⁵¹⁵; Law on institutional integrity assessment approved in 2013⁵¹⁶; Law on whistleblowers from 2018⁵¹⁷.

⁵¹³ Law No. 82/2017 on Integrity, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro

⁵¹⁴ Law No. 48/2017 on Criminal Assets Recovery Agency, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=105677&lang=ro

⁵¹⁵ Law No. 49/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=99129&lang=ro

⁵¹⁶ Law No. 325/2013 on institutional integrity assessment, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129219&lang=ro

⁵¹⁷ Law No. 122/2018 on whistleblowers, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro

161. Has Moldova aligned its legislation with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and OECD 2021 Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions html?

The Republic of Moldova did not align its legislation with the OECD Anti-Bribery Convention.

162. What are the rules and institutional arrangements for the avoidance of conflict of interest in the case of officials, irrespective of whether they are members of parliament, government, the administration and the judiciary?

Compliance with the conflicts of interest regime is governed by a set of laws, including the Integrity Law from 2017; the Law on the declaration of assets and personal interests from 2016; the Law on Public Procurement from 2015; Law on state and municipal enterprises. The public institutions together with the National Integrity Authority are obliged to identify and treat the conflicts of interests occurring in their professional activity, within the deadlines and according to the provision of the law.

The settlement of a conflict of interest is achieved by the examination of the conflict situation, by determining and applying the option available for the specific case. Until the settlement of the real conflict of interest, the subject of the declaration is forbidden to undertake any kind of action on the given case, except to abstain. The subject of the declaration can settle the real conflict of interest that affects him/her by abstaining from settling the request/claim, issuing/adopting an administrative document, concluding a legal document, participating in making a decision, or taking the decision/voting, informing all parties affected by the respective decision about the measures taken in order to protect the fairness of the decision-taking process.

163. Is there a legal obligation to declare assets? By whom? Which laws specify those obligations? Are declarations of assets made public and are they pro-actively used as a tool to undercover illicit wealth? Is there any independent monitoring agency, national security agency, or NGO verifying the asset declarations? If yes, are their reports public? What is the role of the tax authority, if any in verifying asset declarations?

According to the law on integrity and the law on declaration of wealth and personal interests all employees of public service should submit, every year, a declaration on wealth and personal interests. The same rules apply to those holding a public office. A similar declaration is submitted when appointed or hired, as well as when the public office mandate ends or is dismissed. All declarations are collected by the National Integrity Agency (NIA), via the e-declaration system and are available on the NIA web page with some personal data blurred. Additionally, candidates for parliamentary, presidential, and local elections should submit a wealth and personal interest declaration before being registered by the electoral body. The declarations are collected by the electoral body and made public on the web page.

National Integrity Agency is an independent public institution that ensures integrity oversight of the employees in public service or those holding a mandate in public office.

It also acts as a corruption prevention institution and oversees the legal regime of conflict of interest, restrictions and limitations. The integrity inspectors, part of NIA institutional structure, have the independence in conducting integrity investigations. In case of inconsistencies, undeclared assets of interests, the legal framework provides instruments to apply fines but also interdiction to hold a public office or be employed in public service for a specific period. The integrity inspector will inform Prosecutor's Office or State Fiscal Service about the inconsistencies identified for forwarding investigation.

Civil Society Organization as well as journalists have unlimited access to the declarations database via the NIA web page and can download the declaration of any subject of declarations.

164. Are citizens being made aware on how to report irregularities and are complaint mechanisms easily accessible? Is there a legal obligation to follow up on complaints and to inform citizens accordingly?

Information and awareness campaigns are organized periodically by NAC and ANI in partnership with public institutions, education institutions, civil society, and with the support of the development partners. The web pages of the public institutions have a dedicated subpage with information regarding the complaint mechanisms. The NAC webpage presented the possibilities of notification via National Anticorruption Line, notification of acts of corruption, warning of integrity, denunciation of inappropriate influences⁵¹⁸.

Notifications regarding crimes and those related to other information related to crimes are registered according to the Joint Interdepartmental Order regarding unique evidence of crimes, criminal cases, and persons who have committed crimes (perpetrators), being examined in accordance with the Criminal Code and the Criminal Procedure Code⁵¹⁹ of the Republic of Moldova.

NAC can also be notified through administrative petitions, which are inapplicable to the legal relations of the public authorities acting on the basis of the Contravention Code or the Criminal Code of the Republic of Moldova, a fact expressly provided by the Administrative Code. In this regard, relevant examples are the notifications/requests regarding access to the information within the NAC. If there are petitions that are not within the competence of the NAC, but of other public authorities, they are re-addressed within 5 working days from the registration date to the competent authority, and the petitioner is being informed about that.

The individuals can report attempts of corruption, through the National Anti-corruption Line (NAL) **080055555**. The subdivisions responsible for the NAL, according to the order mentioned above, are the Commandant's Office Directorate, the Public Relations Service, the Anti-Corruption Education Directorate of the General Directorate on Preventing Corruption and the Internal Security Directorate. Additionally, there are internal anti-corruption units at the Customs Service, Police, State Fiscal Service, and other institutions. All of them follow the same rules and guidelines developed by NAC.

⁵¹⁸ <https://www.cna.md/category.php?l=ro&idc=140&t=/Declaram-un-caz-de-coruptie>

⁵¹⁹ Criminal Procedure Code of Republic of Moldova No.122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

According to the provisions of the Regulation on the implementation of cross-border and transnational cooperation programs funded by EU the Ministry of Finance is obliged to inform without delay the National Anticorruption and Anti-Fraud Authority (National Anti-corruption Centre) about possible cases of irregularities, fraud and/or corruption committed by beneficiaries/partners, other natural and legal persons involved in the implementation of projects.

165. Is there a general policy in place to prevent corruption in the private sector, e.g. have accounting and auditing standards been introduced in the private sector? If yes, what has been the result so far of such policy?

The National Integrity and Anti-Corruption Strategy for 2017-2023 Pillar VII “Promoting a competitive, fair business environment based on corporate integrity standards, transparency and professionalism in interaction with the public sector” is the main policy document on preventing corruption in the private sector.

The sector’s priorities established in the Action Plan are:

- Transparency of the private sector in relations with the public sector;
- Increasing integrity in the activity of enterprises wholly or partially owned by the government;
- Business ethics.

The Action Plan includes 10 actions with different periods of implementation for each action, designed to achieve the impact indicators established in the Strategy. Moreover, the plan also includes a series of actions with a permanent term of implementation and an annual evaluation of progress indicators.

These activities foresee commitments from both the private and public sectors, with such actions as amending legislation, establishing platforms of communication with the private sector in the fields relevant for counteracting corruption (action promoted directly by the NAC) through the “Anticorruption cooperation platform with the private sector ” as well as more proactive actions, i.e. corruption risk assessment of the activity of state/municipal enterprises and other activities performed by the authorities enabled with control over the activity of the private sector. Increasing the efficiency in implementing the actions implies the necessity of enhanced communication among public entities, as well as on the public-private level in order to establish an optimal path for the Republic of Moldova in strengthening the integrity of the business environment.

At the same time, the NAC carried out a corruption risk assessment of the legislation and activity of specific state/municipal enterprises. Thus, the following actions were carried out:

- 5 assessment reports were drafted: 2 general risk assessment reports on the activity of enterprises founded by central and local public administration authorities, 2 detailed risk assessment reports on the activity of municipal enterprises/commercial enterprises founded by Chisinau municipal council and Balti municipal council and 1 risk assessment report on the activity of enterprises in ATU Gagauzia. recommendations to the founders and managers

of the municipal enterprises/commercial enterprise to remove the deficiencies found were formulated

- Model Integrity Plan for Enterprises was developed; Model Code of Ethics for SMEs and Code of Corporate Governance was approved by the Decision of the NCFM. Following the policies promoted by the NAC, changes have been made to the Corporate Governance Code, with the introduction of Chapter IV/1 "Corporate values and code of conduct". General conclusions and recommendations, detailed reports on corruption risks assessment of the activity of the state and municipal enterprises, the report on the assessment of the legal framework governing the activity of state and municipal enterprises and joint-stock companies and the Model Integrity Plan for Enterprises have been published on the NAC website⁵²⁰.

Additionally, the Law on integrity, establishes which measures are to ensure the integrity of the private sector in relations with the public sector. The law stated that the business environment's integrity climate in relations with the public sector shall be built by:

- respecting the public procurement procedures;
- respecting the publicity limits set out for the public agents;
- respecting the restrictions and limitations set out for the former public agents;
- respecting the ethical rules in business;
- implementing internal control systems;
- transparency of shareholders, founders, administrators, and effective beneficiaries of commercial organizations;
- transparency of the private sector business with the state.

The responsibility for building the integrity of the business environment rests with the administration of companies.

166. Does legislation on free access to information exist? Is there a Commissioner for Free Access to Information or a body in charge to supervise implementation of legislation? What is the role and remit of the Commissioner for Free Access to Information?

The right to guarantee access to official information is enshrined in the Constitution of the Republic of Moldova in the light of Art. 34(1) that stipulates that the right of a person to have access to any information of public interest shall not be limited. Art. 4 of **Law No. 982/2000 on access to information**⁵²¹ stipulates that everyone, under this law, has the right to seek, receive and make known official information.

Art. 10(3) of Law No. 982/2000 stipulates that any applicant of access to information under this law is not obliged to justify his/her interest in the requested information.

⁵²⁰ <https://cna.md/libview.php?l=ro&idc=83&id=1848&t=/Evaluarea-integritatii-institutionale/Rapoarte-de-evaluare/Rapoarte-privind-rezultatele-evaluarii/Evaluarea-riscurilor-de-coruptie-in-legislatia-si-activitatea-intreprinderilor-cu-cota-integrala-sau-majoritara-de-statmunicipala>

⁵²¹ Law No. 982/2000 on access to information, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

According to Art. 3 of Law No. 982/2000 on the access to information, the legal framework on the guarantee of access to information, consists of this law, the Constitution of the Republic of Moldova, the international treaties and agreements to which the Republic of Moldova is a party, as well as the provisions of other regulatory acts regulating the relations concerning the access to information.

Other provisions regarding the guarantee of the right of access to official documents are laid down in the following legal documents:

- Administrative Code No. 116/2018⁵²²;
- Law No. 305/2012 on reuse of public sector information⁵²³;
- Law No. 239/2008 on transparency in the decision-making process⁵²⁴;
- Law No. 91/2014 on electronic signature and electronic document⁵²⁵;
- Law No. 71/2007 on registers⁵²⁶;
- Law No. 880/1992 on the Archival Fund of the Republic of Moldova⁵²⁷;
- Government Decision No. 188/2012 on the official pages of public administration authorities in the Internet network⁵²⁸;
- Government Decision No. 967/2016 on the mechanism of public consultation with civil society in the decision-making process⁵²⁹;
- Government Decision No. 618/1993 for the approval of the Rules of preparation of organizational and executive documents and the Standard Instruction on the document management in the specialized central public administration and local self-administration bodies of the Republic of Moldova⁵³⁰;
- Government Decision No. 208/1995 on the management of documents related to petitions of natural and legal persons, addressed to state bodies, enterprises, institutions and organizations of the Republic of Moldova⁵³¹;
- Government Order No. 43/2011 on the governmental public data portal www.date.gov.md⁵³²;

⁵²² 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

⁵²³ Law No. 305/2012 on reuse of public sector information, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=22449&lang=ro

⁵²⁴ Law No. 239/2008 on transparency in the decision-making process, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro

⁵²⁵ Law No. 91/2014 on electronic signature and electronic document, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=112497&lang=ro

⁵²⁶ Law No. 71/2007 on registers, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=104973&lang=ro

⁵²⁷ Law No. 880/1992 on the Archival Fund of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=119218&lang=ro

⁵²⁸ Government Decision No. 188/2012 on the official pages of public administration authorities in the Internet network, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94487&lang=ro

⁵²⁹ Government Decision No. 967/2016 on the mechanism of public consultation with civil society in the decision-making process, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94483&lang=ro

⁵³⁰ Government Decision No. 618/1993, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121959&lang=ro

⁵³¹ Government Decision No. 208/1995, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=15955&lang=ro

⁵³² Government Order No. 43/2011 on the governmental public data portal www.date.gov.md, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=3492&lang=ro

- Decision No.1/2007 of the Plenum of the Supreme Court of Justice of the Republic of Moldova on examination of cases of access to official information⁵³³;

From the institutional point of view, in the Republic of Moldova, there is no separate body empowered to supervise compliance with the legislative framework on access to information. However, according to the legal provisions (Art. 22-23 of **Law 982/2000 on access to information**), if a person considers that his or her legitimate rights or interests regarding access to information have been infringed, he or she may use the following tools:

- (1) extra-judicial remedy - the right to challenge the actions or inactions of the information provider to its management and/or to the superior hierarchical body;
- (2) judicial remedy - the right to challenge the actions or inactions of the information provider in court.

At the same time, in order to improve the legislative framework on access to information, the process of amending the legislation on this segment has been launched, based on the analysis of good practices in this field in other countries and on international standards, including in particular the Tromso Convention, the SIGMA principles of public administration, the World Bank standards on proactive disclosure of public information, the EU acquis on the reuse of public information. This is also a priority set in the Government's Action Plan for 2021-2022.

167. Public procurement, privatisation, large budgetary expenditure, construction, and land-use planning: How are these areas monitored? Is the monitoring done efficiently and by an independent body? Is there sufficient follow-up to irregularities? Is there parliamentary oversight? How is financial control regulated? Is there a functioning auditing authority?

The Law on Public Finance and Budgetary-Fiscal Accountability of July 25 2014, describes the main elements of the budget execution, financial monitoring, financial control and external audit functions as separate chapters. According to the art. 73, the annual reports on the execution of the state budget, the state social insurance budget and the compulsory health insurance funds shall be drafted by the administrators of the respective budgets and shall be submitted to the Government, and subsequently to Parliament for approval, within the terms stipulated by the budget calendar. The annual reports on the implementation of the budgets shall be presented in a format comparable to the format of the approved budgets and shall include:

- the characteristics of the macroeconomic framework in the respective year, the dynamics and trends of the indicators compared to previous years;
- evaluation of the implementation of budgetary-fiscal policy measures in relation to the assumptions provided in the budget;

⁵³³ Decision No.1/2007 of the Plenum of the Supreme Court of Justice, available in Romanian at: http://jurisprudenta.csj.md/search_hot_expl.php?id=92

- the level of execution of revenues, expenses and sources of financing in relation to the planned indicators, the execution from the previous year and the explanation of the causes of deviations;
- explanations of the budgetary changes made during the year;
- the level of state debt/debt of administrative-territorial units in relation to the established limits;
- the level of performance in the programs;
- other relevant information.

In the same time, expenditures for capital investments are also managed in accordance with Articles 40 and 41 of the Law on Public Finances and Budgetary and Fiscal Responsibility No. 181 of 25 July 2014. They are planned, executed and reported as an integral part of the respective budget, in compliance with the budgetary procedures established by the above-mentioned law. The central and local public authorities ensure the implementation of capital investment projects in the fields of competence, monitor them and report on the degree of implementation and their performance. The normative framework specific to capital investments is approved by government decision on public capital investments No. 1029 of 19 December 2013.

The public entities responsible for the management, monitoring and control of public procurement are:

- The Public Procurement Agency is an administrative authority subordinated to the Ministry of Finance, established for the purpose of strengthening the capacities of the contracting authorities and developing the skills of the business environment in the field of public procurement, monitoring the conformity of the conduct of public procurement procedures, as well as carrying out the analysis of the public procurement system. In accordance with the provisions of art. 10 lit.c) of Law nr. 131/2015 on public procurement The Public Procurement Agency monitors the compliance of the public procurement procedures and carries out the analysis of the public procurement system, this being the basic task of the entity. The monitoring activities carried out by the Public Procurement Agency consist in assessing the conformity of the conduct of the procedures for the award of public contracts in order to prevent and combat the violation of the public procurement rules. The process of identifying, preventing and combating the violation of the public procurement rules is carried out by examining the information, documents and documents drawn up / issued by the contracting authorities related to the procedures for the award and execution of procurement contracts.
- The National Agency for the Solving Complaints was established in accordance with law No. 131 of 3 July 2015 on public procurement, is an autonomous public authority and independent from other public authorities, from natural and legal persons, which examines complaints made within public procurement procedures. The Agency has organizational, functional, operational, and financial independence and does not subordinate itself to any other public authority or institution, having the obligation to defend the rights and legitimate interests of all parties involved in the complaints sent for settlement without any privilege or discrimination.

- Financial Inspection is an ex-post control function, carried out by the responsible administrative authority subordinated to the Ministry of Finance, based on the art. 78 of the Law on Public Finance and Budgetary-Fiscal Accountability No.181 as of July 25, 2014 and Government's Decree No. 1026 as of November 02, 2010. Its work focused on compliance and suspected irregularities. Thus, the Financial Inspection evaluate the economic and financial activity, including through operational investigations and document analyzes based on information on possible violations of legislation or fraud in the management and use of budgetary resources, in the administration of public assets, public sector debt reporting, in the calculation of the net profit of state / municipal enterprises and state-owned companies, as well as dividends and budget breakdowns of part of their net profit. The subjects of the financial inspection may be: budgetary authorities / institutions; independent public authorities / institution; SOEs and Joint Stock Companies with state share capital state of at least 25 percent, as well as their affiliates; other natural and legal persons - on aspects of the management and use of financial resources and of the administration of the public patrimony of the public entities. The financial inspection is performed according to a risk-based plan, but it can also be initiated at the request of the Prime Minister, Minister of Finance or the Court of Accounts. The results of the Financial Inspection activity consisted in proposals for correcting the identified irregularities and recovering damages by means of administrative or criminal procedures.

The external audit is performed by the Court of Accounts of the Republic of Moldova (CoARM), the independence, mandate and organization of which are provided by art. 133 of the Constitution, the Law on the organization and functioning of the Court of Accounts No. 260 / 07.12.2017. The external public audit of the Court of Accounts covers the entire public sector. Some areas that are subject to audit by the CoARM, are mandatory audited annually, others are subject to regular external public audit, based on the three-year audit strategy of the CoARM (currently in place for 2022-2024 years), developed in accordance with INTOSAI International Audit Standards. The triennial strategy and the annual audit program shall take into account the priorities, risks and human and financial resources available to the CoARM.

In its decisions, the Court of Accounts issues audit recommendations to the audited entities and to their hierarchically superior bodies. The entities, in their turn, are obliged by art. 37 of Law No. 260/2017 to take the necessary measures and inform the CoARM about them within the prescribed time limits. The information and answers provided by the entities are placed in the Court's information system, which is directly linked to the CoARM's official website, thus making it available to the public.

The Court of Accounts has an internal mechanism for monitoring the implementation of audit recommendations.

The audit reports as well as the implementation of the audit recommendations are the subject of public hearings in the Public Finance Control Committee, which has been operational since December 2019. Public hearings take place weekly, every Wednesday.

According to the provisions of Law No. 1247/1992 on the regulation of the land ownership regime, the land monitoring, as part of the general monitoring of nature, represents a system of permanent monitoring of changes in land resources, of their

analysis and of forecasting these changes. Land monitoring is served by an information system, which ensures the formation of the database on land resources and is an integral part of the information system of the republic.

168. How do you assess the extent of corruption in the field of public procurement? What measures are in place to ensure transparency and accountability in procurement processes? What percentage of public procurement procedures involve awards without public tender?

In 2021, NAC developed a strategic analysis of the threats and trends of corruption in the public procurement process. According to the study, annually, the allocations for public procurement account for over 12% of the country's public spending. Additionally, 40% of the value of the contracts concluded by the state institutions are low-value procurements, which are not based on a public procurement procedure according to Law No. 131/2015 on Public Procurement⁵³⁴, thus it does not follow the public tender rules.

Within the strategic analysis, several issues regarding procurement procedures were identified, including problems at the stage of elaboration of the awarding documentation; law capacity to ensure purchasing efficiency; passivity of economic operators; division into lots; unmotivated withdrawal of appeals; concentrating certain types of procurements around a small circle of economic agents; the division of procurement in order to apply low-value procurement procedures, which does not ensure transparency in this process and promotes the personal interests of the leaders of the contracting authorities; outdated legal framework (especially the regulation on low-value public procurement), etc.

In order to ensure an efficient transparency mechanism, the legislation stipulates the obligation for contracting authorities to publish in the Public Procurement Bulletin a notice of intent regarding the planned public procurement, or as the case may be in the Official Journal of the European Union. The contracting authority is obliged to publish in the Public Procurement Bulletin and on the website of the Public Procurement Agency the participation notice, and in order to ensure maximum transparency, the contracting authority has the right to publish the participation notice in other local, national, or international media. The notice published in other local, national, or international media must refer to the Public Procurement Bulletin in which the notice was originally published.

Starting with 2018, public procurement is carried out through the automated information system "State Register of Public Procurement" (SIA "RSAP" MTender), an online electronic system, used for the electronic application of public procurement processes, as well as for publishing invitations/announcements at the national level, submission, and evaluation of tenders, award, electronic signature of public procurement contracts. However, the current version of SIA "RSAP" ("MTender") is under revision to fully comply with the provisions of the Law on Public Procurement and best EU practice.

NAC assessment shows that corruption in the field of public procurement still holds a leading position. The main risk factors were set out in a Report on the Risk Assessment of Corruption in Public Procurement in the Republic of Moldova. The list of risks

⁵³⁴ Law No. 131/2015 on Public Procurement, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129131&lang=ro

includes: lack of monitoring or insufficient ex-post monitoring of contract execution, nor inclusion in the "black list" of economic operators in case of non-performance; weak capacities of working groups within contracting authorities, especially at the local level; working groups lack the technical skills, in particular the identification of the necessary funds and the preparation of technical specifications for the procurement of special goods, services or works, for which advanced technical knowledge is required.

In order to comply with the principles on the regulation of public procurement relations, the actors involved in the process are to ensure the publicity and transparency of public procurement procedures by informing the public about the application of the award procedure and providing access to all information related to the public procurement procedure. In this context, the contracting authority is obliged to publish on its official website the provisional/annual procurement plan. Subsequently, in the Public Procurement Bulletin, the contracting authority is obliged to publish the notice of intended procurement, the contract notice, the contract notice, the contract notice and the report on the results of the public procurement procedure.

National legislation in the field of public procurement establishes a series of precautionary and disciplinary measures for economic operators and contracting authorities:

- inclusion of economic operators in the prohibition list of economic operators for a period of 3 years for cases of non-compliance with contractual clauses, submission of false documents and participation in public procurement procedures with rigged bids, in accordance with Article 25 of Law No.131/2015 and GD No.1418/2017;
- applying pecuniary sanctions for the delivery / provision / execution of goods / services / works stipulated in the Public Procurement Contract, according to the mandatory contractual clauses established in the standard documentation;
- retention of the guarantee of good performance of the contract for the refusal to sell / provide / execute the goods / services / works stipulated in the Public Procurement Contract, according to the mandatory contractual clauses established in the standard documentation.

At the same time, the Contravention Code of the Republic of Moldova under art. 3271 establishes the contravention composition for the violation of the rules of initiation and conduct of public procurement procedures.

In 2020, 339 negotiation procedures were carried out without prior publication of a contract notice by the contracting authorities, as a result of which 565 contracts and additional procurement agreements were concluded, in the total amount of 802,356,330.21 Moldovan lei. The share of contracts concluded following the NFP is 4.55%, and the share in the total amount of contracts is 4.41%.

In 2021, 348 negotiation procedures were carried out without prior publication of a contract notice (NFP) by the contracting authorities, as a result of which 715 contracts and additional procurement agreements were concluded, in the total amount of 703,018,486.19 Moldovan lei. The share of contracts concluded following the NFP is 5.27%, and the share in the total amount of contracts is 5.63%.

In 2021, there was an increase of 1.22% in the share of procurements carried out through negotiation without publishing the contract notice from the total value of public procurement compared to 2020 (5.63% and 4.41% respectively).

Court of Accounts of the Republic of Moldova (CoARM) performs audit reports on the financial activity of public institutions, including the procurement process. There is a collaboration between the CoARM and the law enforcement bodies based on the principles of legality and non-admission of interference in their activity. The Court of Accounts notifies the law enforcement bodies regarding the detection of violations both at the decision of the members of the CoARM taken at the end of the audit during the plenary session of examination and approval of the audit report and during the audit .

When performing the mandatory audit, the CoARM shall assess the indicators of fraud and corruption and report to the competent law enforcement bodies, where appropriate . This procedure is carried out in accordance with the provisions of the Regulation on the procedures applied by the Court of Accounts in case auditors identify the risk of fraud and corruption. Thus, when identifying suspicions of fraud, the audit team, in the draft decision proposed to the members of the Court of Accounts, submits a proposal to the law enforcement bodies, usually the Office of the General of the Republic of Moldova, regarding the examination of those findings from the point of view of criminal legislation, in accordance with the powers conferred by law.

169. Is there a legal basis for cooperation between police and prosecution as well as with other relevant bodies in the fight against corruption? Any internal independent investigation authority established? If yes please provide detail about task, authority, staffing, resources etc.

In the Republic of Moldova, the specialized body with responsibilities in the field of fight against corruption is the National Anticorruption Centre, together with the Anti-Corruption Prosecutor Office. The existing legal framework, including Law on National Anti-corruption Centre, Law on General Prosecutor and Criminal Procedure Code provide the legal basis for cooperation between NAC, police, and Prosecution Office, as well as the right to involve other institutions in the fight against corruption, including Internal Protection and Anticorruption Service, National Integrity Authority, Office for Prevention and Fight Against Money Laundering, Customs Service, State Tax Service, and Security and Information Service.

170. Is the domestic legislation aligned with the Financial Task Force (FATF)/MONEYVAL recommendations?

In 2019, Moneyval Committee approved the 5th Round Mutual Evaluation Report on the Republic of Moldova. The report analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Moldova's AML/CFT system, and provides recommendations on how the system could be strengthened.

The Mutual Evaluation concluded that the Republic of Moldova is compliant/largely compliant with 29 recommendations and partially compliant with 11 recommendations. Cases of non-compliant with recommendations were not identified.

To be mentioned, based on Moneyval recommendations, in order to redress the situation in the fields that need more attention, was developed and approved by the Moldovan Parliament the Decision on AML/CFT National Strategy for prevention and

combating money laundering and financing of terrorism for the years 2020–2025 and the Action Plan for its implementation.

Based on the progress provided by the national authorities on the implementation of the mentioned Action Plan for the period of 2020 - 2021, it should be noticed that some important legislative and institutional advances have been made so far in preventing and combating money laundering and terrorist financing. Thus, the most important achievement should be considered the approval of the National Risk Assessment (NRA) in the area of ML/TF risks. The NRA supports the national authorities in the prioritization and efficient allocation of resources. Results of the national risk assessment provide necessary information to financial institutions and designated non-financial businesses and professions (DNFBPs) to support the conduct of their own risk assessments. Based on Moneyval recommendations, the updated version of NRA includes new sections related to the terrorist financing risk assessment for the NPO sector, analysis of the misuse of legal entities for money laundering/terrorist financing, assessment of virtual assets sector, and other issues related to ML/TF risks.

In order to enhance the ability to implement the international sanctions related to terrorist activities and proliferation of weapons of mass destruction, was developed and approved the Government the Regulation regarding the procedure of application of financial sanctions related to terrorist activities and the proliferation of weapons of mass destruction. The mentioned document regulates the manner of application of financial sanctions in relation to persons, groups, or entities involved in terrorist activities and proliferation of weapons of mass destruction, determines the competencies and attributions of competent authorities in the area, and establishes the general framework for implementation of financial sanctions. The implementation of the Regulation has the purpose to ensure the legality, transparency, and opportunity in the process of application of financial sanctions related to terrorist activities and proliferation of weapons of mass destruction, so as to ensure the respect for fundamental human rights and the fulfillment of international commitments in the area.

As well, the Law regarding the state registration of legal persons and individual entrepreneurs was modified to ensure the identification of the beneficial owner (obligation of the state registration authority to verify, registry, record and update the data regarding the beneficial owners of legal entities and individual entrepreneurs, data necessary to be collected and verified by the state registration authority, public registry on beneficial owner etc.).

In order to develop and improve the AML/CFT regulatory framework and the supervisory mechanism used to oversee commercial banks, including by implementing 5th round MONEYVAL's recommendations, the National Bank of Moldova approved the amendments to the Regulations on the AML/CFT requirements for the supervised entities: commercial banks, non-bank payment service providers and foreign exchange offices and hotels.

As a result of the undertaken measures by the national authorities, the Republic of Moldova prepared and submitted the progress report to the Moneyval Committee, which will be reviewed during the Plenary Session in May 2022.

171. Are provisions on immunity, for example covering politicians or magistrates standing in the way of criminal investigations?

Judges have functional immunity under the Constitution. In order to be prosecuted, additional actions need to be taken, except in the cases of flagrant detention. According to the provisions of article 19 “Inviolability of the judge” of Law No. 544/1995 on the status of the judge⁵³⁵, the personality of the judge is inviolable and it extends to his home and place of work, to the vehicles and means of telecommunication used by him, to his correspondence, property, and personal documents.

The judge cannot be held liable for his opinion expressed in the administration of justice and for the judgment rendered, unless his guilt has been established by a final conviction or, in a disciplinary procedure, the intent or gross negligence has been found in his actions or inactions.

The criminal investigation against the judge may be initiated only by the Prosecutor General or his first deputy, and in his absence by a deputy appointed by the Prosecutor General, with the consent of the Superior Council of Magistracy, under the Code of Criminal Procedure. The agreement of the Superior Council of Magistracy is not required in the case of a flagrant offence.

The legal provisions on immunity, prevent criminal prosecution of politicians or magistrates. Regarding the deputies, according to art. 70 of the Constitution of the Republic of Moldova, (3) The Member of Parliament may not be apprehended, arrested, or searched, except for the cases of flagrant misdemeanor, or sued at law without the prior consent of the Parliament and upon hearing of the member in question.

Law No. 39/1994⁵³⁶ also establishes relevant provisions on the status of the deputy in the Parliament, art. 9 para. (1) according to which: “Parliamentary immunity aims to protect the Member of Parliament against prosecution and to guarantee his freedom of thought and action.”

The Member of Parliament may not be punished or prosecuted in any way for political opinions or votes cast in the exercise of his or her term of office. The deputy may not be detained, arrested, or searched, except in cases of flagrant crime, or sent to trial on a criminal or misdemeanor case without the prior consent of the Parliament after his hearing.

In such a case, the initiation of a criminal case, and carrying out of special investigative measures in respect of subjects who have immunity, is often practically impossible. This impossibility is due either to political unwillingness (deputies do not vote to waive immunity, the appointments and immunities committee does not accept the request to waive immunity, etc.) or to the phenomenon of “leakage of information”.

Thus, we support the position of the Venice Commission set out in the Decision of the Constitutional Court of the Republic of Moldova No. 2/2015, for the interpretation of Article 1 par. (3) combined with Articles 69 and 70 of the Constitution of the Republic of Moldova (immunity and termination of the mandate of the deputy, according to which: “Rules establishing parliamentary inviolability may be justified where other measures to protect members of the parliament are not adequate. However, they must

⁵³⁵ Law No.544/1995 on the status of the judge, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125037&lang=ro#

⁵³⁶ Law No. 39/1994 on the status of the deputy in the Parliament, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=120712&lang=ro#

always be interpreted and applied in a restrictive manner. Such rules must be subject to limitations and conditions, and there must always be the possibility of waiving immunity, following a clear and impartial procedure."

The Venice Commission rightly considers that "the rules governing parliamentary inviolability are not a necessary part of modern democracy. In a well-functioning political system, Members of Parliament enjoy adequate protection through other mechanisms and do not need such immunity."⁵³⁷. The same considerations apply to the immunity of magistrates.

172. Are there clear procedures for lifting immunities in line with EU standards and are they being used when needed?

Provisions on the immunity of certain categories of officials are provided in various normative acts such as the Constitution of the Republic of Moldova, the Criminal Procedure Code, the Law on the status of Member of Parliament, Law on the status of diplomatic missions of foreign states in the Republic of Moldova, Law on the status of judge, Law on the Constitutional Court, Law on the National Bank of Moldova, Law on the People's Advocate (Ombudsman), Law on the Prosecutor's Office, Law on the National Bank of Moldova and other normative acts.

Lifting the immunity of a specific public official is made according to specific procedures provided according to the specifics of his/her office. In the case of the president of the country, the immunity can be lifted based on the majority of at least two-thirds of the votes cast by its members of the Parliament. In the case of members of the Parliament, via a specific procedure and hearings, the immunity can be lifted with a majority of votes of the members of the Parliament. The immunity of a judge can be lifted only with the consent of the Superior Council of Magistracy. The criminal investigation against the prosecutor can be initiated only by the Prosecutor General. Along with launching the criminal investigation, the Prosecutor General shall inform the Superior Council of Prosecutors about the matter for the commencement of disciplinary proceedings. The criminal investigation against the Prosecutor General can be initiated only by a prosecutor appointed by the Superior Council of Prosecutors.

The members of the Board of Directors of National Financial Market Commission may not be detained, arrested or brought to administrative or criminal responsibility except at the request of the Prosecutor General, with the consent of the Parliament. The prosecution of the director and his deputies can only be initiated by the Prosecutor General, with the information of the Parliament.

173. Are all allegations of corruption systematically investigated, independently of the status of the suspect/accused (no impunity)?

Cases of corruption are investigated independently of the status of the suspect/accused.

⁵³⁷ Report on the scope and lifting on Parliamentary immunities, adopted by the Venice Commission at its 98th plenary session (Venice, 21-22 March 2014).

FUNDAMENTAL RIGHTS (QUESTIONS COVERING ALSO CHAPTER 23)

I. Substantial rights

174. Please provide succinct information on the constitutional order, legislation or other rules governing the area of fundamental rights, and their compatibility with the relevant international conventions.

The national human rights system is based on the Constitution of the Republic of Moldova, the national legislation/government policies, and the framework-programmes (national strategies and action plans in relevant fields – gender equality, combating trafficking in human beings, protection of children's rights, national minorities, etc.), and international instruments to which the Republic of Moldova is a state party. The list below refers to the most important legal or policy documents, but this list is not exhaustive:

- ***The Constitution of the Republic of Moldova (adopted on 29 July 1994)*** – Title II of the Constitution, "Fundamental Rights, Freedoms and Duties", contains detailed provisions on political, civil, economic, social, and cultural rights. The Constitution also provides for the supremacy of international norms on human rights standards concerning national legislation and, namely, according to Article 4⁵³⁸.
- ***The first National Human Rights Action Plan (NHRAP) for 2004-2008*** was adopted in the light of the Vienna Declaration and Programme of Action (1993). NHRAP consists in granting the implementation of a unique policy and Strategy of the state and civil society institutions intended for improving the situation of human rights⁵³⁹.
- ***The second NHRAP for 2011-2014*** represents the continuity of policies developed based on the recommendation of the 1st cycle of UPR evaluation (2011)⁵⁴⁰ With a prevailing emphasis on accession to international instruments on human rights, the approximation of national legislation with international standards, granting free access to justice, improving national mechanisms of human rights protection, etc.⁵⁴¹
- ***The third NHRAP for 2018-2022*** is based on the recommendations accepted by the Republic of Moldova in the 2nd cycle of the UPR⁵⁴² As well as the ones received from other human rights monitoring bodies of the UN, the Council of Europe, OSCE and other international mechanisms. The NHRAP aims to support public authorities in reshaping the policy development process at the central and local levels from a human rights centred approach, including by giving due regard to the obstacles faced by minority and vulnerable groups in the full realisation of their fundamental rights.⁵⁴³

⁵³⁸ Constitution of the Republic of Moldova, available at:

https://www.constcourt.md/public/files/file/Actele%20Curtii/acte_en/MDA_Constitution_EN.pdf

⁵³⁹ Government Decision No. 415/2003, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=21428&lang=ro

⁵⁴⁰ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/150/08/PDF/G1115008.pdf?OpenElement>

⁵⁴¹ Government Decision No. 90/2011, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=17952&lang=ro

⁵⁴² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/186/98/PDF/G1618698.pdf?OpenElement>

⁵⁴³ http://www.justice.gov.md/public/files/massmedia/PNADO_III.pdf

- ***The Law approving the Regulation for the Organization and Operation of the People's Advocate***, adopted on 3 April 2014, has consolidated the capacity of the former Centre for Human Rights, currently the Office of People's Advocate (OPA).⁵⁴⁴
- On 25 May 2012, the ***Law on ensuring Equality*** was adopted, which entered into force on 1 January 2013. The list of non-discrimination criteria, according to the Law, is somewhat indicative than limitative, which allows covering all grounds for discrimination, following the recommendations received from human rights monitoring bodies of the UN, Council of Europe, OSCE⁵⁴⁵.
- ***The Strategy on the Consolidation of Interethnic Relations in the Republic of Moldova for 2017-2027***, adopted with the support of the OSCE (in line with the HCNM thematic recommendations and guidelines) and the Council of Europe (following the provisions of the Framework Convention for the Protection of National Minorities)⁵⁴⁶.
- ***The National Strategy on Ensuring Equal Opportunities for Women and Men 2017 - 2021***- adopted in line with the specific provisions of the UN Convention on the Political Rights of Women (1995), *The International Covent on Economic, Social and Cultural Rights* (1966), *The Convention of all forms of discrimination against* (1979), *Beijing Declaration and Platform for Action* (1995)⁵⁴⁷.
- ***The Strategy on Combating Domestic and Gender-based Violence 2018 - 2023*** - adopted in line with the Concluding Observation of the *Committee on the Elimination of Discrimination against Women* (2020) and the Council of Europe Convention on preventing and combating violence against women and domestic violence⁵⁴⁸.
- ***The Strategy on Preventing and Combating Trafficking in Human Beings 2018 - 2023*** - adopted in line with the provisions of the Council of Europe Convention on Trafficking in Human Beings⁵⁴⁹.
- ***The Child Protection Strategy for 2014-2020 and the Action Plan for 2016-2020*** - were adopted to reform the childcare system and expand the regulatory and institutional framework for the development of alternative family-type services under the relevant UN conventions⁵⁵⁰.
- ***The 1st Action Plan for 2017-2019 on the Political Declaration of the Parliament on the Acceptance of the Final Report of the International***

⁵⁴⁴ Law approving the Regulation for the Organization and Operation of the People's Advocate No. 164/2015, available at: http://ombudsman.md/wp-content/uploads/2019/08/regulament_oap_eng-1.pdf

⁵⁴⁵ Parliament's Decision No. 121/2012, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁵⁴⁶ Government Decision No. 1464/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=97804&lang=ro
https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.legis.md%2FUserFiles%2FImage%2FRO%2FGuvernul%2Fplan_1019.doc&wdOrigin=BROWSELINK

⁵⁴⁷ Government Decision No. 259/2017, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=99875&lang=ro

⁵⁴⁸ Government Decision No. 281/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128809&lang=ro#

⁵⁴⁹ Government Decision No. 461/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128851&lang=ro#

⁵⁵⁰ https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Flex.justice.md%2FUserFiles%2FFile%2F2018%2Fmo167-175md%2Fanexa%2520nr.2_461.docx&wdOrigin=BROWSELINK

Commission on the Holocaust, implemented, and the *2nd Action Plan for 2021-2024 on promoting the memory of the Holocaust and the culture of tolerance to combat racism, anti-Semitism, xenophobia, and other forms of intolerance has been adopted* - the documents were adopted based on OSCE, Council of Europe and IHRA relevant documents on anti-discrimination and Holocaust remembrance⁵⁵¹.

In 2019, an institutional mechanism in the field of human rights (the Government Decision No. 65/2019)⁵⁵² was established at the national level – the **National Human Rights Council**, to coordinate and assess the implementation of NHRAP and monitor the implementation of international recommendations in human rights. Implementation of NHRAP for 2018-2022 is reflected in public reports. The most recent report is for 2021⁵⁵³.

Additional information on specific policy documents or legal provisions can be provided.

175. Provide a list of all human rights instruments and related protocols ratified by Moldova along with the date of signature and ratification. Include details of any reservations which have been made to those treaties and any declarations recognising the right of individuals to petition committees established by the conventions. In addition, please specify what legislation and provisions have been adopted to ensure compliance with the obligations stemming from these conventions. How are these implemented and monitored?

The Republic of Moldova has ratified nearly all core international human rights treaties, extensively accepting the derogate obligations and periodically submitting national reports on their implementation.

The list of primary human rights instruments and related protocols ratified by or to which acceded our country.

1. Convention on the Prevention and Punishment of the Crime of Genocide, done in Paris, on 9.12.1948. The Republic of Moldova acceded by Parliament's Decision No. 707/1991⁵⁵⁴ and entered into force for Republic of Moldova on 26.01.1993.

2. Universal Declaration of Human Rights, done in Paris, on 10.12.1948. Republic of Moldova acceded by Parliament Decision No. 217/1990⁵⁵⁵ and entered into force for Republic of Moldova on 28.07.1990.

3. Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005) done in Rome on 04.11.1950, signed by the Republic of Moldova on 13.07.1995, ratified by Parliament Decision No. 1298/1997⁵⁵⁶, and entered into force for our country on 12.09.1997.

⁵⁵¹ Government Decision No. 313/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=99729&lang=ro; Government Decision No. 980/2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=124949&lang=ro

⁵⁵² Government Decision No. 65/2019, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112706&lang=ro
⁵⁵³ https://cancelaria.gov.md/sites/default/files/raport_pnado_pentru_anul_2021.pdf

⁵⁵⁴ Parliament Decision No. 707/1991, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115564&lang=ro

⁵⁵⁵ Parliament Decision No. 217/1990, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115563&lang=ro

⁵⁵⁶ Parliament Decision No. 1298/1997, available in Romanian at:

Declarations made to the Convention by the Republic of Moldova:

"The Republic of Moldova declares that it will be unable to guarantee compliance with the provisions of the Convention in respect of omissions and acts committed by the organs of the self-proclaimed Trans-Dniester republic within the territory controlled by such organs until the conflict in the region is finally settled."; "Following Articles 25 and 46 of the Convention for the Protection of Human Rights and Fundamental Freedoms [see Article 34 of the Convention since the entry into force of Protocol No. 11], the Republic of Moldova recognises the right of individual petition to the European Commission of Human Rights and the jurisdiction of the European Court of Human Rights ipso facto and without special agreement, on condition of reciprocity on the part of the High Contracting Parties in all matters concerning the interpretation and application of the Convention as well as Protocols Nos. 4 and 7 in respect of cases in which the rights secured by these instruments are violated after their entry into force in respect of the Republic of Moldova."

Reservations made to the Convention by our country:

"Following Article 64 of the Convention [Article 57 since the entry into force of the Protocol No 11], the Republic of Moldova formulates a reservation to Article 4, intending to retain the possibility of enforcing criminal sentences in the form of non-custodial forced labour, as provided for in Article 27 of the Criminal Code, and also administrative sentences in the form of forced labour, as provided for in Article 30 of the Code of Administrative Offences. This reservation shall be effective for one year from the date of the Convention's entry into force in respect of the Republic of Moldova.";

"Following Article 64 of the Convention [Article 57 since the entry into force of the Protocol No 11], the Republic of Moldova formulates a reservation to Article 5, paragraph 3, to extend the validity of an arrest warrant issued by the public prosecutor as set out in Article 25 of the Constitution of the Republic of Moldova, Article 78 of the Code of Criminal Procedure and Article 25 of Law No. 902-XII on the Prokuratura/Prosecutor's Office of the Republic of Moldova of 29 January 1992.";

"Following Article 64 of the Convention [Article 57 since the entry into force of the Protocol No 11], the Republic of Moldova formulates a reservation to Article 5 intending to retain the possibility of applying disciplinary sanctions to soldiers in the form of arrest warrants issued by superior officers, as laid down in Articles 46, 51-55, 57-61 and 63-66 of the Disciplinary Regulations of the Armed Forces, adopted under Law No. 776-XIII of 13 March 1996."

4. Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 009) done in Paris on 20.03.1952, signed by the Republic of Moldova on 02.05.1996, ratified by the Parliament Decision No. 1298/1997⁵⁵⁷ and entered into force for Republic of Moldova on 12.09.1997.

Declaration contained in the instrument of ratification, deposited on 12 September 1997: "The Republic of Moldova interprets the provisions set out in the second sentence of Article 2 of the First Additional Protocol as precluding additional financial obligations for the State in respect of philosophically or religiously-oriented schools,

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁵⁷ Parliament Decision No. 1298/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

other than those provided for in domestic legislation."

5. European Convention on Extradition (ETS No. 024) done in Paris on 13.12.1957, was signed by Republic of Moldova on 02.05.1996, ratified by Decision of the Parliament No. 1183/1997⁵⁵⁸ and entered into force on 31.12.1997.

Declarations contained in the instrument of ratification deposited on 2 October 1997: "Under Article 17, paragraph 3 of the Constitution of the Republic of Moldova, the citizens of the Republic of Moldova may not be extradited or expelled from the country. The term "nationals" within the meaning of Article 6, paragraph 1 (b) covers all individuals having the nationality of the Republic of Moldova in conformity with its legislation."

Articles concerned: 6

"The Republic of Moldova reserves the right to authorise transit only under the conditions provided for in respect of extradition."

Articles concerned: 21

"The Republic of Moldova declares that requests for extradition and documents appended to must be in Moldovan or one of the official languages of the Council of Europe, or translated into one of these languages."

Reservations contained in the instrument of ratification deposited on 2 October 1997:

"The Republic of Moldova will refuse to grant extradition in cases where the person claimed is to be tried on the territory of the requesting Party by a special court (set up for a specific case) or where extradition is requested to carry out a sentence or detention order handed down by such a court."

Articles concerned: 1

"The Republic of Moldova reserves the right, where circumstances so dictate, to determine whether the taking or attempted taking of the life of a Head of State or a member of his or her family shall or shall not constitute a political offence."

Articles concerned: 3

"The Republic of Moldova reserves the right not to grant extradition when, following Article 7, paragraph 2, the requesting Party would refuse extradition in similar cases."

Articles concerned: 7

"The Republic of Moldova will not grant extradition if a third State has passed a final judgment upon the person claimed regarding the offence or offences for which extradition is requested."

Articles concerned: 9

"In derogation of Article 9 (first sentence), the Republic of Moldova may grant extradition if the requesting State can show that new facts or evidence justify reopening the case."

Articles concerned: 16

"The Republic of Moldova asks that any request addressed to its pursuance of Article 16, paragraph 2, contain a brief description of the offence alleged against the person

⁵⁵⁸ Parliament Decision No. 1183/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=60399&lang=ro

claimed, including the essential particulars by which the nature of the offence can be appraised following the present Convention."

6. Convention on the Political Rights of Women done in New York on 31.03.1953. Republic of Moldova acceded to the Convention by Parliament's Decision No. 707/1991⁵⁵⁹, and it entered into force for our country on 26.04.1993.

7. Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions (ETS No. 044) done in Strasbourg on 06.05.1963, signed by the Republic of Moldova on 13 July 1995, ratified by Parliament Decision No. 1298/1997⁵⁶⁰ and entered into force for Republic of Moldova on 12.09.1997.

8. Convention against Discrimination in Education done in Paris, on 15.12.1960, Republic of Moldova acceded to it by the Parliament Decision No. 707/1991⁵⁶¹ and entered into force for Republic of Moldova on 17.06.1993.

9. Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention (ETS No. 045) done in Strasbourg, on 06.05.1963, signed by Republic of Moldova on 13.07.1995, ratified by Parliament Decision No. 1298/1997⁵⁶² and entered into force for Republic of Moldova on 12.09.1997.

10. Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and the first Protocol to that (ETS No. 046) done in Strasbourg on 16.09.1963, signed by the Republic of Moldova on 2 May 1996, ratified by Parliament Decision No. 1298/1997⁵⁶³ and entered into force for Republic of Moldova on 12.09.1997.

11. International Convention on the Elimination of All Forms of Racial Discrimination, done in New York, on 07.03. 1966. The Republic of Moldova acceded to it by Parliament's Decision No. 707/1991⁵⁶⁴, and it entered into force for our country 25.02.1993.

12. International Covenant on Economic, Social and Cultural Rights done in New York, on 16.12.1966. Republic of Moldova ratified it by the Parliament Decision No. 217/1990⁵⁶⁵, and it entered into force for our country on 26.01.1993.

⁵⁵⁹ Parliament Decision No. 707/1991, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115564&lang=ro

⁵⁶⁰ Parliament Decision No. 1298/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁶¹ Parliament Decision No. 707/1991, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115564&lang=ro

⁵⁶² Parliament Decision No. 1298/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁶³ Parliament Decision No. 1298/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁶⁴ Parliament Decision No. 707/1991, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115564&lang=ro

⁵⁶⁵ Parliament Decision No. 217/1990, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115563&lang=ro

13. International Covenant on Civil and Political Rights done in New York, on 16.12.1967. Republic of Moldova ratified it by Parliament Decision No. 217/1990⁵⁶⁶, and it entered into force for our country on 26.01.1993.

14. Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, done in New York, on 26.11.1968. Republic of Moldova acceded by Parliament's Decision Parliament Decision No. 707/1991⁵⁶⁷ and entered into force for Republic of Moldova on 26.01.1993

15. Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention (ETS No. 055) signed by Republic of Moldova on 13.07.1995, ratified by Parliament Decision No. 1298/1997⁵⁶⁸ and entered into force on 12.09.1997.

16. Additional Protocol to the European Convention on Extradition (ETS No. 086) done in Strasbourg on 15.10.1975 was signed by Republic of Moldova on 26.06.1998. ratified by Law No. 268/2001⁵⁶⁹ and entered into force for Republic of Moldova on 25.09.2001.

17. European Convention on the Legal Status of Children born out of Wedlock (ETS No. 085) done in Strasbourg, on 15.10.1975, was signed by Republic of Moldova on 27.06.2001, ratified by the Law No. 722/2001⁵⁷⁰ and entered into force for Republic of Moldova on 15.06.2002.

18. Second Additional Protocol to the European Convention on Extradition (ETS No. 098) done in Strasbourg on 17.03.1978 was signed by Republic of Moldova on 26.06.1998, ratified by Law No. 270/2001⁵⁷¹ and entered into force for Republic of Moldova on 25.09.2001.

19. Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty (ETS No. 114), done in Strasbourg, on 23.04.1983, signed by the Republic of Moldova on 02.05.1996, ratified by Parliament Decision No. 1298/1997⁵⁷² and entered into force for Republic of Moldova on 01.10.1997.

20. Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 117), done in Strasbourg on 22.11.1984, signed by the Republic of Moldova on 02.05.1996, ratified by Parliament Decision No. 1298/1997⁵⁷³ and entered into force for the Republic of Moldova on 01.12.1997.

Declaration contained in the instrument of ratification of the Convention deposited on 12 September 1997: "Following Articles 25 and 46 of the Convention for the Protection of Human Rights and Fundamental Freedoms [see Article 34 of the Convention since the entry into force of Protocol No. 11], the Republic of Moldova recognizes the right

⁵⁶⁶ Parliament Decision No. 217/1990, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115563&lang=ro

⁵⁶⁷ Parliament Decision No. 707/1991, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115564&lang=ro

⁵⁶⁸ Parliament Decision No. 1298/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁶⁹ Law No. 268/2001, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=63852&lang=ro

⁵⁷⁰ Law No. 722/2001, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=8959&lang=ro

⁵⁷¹ Law No. 270/2001, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=64375&lang=ro

⁵⁷² Parliament Decision No. 1298/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁷³ Parliament Decision No. 1298/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

of individual petition to the European Commission of Human Rights and the jurisdiction of the European Court of Human Rights ipso facto and without special agreement, on condition of reciprocity on the part of the High Contracting Parties in all matters concerning the interpretation and application of the Convention as well as Protocols Nos. 4 and 7 in respect of cases in which the rights secured by these instruments are violated after their entry into force in respect of the Republic of Moldova.”

21. Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 118), done in Vienna on 19.03.1985, signed by Republic of Moldova on 13.07.1995, ratified by Parliament Decision No. 1298/1997⁵⁷⁴ and entered into force on 12.09.1997.

22. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) done in Strasbourg, on 26.11.1987, signed by the Republic of Moldova on 2 May 1996, ratified by Parliament Decision No. 1298/1997⁵⁷⁵ and entered into force for Republic of Moldova on 01.02.1998.

23. Convention on the Rights of the Child done in New York, on 20.11.1989. Republic of Moldova accessed by Parliament's Decision No. 408/1990⁵⁷⁶. This Convention entered into force for Republic of Moldova on 25.02.1993.

24. Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 151) done in Strasbourg on 04.11.1993, signed by Republic of Moldova on 02.10.1997, ratified by Parliament Decision No. 1298/1997⁵⁷⁷ and entered into force for Republic of Moldova on 01.03.2002.

25. Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 152) done in Strasbourg on 04.11.1993, signed by Republic of Moldova on 02.10.1997, ratified by Parliament Decision No. 1298/1997⁵⁷⁸ and entered into force for Republic of Moldova on 01.03.2002.

26. Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby (ETS No. 155) done in Strasbourg, on 11.5.1994, signed by the Republic of Moldova on 13.07.1995, ratified by Parliament Decision No. 1298/1997⁵⁷⁹ and entered into force for the Republic of Moldova on 01.11.1998.

27. Framework Convention for the Protection of National Minorities (ETS No. 157) done in Strasbourg on 01.02.1995, signed by the Republic of Moldova on 13

⁵⁷⁴ Parliament Decision No. 1298/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁷⁵ Parliament Decision No. 1298/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁷⁶ Parliament Decision No. 408/1990, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=119168&lang=ro

⁵⁷⁷ Parliament Decision No. 1298/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁷⁸ Parliament Decision No. 1298/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

⁵⁷⁹ Parliament Decision No. 1298/1997, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=7462&lang=ro

July 1995, and ratified by Parliament Decision No. 1001/1996⁵⁸⁰ and entered into force for the Republic of Moldova on 01.02.1998.

28. European Agreement relating to persons participating in proceedings of the European Court of Human Rights (ETS No. 161) done in Strasbourg, on 05.03.1996, signed by the Republic of Moldova on 04.05.1998 and ratified by the Law No. 419/2001 and entered into force for the Republic of Moldova on 01.01.2002.

Reservation contained in the instrument of ratification deposited on 8 November 2001: "The Republic of Moldova reserves the right not to apply the provisions of Article 4, paragraph 1 (a) to detained persons."

Declarations contained in the instrument of ratification deposited on 8 November 2001: "The Republic of Moldova declares that the European Agreement shall not apply to the territory controlled by the local authorities of the self-proclaimed Trans-Dniester Republic until the final settlement of the conflict in this region."

"Based on Article 4, paragraph 2 (b), the Republic of Moldova declares that the provisions of Article 4, paragraph 2 (a), are not applied to its nationals."

29. Convention for the protection of Human Rights and Dignity of the Human Being concerning the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No. 164) done in Oviedo, on 04.04.1997, signed by the Republic of Moldova on 06.05.1997, ratified by Law No. 1256/2002⁵⁸¹ and entered into force for the Republic of Moldova on 01.03.2003.

Declaration contained in the instrument of ratification deposited on 26 November 2002: "According to Article 35 of the Convention, the Republic of Moldova declares that it will apply the provisions of the Convention only on the territory controlled by the Government of the Republic of Moldova until the full establishment of the territorial integrity of the Republic of Moldova."

30. European Convention on Nationality (ETS No. 166) done at Strasbourg, done at Strasbourg on 06.11.1997, was signed by the Republic of Moldova on 03.11.1998 and ratified by the Parliament's Decision No. 621/1999⁵⁸² and entered into force for the Republic of Moldova on 01.03.2000.

31. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, done in New York on 25.03.2000, was signed by the Republic of Moldova on 08.03.2002 and ratified by the Law No. 29/2007⁵⁸³ and entered into force for the Republic of Moldova on 12.04.2007.

Declaration contained in the instrument of ratification: "Until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the convention shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova."

32. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict done in New York on 25.03.2000 was

⁵⁸⁰ Parliament Decision No. 1001/1996, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=60786&lang=ro

⁵⁸¹ Law No. 1256/2002, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=29191&lang=ro

⁵⁸² Parliament Decision No. 621/1999, available in Romania at:

https://www.legis.md/cautare/getResults?doc_id=60119&lang=ro

⁵⁸³ Law No. 29/2007, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=7303&lang=ro

signed by the Republic of Moldova on 08.03.2002 and ratified by the Law No. 15/2004⁵⁸⁴ and entered into force for the Republic of Moldova on 07.04.2004.

Declaration contained in the instrument of ratification: "Following article 3 paragraph 2 of the Protocol, the Republic of Moldova declares that the minimum age for recruitment into conscript military service in the Republic of Moldova is 18 years."

33. Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (ETS No. 187) done in Vilnius on 03.05.2002, was signed by the Republic of Moldova on 03.05.2002 and ratified by Law No. 272/2006⁵⁸⁵ and entered into force for Republic of Moldova on 01.02.2007.

Declaration contained in the instrument of ratification deposited on 18 October 2006: "Moldova declares that, until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Protocol shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova."

34. Additional Protocol to the Convention on Human Rights and Biomedicine concerning Genetic Testing for Health Purposes (CETS No. 203) done in Strasbourg, on 27.11.2008, was signed by the Republic of Moldova on 27.11.2008, ratified by Law No. 30/2011⁵⁸⁶ and entry into force for the Republic of Moldova on 01.07.2018.

35. Convention on the Elimination of All Forms of Discrimination against Women done in New York, on 18.12.1979, Republic of Moldova accessed by Parliament's Decision No. 87/1994⁵⁸⁷, and it entered into force for Republic of Moldova on 31.07.1994.

36. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done in New York, on 04.02.1985 was ratified by Parliament Decision No. 473/1995⁵⁸⁸, and it entered into force for the Republic of Moldova on 28.12.1995.

37. 1995 Amendment to article 43 (2) of the Convention on the child's rights done in New York, on 12.12.1995, was ratified by the Parliament Decision No. 1392/1997⁵⁸⁹ and entered into force for the Republic of Moldova on 18.11.2002.

38. Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention (CETS No. 194) done in Strasbourg on 13.05.2004, was signed by the Republic of Moldova on 10.11.2004 and ratified by Law No. 130/2005⁵⁹⁰ and entered into force for the Republic of Moldova on 01.06.2010.

Declaration contained in the instrument of ratification deposited on 22 August 2005: "Until the full establishment of the Republic of Moldova's territorial integrity, the Protocol's provisions shall be applied only on the territory controlled by the

⁵⁸⁴ Law No. 15/2004, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=26126&lang=ro

⁵⁸⁵ Law No. 272/2006, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=25530&lang=ro

⁵⁸⁶ Law No. 30/2011, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=8904&lang=ro

⁵⁸⁷ Parliament Decision No. 87/1994, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115565&lang=ro

⁵⁸⁸ Parliament Decision No. 473/1995, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119167&lang=ro

⁵⁸⁹ Parliament Decision No. 1392/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=61222&lang=ro

⁵⁹⁰ Law No. 130/2005, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=26260&lang=ro

Government of the Republic of Moldova".

39. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done in New York, on 18.12.2002 was signed by the Republic of Moldova in New York on 16 September 2005 and ratified by the Law No. 66/2006⁵⁹¹ and entered into force for the Republic of Moldova on 23.08.2006.

40. Optional Protocol to the International Covenant on Civil and Political Rights done in New York on 16.12.1966 was signed by the Republic of Moldova in New York on 16.09.2005 and ratified by Law No. 260/2007⁵⁹² and entered into force for the Republic of Moldova on 23.04.2008.

Declarations made by our country:

"Until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the [Protocol] will be applied only on the territory controlled effectively by the authorities of the Republic of Moldova."

"The Human Rights Committee shall not have the competence to examine communications from individuals referring to violations of any of the rights outlined in the International Covenant on Civil and Political Rights committed until the entry into force of the present Protocol for the Republic of Moldova."

Reservation made to the Optional Protocol:

"According to the Article 5 paragraph (2) letter a) of the Protocol: The Human Rights Committee shall not have the competence to consider communications from an individual if the matter is being or has already been examined by another specialized international body."

41. International Convention on the Suppression and Punishment of the Crime of Apartheid done in New York, on 30.11.1973. The Republic of Moldova acceded by Law No. 237/2005⁵⁹³ and entered into force for the Republic of Moldova on 27.11.2005. However, the Republic of Moldova made the following reservation: "Until the full establishment of the territorial integrity of the Republic of Moldova, the provisions of the Convention will be applied only on the territory effectively controlled by the authorities of the Republic of Moldova."

42. Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being concerning the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings (ETS No. 168) done in Paris 12.01.1998 was signed by the Republic of Moldova on 12.01.1998 and ratified by Law No. 1256/2002⁵⁹⁴ and entered into force for the Republic of Moldova on 01.03.2003.

43. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women done in New York, on 01.12.1999 was ratified by Law No. 318/2005⁵⁹⁵ and entered into force for our country on 28.02.2006.

44. Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolishing the death penalty, done in New York on 15.12.1989,

⁵⁹¹ Law No. 66/2006, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=25308&lang=ro

⁵⁹² Law No. 260/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=24430&lang=ro

⁵⁹³ Law No. 237/2005, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=26345&lang=ro

⁵⁹⁴ Law No. 1256/2002, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=29192&lang=ro

⁵⁹⁵ Law No. 318/2005, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=107215&lang=ro

was ratified by Law No. 273/2006 and entered into force for the Republic of Moldova on 20.12.2006.

The Republic of Moldova made the following declaration:

“Until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Convention shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova”.

45. The Convention on the Rights of Persons with Disabilities, done in New York on 30.03.2007, was signed by the Republic of Moldova in New York on 30.03.2007, ratified by Law No. 166/2010⁵⁹⁶ and entered into force on 21.10.2010.

46. Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 213), done in Rome, 04.11.1950, signed by the Republic of Moldova in Strasbourg on 11.18.2013, ratified by Law No. 59/2014⁵⁹⁷ and entered into force for our country on 01.08.2021.

47. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201) done in Lanzarote, on 25.10.2007, was signed by the Republic of Moldova on 25.10.2007, ratified by Law No. 263/2011⁵⁹⁸ and entered into force for the Republic of Moldova on 01.07.2012.

Declaration contained in the instrument of ratification deposited on 12 March 2012: "The Republic of Moldova declares that, until the full re-establishment of its territorial integrity, the provisions of the Convention will be applied only on the territory controlled effectively by authorities of the Republic of Moldova."

48. Council of Europe Convention against Trafficking in Human Organs (CETS No. 216) done in Santiago de Compostela on 25.03.2015, was signed by Republic of Moldova on 25.03.2015, ratified by Law No. 5/2017⁵⁹⁹ and entered into force for the Republic of Moldova on 01.03.2018.

49. Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) done in Warsaw on 16.05.2005, was signed by the Republic of Moldova on 16.05.2005, ratified by Law No. 67/2006⁶⁰⁰, and entered into force for Republic of Moldova on 01.02.2008.

50. Third Additional Protocol to the European Convention on Extradition (CETS No. 209) done in Strasbourg on 10.11.2010, was signed by the Republic of Moldova on 12.04.2013, ratified by Law No. 214/2017⁶⁰¹ and entered into force for Republic of Moldova on 01.05.2018. Declaration contained in the instrument of ratification deposited on 29 January 2018: "Following Article 5 of the Additional Protocol, the Republic of Moldova declares that the rules laid down in Article 14 of the European Convention on Extradition do not apply when the person extradited by the Republic of Moldova consents to extradition under the simplified procedure and renounces his or her entitlement to the rule of speciality."

51. Convention on the Transfer of Sentenced Persons (ETS No. 112) done in Strasbourg, on 21.03. 1983, was signed by the Republic of Moldova on 06.05.1997,

⁵⁹⁶ Law No. 166/2010, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=24019&lang=ro

⁵⁹⁷ Law No. 59/2014, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=21710&lang=ro

⁵⁹⁸ Law No. 263/2011, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=13045&lang=ro

⁵⁹⁹ Law No. 5/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=98531&lang=ro

⁶⁰⁰ Law No. 67/2006, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107234&lang=ro

⁶⁰¹ Law No. 214/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=101470&lang=ro

ratified by Law No. 69/2004⁶⁰² and entered into force for the Republic of Moldova on 01.09.2004.

Declarations contained in the instrument of ratification deposited on 12 May 2004: "The Republic of Moldova declares that the provisions of the Convention will be applied only on the territory controlled by the Government of the Republic of Moldova until the full establishment of the territorial integrity of the Republic of Moldova."

"Following Article 3, paragraph 4, of the Convention, the Republic of Moldova declares that the term "national" includes the citizens of the Republic of Moldova, the foreign citizens or stateless persons with residence permits in the Republic of Moldova."

"Following Article 17, paragraph 4, of the Convention, the Republic of Moldova declares that requests for transfers and supporting documents should be accompanied with a translation either in the Moldavian language or in one of the official languages of the Council of Europe."

52. Additional Protocol to the Convention on the Transfer of Sentenced Persons (ETS No. 167) done in Strasbourg, on 18.12.1997, was signed by Republic of Moldova 11. 12 2000, ratified by Law No. 70/2004⁶⁰³ and entered into force on 01.09.2004.

Declaration contained in the instrument of ratification deposited on 12 May 2004: "The Republic of Moldova declares that the provisions of the Additional Protocol will be applied only on the territory controlled by the Government of the Republic of Moldova until the full establishment of the territorial integrity of the Republic of Moldova."

53. Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210), done in Istanbul, on 11.05.2011, signed by the Republic of Moldova on 06.02.2007 and ratified by Law No. 144/2021⁶⁰⁴, entered into force for Republic of Moldova on 01.05.2022.

Moreover, according to the national legislation, a national mechanism for ensuring the efficient implementation of the provisions stemming from these conventions has to be developed for each treaty. Relevant examples are provided below:

a) on gender equality and combatting gender-based violence – The Republic of Moldova signed and ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The Government has taken extensive measures to adequately prepare the domestic legal framework for the ratification of the Convention, improving it significantly⁶⁰⁵.

The bill amending the domestic violence legislation to increase compliance with the Istanbul Convention was adopted by the Parliament with an overwhelming majority (88 out 101 votes) on 9 July 2020. The draft law aims to amend the Law on preventing and combating domestic violence⁶⁰⁶ and Law on Probation⁶⁰⁷ and Law on State Guaranteed Legal Aid⁶⁰⁸.

⁶⁰² Law No. 69/2004, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=26165&lang=ro

⁶⁰³ Law No. 70/2004, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=26167&lang=ro

⁶⁰⁴ Law No. 144/2021, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128240&lang=ro

⁶⁰⁵ https://www.legis.md/cautare/getResults?doc_id=119748&lang=ro

⁶⁰⁶ Law No. 45/2007 on preventing and combating domestic violence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122821&lang=ro#

⁶⁰⁷ Law No. 8/2008 on Probation, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=122825&lang=ro

⁶⁰⁸ Law No. 198/2007 on State Guaranteed Legal Aid, available in Romanian at:

Two other important bills in terms of the standards of the Istanbul Convention have been drafted, namely: Law No. 85/2020⁶⁰⁹, for amending some normative acts that contain provisions regarding the electronic monitoring of family aggressors⁶¹⁰ and the draft Law on amending some normative acts aiming at ensuring victims' rights in the case of sexual offences.

In partnership with civil society and the development partners, the Government carries out annually campaigns to prevent the phenomenon of violence against women and domestic violence.

b) on trafficking in human beings – The Republic of Moldova was the first Council of Europe member state to ratify the *Convention on Action against Trafficking in Human Beings*⁶¹¹, in force since 1 February 2008. Recommendations laid out in international reports, including the *CoE Group of Experts on Action against Trafficking in Human Beings (GRETA)*, serve as a reference for actions related to the improvement of national anti-trafficking policies. The anti-trafficking community focused on these recommendations has propelled the decision-making process with a series of actions, including collection and harmonization of statistical data, consolidation of the institutional and legislative framework, raising the awareness of national authorities on the right of THB victims to request guaranteed state compensation, improvement of the process of identification of THB victims through the consolidation of anti-trafficking actors' capacity, etc.

176. What is the rank of these conventions in the domestic legal system, including the constitution? Have Moldova introduced the direct applicability of international conventions in domestic law in all cases and at all levels?

According to article 4, paragraph 2 of the Constitution of the Republic of Moldova, if there are disagreements/inconsistencies between the conventions and treaties on fundamental human rights to which the Republic of Moldova is a party and its domestic laws, priority shall be given to international regulations.

Moldova hasn't introduced the direct applicability of the international conventions in domestic Law in all cases and at all levels yet.

177. What steps have been taken to cooperate with UN bodies dealing with human rights issues, including visits by UN special mechanisms (such as special rapporteurs), reporting to Treaty bodies and responding to Treaty body recommendations?

The cooperation with the UN human rights bodies is divided into 1) visits by special rapporteurs and 2) reporting procedures to the UN Treaty Bodies and the follow-up of the recommendations.

Visits by UN special mechanisms - Following the election of the Republic of Moldova as a member of the United Nations Human Rights Council (HRC), the Standing Invitation to all mandate holders was extended in June 2010. Until now, the Republic

https://www.legis.md/cautare/getResults?doc_id=123162&lang=ro#

⁶⁰⁹ Law No. 85/2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122005&lang=ro

⁶¹⁰ https://www.legis.md/cautare/getResults?doc_id=122005&lang=ro

⁶¹¹ https://www.legis.md/cautare/getResults?doc_id=55486&lang=ro

of Moldova has been visited by⁶¹²:

- In 2008 – UN Special Rapporteurs on torture and other cruel, inhuman, or degrading treatment or punishment and on violence against women, its causes and consequences.
- 1-8 September 2011 – UN Special Rapporteur on freedom of religion.
- 1- 4 November 2011 – UN High Commissioner for Human Rights.
- 21-30 May 2012 – Working Group on the issue of discrimination against women in Law and practice.
- 9-13 September 2013 – UN Special Rapporteur on extreme poverty.
- 2nd half of 2015 - UN Special Rapporteur on health.
- 10-17 September 2015 – UN Special Rapporteur on disability.
- 20-29 June 2016 – UN Special Rapporteur on minority issues.
- 25-29 June 2018 – UN Special Rapporteur on the situation of human rights defenders.

Between 2016 and 2020, the CPT carried out over 100 visits, namely: 42 to places of detention under the Ministry of Internal Affairs, 29 to penitentiaries, 15 to psychiatric institutions, and 24 to other institutions.

At the same time, the Republic of Moldova supports the access to international human rights mechanisms in the Transnistrian region. For example, it facilitated/approved the visits of the Special Rapporteur on minority issues, the Special Rapporteur on the situation of human rights defenders, the follow-up visits of UN Expert on the Transnistrian region, Mr Thomas Hammarberg⁶¹³.

Reporting and implementation of the recommendations – The reports prepared by the Special Rapporteurs following the visits and related recommendations were disseminated to responsible public authorities for consideration and implementation. In addition, progress in their implementation is being monitored through an integrated tool for monitoring international recommendations managed by the Permanent Secretariat for Human Rights under the State Chancellery.

178. Does Moldova have a National Human Rights Institution (NHRI)? Does it comply with the Paris Principles on NHRIs and does the NHRI have accreditation to the GANHRI and what is its accreditation status?

Yes, the National Human Rights Institution (NHRI) in Moldova is the Office of the People's Advocate. In May 2018, the Office of the People's Advocate (*also known as the Ombudsman's Office*) was accredited by the Global Alliance of National Human Rights Institutions (GANHRI) with the "A" status, recognising the full compliance of the Moldovan Ombudsman's mandate and activity with the Paris Principles.⁶¹⁴

⁶¹² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/341/43/PDF/G2134143.pdf?OpenElement>

⁶¹³ https://www.undp.org/content/dam/unct/moldova/docs/Follow-up_Report_TH_2018.pdf

⁶¹⁴ [CHART OF THE STATUS OF NATIONAL INSTITUTIONS \(ganhri.org\)](#)

179. Please indicate whether the institution has undergone an assessment of compliance with the Paris Principles or the Venice Principles and if yes what are the results? What is the state of the play if such compliance assessment has been performed?

Through the Sub-Committee on Accreditation (SCA), the Ombudsman's Office underwent an assessment of compliance with the Paris Principles. As a result, in May 2018, the Office of the People's Advocate was accredited by the Global Alliance of National Human Rights Institutions (GANHRI) with the "A" status, recognising the full compliance Moldovan Ombudsman's mandate and activity with the Paris Principles.⁶¹⁵

However, the international institutions (Venice Commission) recommended to the State to strengthen the financial independence of the Office of the People's Advocate, its functional independence and the clarification of the role of the People's Advocates in the context of the Council for the Prevention of Torture (National Prevention Mechanism).

180. Please provide a brief description of legislation or other rules governing the mandate, the set-up, functioning and independence of the NHRI / Ombudsperson institution including its composition and decision-making mechanism, number of cases and how these are followed up.

The Law regulates the Office of the People's Advocate on the People's Advocate (Ombudsman) No. 52/2014⁶¹⁶ and the Law approving the Regulation for the Organization and Operation of the People's Advocate's Office No. 164/2015.⁶¹⁷

Following Law No. 52/2014, the People's Advocate (Ombudsman) ensures the protection of all human rights and freedoms by the public authorities, organisations and companies, irrespective of the type of property and legal form of organisation, by the non-commercial organisations and by decision-makers at all levels.

The Parliament appoints two People's Advocates, autonomous among them, where one is specialised in the issues of the child rights and freedoms protection. The People's Advocate is appointed for a 7-year mandate, which cannot be renewed. The mandate starts on the day of the oath. The People's Advocate is assisted in his/her activity by two deputies, whose duties are determined by the People's Advocate.

The Ombudsman's Office provides organisational, legal, informational, and technical assistance to the Ombudsman and the People's Advocate for the child's rights to exercise their duties. In addition, the Children's Rights Directorate provides the necessary specialised assistance to the People's Advocate for the child's rights in the performance of his duties. In its work, the Ombudsman's Office actively collaborates with national and international actors in protecting and promoting human rights.

The People's Advocate institution is autonomous and independent from any public authority, legal entity, irrespective of the type of property and legal organisation form, and any individual in the decision-making position.

⁶¹⁵ [SCA-Report-May-2018-Eng.pdf \(ganhri.org\)](#)

⁶¹⁶ Law No. 52/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121241&lang=ro

⁶¹⁷ Law No. 164/2015 approving the Regulation for the Organization and Operation of the People's Advocate, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120702&lang=ro

To strengthen the Institution of the People's Advocate, the Constitution of the Republic of Moldova was supplemented in 2017 with a chapter (VIII) titled "People's Advocate," thus ensuring constitutional protection to the independence of the Ombudsman from political influence.

To further strengthen the role of the People's Advocate, the process of amending the Law approving the Regulation for the Organization and Operation of the People's Advocate (Ombudsman) was initiated. The comments of the OHCHR, the opinion of the European Commission for Democracy through Law (the Venice Commission), the opinion of the Directorate-General for Human Rights and the Rule of Law of the Council of Europe, and recommendations of the GAHNRI's Accreditation Subcommittee were taken into consideration in the preparation of the draft law. The draft law is currently undergoing formal consultations before being sent for approval to the Government and the Parliament.

The activity of examining requests is essential to the Office of the People's Advocate because it allows direct monitoring of the problems of human rights violations. In this sense, the amount of information processed by the Institution is considerable. Annually, the People's Advocate Office, including its representative offices, receive an average of about 1,500 applications. However, about 75% of these applications are returned without examination because they do not fall within the competence of the People's Advocate or do not meet the conditions of admissibility set out in Articles 19 and 20 of Law No. 52/2014.

In 2021, 1,081 requests were received by the Office of the People's Advocate. Out of the total number of requests (1081) received during 2021, 931 (87%) requests were addressed to the People's Advocate and 150 (13%) requests addressed to the People's Advocate for the rights of the child.

Of the 1081 registered applications, 284 (26%) applications were accepted for examination (159 applications accepted for examination by the People's Advocate and 115 applications taken for review by the People's Advocate to protect children's rights), and procedural actions were undertaken under Art. 25 of Law No. 52/2014.

46 (4%) requests (46 requests submitted by the People's Advocate) were introduced to the competent authorities to be examined according to their competence.

751 (70%) of the requests were returned based on the provisions of art. 18, 19, 20 of Law No. 52/2014 (726 requests returned by the People's Advocate and 25 requests returned by the People's Advocate for the protection of children's rights). In each case, the addressees have explained the procedures they are entitled to use to defend their rights and freedoms.⁶¹⁸

181. What are the competences of the NHRI/Ombudsperson's institution in the field of human rights and what type of recommendations can it hand down? Does the Institution have special competences regarding the rights of women, rights of children, rights of older persons, rights of persons with disabilities, rights of LGBTIQ persons, or protection of minorities (including ethnic, racial or religious minorities)? Can the NHRI / Ombudsperson's institution have investigation power? Can the NHRI / Ombudsperson act *ex officio*?

⁶¹⁸ [RAPORT2021-RED-FINAL.pdf \(Ombudsman.MD\)](#)

During his/her mandate, the People's Advocate has the right:

- a) to be granted an audience by the President of the Republic of Moldova, by the Chairman of the Parliament and by the Prime minister during working hours and beyond;
- b) to be granted audience immediately and with no form of obstruction from the heads and all responsible officials at all levels of public authorities, institutions, organisations and companies, no matter of the type of property and legal organisation form of the police inspectorates and their detention places, of the penitentiary institutions, criminal investigation isolators, military bases, placement centres for immigrants or asylum seekers, social, medical or psychiatric care institutions, special education and re-education institutions or curative and re-education institutions for juveniles and other similar institutions;
- c) to assist to and speak at the meetings of the Parliament, of the Government, of the Constitutional Court, of the Superior Council of the Magistrates, of the Superior Council of the Public Prosecutors;
- d) to submit to the Parliament or Government the recommendations on the improvement of the legislation in the area of protection for the human rights and freedoms;
- e) to verify the compliance and appropriate enforcement by the public authorities, by the organisations and companies, no matter of the type of property and legal organisation form, by the non-commercial organisations, by the responsible officials at all levels of their duties related to the protection of the human rights and freedoms;
- f) to represent individuals or groups of individuals in front of the public institutions and courts in complex matters related to the human rights and freedoms or in matters of public interest;
- g) to act ex officio in cases provided by the Law;
- h) to have free access to all public authorities, to assist at the meetings of their subdivisions, including meetings of their collegial bodies;
- i) to have free and fast access to institutions, organisations and companies, irrespective of the type of the property and legal form of organisation, in police inspectorates and their detention facilities, in penitentiary institutions, criminal investigation isolators, placement centres for immigrants or asylum seekers, social, medical or psychiatric care institutions, special educational and re-educational institutions or curative and re-educational institutions for juveniles and other similar institutions;
- j) to have unlimited and immediate access, at any time of the day, to any sector of the places of detention, to any information on the treatment and conditions of detention of the people in custody;
- k) to request and receive from public authorities, from responsible officials at all levels information, documents, and materials necessary to perform their duties, including official data with limited access and data from the secret state category under the Law;
- l) to invite for hearings and to receive from responsible officials explanations and information necessary to reveal the circumstances of the investigated matter;

- m) to request the competent state institutions judiciary expertise, a technical-scientific and forensic conclusion and the submission of the expert report or Protocol on the impossibility to draw such a report;
- n) to have unlimited confidential meetings and conversations, without witnesses, and when necessary, with a translator, with an individual in the places listed at letter b), as well as with any other individual who, in his/her opinion, could provide helpful information;
- o) to request the conclusions of the competent institutions on the protection of the human rights and freedoms in the case when there are sufficient grounds to suspect the violation of the rights and freedoms guaranteed by the Constitution of the Republic of Moldova and international treaties the Republic of Moldova is a party to;
- p) to make public all the results of the investigation of the cases of human rights and freedoms violation;
- q) to collaborate with international and regional institutions and organisations working in human rights and freedoms protection.

According to Article 18 of Law No. 52/2014 (1), The People's Advocate examines the applications of individuals, regardless of race or ethnic origin, colour, sex, language, religion, political opinion or any other opinion, of national or social origin, wealth, birth or any other circumstances, who live permanently, are or were temporarily on the territory of the country (from now on - petitioners), whose rights and freedoms are presumed to have been violated by the Republic of Moldova. (2) The People's Advocate doesn't substitute by his/her competencies the public authorities, legal bodies, or courts. (3) The People's Advocate reviews the complaints on the decisions, actions or inactions of the public authorities, organisations and companies, no matter of the type of property and legal organisation form, of the non-commercial organisations and responsible officials at all levels which, in the petitioner's opinion did violate his/her rights and freedoms.

According to Article 25, (1) based on the results of the complaint review, the People's Advocate has the right: a) to submit to the court a request to protect the interests of the petitioner whose fundamental rights and freedoms were violated; b) to intervene with the competent authorities with a demarche to initiate disciplinary or criminal proceedings against the responsible official who committed violations which generated the violations of the human rights and freedoms; c) to notify the public prosecutor of the committed offence provided by Art. 320 of the Misdemeanour Code of the Republic of Moldova; d) to notify the public officials of all levels on the cases of negligence at work, violation of professional ethics, delay and bureaucracy. (2) The People's Advocate has the right to file a court action concerning the detected facts of mass or severe violation of human rights and freedoms. Therefore, the petition filed by the People's Advocate is exempted from state tax.. (3) The People's Advocate may intervene in the trial to express conclusions for the protection of the legitimate rights, freedoms, and interests of the persons.

According to Article 24 (1), In cases where violations of the petitioner's rights or freedoms are found, the People's Advocate presents to the authority or responsible official whose decisions, actions or inactions, in his/her opinion, violate the human rights and freedoms, a notice covering the recommendations on measures to be undertaken for the immediate restoration of the petitioner's rights. (2) In his/her activity

for the prevention of torture, the People's Advocate presents to the authority or responsible official his/her recommendations to correct the behaviour towards detainees, improve the conditions of detention and prevent torture. (3) The authority or responsible official who did receive the notice is obliged to review it in a 30-day term and to communicate in writing to the People's Advocate on the measures undertaken to remedy the situation. (4) In case the People's Advocate disagrees with the undertaken measures, he/she has the right to address a hierarchically superior body to undertake measures necessary to enforce the recommendations covered by his/her notice and/or inform the public opinion. The hierarchically superior body must communicate the measures taken in a 45-day term.

The Institution has unique competencies in the field of children's rights. The People's Advocate for children's rights performs his/her duties to ensure the protection of children's rights and freedoms, at the national level, by the central and local public authorities, by the decision-making officials at all levels, according to the provisions of the UN Convention for the Protection of the Rights of the Child.

Additionally, the National Council for Preventing and Eliminating Discrimination and Ensuring Equality is a collegial body with legal person status under public Law, established to ensure protection against discrimination and to ensure Equality for all persons considered to be victims of discrimination⁶¹⁹. The Council shall act impartially and independently of the public authorities, and the state budget finances it⁶²⁰.

According to Article 22 of Law No. 52/2014, the PA **can act ex officio**. In cases where it has information on mass or severe violation of human rights and freedoms, in cases of special social importance or when it is necessary to defend the interests of people who cannot use their own the legal means of defence, the People's Advocate has the right to act ex officio. (2) In the event of mass or severe violations of human rights and freedoms, the PA is entitled to submit special reports to the sittings of Parliament and propose the establishment of special commissions to investigate such acts.

182. How is the financing of the NHRI / Ombudsperson's institution regulated?

According to Article 37 of Law No. 52/2014, the Office is financed from the state budget within the limits of the budgetary allocations approved by the annual Budget Law. The budget of the Office is drafted, approved, and administered according to the principles, rules and procedures provided for by the Law on Public Finance and Budgetary-Fiscal Responsibility No. 181/2014⁶²¹.

Law No. 181/2014 on public finance and budget and tax responsibility establishes in Article 51/1 that independent/autonomous budgetary authority elaborates the draft budget following Article 51(5) of this Law. The draft budget of the independent/autonomous budgetary authority is approved with the advisory opinion of the Ministry of Finance. It is submitted to the Government within the deadline provided by the budget calendar to be included in the draft state budget to be submitted to Parliament for approval. The independent/autonomous budgetary authority presents to

⁶¹⁹ Law No. 121/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁶²⁰ Law No. 298/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120696&lang=ro

⁶²¹ Law No. 181/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125237&lang=ro

the Parliament, as the case may be, the objections to the draft budget approved by the Government for resolving the differences.

183. What other independent bodies, supported by the public budget, exist in Moldova for the protection and promotion of fundamental rights? What are the tasks and powers of these bodies? Please include notably reference to bodies relating to anti-discrimination, protection of personal data and access to information.

Anti-discrimination body

Council for Preventing and Eliminating Discrimination and Ensuring Equality is an autonomous, unbiased, and independent public authority established in 2013. It was created based on the Law No. 121/2012 on ensuring Equality⁶²² and Law No. 298/2012 on the activity of the Council for Preventing and Eliminating Discrimination and Ensuring Equality⁶²³. The Parliament of Moldova appoints the Council members for a 5-year term.

The Council's mission is to prevent and protect against discrimination, ensure Equality and promote equal opportunities and diversity. The objective of the Institution is to build an inclusive society where people enjoy their rights and freedoms and equal opportunities regardless of their sex, race, colour, ethnicity, nationality, language, disability, sexual orientation, age, religion or belief, opinion, political affiliation or any other similar ground.

The powers of the organisation are to: 1) examine the compatibility of current legislation and draft laws with non-discrimination standards; 2) monitor implementation of legislation; 3) examine complaints and reinstate the rights of victims of discrimination; 4) raise awareness and inform society to eliminate all forms of discrimination.

Protection of personal data body

The National Center for Personal Data Protection of the Republic of Moldova (NCPDP) was founded as a result of the adoption of Law No. 17/2007 regarding the personal data protection⁶²⁴. On 14 April 2012, the Law was repealed with the entry into force of Law No. 133/2011 on personal data protection⁶²⁵. By-Law No. 182/2008 was approved the Statute, structure, staff limit and financial arrangements of the National Center for Personal Data Protection⁶²⁶. Based on these legislative acts, NCPDP obtained the status of an autonomous public authority, independent of other public authorities, natural persons and legal entities, the purpose of which is to protect the fundamental rights and freedoms of natural persons, especially the right for private life regarding the processing and cross-border transfer of personal data.

The main objectives of the NCPDP are to defend the fundamental rights and freedoms of natural persons, especially the right for private life regarding the processing and cross-border transfer of personal data, organising actions to prevent violations of the

⁶²² Law No. 121/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁶²³ Law No. 298/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120696&lang=ro

⁶²⁴ Law No. 17/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=26029&lang=ro

⁶²⁵ Law No. 133/2011, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110544&lang=ro

⁶²⁶ Law No. 182/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106672&lang=ro

legislation in the field, including the rights of data subjects, guiding the data controllers in the context of the correct application of the legislation in the area and informing, raising awareness and educating the society on the importance of personal data protection etc.

The staff of the NCPDP consists of civil servants and contractual staff employed by competition under the conditions of the Law. In the fulfillment of their duties, the team of the NCPDP is enabled to have free access to the premises and territory where personal data filing systems are located, to personal data processed by controllers and processors, to the processing equipment, programs, and applications, as well as to any document or record regarding the personal data processing, according to the Law. To consult and assist the NCPDP, the Consultative Council of the NCPDP is created on a voluntary principle. The Chairman of the Consultative Council is the Director of the NCPDP. The NCPDP is led by a Director, appointed by the Parliament by the majority of votes of the elected deputies on the proposal, depending on the case, of the Chairman of the Parliament, a parliamentary fraction or at least 15 deputies, for a five-year mandate. The person appointed as Director may not hold this post for more than two consecutive mandates. In exercising his attributions, the Director is assisted by a Deputy Director, appointed in function by the Parliament, on the proposal of the NCPDP Director for a 5-year mandate. During the absence of the Director of the Center, the Deputy Director exercises temporary the duties of the Director.

Access to information

The Republic of Moldova doesn't have an institutionalized body regarding the access to information in the context of the obligation that all national authorities have to make all the information public, according to the Law No. 982 of 11.05.2000 on access to information⁶²⁷. Since 1 December 2020, the Republic of Moldova has been party to the Council of Europe's Convention on access to official documents (also known as the Tromsø Convention), which is the first binding international legal instrument to recognise a general right of access to official documents held by public authorities. The first national report on the implementation of the Tromsø Convention has already been presented.

184. Do police, prison and border guards and other law enforcement officers receive training on human rights, including training on the rights of women, rights of the child, rights of older persons, rights of persons with disabilities, persons belonging to minorities, LGBTIQ persons?

In the last years, with the support of different Human Rights oriented International Organizations, it has been organised an extensive number of thematic pieces of training, as follows:

- In the 2017–2020 period, every effort was made to ensure a high level of training for prosecutors and judges on preventing and combating torture according to the Istanbul Protocol standards and the ECtHR's case-law. As a result, eight training activities were carried out to prevent torture and ill-treatment, with 315 people (prosecutors, judges) trained. In the segment of

⁶²⁷ Law No. 982/2000, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro

initial training, during the reporting period, the electronic course "Prohibition of ill-treatment in the context of law enforcement, security and other coercive contexts," with a duration of 30 hours of training for each audience promotion, was introduced in the initial training plans for candidates for the positions of judge and prosecutor. In the segment of continuing training, during the reporting period, nine relevant training activities were carried out, the beneficiaries of which were 221 actors of the justice system.

- The members of the Council for the Prevention of Torture (a National Mechanism for the Prevention of Torture, created based on the Law No. 52/2014 regarding the People's Advocate⁶²⁸) participated in the training of employees of various institutions under the OPCAT mandate and maintained a constant dialogue with authorities to improve respect for human rights and fundamental freedoms of detainees.

Topics of violence against women and domestic violence have been integrated into the training plans for prosecutors and judges provided by the National Institute of Justice. During 2017, in the segment of continuing training, the NIJ carried out 10 training activities in this field, with 264 beneficiaries being trained. During 2018, in the segment for ongoing training, the NIJ carried out 13 training activities in this field, with 289 beneficiaries being trained. During 2019, in the segment of continuing training, the NIJ carried out 7 training activities in this field, with 207 beneficiaries being trained. In addition, in the segment of initial training, during the reporting period, candidates for the position of judge and prosecutor benefited from training on the topic of violence against women and domestic violence. During 2020, in the segment of continuing training, the NIJ carried out 7 training activities in this field, with 208 beneficiaries being trained.

The training of the police officers is organised on two levels: the initial training and the professional training. The initial training of the police employees is provided by the Joint Law Enforcement Training Center, under the Academy "Stefan cel Mare" of the Ministry of Internal Affairs. The training curricula contain various modules, including the module concerning human rights (the fundamental human rights, rights of women, rights of children, rights of persons belonging to minorities, etc.).

In terms of statistical data, during the last five years, the total number of the police employees who were trained in the initial training courses is represented as follows:

- 2017 – 93 police employees (69 males/24 females);
- 2018 – 405 police employees (274 males/131 females);
- 2019 – 547 police employees (357 males/190 females);
- 2020 – 318 police employees (216 males / 102 females);
- 2021 – 524 police employees (349 males / 175 females).

The professional training of the police employees is organised through diverse training courses and activities provided under the umbrella of the Ministry of Internal Affairs and the national and international partner organisations, including on the topics related to specific human rights. In this manner, throughout the last 5 years, the Police were trained on the following aspects:

⁶²⁸ Law No. 52/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121241&lang=ro

2017

- human rights (general overview) – 24 police employees (17 males/ 7 females);
- rights of children - 36 police employees (27 males/ 9 females);
- rights of persons belonging to minorities - 36 police employees (27 males/ 9 females).

2018

- human rights (general overview) – 22 police employees (16 males/ 6 females);
- rights of women - 61 police employees (45 males/ 16 females);
- rights of persons belonging to minorities - 16 police employees (13 males/ 3 females).

2019

- human rights (general overview) – 309 police employees (231 males/78 females);
- rights of women - 154 police employees (130 males/ 24 females);
- rights of children - 264 police employees (221 males/ 43 females);
- rights of persons belonging to LGBTQI - 33 police employees (20 males/13 females).

2020

- human rights (general overview) – 176 police employees (145 males/31 females);
- rights of women - 64 police employees (44 males/ 20 females);
- rights of children - 131 police employees (72 males/ 59 females);
- rights of persons with disabilities - 5 police employees (3 males/2 females).

2021

- human rights (general overview) – 30 police employees (15 males/15 females);
- rights of women - 26 police employees (9 males/17 females);
- rights of children - 52 police employees (27 males/ 25 females);
- rights of persons with disabilities - 23 police employees (0 males/23 females);
- rights of persons belonging to minorities - 16 police employees (13 males/3 females).

Furthermore, **16 police officers** were trained as **trainers** in the area of Equality and non-discrimination, and **8 police officers** were trained as trainers in the area of bias-motivated crimes, in the framework of the regional project “Strengthening access to justice for victims of discrimination, hate crime and hate speech in the Eastern Partnership”, funded by the EU and the Council of Europe and implemented by the Council of Europe as part of the Partnership for Good Governance.

Moreover, the Police enjoys the support of the Council of Europe in capacity building and training concerning human rights. In this manner, the Police recently became a

partner and beneficiary within the Council of Europe projects "Supporting the implementation of the Istanbul Convention in the Republic of Moldova" and "Strengthening diversity and equality in the Republic of Moldova".

A. Human dignity and right to life and to the integrity of the person

185. Please provide an overview of legislation relevant to the right to life (Art. 2 of the Charter of Fundamental Rights of the EU and Art. 2 of the European Convention on Human Rights).

Article 24 of the Constitution of the Republic of Moldova stipulates that the State guarantees every individual the right to life. Article 54 of the Constitution provides that in the Republic of Moldova no laws can be adopted that would suppress or diminish the fundamental rights and freedoms of citizens, including the right to life. In continuation to the provisions of Article 24, the death penalty is abolished in the country since late 90s and no individual can be sentenced to such punishment or be executed⁶²⁹. The maximum punishment in Moldova is life imprisonment. The right to life with the abolishment of the death penalty is also reinforced by Moldova accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights on the Abolition of the Death Penalty (by the Decision of the Government No. 158/2006).

The Republic of Moldova guarantees the right to life also as part of the International Covenant on Civil and Political Rights,⁶³⁰ which stipulates that the right to life is inherent and must be protected by law, with no individual to be arbitrarily deprived of his/her life (Article 6). By the Decision of Parliament No. 217/1990 for the ratification of the Covenant and its entering into force on April 26, 1993, the country is obliged to guarantee the right to life.

The homicide is a crime in Moldova, sanctioned with up to life imprisonment (Article 145 of the Criminal Code). Other relevant legislation to the right to life refers to the provisions of the Criminal Code, which criminalizes illegally induced abortion in Article 159⁶³¹. In addition to that, according to Article 34 of Law No. 411/1995 on health protection⁶³², a patient's request to shorten his/her life by medical means (euthanasia) cannot be fulfilled. The particularities and grounds for the prohibition of the use of firearms and special means if their application poses an increased danger to human life and health are regulated in Moldova by Law No. 218/2012 on procedure for use of physical force, special means and firearms⁶³³.

⁶²⁹ Constitution of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

⁶³⁰ Republic of Moldova, The International Covenant on Civil and Political Rights

https://www.legis.md/cautare/getResults?doc_id=115567&lang=ro

⁶³¹ Criminal Code of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁶³² Law No. 411/1995 on health protection, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128014&lang=ro

⁶³³ Law No. 218/2012 on procedure for use of physical force, special means and firearms, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110364&lang=ro

186. Please specify how human dignity and the right to integrity of the person are guaranteed, both within the legal framework and in practice. What strategies and measures are in place to ensure the respect of the right to integrity of the person?

Articles 24 and 25 of the Constitution stipulate that the State guarantees every person the right to physical and mental integrity. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. At the same time, individual freedom and security are inviolable. The torture and inhuman or degrading treatment are crimes in Moldova (Article 166¹ of the Criminal Code).

The legal framework also addresses the right to integrity in terms of the right to health, with an emphasis on patient rights, as enshrined in the European Charter of Patients' Rights. In the Republic of Moldova, the rights and responsibilities of the patient are provided in Law No. 263/2005 on the rights and responsibilities of the patient. According to the law, patient rights are rights derived from fundamental human rights to life and health, which include social rights related to accessibility, equity, and quality in healthcare, as well as individual rights related to respect for the patient as a human being, of his/her dignity and physical, mental and moral integrity, and discretion while the patient is being provided health services or in connection to his/her voluntary participation, as a human subject, in biomedical research.⁶³⁴

The provisions of Law No. 1402/1997 on mental health⁶³⁵ stipulate that person with mental disorders are guaranteed all the rights and freedoms of citizens, which are stated and provided by the Constitution and other laws. At the same time, the law regulates the free consent of people with mental disorders to receive psychiatric care, the prohibition of requesting information on the patient's mental health status, the maintenance of strict medical secrecy, the application of medical methods only for diagnostic and therapeutic purposes and not as punishment, the requirement of free consent to treatment, the application of coercive treatment only in accordance with the provisions of the Criminal Code, the prohibition of the treatment of mental disorders by irreversible methods, the non-admission of treatment for experimental purposes and those that are not approved for mass use, the right to refuse treatment, the ensuring of protection measures by extrajudicial psychiatric expertise, as well as the right to follow procedures for contesting actions for the provision of psychiatric care.

Also, the abovementioned law provides that any complaints coming from the patients placed in psychiatric hospitals that might breach their human rights during the provision of medical assistance or medical services are examined by the People's Advocate/Ombudsman. In such cases, the psychiatric institution's administration must send these complaints to the People's Advocate within 24 hours from their submission.

⁶³⁴ Law No. 263/2005 on the rights and responsibilities of the patient, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129085&lang=ro

⁶³⁵ Law No. 1402/1997 on mental health, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108889&lang=ro

187. In the fields of medicine and biology, do precise rules exist which indicate what is and what is not permitted? Are these rules subject to a permanent monitoring process, in particular with regard to the right to integrity of the person?

According to Article 36 of the Constitution, the right to health care is guaranteed to each person. Pursuant to the Criminal Code of the Republic of Moldova, medical experiments are punishable by law.

The Republic of Moldova has also ratified the Convention for the protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, signed in Oviedo on April 4, 1997 (ratified on 26.11.2002 and in force since 01.03.2003), as well as the Additional Protocol on the Prohibition of Cloning Human Beings, signed in Paris on January 12, 1998⁶³⁶. The Convention protects the dignity and identity of persons and guarantees everyone, without discrimination, the respect of the individual's integrity and other fundamental rights and freedoms with regard to the application of biology and medicine.

The Additional Protocol to the aforementioned Convention, which pertains to biomedical research⁶³⁷, also offers legal guidance and mechanisms for the protection of the dignity of all individuals with regard to biomedical research.

The Law No. 411/1995 on healthcare established the rights of individuals in access to healthcare (Article 17), including the right to repair the damage caused to health (Article 19). The law includes provisions regarding the patient's informed consent (Articles 23 and 28) and confidentiality during medical assistance. Special provisions on reproductive rights (Articles 32-33 on the right to voluntary surgical sterilization and voluntary termination of pregnancy), and the conditions for the cessation of medical assistance (Article 34). The law is also adjusted to consider a variety of less protected categories of the population (Chapter 5), such as unemployed people, the elderly, detainees, people on hunger strike, HIV patients, cancer patients, the mentally ill, patients with tuberculosis, etc.

Law No. 263/2005 on the rights and responsibilities of the patient⁶³⁸ aims to ensure respect for the dignity and integrity of the patient and increase the participatory role of people in making decisions related to health matters (Article 10). The patient's rights when it comes to the biomedical research process must be ensured (Article 14), and any research must be carried out only with the written consent of the patient or his/her legal representative. The person who is not able to express his/her will cannot be involved in a biomedical research /clinical study unless the research is done in the interest of the patient and there is the consent of his/her legal representative (close relative). There is also judicial protection of patient rights to which is entitled any individual who considers that his/her rights and legitimate interests have been violated.

Rules on physical and mental integrity are checked by ethics commissions from the medical system, and health institutions, etc. When it comes to clinical trials, for instance, the rights of human subjects participating in such trials (interventional and non-interventional) in the Republic of Moldova are protected by the National Committee for Ethical Expertise of Clinical Trials, whose activity was approved by

⁶³⁶ Ratified by the Republic of Moldova through Law No. 1256/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=29192&lang=ro

⁶³⁷ Ratified by the Republic of Moldova through Law No. 271/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=3336&lang=ro

⁶³⁸ Law No. 263/2005, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129085&lang=ro#

Government Decision No. 5/2016.⁶³⁹ As an independent body, the Committee is tasked with offering document expertise, approving clinical trials and ensuring record keeping, among others. The Independent Committee for issuing approvals under the Ministry of Health (regulation on its organization and functioning approved by Government Decision No. 1207/2010)⁶⁴⁰ is the coordinating body for examining applications submitted for organ, regenerative tissues or cells donation, and authorizes such donations. Moreover, it monitors compliance with ethical standards for donation and transplantation.

In terms of instances of a malpractice complaint, the complaint is examined by the Prosecution Office. The Council for the Prevention of Torture may also conduct visits to places of forced treatment of patients or any other place of deprivation of liberty.

B. Prohibition of torture and inhuman or degrading treatment or punishment

188. Does the domestic legal framework include a definition of torture and is this prohibited?

Domestic legislation contains a definition of torture. Namely, the prohibition of torture and inhuman and degrading treatment is stipulated in Article 24 of the Constitution⁶⁴¹. The definition of torture is also stipulated in the national criminal legislation and goes in line with the definition of torture foreseen in the art.1 of the UN Convention Against Torture and the European Convention on Human Rights.

The article 166¹ of the Criminal Code⁶⁴² criminalizes torture and inhuman or degrading treatment. These provisions have a twofold impact: introducing criminal punishment for actions that constitute inhuman or degrading treatment, and significantly increased penalties for acts of torture. Further, it provides that neither statutes of limitation, nor amnesty is applicable to the crime of torture.

In cases of torture, inhuman or degrading treatment, no milder punishment can be applied other than that stipulated by law. Neither statutes of limitation, nor amnesty apply. In this regard, the necessary amendments were made to the articles 60, 107 and 79 of the Criminal Code. Thus, the article 166¹ provides for imprisonment with deprivation of the right to hold certain positions or to exercise a certain activity for a determined term, applicable also to the persons with public-dignity functions. The possibility to apply a fine, as an alternative sanction for committing such a crime, was excluded.

Subsequently, art. 262 of the Criminal Procedure Code⁶⁴³ was amended in 2016. There was introduced para. (4¹), providing that any declaration, complaint, or other information that gives grounds for suspecting that the person has been subjected to

⁶³⁹ Government Decision No. 5/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=90374&lang=ro

⁶⁴⁰ Government Decision No. 1207/2010, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=95290&lang=ro

⁶⁴¹ Constitution of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

⁶⁴² Criminal Code of Republic of Moldova No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁶⁴³ Criminal Procedure Code of Republic of Moldova No.122/2003, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

torture, inhuman or degrading treatment shall be presented or transmitted immediately to the prosecutor.

The above-mentioned developments have been positively assessed by relevant international organizations and mechanisms. These include: the amendments to the Criminal Code, introducing increased penalties for the acts of torture, criminal penalties for acts of inhuman or degrading treatment; the abolition of the limitation period for the torture or ill-treatment; providing that domestic violence is a crime (art.201 (1)); supplementing the Criminal Code with art. 133/1 criminalizing marital rape.

Moldova acceded to numerous international human rights treaties and has sent strong signals about its commitment to put the rights of individuals at the centre of its legal system. In the area of violence against women as well as torture and ill-treatment, important steps have been taken to integrate the international standards in the national legal framework. Moldova adopted the Law (No. 45 of 1st March 2007) on Preventing and Combating Domestic Violence⁶⁴⁴, which contributed to the creation of an institutional framework for combating violence, including the creation of rehabilitation centres for victims and offenders, and a mechanism for resolving cases of domestic violence by granting the right to file a complaint. In addition, the Council for Preventing and Combating Discrimination and Ensuring Equality (Anti-Discrimination Council) was established in 2013. The Republic of Moldova signed the Council of Europe Convention on preventing and combating violence against women and domestic violence (better known as the Istanbul Convention) in February 2017, and ratified it on 31 January 2022. By acceding to the Istanbul Convention Moldova became part of the most comprehensive international legal instrument establishing standards and mechanisms to prevent and combat violence against women. In this way, Moldova pursues by all means and without delay a policy of eliminating discrimination, violence and ill-treatment against women.

189. What measures are there in place to prevent a person from being removed, expelled or extradited to a State where there is a serious risk that s/he would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment?

The domestic legal framework provides for a number of measures to prevent a person from being removed, expelled, or extradited to a State where there is a severe risk that s/he would be subjected to the death penalty, torture, or other inhuman or degrading treatment or punishment. These are mainly provided by the Law on international legal assistance in criminal matters⁶⁴⁵. As per the law, the following persons are not subject to extradition: the citizens of the Republic of Moldova; the persons who were granted the right to Asylum; the persons who were granted the status of political refugee; the foreign persons who, on the territory of the Republic of Moldova, enjoy the jurisdictional immunity based on conditions and within the limits established by the international treaties; the foreign persons summoned from abroad in order to be interviewed as parties, witnesses or experts in judicial bodies by the court authorities or by criminal investigation authorities within the limits of immunities established by the international treaties.

⁶⁴⁴ Law No. 45 of 1st March 2007 on Preventing and Combating Domestic Violence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122822&lang=ro#

⁶⁴⁵ Law No.371/2006 on international legal assistance in criminal matters, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110647&lang=ro

Upon considering the request for extradition addressed to the Republic of Moldova, the following possible grounds for the request's refusal, shall be checked:

whether the person whose extradition is requested is to be tried in the requesting State by a special court created for a particular case;

whether the person whose extradition is requested is to be tried in the requesting State by a court that does not ensure the fundamental procedural and protection guarantees of the rights to defence;

whether the punishment foreseen for the crime by the legislation of the requesting State is the capital punishment (i.e. death penalty), and if it so – the person's extradition can be granted only when the requesting State provides assurances, considered as sufficient by the Republic of Moldova, that the capital punishment is not to be executed, and replaced.

The refusal in extraditing the non-sentenced person from the Republic of Moldova is decided by the General Prosecutor, as regards the sentenced person - by the Minister of Justice.

In each case of extradition sought, the General Prosecutor's Office of the Republic of Moldova guarantees, under the provisions of art. 3 and art. 14 of the European Convention on Extradition (Paris, 13 December 1957) that the extradited person is not to be prosecuted based on his/her race, religion, gender, nationality, origin or political opinion and the extradited person is not to be proceeded against for any offence other than that for which his/her surrender has been requested by the competent authorities of the Republic of Moldova and will not be surrendered to another Party or to a third State without the consent of the requested party.

In addition, according to the provisions of art. 3 and art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and art. 3 of the UNCAT, the General Prosecutor's Office guarantees that the extradited person will not be subjected to torture, inhuman or degrading treatment, and he/she shall have access to a fair trial in the Republic of Moldova.

Moreover, on 13 November 2020 the Constitutional Court of the Republic of Moldova declared unconstitutional several provisions of Law No. 200/2010 on the status of aliens⁶⁴⁶. These refer to the: impossibility of the alien, declared as an undesirable person on grounds of national security, to know the reasons for such decision; the possibility to remove an alien on the grounds of danger for the national security or the public order, even when there are justified concerns that his/her life would be under threat in the country of destination or that he/she will be subjected to torture, inhuman or degrading treatment.

Under the Constitutional Court holding, the decision on declaring the alien as an undesirable person on grounds of national security must contain the summary of the reasons, set in a manner compatible with the legitimate interest of national security, which shall be communicated to the alien. This holding was upheld following the ruling of the European Court of Human Rights in the case of *Ozdil and others*⁶⁴⁷. In the near

⁶⁴⁶ Law No. 200/2010 on the status of aliens, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=17205&lang=ro

⁶⁴⁷ The *Ozdil and others* concern the extra-legal transfer to Turkey in September 2018 of five applicants, Turkish citizens who were residing in Moldova with their families for long periods and were working as teachers in secondary schools. The Court found that the applicants' deprivation of liberty had been neither lawful nor necessary within the meaning of Article 5 § 1 (f), nor devoid of arbitrariness. Depriving the applicants of their liberty and their transfer circumvented all guarantees

future, the Parliament shall adopt the amendments complying with the Constitutional Court decision in the final reading.

Asylum and refugee status. National legislation applies to asylum seekers and beneficiaries of international / temporary / political asylum regardless of the race, nationality, ethnicity, religion, gender, sexual orientation, age or political affiliation. Under the Law on Asylum No. 270/2008⁶⁴⁸, no asylum seeker shall be expelled or returned from the border or from the territory of the Republic of Moldova (art. 11 (1)), and no beneficiary of any form of protection may be returned or expelled to a country or territory where his or her life or liberty could be threatened or subjected to torture, inhuman or degrading treatment or punishment (art. 11 (2)). The Law No. 270/2008 grants asylum seekers the right to:

- 1) not to be returned or expelled until his/her asylum application has been settled;
- 2) to reside in the Republic of Moldova until the expiration of a period of 15 days from the date of irrevocability of the decision on the rejection of the application, unless the asylum application was rejected in the expedited procedure;
- 3) be informed in writing in a language he understands;
- 4) to be interviewed, if desired, by a person of the same sex, except as required by law;
- 5) benefit of the free interpretation services at any stage of the asylum procedure;
- 6) receive legal assistance at any stage of the asylum procedure in accordance with the law;
- 7) benefit of protection of personal data and any other information in connection with his application;
- 8) be informed about the possibility of contacting UNHCR representatives;
- 9) receive assistance and advice from non-governmental organizations at any stage of the asylum procedure;
- 10) receive a temporary identity document free of charge;
- 11) receive information about the possibility and terms of appealing against the decision rejecting his/her application;
- 12) to work;
- 13) to be accommodated in centres for migrants for the period of application;
- 14) for persons with special needs - to adapt the living conditions and assistance in the accommodation centres;
- 15) receive primary and emergency medical care in accordance with the current legislation;
- 16) have access to mandatory education under the same conditions as the citizens of the Republic of Moldova;

offered by international and domestic law.

<https://hudoc.exec.coe.int/eng#'%22fulltext%22:%22ozdil%20and%20others%22,%22EXECIdentifier%22:%222004-52803%22,%22EXECDocumentTypeCollection%22:%22CEC%22'%22}>

⁶⁴⁸ Law on Asylum No. 270/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123117&lang=ro

17) to benefit, in the case of the family with children, as well as of the unaccompanied minor, of all the measures of social assistance granted, in accordance with the legislation in force, to the children citizens of the Republic of Moldova;

18) and other rights established by law.

The Law No. 200/2010 on the Status of aliens⁶⁴⁹ provides a complete and uniform regulatory framework for the regime of foreigners in the territory of our country, according to which a uniform procedure for their documentation is applied. The law concerned provides for the procedures applicable to minor children: the non-admission of exit and the transfer under supervision of the minor (art.12), the granting and extending of the temporary residence right for family reunification with foreigners residing in the Republic of Moldova (art.38) granting and terminating of the right of permanent residence (art.45), taking in public custody of minors and their families (art.64¹), the legal regime applicable to minors residing in the territory of the Republic of Moldova without their legal representatives (art.85), the access of foreigners minors to education (art. 86), etc.

Based on the Law No.270/2008, the minor asylum seeker or beneficiary of international / temporary / political asylum, accompanied or not, is protected and receives the appropriate assistance in order to benefit from all the rights recognized by the UN Convention on the Rights of the Child and the other international human rights instruments to which the Republic of Moldova is a party. Unaccompanied minors benefit from the measures of protection of children at risk and of children without parents in accordance with the provisions of Law No. 140/2013 on the protection of children at risk and of children separated from their parents⁶⁵⁰.

190. Is there any independent body, which oversees the conditions in prisons, pre-trial detention, police stations and other places of deprivation of liberty? Is there a National Preventive Mechanism in place, in line with the provisions of the Optional Protocol of the UN Convention Against Torture? If so, please provide details on its set-up, eg is the NPM permitted unhindered and unannounced access to all places of deprivation of liberty; is civil society permitted to monitor places of deprivation of liberty, if so, under which conditions?

The Council for the Prevention of Torture (hereinafter, the CfPT) as the National Torture Prevention Mechanism (NTPM) was set up through the Law No.52/2014 on the Ombudsman⁶⁵¹. Currently, the Council is composed of 7 members: 2 Ombudspersons and 5 members from civil society. The Ombudsperson and the Ombudsperson for Children are members of the Council during their entire term of office. The other 5 members proposed by civil society are selected through a public competition organized by the Ombudsperson's Office. The selected members are appointed for a 5-year term that cannot be renewed. The Ombudsperson is the ex officio President of the CfPT. Members of the CfPT are independent of any public authority,

⁶⁴⁹ Law No. 200/2010 on the Regime of Foreigners, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123027&lang=ro

⁶⁵⁰ Law No. 140/2013 on the protection of children at risk and of children separated from their parents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123160&lang=ro#

⁶⁵¹ The Chapter V of Law No.52/2014 on Ombudsman, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121241&lang=ro#

legal person, irrespective of the type of ownership and legal form of organization, and of any person holding a management position at all levels.

They are permitted unhindered and unannounced access to all places of deprivation of liberty. The CfPT has access to all places of detention, including psychiatric institutions and military units, without any impediment and could speak in private with prisoners and patients from social and psychiatric institutions, including detention units of the military.

The *modus operandi* of the Moldovan NTPM includes *inter alia* the following activities: monitoring visits, monitoring reports with findings and recommendations for responsible authorities, that are made public, alternative reports on the situation of torture in Moldova submitted to various international bodies and training of relevant state actors in the field of prevention and combating ill-treatment and torture in all places of detention.

191. What actions have been taken to ensure effective investigation of all ill-treatment allegations and strengthening internal control services dealing with such allegations, including cases targeting women, children, LGBTIQ persons, persons with disabilities and members of minorities?

The principles of equality and non-discrimination are the main human rights-based approach in policy-making in the Republic of Moldova, aimed at creating equal opportunities for all people to enjoy fundamental rights, ensuring and combating all forms of discrimination.

For instance, Moldova's commitment to demonstrate a "zero tolerance" attitude towards prejudice and hatred is reflected in the draft law on amending some legislative acts that is being examined by the Parliament. The draft provides for the inclusion into the Criminal Code as aggravating circumstance the "reasons of prejudice" for several offences. At the same time, it proposes a new wording for Article 346 of the Criminal Code, "Incitement to violent actions on the grounds of prejudice," and the introduction of a recent article defining the notion of "reasons of prejudice."

The Action Plan for reducing ill-treatment, abuse and discrimination against persons in police custody for 2017-2020 (adopted by the Government Decision No. 748/2017)⁶⁵² was implemented by carrying out actions to eliminate all forms of ill-treatment, abuse and discrimination in police activities. In the period of 2017–2020, every effort was made to ensure a high level of training for prosecutors and judges on preventing and combating torture according to the standards of the Istanbul Protocol and the case law of the EctHR.

Combating domestic violence. In July 2020 Parliament adopted Law No. 113/2020 on amendments to certain regulatory acts⁶⁵³ (Law No. 45/2007 on preventing and combating domestic violence; Law No. 198/2007 on state-guaranteed legal aid and Law No. 8/2008 on probation) provides for improving the reporting in domestic violence cases, streamline the victims' referral system and the use of restriction orders, improve

⁶⁵² Government Decision No. 748/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=101907&lang=ro

⁶⁵³ Law No. 113/2020 on amendments to certain regulatory acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122517&lang=ro

access to state-guaranteed legal assistance for domestic and sexual violence victims, and expand the use of electronic monitoring devices in domestic violence cases.

In particular, under the legislation, in the competences of the National Administration of Penitentiaries, are the coordination and ensuring the control of the activity of penitentiary institutions related to: implementation of correctional programs for aggressors in penitentiaries; and cooperation with other competent authorities in the field. As per amendments to the Law No. 45/2007, the persons with positions of responsibility and professionals required to ensure confidentiality are obliged to report to the competent authorities on acts of domestic violence that endanger the life or health of the victim or on the imminent danger of such acts of violence. In other cases, reporting shall be made only with the consent of the victim. Reporting of violence against children, including reasonable suspicion of violence against children, is also mandatory and the consent of the victim is not required.

In accordance with the amendments to the Law No. 198/2007 on state-guaranteed legal aid⁶⁵⁴, persons are entitled to qualified legal aid and/or need emergency legal aid in the event of an application for protection measures or in case of filing a complaint about domestic violence or a crime related to sexual life. The amendment also provides for qualified legal assistance to children who are victims of crime, victims of domestic violence, victims of sexual offences, regardless of income.

In accordance with the amendments to the Law No. 8/2008 on probation⁶⁵⁵, family aggressors against whom protection orders have been issued are included in the category of subjects of probation.

Combating sexual exploitation of children. The Prosecutor's Office on Combating Organized Crime and Special Cases is responsible for investigating and prosecuting child sexual abuse cases. The Anti-trafficking Bureau of the Prosecutor General's Office is responsible for investigating and prosecuting child trafficking and child sexual exploitation. In the Republic of Moldova, the exploitation of a child in a commercial sex act is punishable by 10 to 12 years' imprisonment. Authorities punished commercial sex with minors as statutory rape. The law prohibits the production, distribution, broadcasting, import, export, sale, exchange, use, or possession of child pornography, for which the punishment is one to three years' imprisonment and fines. These laws were generally enforced.

Institutionalized Children. In the country there are family-type homes, maternal centres, and daycare centres that provide various services for deinstitutionalized children, including children with disabilities. According to human rights watchdogs and the Ombudsperson for children's rights, legal protective mechanisms to prevent recidivism and re-institutionalization of homeless children are less functional.

Persons with disabilities. The domestic law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to public facilities, health services, or the provision of other government services, but authorities rarely enforced the law. Moldovan Parliament ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2010.

⁶⁵⁴ Law No. 198/2007 on state-guaranteed legal aid, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123162&lang=ro#

⁶⁵⁵ Law No. 8/2008 on probation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122825&lang=ro#

192. What mechanism is in place for detainees/prisoners to report cases of ill-treatment or torture? Is a secure and confidential system in place for such reports? Are inquiries into cases and allegations of ill treatment of detainees followed up? If so, how is this done? What is done to ensure a thorough, transparent and independent process?

According to the General Police Inspectorate all allegations of torture and ill-treatment in police custody are recorded in police inspectorate registers and referred to the Public Prosecution Office. Therefore, to ensure that allegations of torture and ill-treatment are brought to the attention of the authorities it is incumbent on all criminal justice practitioners (including judges, prosecutors, lawyers, medical practitioners and police officers of every rank) to refer cases to the Public Prosecution Office as soon as possible after discovery.

In response to the considerable number of judgments by the European Court of Human Rights which found procedural violations of article 3 of ECHR and the recommendations by international mechanisms, including the Special Rapporteur on Torture to establish an independent body to effectively investigate allegations of torture, the institutional set-up of the Moldovan prosecution offices with regard to the criminal investigation of torture allegations was significantly changed in 2010. In May 2010, a separate unit was created at the General Prosecutor's Office (GPO) exclusively mandated to coordinate and supervise all criminal investigations into allegations of torture and ill-treatment (Anti-Torture Unit). This unit supervises the developments on the investigations run by the prosecutors of Territorial and Specialised Prosecutor's Offices on torture cases.

Subsequently, since November 2010 each regional prosecutor's office was instructed to appoint one or more prosecutors solely responsible for the investigation of torture cases (specialised prosecutors). In order to ensure their independence from the police, the specialised regional prosecutors are not to be involved in other criminal cases.

In general, the situation regarding torture and ill-treatment in the Republic of Moldova indicates an improvement in recent years. This appears to be due to a number of factors, including increased compliance by police officers with their obligations (as noted by the CPT) and diligent exercise by the Public Prosecution Office of its functions.

Statistics concerning ill-treatment complaints and investigations

Year	Number of complaints	Initiated criminal investigations	% of complaints in which the investigation was initiated	Submitted to the court	% of cases sent to trial court of the received complaints in the previous year
2009	992	159	16%	36	3.6%
2010	828	126	15%	65	6.6%
2011	958	108	11%	36	4.4%
2012	970	140	14%	46	4.8%
2013	719	157	22%	49	5.1%
2014	663	118	18%	46	6.4%
2015	633	113	18%	38	5.8%
2016	622	107	17%	31	4.9%
2017	639	103	16%	34	5.5%
2018	687	93	14%	26	4.1%
2019	876	86	10%	34	5%

2020	563	47	8%	22	2.6%
------	-----	----	----	----	------

Standard Operating Procedures (approved by Government Decision No. 748/2017⁶⁵⁶). The procedure for identifying, registering and reporting the alleged cases of torture, inhuman or degrading treatment, is regulated by the Regulation approved by Joint Order No. 77/572/408/639-o / 197/1389 of 31.12.2013 of the General Prosecutor, the Minister of Justice, the Minister of Internal Affairs, the Customs Service, the National Anti-corruption Center and the Minister of Health.

Approving the Standard Operating Procedures for the detention, escort, transportation and placement of the detained person in the TDI and the Standard Operating Procedure for the medical assistance to the persons detained in pre-trial detention, the objective is to ensure the organization and observance of the conditions compatible with the respect for the human dignity of the persons in police custody.

Thus, it is mandatory that the manner and method of execution of the measure is not subject to stress or difficulties exceeding the inevitable level of suffering related to detention. Based on the practical needs of detention, medical care is provided appropriately and according to the health needs of the detained person. According to the procedure, the person in respect of whom the physical force, special means or firearm was applied during the detention or declared that he was subjected to intimidation, pressure, physical or mental aggression by the police, and not only, is a subject of an immediate examination. When bodily injuries are ascertained by TDI medical personnel, these findings are recorded in the Body Injury Examination Form and subsequently in the Register of evidence of receipt and transmission of complaints, statements or other information about alleged acts of torture, inhuman or degrading treatment, with the transmission of information within a maximum of 24 hours to the prosecutor, in the established manner.

At the same time, within the territorial subdivisions of the Police, alleged acts of torture, inhuman or degrading treatment are managed by the Guard Services, and in the case of the activity of employees in offices that do not have 24/24 hours program, the police officer who during working hours has become aware of the fact of torture, inhuman or degrading treatment, is to ensure the presentation of the injured party/ petitioner to the nearest police subdivision or to inform its Guard Service by telephone in accessible ways. The duty officer who has received the relevant information related to the reported case is obliged to enter it in the Register and to inform the service prosecutor by telephone, after which immediately, but not later than 24 hours, to ensure the transmission of the materials prepared to the territorial or specialized prosecutor's office, within whose radius the institution operates. This obligation is valid whenever police officers receive information about the application of torture, inhuman or degrading treatment, regardless of the source, including the media. Upon notification of the specialized police subdivision, the Prosecutor's Office is immediately informed about the ill-treatment of the police officers according to the provisions of the Regulation on the procedure for identifying, registering and reporting alleged cases of torture, inhuman or degrading treatment, approved by Joint Order No. 77/572/408/639-o/197/1389 of 31.12.2013. In the context of non-admission and prevention of abuse of office, deviations from legal norms, prevention of human rights violations in the segment of placement, detention and transportation/escort of persons in custody, 6

⁶⁵⁶ Government Decision No. 748/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=101907&lang=ro

provisions/orders of the General Police Inspectorate (GPI) and 6 circular instructions were drafted and submitted to the territorial subdivisions of the police subordinated to the GPI during 2020.

Guarantee against ill-treatment. Pertinent safeguards against ill-treatment and torture are provided by Criminal Procedure Code⁶⁵⁷ and the Operational Procedure on insuring persons with an interpreter and lawyer, approved by GPI Order No. 67 / 2017. Subsidiary, according to the Standard Operating Procedure regarding the detention, escort, transport and placement of the detained person in the PDI, the detaining police officer has the obligation to inform him/her immediately at the very outset of detention regarding his rights, reasons for detention and others. Subsequently, the police officer makes available to the person the Letter of Rights in case of detention, introduced in the police activity by MIA Order No. 284 of 19.09.2016. In order to respect the rights of the detained persons, with the support of the Soros Moldova Foundation, the Letter of Rights was elaborated, approved by the MIA Order No. 192 of 29.06.2016, translated into several languages (Romanian, Russian, English, French, German, Italian, Turkish, Ukrainian, Bulgarian, Gagauz, Arabic). In order to ensure extended accessibility to the Letter of Rights, for all police officers, both in criminal and misdemeanour proceedings, the Letter has been published on the official police website. At the same time, Disposition No. 34/11-23 of 23 July 2020 was drafted regarding the monitoring of the proper application of the standard operating procedures aimed at the detention, guarding and escorting of persons in police custody, which ordered the observance of all rights the person detained by ensuring, including the appointment by the National Council for State Guaranteed Legal Aid (the Council) of a duty lawyer for the provision of free legal aid.

According to the Criminal Procedure Code, immediately after the detention or after being informed of the decision on the application of the preventive measure or recognition as a suspect, the person is to be assisted by a lawyer chosen either by him or appointed by the National Council for State Guaranteed Legal Aid in cases where the person cannot afford counsel. The same requirement follows from the Law No. 198/2007 on state-guaranteed legal aid, according to which qualified emergency legal aid is granted to persons who have been detained in criminal proceedings or in contravention proceedings. Thus, within one hour after the detention of the person, the criminal investigation body requests the territorial office of the Council or other persons empowered by it to appoint a lawyer to provide legal aid.

193. To what extent is support to victims provided? What is the legal framework in place?

In 2016, the Parliament adopted the Law No. 137/2016 on the Rehabilitation of Victims of Crime⁶⁵⁸, including torture victims (into force since 09.03.17), but so far it has no clear mechanisms of implementation and the needed resources were not identified.

The draft Program for the creation and development of the National Referral Mechanism for the protection and assistance to victims of crime for 2021-2025 and the Action Plan for 2021-2023 for its implementation have been prepared, designed to further eliminate the obstacles in the realization of rights of victims of trafficking and

⁶⁵⁷ Criminal Procedure Code of Republic of Moldova No.122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

⁶⁵⁸ Law No. 137/2016 on the Rehabilitation of Victims of Crime, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110484&lang=ro

other crimes, to improve the efficiency of cross-sectoral cooperation in this field and to adapt the National Referral System to the changes that occurred in society and in public policies.

By the Decision No. 31 of 29 November 2018 on the exception of unconstitutionality of certain provisions of the Criminal Code and of the Code of Criminal Procedure, in the part related to the access of the injured party and its representative to the materials of the criminal investigation, the Constitutional Court ruled, as a general rule, that the victims of torture and their representatives shall be awarded access to all the materials of the case file during the entire criminal investigation. As an exception, such access can be restricted by the prosecutor, based on a reasoned order, when that restriction is applied for a reasonable period of time, when it refers to certain procedural acts only and when full access to the materials of the case-file risks hindering the unfolding of that investigation. As a result of that decision, all the victims of torture and ill-treatment were offered full access to the materials of the investigation, being allowed to challenge or request the conduct of certain investigative measures.

C. Prohibition of slavery, servitude, and forced or compulsory labour

194. Has Moldova ratified relevant international conventions and agreements in this field? Please indicate which ones. Please provide information on specific legislation, strategies as well as measures designed to prevent the occurrence of slavery, servitude and forced or compulsory labour.

Moldova is part of the following international instruments related to slavery, servitude, and forced or compulsory labour: International Covenant on Civil and Political Rights (ratified in 1993)⁶⁵⁹, the ILO Forced Labour Convention (ratified in 2000)⁶⁶⁰, the ILO Abolition of Forced Labour Convention (ratified in 1993)⁶⁶¹, the ILO Worst Forms of Child Labour Convention (ratified in 2002)⁶⁶², the ILO Protection of Wages Convention (ratified in 1996)⁶⁶³, the ILO Forty-Hour Week Convention (ratified in 1997)⁶⁶⁴, the ILO Minimum Wage Fixing Convention (ratified in 2000)⁶⁶⁵, the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (ratified in 2005)⁶⁶⁶; Council of Europe Convention on Action against Trafficking in Human Beings (ratified in 2006)⁶⁶⁷

Moldovan Constitution ensures that every person shall enjoy the right to work, freely choose his/her profession and workplace, equitable and satisfactory working conditions, and protection against unemployment (Art. 43). Furthermore, Art. 44 of the Constitution prohibits forced labour.

⁶⁵⁹ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=142&Lang=EN

⁶⁶⁰ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312174

⁶⁶¹ https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102695

⁶⁶² https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102695

⁶⁶³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102695

⁶⁶⁴ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102695

⁶⁶⁵ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102695

⁶⁶⁶ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=XVIII-12-a&chapter=18#:~:text=25%20December%202003%2C%20in%20accordance,reads%20as%20follows%3A%20%221.

⁶⁶⁷ <https://www.legislationline.org/documents/id/3362>

The legal framework provides for clear punishable offenses within the Penal Code of the Republic of Moldova No. 985/2002⁶⁶⁸: Art 165. Trafficking of human beings is punishable by imprisonment from 6 to 12 years, with deprivation of the right to hold certain positions or to exercise a certain activity for a term of 2 to 5 years, and the legal person is punished with a fine in the amount of 4000 to 6000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal person; Art 167. Slavery and slavery-like conditions are punishable by imprisonment from 3 to 10 years with (or without) deprivation of the right to hold certain positions or to exercise a certain activity for a term of up to 5 years; Art. 168. Forced labour is punishable by imprisonment for a term of 6 to 10 years with deprivation of the right to hold certain positions or to exercise a certain activity for a term of 2 to 5 years, with a fine imposed on the legal person in the amount of 2000 to 3500 of conventional units with the deprivation of the right to exercise a certain activity or with the liquidation of the legal person; Art. 206. Trafficking of children is punishable by imprisonment from 10 to 12 years, deprivation of the right to hold certain positions or to exercise a certain activity for a term of 2 to 5 years, and the legal person shall be punished by a fine in the amount of 4000 to 6000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal person. Along with that, Art. 7 of the Labor Code defines and prohibits forced labour.

Moldova also adopted a Law on Prevention and Combating Trafficking in Human Beings⁶⁶⁹ in 2005. The Law provides for the national institutional framework for prevention and combating human trafficking, and it established the national referral system, the minimal assistance services and the rights of victims of trafficking. Along with that, the Moldovan Government adopted the National Strategy for preventing and combating trafficking in human beings for 2018-2023⁶⁷⁰.

The progress of the Republic of Moldova in preventing the occurrence of slavery, servitude and forced or compulsory labour is reflected in the reports submitted to the OHCHR Working Group on the Universal Periodic Review (Fortieth session, 24 January–4 February 2022)⁶⁷¹, the Evaluation Report of the Group of Experts on Action against Trafficking in Human Beings published in 2020⁶⁷². The 2020 UNODC Global Report on Trafficking in Persons⁶⁷³ and the 2020 Country Report on Human Rights Practices: Moldova of the U.S. Department of State⁶⁷⁴ acknowledged the progress made by Moldovan authorities to minimize the human trafficking phenomenon.

⁶⁶⁸ Penal Code of the Republic of Moldova No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁶⁶⁹ Law on Prevention and Combating Trafficking in Human Beings No. 241/2005, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=107319&lang=ro

⁶⁷⁰ National Strategy for preventing and combating trafficking in human beings for 2018-2023, available in Romanian at:

http://www.antitrafic.gov.md/public/files/Strategy_and_Plan_antitrafic_ENG_publicat.pdf

⁶⁷¹ National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21,

available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/341/43/PDF/G2134143.pdf?OpenElement>

Compilation of UN information on the Republic of Moldova, available at: [https://documents-dds-](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/320/87/PDF/G2132087.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G21/320/87/PDF/G2132087.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/320/87/PDF/G2132087.pdf?OpenElement)

Summary of Stakeholders' submissions on the Republic of Moldova, available at: [https://documents-dds-](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/297/71/PDF/G2129771.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G21/297/71/PDF/G2129771.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/297/71/PDF/G2129771.pdf?OpenElement)

⁶⁷² Council of Europe, Third Evaluation Round, Evaluation Report Republic of Moldova, 3 December 2022, available at:

<https://rm.coe.int/greta-2020-11-fgr-mda-en/1680a09538>

⁶⁷³ UNODC Global Report of Trafficking in Persons, 2020, available at: [https://www.unodc.org/documents/data-and-](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

[analysis/tip/2021/GLOTiP_2020_15jan_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf)

⁶⁷⁴ U.S. Department of State Country Report on Human Rights Practices: Moldova, 2020, available

at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/moldova/>

D. Respect for private and family life and communications

195. How are the rights protecting and upholding respect for private and family life, home and communications ensured? In which circumstances can they be set aside?

In the Republic of Moldova, the protection of privacy, family, home and communications is ensured by the national authorities with responsibilities in the field, the National Center for Personal Data Protection, the Ministry of Internal Affairs, the Ministry of Justice, General Prosecutor's Office, prosecutors and courts.

No laws may be enacted in the Republic of Moldova that would suppress or diminish the fundamental rights and freedoms of humans and of the citizen. The exercise of rights and freedoms may not be subject to restrictions other than those provided by law, which correspond to the unanimously recognized norms of international law and are necessary in the interests of national security, territorial integrity, economic welfare, public order, for preventing mass disturbances, crimes, protection of the rights, freedoms, and dignity of others, obstruction of the disclosure of confidential information or guarantee of the authority and impartiality of justice.

According to the provisions of Article 28 of the Constitution, the State must respect and protect private and family life. Article 29 guarantees the inviolability of residence: *The residence and place of residence are inviolable. No one may enter upon or stay on the premises of a residence without the consent of the owner.* The privacy of correspondence is guaranteed by the provisions of Article 30 of the Constitution of the Republic of Moldova: *The State has to ensure the privacy of letters, telegrams, other postal dispatches, telephone conversations, and other legal means of communication.*

As previously mentioned, privacy in the Republic of Moldova is carried out through state authorities, directly through the National Center for Personal Data Protection, the Ministry of Internal Affairs, the General Prosecutor's Office, prosecutors and courts. According to art. 43 of the Civil Code of the Republic of Moldova⁶⁷⁵, every natural person has the right to life, health, physical and mental integrity, free speech, name, honor, dignity and professional reputation, self-image, respect for intimate, family life and privacy, the protection of personal data, the observance of his memory and body after death, as well as other such rights recognized by law.

In general, confidentiality is protected by Law No.133/2011 on the protection of personal data⁶⁷⁵. This law creates the legal framework for the implementation of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

At the same time, by the Governmental Decision No.1123/2010⁶⁷⁶ the requirements for ensuring the security of personal data when processing them in the framework of personal data information systems were approved.

Thus, the control of the legality of the processing of personal data is performed by National Centre for Personal Data Protection of the Republic of Moldova. The

⁶⁷⁵ Law No.133/2011 on the protection of personal data, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110544&lang=ro

⁶⁷⁶ Governmental Decision No.1123/2010, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=16012&lang=ro

guarantees of the above-mentioned rights, the application of restrictions on these aspects are provided in the following normative acts:

- Constitution of the Republic of Moldova (art. 28 - Intimate, family and private life; art. 29 - Inviolability of the domicile, art. 30 - Secrecy of correspondence)⁶⁷⁷;
- Civil Code of the Republic of Moldova No. 1107/2002 (art. 45 - The right to one's own image; art. 46 - Violations of privacy; art. 47 - Limits of the right to privacy)⁶⁷⁸;
- Criminal Code of the Republic of Moldova No. 985/2002 (art. 177 - Violation of the inviolability of personal life, art. 178 - Violation of the right to the secrecy of correspondence, art. 179 - Violation of domicile)⁶⁷⁹;
- Criminal Procedure Code of the Republic of Moldova No. 122/2003 (art. 12 - Inviolability of domicile, art. 14 - Secrecy of correspondence; art. 15 - Inviolability of privacy)⁶⁸⁰;
- Law No. 133/2011 on personal data protection⁶⁸¹;
- Law No. 241/2007 on electronic Communications⁶⁸²;
- Law No. 36/2016 of postal communications (art. 18 - Secrecy of correspondence)⁶⁸³;
- Law No. 59/2012 regarding the special investigation activity (art. 5 - Protection of personal data in the process of exercising the special investigation activity)⁶⁸⁴;
- Law No. 982/2000 on access to information (art. 7 - Official information with limited accessibility, art. 8 - Access to personal information)⁶⁸⁵;
- Law No. 64/2010 on freedom of expression (art. 10 - The right to respect private and family life; art. 11 - The right of public persons and natural persons exercising public functions to respect for private and family life)⁶⁸⁶.

⁶⁷⁷ Constitution of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro#

⁶⁷⁸ Civil Code of the Republic of Moldova No. 1107/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro#

⁶⁷⁹ Criminal Code of the Republic of Moldova No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro#

⁶⁸⁰ Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

⁶⁸¹ Law No. 133/2011 on personal data protection, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129123&lang=ro#

⁶⁸² Law No. 241/2007 on electronic Communications, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130825&lang=ro#

⁶⁸³ Law No. 36/2016 of postal communications, available in Romanian at:

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

⁶⁸⁴ Law No. 59/2012 regarding the special investigation activity, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123543&lang=ro#

⁶⁸⁵ Law No. 982/2000 on access to information, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro#

⁶⁸⁶ Law No. 64/2010 on freedom of expression, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=126675&lang=ro#

196. Please describe the exact procedure for the application of house searches and special investigative means (such as telephone tapping) and how the protection of fundamental rights is ensured. Is, for example, any case of telephone tapping or house search allowed without a judge's warrant? What is the practical experience with implementing the legislation in this area?

In the Republic of Moldova, home search is regulated by Section 4 (art. 125 - art. 132) of the Criminal Procedure Code of the Republic of Moldova⁶⁸⁷. Moreover, as regards the regulation of the conduct of special investigative measures, they shall be governed by Section 5 (art. 132¹ - art. 138³) of the mentioned Criminal Procedure Code of the Republic of Moldova and the Law No. 59/2012 regarding the special investigative activity⁶⁸⁸. The special investigative activity represents the totality of public and/or secret criminal prosecution actions carried out by the investigating officers during the criminal investigation. Special investigative measures may be carried out as follows: (1) authorized by the investigating judge, at the request of the prosecutor; (2) with the authorization of the prosecutor; (3) with the authorization of the head of the specialized subdivision.

The house search is carried out on the basis of the motivated ordinance of the criminal investigation body and only with the authorization of the investigating judge. In cases where there is no postponement or in case of flagrante delicto, the house search may be carried out on the basis of a reasoned order of the prosecutor, without the authorization of the investigating judge, who will be presented immediately, but not later than 24 hours after completion of the search, the materials obtained from the search, indicating the reasons for its conduct. The investigating judge verifies the legality of this procedural action. If the search is found to have been carried out legally (or, of the case is – that the search is illegal), the investigating judge shall confirm the result by a reasoned decision.

Any person subject to the special investigative measure shall have the right to be informed, after such conduct, by the prosecutor or by the investigating judge who authorized the measure if he or she has not been ordered to order another special investigative measure. Any person subject to the special investigative measure has the right to compensation for the material and non-material damage caused by the violation of the law.

If necessary, the interpreter or specialist may attend. Searches of the premises of institutions, undertakings, organizations, and military units shall be carried out in the presence of the representative concerned. The persons searched, as well as specialists, interpreters, representatives, and defenders, shall have the right to be present at all actions of the prosecution body and to make objections and statements in connection therewith, which shall be recorded in the minutes. The person who is searched shall have the right to record these actions by audio-visual means, informing the prosecution of this fact. After entering the place of the search, the person to be searched shall be informed of the warrant issued by the investigating judge or the prosecutor's order if the search is unauthorized and shall hand over copies of it under his/her signature.

The order must contain details of the objects or documents sought. If the person to be searched requests the presence of a defense counsel, the prosecuting authority shall be

⁶⁸⁷ Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

⁶⁸⁸ Law No. 59/2012 regarding the special investigative activity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123543&lang=ro

obliged to comply with the person's request to be given the opportunity to contact a defense counsel. In such a case, the search shall be suspended for a maximum of 2 hours, which shall be recorded in the search report. At the end of 2 hours, the prosecuting officer shall resume the search, either in the presence of the defense counsel requested by the person or in the presence of another defense counsel of his own motion.

After presenting the warrant, the representative of the prosecution service shall ask for the objects or documents to be seized to be handed over to him in good faith and, if they are refused, shall proceed to their forcible removal.

Objects and documents discovered during the search or seizure, the circulation of which is prohibited by law, shall be seized regardless of whether they are related to the criminal case or not.

When conducting a search, the person conducting the criminal prosecution shall have the right to open locked rooms and warehouses if the owner refuses to open them voluntarily, avoiding undue damage to the property. The person conducting the prosecution shall have the right to prohibit persons in the room or place where the search is being carried out, and persons who have entered the room or come to the place, from leaving or communicating with each other or with other persons until the search has been completed. If necessary, the room or place where the search is being carried out may be taken under guard.

Technical means may be used to carry out the search, which shall be noted in the report. According to the provisions of Article 131 of the mentioned Criminal Procedure Code of the Republic of Moldova⁶⁸⁹, the search report shall be drawn up in accordance with the provisions of Articles 260 and 261, and shall be made known to all persons participating in the proceedings, which shall be confirmed by the signature of each of them. The minutes shall contain the statement that those present have their rights and obligations under the Criminal Procedure Code of the Republic of Moldova explained and the statements made by them.

All objects and documents seized shall be presented to all persons present during the search, listed and described in the search report, packed and sealed. The report must state whether they were handed over voluntarily or forcibly removed, and where and under what circumstances they were discovered. A copy of the search report shall be handed over, against signature, to the persons on whom these procedural actions were carried out or to an adult member of their family, and in their absence - to the representative of the executive authority of the local public administration, and it shall be explained to them the right and the manner of contesting these procedural actions.

Searching the home during the night (between 10 p.m. and 6 a.m.) is allowed as an exception only if a crime has been committed in flagrante delicto. Therefore, a search during the night, even if there are circumstances that cannot be postponed, is prohibited. At the same time, in order not to affect the rights and freedoms of other persons who are not parties to the criminal proceedings, in particular minors, a series of preparatory actions must be taken before the search is carried out and, depending on the circumstances, the most optimal time for carrying out the search must be chosen.

For example, if minors live in the house to be searched and there is no urgency due to the risk of loss, alteration or destruction of evidence, then the search should be carried out when the children are at school or kindergarten, thus avoiding their presence at the

⁶⁸⁹ Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

premises and thus psychological trauma. In the event of a search for objects or documents considered to be state secrets, as well as the search of places subject to a special regime, only persons who have access to secret data in such places should be included in the search team, with strict respect for the rules of confidentiality.

Wiretapping and recording of communications or images is provided by Article 1328 of the Criminal Procedure Code of the Republic of Moldova⁶⁹⁰ and constitutes the special investigative measure, which is carried out with the authorization of the investigating judge, at the request of the prosecutor. The respective measure applies exclusively to criminal cases having as object the criminal investigation or trial of the persons on whom there are data or evidence regarding the commission of the offenses listed in Paragraph (2) Article 1328 of the Criminal Procedure Code of the Republic of Moldova⁶⁹¹. Wiretapping and recording of communications shall be carried out by the criminal investigation officer or the investigative officer.

Technical means of wiretapping shall be ensured by the authority empowered by law and special technical means shall be used. Employees of the subdivision within the institution authorized by law, who shall technically ensure the wiretapping and recording of communications, as well as the persons who directly listen to the recordings, the criminal investigative officers, and the prosecutor must keep the communications confidential and be liable for the violation of this obligation.

In order to ensure the wiretapping and recording of communications, the criminal investigative body or the prosecutor shall submit to the body authorized by law the excerpt from the ruling of the investigative judge certified by the latter, ordering the wiretapping. The cover letter accompanying the excerpt from the ruling of the investigative judge shall include a warning related to the criminal liability of the person who shall technically ensure the performance of the special investigative measure. The excerpt from the ruling must include the name of the court and the name of the investigative judge, the date and time when the ruling was issued, the data on the examination of the prosecutor's request to authorize the measure, the identification data of the subscriber or of the technical unit through which the communications to be wiretapped is taking place, duration of the wiretapping, the person or criminal investigative body responsible for the execution of the ruling, the signature of the investigative judge and the stamp of the court.

Should it be possible to collect other information in the course of wiretapping and recording of the communication, such as identification data of subscribers or persons who communicated with the subject of the wiretapping and their location, as well as other data, the investigative judge may also order in the ruling on wiretapping that other information is also collected. The technical subdivision of the body authorized by law to conduct wiretapping and recording of communications shall send online to the criminal investigative body the signal of wiretapped communications and other information indicated in the excerpt from the ruling of the investigative judge without their recording.

The information collected in the course of wiretapping and recording of communications shall be transmitted by the technical subdivision that carried out wiretapping to the criminal investigative officer or the prosecutor on a material information carrier, which shall be packed and sealed with the stamp of the technical subdivision along with indication of the sequence number of the information carrier.

⁶⁹⁰ Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

⁶⁹¹ Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

Within 24 hours after the expiry of the term for authorization of the wiretapping, the criminal investigative body or, where appropriate, the prosecutor shall prepare the transcript on wiretapping and recording of communications at the end of each authorization period. At the end of the period authorized for wiretapping and recording of communications, the criminal investigative body shall submit to the prosecutor the transcript of wiretapping and the original carrier on which the information was recorded. After verifying the compliance of the contents of the transcript and the verbatim records with the content of recordings, the prosecutor shall decide by an order on their relevance for the criminal case and shall order which communications have to be transcribed on a special carrier.

The wiretapped and recorded communications shall be integrally stored on the initial carrier submitted to the criminal investigative body by the technical subdivision. The investigative judge who authorized the special investigative measure shall keep the carrier. The wiretapped and recorded communications that were verbatim transcribed by the criminal investigative body and were assessed by the prosecutor as relevant for the criminal case shall be transcribed by the technical subdivision within the criminal investigative body on a separate carrier, which shall be attached to the materials of the criminal case and kept by the prosecutor leading the criminal investigation.

Within 48 hours after the deadline for authorization of wiretapping and recording has expired, the prosecutor shall submit to the investigative judge the transcript and the original carrier of the recorded communications. The investigative judge shall issue a ruling on the observance of the legal requirements in the course of wiretapping and recording of communications by the criminal investigative body, shall decide which of the recorded communications shall be destroyed and shall designate persons responsible for destruction. Destruction of information based on the ruling of the investigative judge shall be recorded by the responsible person in the transcript attached to the criminal case file. According to Article 14 of the Criminal Procedure Code of the Republic of Moldova⁶⁹², the right to the privacy of letters, telegrams and other mail, of telephone conversations and of other legal means of communication is guaranteed by the state. No one may be deprived of or have this right limited during a criminal proceeding. The limitation of the listed rights is allowed only on the basis of a court warrant issued under the conditions of Criminal Procedure Code of the Republic of Moldova.

According to Article 12 of the Criminal Procedure Code of the Republic of Moldova⁶⁹³, the inviolability of the home is guaranteed by law. Thus, in the course of criminal proceedings, no one has the right to enter the home against the will of the persons who live or have premises therein, except in the cases and in the manner prescribed by the said Criminal Procedure Code. The presence of the person to be searched or searched or of adult members of his/her family or of those representing the interests of the person concerned must be ensured when the search is carried out. If the presence of these persons is impossible, the representative of the executive authority of the local government shall be invited.

The criminal investigation body (Ministry of Internal Affairs, National Anticorruption Center, Customs Service, State Fiscal Service, General Prosecutor's Office) is entitled to conduct a search from the accumulated evidence or from the materials of the special investigative activity resulting in a reasonable presumption that in a certain room or in another place or to a particular person may be found tools that were intended to be used

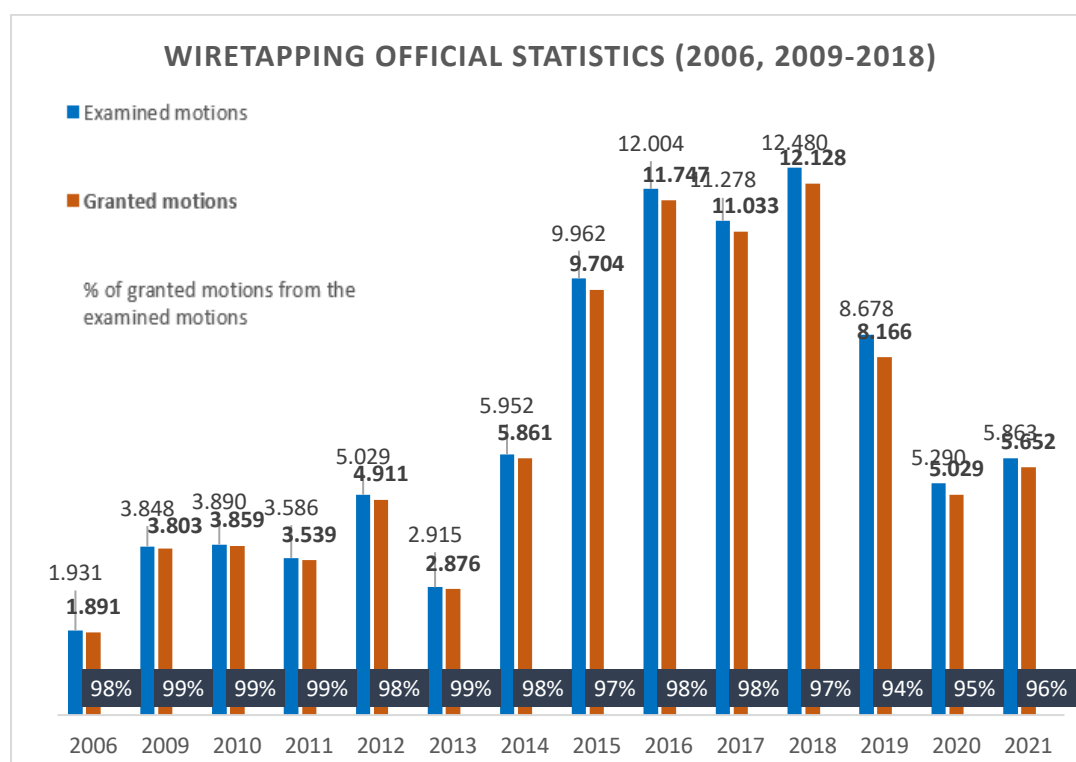
⁶⁹² Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

⁶⁹³ Criminal Procedure Code of the Republic of Moldova No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

or served as means of committing the crime, objects and values acquired as a result of the crime, as well as other objects or documents that may be relevant to the criminal case and which by other means the evidence cannot be obtained.

The Security and Intelligence Service of the Republic of Moldova may assist and/or provide support at conducting the search and only at the request of the Prosecutor/prosecution body responsible for the case. All the criminal proceeding measures are conducted exclusively by the Prosecutor/prosecution body. The Security and Intelligence Service, as an authority empowered to conduct special investigative activity, submits the information obtained as a result of wiretapping and recording to the prosecutor who approved the respective measure.

According to art. 7 letter e) of the Law No. 753/1999 on the Security and Intelligence Service of the Republic of Moldova⁶⁹⁴, technical assistance for the communication interception by means of electronic communications networks, by using special technical equipment, connected, if necessary, to the equipment of the network and/or electronic communications services providers is ensured exclusively by the Security and Intelligence Service of the Republic of Moldova.



197. Respect of privacy: is privacy safeguarded by law?

According to the provisions of Article 28 of the Constitution, the State must respect and protect private and family life. Article 29 guarantees the inviolability of residence: *The residence and place of residence are inviolable. No one may enter upon or stay on the premises of a residence without the consent of the owner.* The privacy of correspondence is guaranteed by the provisions of Article 30 of the Constitution of the

⁶⁹⁴ Law No. 753/1999 on the Security and Intelligence Service of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121235&lang=ro#

Republic of Moldova: *The State has to ensure the privacy of letters, telegrams, other postal dispatches, telephone conversations, and other legal means of communication.*

Article 15 of the Criminal Procedure Code guarantees the inviolability of private life – *Every person has the right to the inviolability of his/her private life, to the confidentiality of his/her intimate and family life and to the protection of his/her personal honor and dignity. No one shall be entitled to arbitrarily or illegally interfere in the intimate life of a person during a criminal proceeding.* In the course of criminal procedures, information on the private and intimate life of a person may not be collected unless necessary. Upon the request of a criminal investigative body and the court, participants in criminal procedural actions may not disclose such information and a written commitment in this regard shall be made. The data of personal nature shall be processed during criminal proceedings in line with the provisions of Law No. 133/2011 on the protection of personal data.

Persons requested by a criminal investigation officer to provide information on their private and intimate lives shall be entitled to make sure that this information is part of a specific criminal case. Such persons shall not be entitled to refuse to provide information on their private and intimate lives under the pretext of the inviolability of private life; however, such persons shall be entitled to request from the criminal investigative body explanations for the need for such information, and those explanations shall be included into the transcript of the respective procedural action.

Evidence confirming information on the private and intimate life of a person upon her/his request shall be examined during a secret court hearing. Damage caused to a person by breaching the inviolability of his/her private and intimate life in the course of a criminal proceeding shall be repaired in the manner set forth in the legislation currently in force.

The violation of privacy - illegally collecting or deliberately disseminating legally protected information about personal life that is a personal or family secret of another person without his/her consent - is a crime according to art. 177 of the Criminal Code of the Republic of Moldova No. 985/2002.

It should be mentioned that in the criminal procedure, the law guarantees the inviolability of the residence, according to Article 12 of the Criminal Procedure Code. Thus, during a criminal proceeding, no one has a right to enter anyone else's residence against the will of the person or persons living or located there except in cases and in the manner provided for in the Criminal Procedure Code of the Republic of Moldova.

Violation of the inviolability of the residence - illegally collecting or deliberately disseminating legally protected information about personal life that is a personal or family secret of another person without his/her consent - is a crime provided by art.179 of the Criminal Code of the Republic of Moldova.

Article 15 of the Criminal Procedure Code guarantees the privacy of correspondence - *The right to the privacy of letters, telegrams and other mail; of telephone conversations and of other legal means of communication is guaranteed by the state.* No one may be deprived of or have this right limited during a criminal proceeding. Any limitation of the right shall be allowed only with a legal warrant issued under this Code.

A violation of the right to the privacy of letters, telegrams, parcels and other mail, telephone conversations and telegraph messages contrary to the provisions of the law shall be punished by Criminal Code of the Republic of Moldova - Article 178.

The protection of the rights and fundamental freedoms of natural person with respect to the processing of personal data, notably the right to inviolability of intimate, family and private life is ensured by Law No. 133/2011 on the protection of personal data. This law regulates relations arising in course of the processing operations of personal data performed wholly or partly by automatic means, and otherwise than by automatic means, which form part of a filing system or are intended to be included in such a filing system. Also, this law creates the legal framework for the application of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

As previously mentioned, privacy in the Republic of Moldova is carried out through state authorities, directly through the National Center for Personal Data Protection, the Ministry of Internal Affairs, General Prosecutor's Office, prosecutors and courts. According to art. 43 of the Civil Code of the Republic of Moldova¹, every natural person has the right to life, health, physical and mental integrity, free speech, name, honor, dignity and professional reputation, self-image, respect for intimate, family life and privacy, the protection of personal data, the observance of his memory and body after death, as well as other such rights recognized by law.

Letters a) - i) of art. 47 of the Civil Code of the Republic of Moldova present the situations that can be considered as invasions of privacy (entering or remaining without right in the dwelling or taking from it any object without the consent of the person legally occupying it; the unlawful interception of a private conversation, carried out by any technical means, or the use, knowingly, of such interception; capturing or using the image or voice of a person in a private space, without his consent; broadcasting images that present interiors of a private space, without the consent of the one who legally occupies it; keeping the privacy under observation, by any means, except in the cases expressly provided by law; broadcasting news, debates, inquiries or written or audiovisual reports on intimate, personal or family life, without the consent of the person concerned; etc.)

According to the Personal Data Protection Act, the processing of personal data is carried out with the consent of the personal data subject. The consent of the personal data subject is not required in cases where the processing is necessary for compliance with an obligation incumbent on the controller under the law, protection of the life, physical integrity or health of the personal data subject, etc. In this regard, Art. 11 para. (21) of Law No. 45/2007 on preventing and combating domestic violence⁶⁹⁵ guarantees the right to privacy and confidentiality of information concerning the victim. In the field of child safety, the mentioned Law No.45/2007 on preventing and combating domestic violence (art.5 letter c), art.8 paragraph (9) letter b), art.11 paragraph (21), as well as the Law No.140/2013 on the special protection of children at risk and children separated from their parents⁶⁹⁶, indicate measures and the obligation to respect privacy, by respecting confidentiality.

⁶⁹⁵ Law No. 45/2007 on preventing and combating domestic violence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122822&lang=ro#

⁶⁹⁶ Law No.140/2013 on the special protection of children at risk and children separated from their parents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123160&lang=ro#

E. Right to marry and right to found a family

198. Elaborate how the right to marry and the right to found a family are protected within the domestic legislation, including partnerships open to same-sex couples.

The right to marry and to form a family is guaranteed by the Constitution⁶⁹⁷ of the Republic of Moldova. According to the Constitution, the family represents the natural and fundamental element of society and is entitled to protection by the society and the state (art. 48). The state respects and protects the intimate, family, and private life (art. 28). The equal rights of spouses within the marriage are protected by article 48, para.2 of the Constitution.

The institution of marriage is defined in the Constitution as being the union between males and females. However, the LGBT minorities are protected against discrimination, hate speech and hate crimes in accordance with the Law No. 121/2012 on ensuring equality⁶⁹⁸ and the Criminal Code of the Republic of Moldova⁶⁹⁹, which covers the hate and prejudice motivated crimes.

The Family Code⁷⁰⁰ sets out the family principles, family relationships, rights, and obligations. According to article 11 of the Code, a marriage occurs when there is a mutual and untainted consent, expressed personally and unconditionally by the man and woman who wish to marry and reach the matrimonial age. The same-sex couples' relationships are not restricted, however, the marriage between the same-sex couples is not prescribed by the law.

199. Please provide information on the legal age of marriage, disaggregated by gender.

According to art. 14 of the Family Code⁷⁰¹ the legal age of marriage is 18, regardless of gender. For significant reasons, the law allows for the legal age to be reduced, but by no more than two years. The decision to reduce the legal age must be approved by the local guardianship authority, based on a request of the individuals and their parents' consent. According to the most recent data⁷⁰² from the Bureau of National Statistics, the average age of marriage in Moldova is 29 for men and 26 for women.

F. Freedom of thought, conscience and religion

200. Please elaborate on the legislative structures in place to ensure protection of the right to freedom of thought, conscience and religion. Please explain whether this includes the right to manifest a religion or belief individually or in community and persons who change or leave their religion or belief, as well as persons holding non-theistic or atheistic beliefs are equally

⁶⁹⁷ Constitution of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

⁶⁹⁸ Law No. 121/2012 on ensuring equality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁶⁹⁹ Criminal Code No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁷⁰⁰ Family Code No. 1316/2000, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122974&lang=ro

⁷⁰¹ Family Code No. 1316/2000, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122974&lang=ro

⁷⁰² https://statbank.statistica.md/PxWeb/pxweb/ro/20%20Populatia%20si%20procese%20demografice/20%20Populatia%20si%20procese%20demografice_POPrec_POP050/POP050500rcl.px/?rxid=b2ff27d7-0b96-43c9-934b-42e1a2a9a774

protected. Please give details and explain any limitations to this freedom permitted by the law.

The protection of the basic right to freedom of thought, conscience, and religion are ensured through two distinct processes:

1. enacting a strong legal framework that establishes the concepts, the extent, and the boundaries of the relevant rights, and
2. competent public institutions endowed with the responsibilities and appropriate instruments to act on behalf of the law by ensuring the protection of these rights.

The **Constitution** guarantees the freedom of conscience, the freedom to a free organization and foundation of religious cults constrained by the prohibition of any manifestations of enmity, the freedom of thought, opinion, and freedom of expression in public by word, image, or other possible means, with the exception of cases where the freedom of expression creates prejudice to the honour, dignity or the right of another person to his or her own vision, or defaming the state and the people, inciting war of aggression, national, racial or religious hatred, inciting discrimination, territorial separatism, public violence, and other manifestations that threaten the constitutional regime, and ensures the free and equal access to an effective judicial system;

The Law No. 125/2007 on freedom of conscience, thought and religion⁷⁰³ ensures that everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change their religion or belief, and freedom, either alone or in community with others, in public or private, to manifest their religion or belief, in worship, teaching practice, and observance. The right to manifest the religion or beliefs is ensured, being subjected only to such limitations as are prescribed by law and which are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The Criminal Code of the Republic of Moldova⁷⁰⁴ provides legal ground for criminal liability, including for crimes motivated by prejudice or hate regarding the victim's beliefs, political affiliation, world views and other potential discrimination criteria. The law does not make any difference between theistic and non-theistic worldviews.

201. Please provide information on measures taken to uphold freedom of thought, conscience and religion and fight discrimination on such grounds.

Freedom of thought, conscience and religion is guaranteed by art. 31 of the Constitution and is regulated by the Law No. 125/2007 on freedom of conscience, thought and religion⁷⁰⁵. Discrimination on the grounds of religion and belief is explicitly prohibited in the article 1, para. 1 of the Law No. 121/2012 on ensuring equality⁷⁰⁶. Ground of religion is also mentioned as prohibited ground in art. 16 of the Constitution.

⁷⁰³ The Law on freedom of conscience, thought and religion No. 125/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125815&lang=ro

⁷⁰⁴ Criminal Code No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁷⁰⁵ The Law on freedom of conscience, thought and religion No. 125/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125815&lang=ro

⁷⁰⁶ Law No. 121/2012 on ensuring equality, available in Romanian at:

Additionally, art. 346 of the Criminal Code of the Republic of Moldova⁷⁰⁷ punishes premeditated actions, public calls, including via mass-media, aimed at inciting national, ethnic, racial, or religious enmity or division. The same article penalizes actions directed towards humiliating the national dignity and honor, as well as direct or indirect limitation of rights of citizens based on their religious affiliation.

In practice, principle of non-discrimination on the ground of religion and belief is insured by the Equality Council through the decisions issued in cases where Council found discrimination. Equality Council, in its case law since 2013, found discrimination on the ground of religion and belief in 19 cases.

202. What is the constitutional status of religions in Moldova? Is there any state religion or concordats signed with certain religious groups?

The Constitution of the Republic of Moldova provides for freedom of religion. Freedom of conscience is guaranteed under the art. 31 of the Constitution. It must be manifested in a spirit of tolerance and mutual respect. Religious cults are free and are organized according to their statutes, under the law. In the relations between religious cults, any manifestations of enmity are forbidden. Religious cults are autonomous, separate from the State and enjoy its support, including by facilitating religious assistance in the army, in hospitals, penitentiaries, asylums and orphanages.

The provisions of the Constitution and of the laws relating to freedom of conscience thought and religion shall be interpreted and applied following the Universal Declaration of Human Rights, the international human rights treaties to which the Republic of Moldova is a State-party. Thus, the provisions of international human rights treaties to which the Republic of Moldova is a State-party prevail over the norms of domestic law.

There is no State religion, and no concordats have been signed with any religious group in the Republic of Moldova.

Law on freedom of conscience, thought and religion provides for freedom of religious practice, including each person's right to profess his religion in any form. It also protects the confidentiality of the confession, allows denominations to establish associations and foundations, and states that the Government may not interfere in the religious activities of denominations. However, the law prohibits "abusive proselytizing" and requires that religious groups register with the Government. However, the special importance and primordial role of the Christian Orthodox religion and, respectively, of the Moldovan Orthodox Church in the life, history and culture of the people of the Republic of Moldova are also recognized in the Law (art. 15).

Religious cults are subject to State registration with the Public Service Agency under the Law on freedom of conscience, thought and religion and the Law on state registration of legal entities and individual entrepreneurs⁷⁰⁸, the latter being applied only insofar as it does not contravene this law.

https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁷⁰⁷ Criminal Code No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁷⁰⁸ Law No. 220 of 2007 on state registration of legal entities and individual entrepreneurs, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110183&lang=ro

Registered religious institutions are exempt from income tax, according to the Fiscal Code No. 1163/1997⁷⁰⁹ of the Republic of Moldova.

If the exercise of religious practices and rituals harms the interests of society, State security, life, and physical and mental health of persons, endangers public order and seriously contravenes public morals or the rights and freedoms of others, Public Service Agency can refuse to register the cult, stating the reasons for the refusal. The signatories of the act of constitution of the religious cult can challenge the decision of refusal in the court of law.

203. Is there a legislative framework for conscientious objection? If so, please provide details.

Law No. 156/2007 on the organization of the alternative civil service⁷¹⁰ provides the legal framework for carrying out an alternative service if the potential conscript cannot be enrolled for military service due to their worldview, religion or other ethical, humanistic, pacifistic or similar reasons.

There are no practical hurdles for individuals who wish to plead for conscientious objection and opt for the civil service, instead of the traditional military service. To plead for conscientious objection, a written request is sufficient. Students at theological schools are exempt from both military and civil service.

The civil service is contract-based and takes 12 months. For graduates of a higher education institution (university), the duration is reduced to 6 months.

G. Freedom of expression including freedom and pluralism of the media

204. Please provide information concerning the legislative framework, elaboration and implementation of legislation regarding the promotion of the freedom of expression and information and freedom and pluralism of the media. Please explain any limitations to this freedom permitted by the law and measures designed to prevent interference with these freedoms.

The Constitution of Moldova provides that human rights and freedoms are interpreted and applied in accordance with the Universal Declaration of Human Rights (art.4), with pacts and treaties that the Republic of Moldova is part of. International regulations have priority over the national ones in case of discrepancy. Freedom of thought, of opinion and of expression in public by means of word, image and any other possible means is guaranteed. The freedom of expression may not harm the honor, dignity or the rights of other people to their own vision (art.32). Censorship of media is prohibited and the right of people to access any information of public interest is enshrined in art.34.

The Law on Freedom of Expression⁷¹¹ has the goal to guarantee the right to freedom of expression and balance the right to free expression with the defence of honour, dignity, professional reputation, family, and private life. Any person is entitled to freedom of expression, including the right to look for, receive and communicate facts and ideas. It

⁷⁰⁹ Fiscal Code No. 1163/1997, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=79111&lang=ro

⁷¹⁰ Law No. 156/2007 on the organization of the alternative civil service, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107181&lang=ro

⁷¹¹ Law No. 64 of 2010 on freedom of expression: https://www.legis.md/cautare/getResults?doc_id=83916&lang=ro

protects both the contents and the form of the information expressed, including information that offends, shocks, or bothers.

The exercise of freedom of expression may be subject to the restrictions required by law in a democratic society for national security, territorial integrity, or public safety, to defend order and to prevent crime, to protect the health and morals, reputation, or rights of others, to prevent the disclosure of confidential information or to guarantee the authority and impartiality of the judiciary.

The law prohibits the dissemination and/or use in public of fascist, racist, or xenophobic symbols, the propagation and/or use for political purposes of fascist symbols, as well as the promotion of fascist, racist, or xenophobic ideologies and/or Holocaust denial. Sanctions are provided for these types of actions.

The state also guarantees the freedom of expression of the media. No one may prohibit or prevent the media from disseminating information of public interest except in accordance with the law. The censorship in the public media, as well as the deliberate unlawful obstruction of the activity of the media, attracts criminal liability.

A special chapter is dedicated to the mechanism of handling claims related to defamation, as well as defence of private life and family.

The Audiovisual Media Services Code⁷¹² (AVMSC)/Article 7. Freedom of expression stipulates the following:

- (1) The state guarantees freedom of expression to media service providers and media service distributors.
- (2) Media service providers and media service distributors are obliged to respect the right of persons to freedom of expression as well as the right to receive information.
- (3) Media service providers and media service distributors make audiovisual media services available to the public in accordance with the provisions of this code and of Law No. 64/2010 on freedom of expression.
- (4) The Audiovisual Council acts, ex officio and at the notification, in order to ensure the freedom of expression.
- (5) The control of the content of audiovisual media services before their broadcasting is prohibited.

205. Please provide information on the media legislation.

AVMSC passed in November 2018, that entered into force in January 2019, transposes the provisions of the EU Audiovisual Media Services, and provides for the regulation of TV and Radio.

1. The purpose of this Code is:

- a) to ensure the right of all persons to receive accurate and objective information and to contribute to the free formation of opinions;
- b) to guarantee the right to editorial independence and freedom of expression;

⁷¹² The Audiovisual Media Services Code https://www.legis.md/cautare/getResults?doc_id=130823&lang=ro

- c) to ensure the independence of the regulatory authority in the field of audiovisual media services;
- d) to ensure the independence of the bodies supervising the activity of the public media service providers;
- e) to ensure, maintain and develop audiovisual pluralism;
- f) to ensure the protection and development of the national audiovisual space.

The Civil Code provides personal rights, rights to own image, private life, the presumption of consent, intellectual property objects, digital content, and goods.

The Contravention Code provides for penalties for labels and insults; infringements of the law on access to information and petition; excess of power in the case of electronic documents; violation of copyrights and related rights.

The Criminal Code covers the violation of provisions pertaining to personal life, the secrecy of correspondence, intentional infringement of the law on access to information, deliberate obstruction of mass-media activity or intimidation for critique, censorship, and violation of copyrights.

Other laws covering media are the Law on Freedom of Expression (Nr.64/2010), the Law on Access to Information (Nr. 982/2000), the Law on Transparency in Decision-Making Process (Nr. 239/2008), the Law on Copyrights and related rights (Nr. 139/2010); the Law on Advertising (Nr. 195/2021), the Law on Media Development National Concept (Nr.67/2018).

206. Describe the libel legislation. What types of penalties are used for libel offences? What is the general trend of the court decisions in the area of freedom of expression?

Art.70 of the Contravention Code stipulates that libel, i.e. knowingly spreading false information that defames other person, is sanctioned with a fine from 48 to 72 conventional units (120 to 180 EUR) applied to the person or with unpaid work for the benefit of the community from 20 to 60 hours, with a fine from 72 to 150 conventional units (180 to 375 EUR) applied to the person with a managerial position with deprivation of right to hold certain functions or the right to carry out certain activities for a period from 3 months to one year.

Also, the Contravention Code prescribes, for the same action accompanied by accusation of committing a crime, sanctioning with a fine from 60 to 90 conventional units (150 to 225 EUR) applied to the person or with unpaid work for the benefit of the community from 40 to 60 hours, with a fine from 90 to 180 conventional units (225 to 450 EUR) applied to the person with a managerial position, with deprivation of right to hold certain functions or the right to carry out certain activities for a period from 6 months to one year.

According to judicial statistical data for the last 3 years, in 2021 there were 14 cases examined by the courts. For 2020, the figure is similar, and in 2019, 4 cases were registered. It is important to mention that according to the Contravention Code (art. 400) this contravention is ascertained and examined by the police. Therefore, only appeals against the police can be filed.

207. Is blasphemy criminalised and are there criminal sentences?

Blasphemy is neither a crime nor a misdemeanor in the Republic of Moldova. Our state undertakes to respect the freedom of religion of every individual.

208. Does the legislation on hate speech follow the ECtHR case law where it makes a distinction between, on the one hand, genuine and serious incitement to violence and hatred, and on the other hand the right of individuals (including journalists and politicians) to express their views freely, including speech which "offends, shocks or disturbs the State or any sector of the population"?

The Constitution of the Republic of Moldova, through Article 32 para. (3) contains provisions about hate speech: The law shall forbid and prosecute all actions aimed at denying and slandering of the State and people, instigation to sedition, war of aggression, national, racial or religious hatred, incitement to discrimination, territorial separatism, public violence, or other manifestations encroaching upon the constitutional order. This regulation contains gaps as it combines concepts that differ in essence: a) manifestations addressing the state and its integrity, and b) manifestations addressing groups of people. At the same time, the Constitution of the Republic of Moldova (Article 16) has a closed list of characteristics that limits the applicability of safeguards to social groups.

Law No.64/2010 on freedom of expression defines hate speech as any form of expression that provokes, propagates, promotes, or justifies racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance. The law also stipulates that guarantees of freedom of expression do not extend to hate speech or incitement to violence.

On 31 March 2022, the Parliament adopted Law No.73, which supplemented the Contravention Code with the following sanction: „The candidate's use of hate speech and/or incitement to discrimination during the election period and/or in election agitation materials shall be punishable by a fine of 150 to 250 conventional units (375 - 625 EUR) imposed on the individual, by a fine of 250 to 400 conventional units (625 - 1000 EUR) applied to the legal person.

The Criminal Code provides a limited classification of dangerous forms of expression, in Article 346: “Deliberate actions, public calls including through mass-media, either printed or electronic, aimed at inciting national, racial, or religious hostility or discord, the humiliation of national honour and dignity, direct or indirect limitations of rights, or that offer direct or indirect advantages to citizens based on their national, racial, or religious affiliations. This article is considered to be a limiting one, as it includes a limited list of the protected characteristics: national, ethnic, racial and religious affiliation.” Thus, Article 346 of the Criminal Code does not meet the current needs because it cannot provide protection to several groups affected by hate speech.

The Audiovisual Media Services Code is the only organic law that regulates hate speech in an extended version (Article 1) and establishes clear sanctions for this type of speech in the audiovisual media: Hate speech - message that disseminates, incites, promotes or justifies racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance or discrimination on grounds of sex, race, nationality, religion or belief,

disability or sexual orientation. At the same time, the Code, in Article 18, prohibits the use of sexist language, a form that is close to hate speech, and scenes of violence and degrading behaviour towards women and men in the audiovisual media services.

Sexist language is defined in the Law No. 5/2006 on ensuring equal opportunities for women and men as expressions and addresses that present women and men in a humiliating, degrading and violent manner, offending their dignity. As mentioned, Law No. 121/2012 defines discrimination and incitement to discrimination, which in the audiovisual commercial communications is prohibited by the Audiovisual Media Services Code by Article 63, para. (4): include and/or promote any discrimination based on grounds of sex, race, nationality, religion, age, disability or sexual orientation, freedom of conscience, thought. Article 13 (6) (b) of the Audiovisual Media Services Code mentions that correct information is provided by avoiding any form of discrimination in audiovisual news and debate programmes, information in matters of public interest, of a political, economic nature, social or cultural nature. For violating the provisions of Article 13, the Code provides for the sanctioning of the media service provider with public warning, in case of the first violation, and a fine from 5 000 lei to 10 000 lei.

209. Does specific legislation exist or are specific actions undertaken with regard to freedom of expression on the internet?

No specific legislation addresses freedom of expression on the Internet. The Law on Electronic communications⁷¹³ regulates the activity in the field of civil electronic communications of all providers of electronic communications networks and/or services, regardless of their type of ownership, establishes the rights and obligations of users throughout the Republic of Moldova. The law does not include provisions on the content of information transmitted by electronic communications networks, except for information identifying the end-user.

The Audiovisual Media Services Code includes the Internet in the category of elements that are part of the electronic communications network. The Law on freedom of expression differentiates between written and electronic media as constituent elements of the media.

There are penalties in the Criminal Code (Art.245) for „actions of manipulation on the stock market, if damage in large proportions was caused for: d) broadcast or/and dissemination by mass-media means, including through Internet, or through any other way, of information that can offer false indications regarding financial instruments, in the case the person that broadcasted the information knew or should have known that the respective information are false”.

210. Please describe the media landscape (written press and audiovisual sector). How are the audiovisual media financed? Is there a supervisory body for the (audiovisual) media, what is its composition and how does it function? Have recommendations of experts from the Council of Europe and OSCE been taken into consideration when drafting legislation in the field of media?

⁷¹³ The Law no 241/2007 on Electronic Communications, , available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130825&lang=ro

The media landscape is diverse in Moldova. There are 65 licensed⁷¹⁴ TV services providers and 60 Radio services providers, as well as 44 distributors (cable operators) of media services. The latest available data⁷¹⁵ for print media lists 133 newspapers, including 60 in the Romanian language, and 195 magazines and journals, including 63 in Romanian. There is no official registry of online media, but a study conducted in 2021 by the Independent Journalism Centre identified 103 news portals as separate media institutions. The trend for online news portals is one of a gradual increase given the fact that traditional media have clone sites or portals that combine TV, Radio and print content.

Written press is mainly affected by the lack of a distribution system throughout the country, the Post of Moldova being the only actor in the field. Discussions are ongoing in terms of a number of taxes that the written press has to pay for sorting, packaging, paper, etc.

Besides advertising, several media online sites have successfully tested different funding models from subscription, including Patreon subscriptions for those in diaspora, to crowdfunding, as well as the 2% mechanism of income tax reorientation towards NGOs (some media institutions are registered as NGOs).

TV and Radio rely mainly on advertising, including the electoral one. The above-mentioned funding models are also used but the revenues generated are still insufficient to cover the operational costs. Grants from the international donor community is still the main source of income for independent/non-affiliated TV stations that use the money to produce local contents and diversify their offer (from news and talk shows to more complex productions of entertainment, and documentary, investigations, morning and weekend shows).

There are still media holdings in the audiovisual whose financial streams are connected to politicians and political parties.

The Audiovisual Council (AVC) is the regulatory authority for TV and Radio. It regulates based on its special law - the Audiovisual Media Services Code (AVMSC). The AVC is formed of seven members that are being appointed by Parliament rule for a single six-year mandate. Three members are proposed by the Parliament, including one put forward by the opposition; one is proposed by the Presidency; one - by the Government and two - by the civil society organisations. The members do not represent the entity that has nominated them, according to the Code. The AVC works based on its own Regulation of organization and functioning, including the organizational chart, adopted at the level of members of the Council. The budget is provided by the State Budget Law. The staff of the AVC has the status of civil servants, whilst the 7 members of state dignitaries. The decisions are taken with a majority of votes (4 out of 7) and enter into force either on the day of the adoption or on the day of being published in the Official Monitor (for normative acts). Each member is obliged to provide a verbal justification of his/her vote that is reflected in the minutes of the meeting.

The AVMSC was drafted with the involvement of Council of Europe experts, and civil society field organizations and with support of the international community. The OSCE

⁷¹⁴ <http://audiovizual.md/reports/15>

⁷¹⁵ <https://cji.md/piata-mass-media-din-republica-moldova-realitati-si-tendinte-2/>

commissioned Article 19 to analyse the draft law on Freedom of Expression in 2010⁷¹⁶.

Until 2017, efforts by civil society organizations to encourage improvements in Moldovan media legislation and policy were not considered by Parliament or the government. In 2017-18, Parliament facilitated a working group in cooperation with the Council of Europe, Freedom House, Internews, and Moldovan civil society, with the goal of improving the legal and regulatory environment for media. As a result of those efforts, a number of key laws incorporating input from civil society and international actors, including the Audiovisual Media Services Code, were adopted by Parliament and entered into force in 2019.

While these changes were an important first step in addressing long-standing challenges facing media freedom in Moldova, the working group identified several laws that remain in urgent need of amendment – namely, the Law on Freedom of Expression, the Law on Advertising, the Law on Personal Data Protection and the Law on Access to Information. In December 2020, Parliament registered a legislative package addressing some of the most pressing media reform needs that were submitted by a joint civil society initiative including Freedom House, the Association for Independent Press, and the Independent Journalism Centre. However, the legislative package was not passed before the Parliament's dissolution in April 2021; in order to be adopted, the draft laws must be re-registered in the new Parliament.

The permanent parliamentary committee that oversees media instituted a Consultative group of media experts from civil society organizations, that will assist in the process of improving the legislative framework for the domain. The current focus of the group of experts and the Committee is on the finalization and promotion of a national program for the development of the media sector. Also, a draft law on access to information is under development.

211. Is there a specific legislation on media coverage during electoral campaigns?

Chapter XI of the Audiovisual Media Services Code - Election Monitoring and Coverage in Mass-Media - provides for General Principles regarding election coverage by mass media (Art.69) and Particularities of election coverage by mass media (Art.70).

Principles of equity, responsibility, balance, and impartiality are compulsory for all TV and Radio broadcasters (the term is to be replaced throughout the Electoral Code with the term “providers of media services” in order to comply with the new Audiovisual Code/unify terminology). Broadcasters are obliged to provide equal conditions, non-discriminatory to free airtime or advertising space for electoral advertising.

During the electoral period, programs and materials that cover electoral candidates ought to respect the Regulation of the Central Election Commission (CEC) regarding the coverage of the electoral campaign by the mass media. CEC approves the Regulation in the first 7 days of the electoral period. Mass-media representatives enjoy the same rights as national observers.

⁷¹⁶ Organization for Security and Co-operation in Europe, Analysis of the Draft Law on Freedom of Expression of Moldova, available in English at: <https://www.osce.org/files/f/documents/2/f/68769.pdf>

During the first 7 days from the approval of the Regulation, each broadcaster submits to the Audiovisual Council a Statement concerning the editorial policy during the electoral campaign that includes the name(s) of the owner(s) of the institution. The Statements are published on the Council's webpage.

In parliamentary, presidential, and national referendum campaigns, national providers of media services are obliged to organize electoral debates; the local providers of media services have the right to do so. In local campaigns, the local providers are obliged to, and the national ones have the right to organize electoral debates. The format, duration, and frequency of debates are set by the provider of media services.

Electoral advertising on the Internet network and by means of mobile phones is assimilated the electoral advertising in the written press.

During the electoral period, any public opinion survey on the voters' preferences can be carried out only by prior notification of CEC. The results can be published five days before the Election-Day, at the latest. During the Election-Day, exit-polls and numbers pertaining to votes casted for a particular contender, are prohibited until the polling sections are not being closed.

The Audiovisual Council is obliged to submit to the CEC, once in two weeks, monitoring reports of election coverage by national broadcasters, as well as a final report two days before the elections.

212. Is there a public service broadcaster and does the legal framework provide for its independence? What is the procedure for the appointment of the members of the public broadcasters' steering committees/boards? What is the role of the media regulatory authority in this regard? How is the editorial line decided upon? Is its funding in line with the acquis?

The "Teleradio-Moldova" Company is the national public provider of media services and the "Gagauziya Radio Televizionu" Company is the regional public provider of media services in the Republic of Moldova (Art. 32, AVMSC). Both companies are constituted as public institutions, and legal entities under public law. "Teleradio-Moldova" Company is founded by the Parliament and carries out its activity under the control of the Parliament. "Gagauziya Radio Televizionu" Company is founded by the National Assembly of Gagauzia, and is subject to the AVMSC and local normative acts.

Chapter V, Art. 36 - 48, of the Audiovisual Media Services Code is dedicated to the National Public Provider of Media Services ("Teleradio-Moldova" Company).

The activity of the company is supervised by the Oversight and Development Council (ODC) that is formed of seven members - 3 nominated by parliamentary fractions, including the opposition, and 4 nominated by the civil society organizations. The selection of the candidates is done by the parliamentary committee that oversees media, followed by a vote in the plenary session. The mandate of the ODC members is a single one, for six years.

The General Director of "Teleradio-Moldova" Company is appointed by the Parliament at the proposal of the Oversight and Development Council, for a 7-year mandate that cannot be renewed. S/he can be dismissed by the Parliament in case of unsatisfactory execution or nonexecution of responsibilities.

Both the General Director and the Oversight and Development Council submit their annual reports to the parliamentary committee.

The budget of the company is formed of state subventions that are established each year in the State Budget Law, as well as own revenues, such as: commercial communication aired as part of major interest events, donations and sponsorships. The Accounting Chamber is responsible for verifying the financial activity of the institution.

The editorial policy is decided by the Company's Director, deputy directors (for TV and Radio), and other management staff members. The media regulatory authority monitors if provisions of the AVMAC are being observed in the audiovisual programs produced by the Company.

There is a need to stipulate the conditions related to the rejection of the reports, which are not present in the Code to the date. The chair of the parliamentary committee stated publicly that such conditions will be added to the Code in order to set clear criteria, based on which a report could be found positive or negative/be approved or rejected. In this regard, an official request was recently forwarded to the Office of the Council of Europe in Chisinau, asking for assistance in further improving the Audiovisual Media Services Code, so that it offers better provisions for safeguarding the independence of the members of the Oversight and Development Council and their operational independence, as well as ensuring their accountability and efficiency.

213. Please describe the rules in place with regard to government advertising.

The new Law on advertising (Nr. 62/2022), in Chapter III/Art.15, stipulates that the Government will set up a Council on Messages of Public Interest (MPI) whose members will work on a voluntary basis. The Council will annually, based on the proposals of public sector entities, elaborate and submit to the Government a Plan for the dissemination of MPI.

The Plan will contain information regarding the significance and objectives of the Messages; the estimated costs of production and distribution; sources of financing; the implementation period; the communication tools that will be used.

The Plan is to be adopted by a decision of the Parliament, at the proposal of the Government. The Council submits an annual report on the implementation of the Plan to the Government, which presents it to the Parliament at the beginning of each spring session.

214. Please describe the rules governing the public financing of media.

In regard to public periodicals, a Law on the denationalization of public periodicals was approved in 2010, in order to guarantee, in the conditions of political pluralism, the freedom of expression and the access of the population to information, as well as strengthen the editorial and creative independence of periodicals.

However, there are several public periodicals for children, which receive public funding via the Ministry of Culture. The Ministry also has been offering support from public funding to private cultural journals / newspapers / magazines via a special competition-based program for cultural projects.

The budget of the public audiovisual media service providers consists of subsidies from the state budget and own revenues. The subsidies from the state budget are established annually, by the law of the state budget, and represent the volume of the subsidies from the state budget for the previous year, indexed with the index of consumer prices from the last fully executed budget year. The own revenues of the national public media service provider come from: amounts received from audiovisual commercial communications broadcast during events of major importance; amounts collected from the realization of the object of activity, including revenues from the sale of audiovisual programs or copyrights; donations and sponsorships; other legal sources.

215. Please describe how the written press is supervised. Is there any supervisory body, what are its composition, role and obligations? How does it function and how is it financed?

Written press is not regulated in Moldova. There is not a body similar to the Audiovisual Council that regulates TV and Radio. The editing company is registered at the Agency of Public Services (subordinated to the Deputy Prime-minister for Digitalization) either as Ltd. or as an NGO - type of activity: editing newspaper/magazine/journal.

The self-regulation mechanism has been present in Moldova since October 2009. The Press Council was founded by six leading civil society organizations in order to increase the responsibility of the media/ journalists towards the public, by promoting the importance to observe professional standards and journalistic deontology; to resolve disputes between consumers of media products and mass media/ journalists regarding published journalistic materials; to cultivate a culture of dialogue and mutual respect between media/journalists and consumers of media products; and promote quality journalism and increasing the credibility of the media.

The main function of the Press Council is to examine complaints of consumers of media products that refer to the violation of journalistic deontological norms in the editorial activity of media institutions. It also develops recommendations for strengthening professional standards, drafts proposals for public media policies, and conducts campaigns to promote responsible journalism.

The Press Council is a representative structure, consisting of 9 members, out of which five represent the media industry, including one from the Gagauz region, and four members represent the media consumers.

216. Which safeguards are in place to ensure the independence of the regulatory body for the audiovisual media services, including conditions related to appointment and dismissal, as well as safeguards for their operational independence (e.g. related to reporting obligations)? Are the rules on the conflict of interest and dismissal of the members of the Board defined in law? Does the regulatory authority exercise its powers impartially and transparently?

Chapter X of the Audiovisual Media Services Code is dedicated to the Audiovisual Council. Art. 74 provides for the autonomy and independence of the public authority vis-a-vis any other entity. The Council has the statute of a legal entity under public law.

The members of the Audiovisual Council are state dignitaries; thus, they are covered by the Law on Assets and Personal Interest Declaration, which includes the need to respect the conflict of interests' regime. They are obliged to submit to the National Integrity Agency an income and assets statement once voted in the office, every year when leaving the office, and a year after that. The Accounting Chamber is responsible for verifying the financial activity of the institution.

The regulatory body holds public meetings that are being transmitted LIVE on Council's Facebook page. All decisions are published on the webpage and in the Official Monitor. Press releases are published timely on the official website. Normative acts are subject to public consultation and expertise by the Ministry of Justice, before being approved. The current composition of the Audiovisual Council (voted in on 3 December 2021) has been praised by national media NGOs for its expertise and integrity, as opposed to the previous components that were subject to political and oligarchical influence.

The appointment of the current body of professionals was possible due to changes to the Audiovisual Media Services Code that made it possible for the previous composition of the Audiovisual Council to be removed if the Parliament rejected the annual report. The new provisions provide for equitable representation of candidates recommended by the Presidency, the Government, the parliamentary majority, the parliamentary opposition, and the civil society organisations specialised in the area of mass media. Absolutely all candidates that wish to become members of the Council must submit a dossier, including two letters of recommendation, to the parliamentary committee that oversees media. The appointment is done on a competitive basis, with hearings in the parliamentary committee, followed by a vote in the plenary session of the Legislative.

The Code provides that the Audiovisual Council presents the annual activity report in the plenary session of the Parliament, in line with art 87 of the Code. By 1st March, the Audiovisual Council submits to the parliamentary committee that oversees media the annual activity report, and publishes it on its webpage. The annual report is debated in the parliamentary committee, which presents in the plenary session of the Legislative a report about it.

As in the above-mentioned case of the Oversight and Development Council of the national broadcaster, steps have been taken towards improving the Code, to set clear criteria, based on which the activity report could be found acceptable or rejected. In the official request mentioned to the Office of the Council of Europe in Chisinau, assistance is being sought for stipulating better provisions for safeguarding the independence of the members of the Audiovisual, as well as ensuring their accountability.

217. What is the level of transparency of media ownership? Are there rules ensuring effective transparency of ownership defined in law? What about their implementation in practice?

For TV and Radio, there are special rules regarding the transparency of ownership in the AVMSC. Thus, a person can be the beneficiary owner of up to two television services, and up to two Radio services.

Private media service providers are obliged to publish on their own web pages and to submit to the Audiovisual Council, annually, until the 1st of February, an activity report including the name, citizenship of the beneficiary owner/beneficiary owners, description of the property structure, as well as information about programs.

The regulatory authority publishes the reports on its official webpage and analyses the reports in public session. In terms of sanctions, for not respecting the legal regime of property, fines of 10000 to 15000 MDL are applied in the first instance, followed by fines of 15000 -20000 and then of 25000-30000, followed by the suspension of license. The license can be removed if false information concerning the legal regime of property is submitted to the Council or in case of refusal to submit information regarding the ownership.

The 2022 Action Plan of the Audiovisual Council sets under the Objective nr.3 - Monitoring the compliance with the provisions of the Audiovisual Media Services Code - the following action: Verifying the compliance with the requirements on ownership transparency and the legal regime of ownership of audiovisual media service providers. The action is set to be implemented by the end of the year.

218. What is the situation and rules regarding the concentration of media ownership?

The AVMSC stipulates that a person, his/her spouse, or the legal person who is the sole founder/partner/owner or who holds a share of more than 50% of the shares, voting rights or share capital of a legal person in the field of audiovisual media services cannot hold more than 20% of the shares, voting rights or share capital of a legal entity in the field of audiovisual media services under the jurisdiction of the Republic of Moldova.

A person or legal representative who holds or acquires a share equal to or bigger than 20% of the share capital or voting rights of a legal person holding a broadcasting license or of a legal person controlling the holder of such a license has the obligation to notify the Audiovisual Council about it, in a written statement on its own responsibility, within 30 days from the date it reached the respective quota.

A special article (29) is dedicated to the limitation of the audience share. Thus, it is considered that a person or legal representative has a dominant position in the formation of the public opinion if the audience share of the audiovisual media service exceeds 35% of the market. The Audiovisual Council is tasked to assess the dominant situation in the formation of the public opinion in the case of the existence of well-founded indications regarding the achievement of the above mentioned quota. If a dominant situation is identified in the formation of public opinion, the Audiovisual Council engages in conciliation with the holder of the broadcasting license in order to agree on the measures aimed to remedy the respective situation and ensure the pluralism of opinions. If the conciliation does not lead to the conclusion of a common agreement within 6 months or if the agreement is not implemented within a reasonable time, in order to guarantee pluralism of opinion, the Audiovisual Council may impose sanctions that can lead to the suspension of the licence.

219. What are the working conditions of journalists? Are there rules and practices in place that guarantee journalists' independence and safety?

The working conditions of journalists differ in terms of their national, regional or local status. The media institutions working at the local or regional level are mainly affected by the limited advertising potential in their communities and lack of people to employ, given the internal migration from rural to urban. Reporters and sales agents are the most wanted types of employees.

Another dividing line is between media that has political connections and funding coming from sources connected to the respective people and groups of interest, and non-affiliated media that strives to cover its operational costs from advertising, grants, subscriptions, and crowdfunding.

The majority of media is organized as traditional media - with Newsroom, Production Department, Editing, Management, Commercial, Financial, IT, and Administrative Departments. Office spaces are mainly rented. Technical equipment is largely renewed and updated thanks to grants. Investigative media teams use the latest technologies in their work, including drones and research of open data with software and programs developed either as part of projects or Media Hackathons.

A needs assessment study⁷¹⁷ concludes that qualified personnel, financial and technical resources, and modern equipment are the main needs of the media in Moldova.

The Constitution safeguards freedom of expression and the right of access to information. Under the Law on the Press, the state “guarantees the defence of the journalist’s honour and dignity, [and] protects... health, life, and property.” Under the Law on Freedom of Expression, “no one may prohibit or prevent the media from disseminating information of public interest, except in accordance with the law,” while the Criminal code prescribes fines for obstructing the work of journalists.

In addition, article 10 of the Audiovisual Media Services Code explicitly stipulates the obligation of the competent authorities to ensure the protection of journalists when they are subject of pressures or threats that could effectively hinder or restrict the free exercise of their profession, as well as the protection of the broadcasters’ offices in cases of threats that can deter or affect the free exercise of their activity.

220. Are there crimes against journalists being committed and is there a climate of impunity? Are cases of threats and attacks against journalists consistently followed up? Please provide statistics in this regard.

Cases of intimidation and harassment of journalists and whistle-blowers grew more intense during the 2019 -2020 period. The London-based Justice for Journalists Foundation recorded 68 attacks against Moldovan journalists in 2020⁷¹⁸, although some of these incidents took place in the breakaway Transnistrian region. The majority (49) were non-physical and/or cyber-attacks and threats, including defamation campaigns, illegal impediments to journalistic activity, bullying, intimidation, pressure, threats of violence, and online harassment on social media. The number of physical assaults on media workers fell from 16 incidents in 2019 (the majority of these being recorded during the political standoff in the country in May-June) to five incidents in 2020.

⁷¹⁷ <https://cji.md/studiul-necesitati-mass-media-2022/>

⁷¹⁸ Justice for Journalists Foundation, Report, https://jff.fund/report-2020_3/#mld

Prior to the change in power, authorities were the main source of attacks/threats against journalists (in 82% of cases). In 2021 media outlets operated safely overall. According to the latest Press Status Index⁷¹⁹, no cases of breaking into professional premises or severe harm to journalists' bodily integrity were registered; still, intimidation and threats against journalists, mainly from politicians, continued throughout the year.

Moldovan domestic law does not contain special provisions on the mechanism of ensuring investigation and prosecution of attacks against journalists and other media actors. Therefore, it is a subject of examination under the common provisions of the Criminal Procedure Code. The freedom of expression is guaranteed by Article 32 of the Constitution and Article 4 of the Law on freedom of expression which provides that nobody can prohibit or hinder journalists and other media actors from disseminating information of public interest, except in cases provided by law. Furthermore, Article 180/1 of the Criminal Code incriminates the intentional restraint of journalists' activity or the media intimidation for criticism. The editorial independence refers to the process of researching and communicating facts or ideas, namely the control of information.

There are no special non-judicial institutional mechanisms directly dealing with threats and crimes against journalists and other media actors.

221. What is the situation and legislation regarding journalists' access to information and public documents?

The access to information of public interest is regulated by the Law on access to information (No. 982/2000). It stipulates that the authorities shall provide the requested information, generally free of charge, within 15 days. Amendments to the law are currently under revision in the Parliament and a new draft law is to be drafted by the Ministry of Justice in cooperation with international and national experts by the end of the year.

Legal shortcomings and poor enforcement of the current Law on Access to Information continue to negatively impact journalists' ability to bring objective information to the public. The matter is further undermined by legal protections for the privacy of state officials enshrined in the Law on Personal Data Protection, which are often invoked to refuse the release of legitimate public interest information.

In 2020, Moldovan courts inconsistently interpreted and applied laws related to information access, largely to the disadvantage of information applicants. The new Administrative Code (2019) created legal ambiguities regarding key protections for the right to access information, causing confusion for both information providers and information applicants. Moreover, the judiciary has made contradictory rulings on violations of information access. For example, in June 2020 the Supreme Court upheld an appellate court ruling noting that the current Law on Access to Information was "obsolete" and "not applicable". However, it reversed this decision and upheld the Law's legitimacy in October 2020.

Those who obstruct access to information do so with impunity. A common strategy used by public bodies in responding to information requests is to share formal answers that provide no additional clarity or value. In addition, many officials do not share public interest information without prior approval from a supervisor and refuse to

⁷¹⁹ Press Status Index 2021, https://cji.md/wp-content/uploads/2022/02/ISPM_2021.pdf

answer telephone calls from journalists. In the rare cases where public officials are held accountable for failing to provide information, the Contravention Code (Article 71) imposes only insignificant fines (up to 80 USD).

Fees for public data continued to stymie investigative journalists' efforts to shed light on public interest issues. The Law on Access to Information allows state institutions to charge fees to cover the real costs incurred when responding to requests for information. However, the Law's provisions are exceedingly general, leaving room for interpretation. For example, accessing the data from the land register by the journalists cost. Since this data is frequently accessed by the investigative journalist, these fees are burdensome.

The Moldovan authorities are currently working with the civil society organizations to improve the legislation on access to information in order to facilitate investigative journalism. We expect to adopt the new legislation by the end of 2022.

222. Are there lawsuits and convictions against journalists (incl. defamation cases) and are any measures taken to safeguard journalists against abusive lawsuits?

The following actions that relate to the activity of journalists are criminalized: 1) Deliberate violation of legislation on access to information (Art. 180, Criminal Code), 2) Deliberate interference of mass-media activity or intimidation for critics (Art. 180¹, Criminal Code), and 3) Censorship (Art.180² - Criminal Code). In the period 2017-2021, the General Police Inspectorate of the Ministry of Internal Affairs did not initiate legal prosecution for such acts although there were a number of situations that required them.

In 2020, civil society organizations reported a sharp uptick in extra-legal intimidation of journalists who attempted to cover politicized issues such as corruption, including physical harassment.

In addition, journalists who report on corruption and integrity issues are regularly subjected to legal pressure in the form of defamation lawsuits put forward by the subjects of their investigations. In one high-profile example, *Ziarul de Gardă* newspaper was targeted in a defamation lawsuit in May 2020 by then-President Igor Dodon, after publication of an investigative journalism piece on the topic of Dodon's and his family's expensive holidays abroad. In May 2020, parliamentary deputy Eugeniu Nichiforciuc of the Democratic Party filed a lawsuit against the *Deschide.md* internet portal, after the portal's journalists had shot video of his meeting in a hotel with other politicians and businessmen. In July 2020, an employee of the *Ziarul de Gardă* newspaper was summoned for interrogation in the capacity of a witness: the investigator was demanding that he reveal his source of information in connection with the publication of an investigative journalism article. In September 2020, the ruling then Party of the Socialists filed a lawsuit against the *PRO TV Chisinau* television channel and one of its journalists, who had supposedly libelled the party in one of the broadcasts. On 15 November 2020, on the day of the second round of the presidential elections, one of the *TV8* television channel journalists was detained by the "police" of the Transnistrian Region. After some time, the journalist was released.

Although the Law on Freedom of Expression (No.64/2010) guarantees media the right not to disclose sources of information, journalists have been increasingly pressured to

renounce this right during the reporting period. Among the forms of illegal intimidation that took place, journalists from CIJM and *Ziarul de Garda* were questioned by police on numerous occasions and pressured to provide witness testimony on their sources in relation to ongoing civil and criminal proceedings.

Several media outlets in Moldova mentioned they are forced to allocate resources to defend themselves in cases filed against them in courts, in some cases on complaints against all journalists involved in the production of materials.

Defamation lawsuits are examined in civil proceedings in accordance with the requirements of the chapter 2 of the Law No.64 and the Moldovan Civil Procedure Code. Referring to libel, the Moldovan legal framework uses a broader term as “protection of private life”, which also regulates the protection against libel. Suits regarding protection of private life are examined according to the Law No.64 and have a similar procedure as the defamation ones. The legal framework of the Republic of Moldova does not contain criminal regulations regarding defamation/libel. Article 170 of the Criminal Code of the Republic of Moldova regarding the penalization of defamation was abolished by Law No.111 of 22.04.2004.

Defamation and insult have been decriminalized, but are still listed as offences in the Contravention Code. Currently, defamation is penalized only by the Article 70 of the Contravention Code which provides fine or contravention arrest. The Moldovan authorities plan to abolish it by the end of 2022.

There are procedural guarantees in Law No. 64 related to defamation. According to the Law, claimants should prove that: the defendant spread the information, information is defamatory and it concerns the claimant, information is related to facts and it's essentially false, value judgement is not based on documentary evidence and the existence/quantum of the caused damage. On the opposite, the defendant should prove that: the information is not defamatory, information constitutes a value judgement based on documentary evidence, information is of a public interest and that at the moment of the spreading the information, though defendant has taken all the diligence measures, he could not know that his actions will contribute to spreading false information regarding facts or value judgments without documentary evidence.

The Law No.64 regulates the pretrial procedure of settlement of cases regarding defamation. Thus, the person who considers him/herself defamed may ask the author or the person who spread the information to take the following actions: 1) correction or disclaiming of information; 2) granting the right of reply and 3) moral and material compensation for damage caused.

The law stipulates that the government and public authorities, as legal entities, are not entitled to initiate civil actions for defamation. It is considered that the government or public authorities may not have, in legal terms, professional reputation.

H. Freedom of assembly and association, including freedom to form political parties, the right to establish trade unions

223. How are the freedoms of assembly and association protected by the domestic legal framework, and what laws regulating these rights are in place?

Article 40 of the Constitution guarantees freedom of assembly, stipulating that "meetings, demonstrations, manifestations, processions or any other assembly are free and may be organised and conducted only peacefully and without any kind of weapon". Freedom of assembly is specifically regulated in the Law No. 26/2008 on Assemblies⁷²⁰, including the main procedures and guarantees for exercising the right. It defines the roles and responsibilities of participants, organisers, local authorities and law enforcement. Assemblies do not have to be authorised but only notify the local public administration. Small gatherings (smaller than 50 persons) are exempted from the notification requirement, and spontaneous ones can be notified verbally. The purpose of the notification procedure is for authorities to facilitate the assembly, provide requested services and appropriate protection by law enforcement, and ensure that no other assemblies are organised in the same place at the same time.

Articles 41 (Freedom of Parties and Other Socio-Political Organisations) and 42 (Right to Establish and Join Trade Unions) of the Constitution guarantees freedom of association. In addition, detailed regulations are contained in a series of laws, including but not limited to Law on Non-Commercial Organisations No. 86/2020⁷²¹, Law No. 294/2007 on Political Parties⁷²², Law No. 1129/2000 on Trade Unions⁷²³.

224. Which, if any, justifications are permitted as regards possible restrictions placed on the exercise of these freedoms? Which body may impose such restrictions?

A general provision on limitation/restriction of rights and liberties is included in article 54 of the Constitution and applies to freedom of assembly and freedom of association. It stipulates that, while no law in the Republic of Moldova may suppress or annul fundamental rights, the exercise of the rights and freedoms may be subject to restrictions if these restrictions are provided by the Law and are in compliance with the unanimously recognised norms of the international Law and are necessary to:

- defend national security, territorial integrity, economic welfare of the country;
- preserve public order by preventing mass riots and crimes;
- protection of the rights, freedoms and dignity, prevention of disclosing confidential;
- information or the guarantee of the power and impartiality of justice.

Paragraph 4 of the article provides that any restriction of the rights has to be proportionate to the situation that caused it and shall not affect the existence of the right or freedom.

The Law on assemblies protects only peaceful gatherings and specifically bans assemblies that aim to (1) call for a war of aggression; national, racial, ethnic or religious hatred; (2) incite discrimination and public violence; (3) subvert national security or territorial integrity of the country, committing crimes, violating public order

⁷²⁰ Law No. 26/2008 on Assemblies, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110166&lang=ro

⁷²¹ Law No. 86/2020 on Non-Commercial Organizations, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129338&lang=ro

⁷²² Law No. 294/2007 on Political Parties, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=122635&lang=ro

⁷²³ Law No. 1129/2000 on Trade Unions, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=122740&lang=ro

or organising mass disturbance, violating public morality, the rights and liberties of other persons or endangering the lives or health of other persons. Only a court of Law can decide to ban an assembly or order a change in time, place or manner of conducting the assembly.

The Law on Political Parties bans parties that advocate against the sovereignty, territorial integrity, democratic values, and the Rule of Law and those that use illegal or violent means to achieve their goals. It is also forbidden for parties to be created based on discrimination on racial, national, ethnic, language, region, and similar grounds.

Associations, trade unions and political parties can only be liquidated or banned by the court decision at the request of the Ministry of Justice. Political parties can also be declared unconstitutional by the Constitutional Court, in which case they are dissolved. Otherwise, the state guarantees that it will not interfere with the internal activity of parties or associations.

225. Please explain the procedure to form and register a political party, and what are the provisions on dissolution of political parties? Is there any case law in this field?

Law No. 294/2007 on political parties⁷²⁴ expressly regulates the procedure for creating and registering a political party. Articles (6), (7) of the Law include aspects on the right of citizens of the Republic of Moldova to political association, to become members of or to lose membership of a political party. Chapter III of the same Law governs registering a political party.

Political parties are subject to state registration at the Public Services Agency by Law No. 294/2007 and Law No. 220/2007 on the state registration of legal persons and individual entrepreneurs⁷²⁵.

According to the provisions of art. 8, paragraph (1) of Law No. 294/2007 on political parties, the following documents should be submitted to the state registration for a political party to be registered:

- registration application;
- political party's statute;
- political party's program;
- the founding act with a list attached of the political party's members, founding acts of the party's local organisations, and the list of delegates who attended the first convention.
- a statement that confirms the legal address of the party;
- proof of a bank account.

Since 2020, following changes adopted in Law 294/2007, the number of members required to register a political party has been reduced to 1000 members (down from

⁷²⁴ Law No. 294/2007 on political parties, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122635&lang=ro

⁷²⁵ Law No. 220/2007 on the state registration of legal persons and individual entrepreneurs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129117&lang=ro

4000). To be registered, a political party must have members in at least half of Moldova's administrative-territorial units at the second level, but not less than 120 members from each administrative-territorial unit.

Authorities can limit the activity of political parties if their actions seriously undermine political pluralism or fundamental democratic principles. If that is the case, the activity of a political party can be limited for up to 6 months following a final decision adopted by the Appellate Court. The request to restrict the activity of a political party can be submitted to the Court by the Ministry of Justice, a request which ought to be submitted within five days after the expiry of the deadline set by the provisions of paragraph (2). However, no limitations to political party activity can be imposed during the electoral period or one month before parliamentary or local elections.

Article 22 of Law 224/2007 regulates the dissolution of political parties. The dissolution of a political party occurs via reorganisation, self-dissolution, dissolution by the Court's final decision (at the request of the Ministry of Justice) or the declaration of the party's unconstitutionality following a decision of the Constitutional Court.

Paragraph (2) of Article 22 lists the grounds for dissolution of a political party, such as:

- The amendments and additions of a party's Statute and Program have not been registered according to the Law;
- During one calendar year after a decision of the Appellate Court on the limitation of its activity, the party has committed actions similar to those for which its activity has been limited;
- the activity of a party is carried out by illegal means or by committing acts of violence;
- the party was declared unconstitutional by the Constitutional Court.

After the party terminates its political activity, its goods are transferred, free of charge, to the state property to be used for philanthropic (charitable) purposes.

In terms of precedents, one can mention the case of the Communists' Party of Moldova against the Ministry of Justice and the Communist Reformist Party of Moldova on the annulment of the decision of the Ministry of Justice on 23 June 2014 on the registration of the Communist Reformist Party of Moldova and its symbol.

The Court mentions the following in its decision: "Based on the legal norms quoted and relating them to the case in question, the Court states that "The Communist Reformist Party of Moldova" uses the "sickle and hammer" symbol inside its informative and advertising materials without any right".

According to the Constitutional Court Report from 30.12.2014, on the results of the election of the Parliament and the validation of the mandates of the elected Members of Parliament, the Constitutional Court noted that the function of party symbols is to identify parties. "By its very nature, the symbol of a party is a sign susceptible to graphic representation, serving to distinguish it from other political parties. Therefore, the symbol must be designed to allow and provide the voter with the opportunity to identify the party. Thus, symbols can only be registered if they are sufficiently different from previously registered symbols, thus excluding the risk of confusion (including the risk of association) for the public [...]. As a result, there is a significant risk that citizens/voters will be misled in the future by the name of the Communist Reform Party of Moldova, which is very similar to the name of the Communist Party of the Republic

of Moldova and its logos, which are 90% similar. However, the differences are so small and non-essential that they will be non-existent for the voter once printed on the ballot. Considering this, and the principle of equality of the parties in procedural rights, which is guaranteed by Law and is ensured by the courts [...], the Constitutional Court concludes the applicant's claim is well-founded and will be admitted.”

Hence, the Court ordered the annulment of the decision to register the Communist Reform Party of Moldova and its symbol and its removal from the Register of Political Parties.

I. The right to non-discrimination and the principle of equal treatment, including of socially vulnerable persons/ groups and persons with disabilities

226. What are the legislative and policy instruments in place to prevent and tackle discrimination based on membership of a national minority, ethnic or social origin, sex, gender, race, colour, genetic features, language, religion or belief, political or any other opinion, property, birth, disability, age or sexual orientation? Has a general anti-discrimination law been adopted and when? Is there an overall anti-discrimination strategy in place?

Moldovan Constitution of Republic of Moldova⁷²⁶ provides for the principle of equality (Art. 16) stating that all citizens of the Republic of Moldova are equal before the law and the public authorities, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin. Art. 32 on Freedom of opinion and expression states that the law shall forbid and prosecute all actions aimed at denying and slandering of the State and people, instigation to sedition, war of aggression, national, racial or religious hatred, incitement to discrimination, territorial separatism, public violence, or other manifestations encroaching upon the constitutional order.

Moldova has adopted a host of special laws to protect the rights of most vulnerable men and women including those belonging to minorities and marginalized groups. These are: the Law No. 382/2001 on the rights of persons belonging to national minorities and on the legal status of their organizations⁷²⁷; the Law No. 125/2007 on freedom of conscience, thought and religion⁷²⁸; the Law No. 5/2006 on ensuring equal opportunities for women and men⁷²⁹; the Law No. 23/2007 on HIV/AIDS prevention⁷³⁰; the Law No. 275/1994 on the legal status of foreign nationals and stateless persons in the Republic of Moldova⁷³¹; the Law No. 200/2010 on the status of foreigners in the Republic of Moldova⁷³²; the Law No. 60/2012 on the social inclusion of people with disabilities⁷³³.

Moldova has also adopted the Law No. 121/2021 on ensuring equality⁷³⁴ in order to prevent and combat discrimination, as well as to ensure the equality of all persons on the territory of the Republic of Moldova in the political, economic, social, cultural and other spheres of life, regardless of race, color, nationality, ethnicity, language, religion or beliefs, sex, age, disability, opinion, political affiliation or any other similar criteria.

⁷²⁶ Constitution of Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro.

⁷²⁷ Law No. 382/2001 on the rights of persons belonging to national minorities and on the legal status of their organizations, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=64020&lang=ro.

⁷²⁸ Law No. 125/2007 on freedom of conscience, thought and religion, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125815&lang=ro.

⁷²⁹ Law No. 5/2006 on ensuring equal opportunities for women and men, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=107179&lang=ro.

⁷³⁰ Law No. 23/2007 on HIV/AIDS prevention, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110180&lang=ro.

⁷³¹ Law No. 275/1994 on the legal status of foreign nationals and stateless persons in the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=96950&lang=ro.

⁷³² Law No. 200/2010 on the legal status of foreign nationals and stateless persons in the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123027&lang=ro.

⁷³³ Law No. 60/2012 on the social inclusion of people with disabilities, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=126285&lang=ro.

⁷³⁴ Law No. 121/2021 on ensuring equality, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro.

The non-discrimination policy framework is a comprehensive one as well. A National Action Plan on Human Rights for the period of 2017-2021⁷³⁵ is under implementation. A final impact evaluation is expected to develop and adopt a new strategic document in the field of Human Rights and Non-Discrimination. Along with that, Moldovan Government has just completed the implementation of the Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017-2021⁷³⁶; National Strategy for preventing and combating violence against women and domestic violence for the years 2018-2023⁷³⁷; Strategy for consolidating interethnic relations in the Republic of Moldova for the years 2017-2027⁷³⁸; National Program for Social Inclusion of Persons with Disabilities for the years 2017-2022⁷³⁹; Action Plan for support of the Roma population in the Republic of Moldova for the years 2016-2020⁷⁴⁰; The Program for integrating active aging perspective into policies 2018-2021⁷⁴¹; National Development Strategy of the youth sector 2020⁷⁴²; Child protection Strategy 2014-2020⁷⁴³. A draft Roma Action Plan for the years 2022-2025⁷⁴⁴ was developed in consultation with Roma civil society and is pending approval.

227. Has Moldova established specialised services to prevent and combat discrimination and to offer victim support, such as an equality body? If so, which legislative framework, institutional context, mandate, composition, functions and powers pertain to this body?

Law No. 121/2021 on ensuring equality⁷⁴⁵ not only provides a general framework on equality and non-discrimination, but also sets up the Council for Preventing and Eliminating Discrimination and Ensuring Equality (Equality Council) - a National Human Rights Protection Institution, a dedicated Equality Body. The activity of the Equality Council is governed by the Law No. 298/2012 on the activity of the Equality Council⁷⁴⁶, adopted by the Parliament of the Republic of Moldova on 21st December 2012 that entered into force on the 1st of January 2013.

Art. 11, para. (1) of the Law on ensuring equality stipulates that the Equality Council is a collegial body with the status of public legal entity, created to protect against

⁷³⁵ National Action Plan on Human Rights for the period of 2017-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110031&lang=ro.

⁷³⁶ Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017-2021, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=99875&lang=ro.

⁷³⁷ National Strategy for preventing and combating violence against women and domestic violence for the years 2018-2023, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=101802&lang=ro.

⁷³⁸ Strategy for consolidating interethnic relations in the Republic of Moldova for the years 2017-2027, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=97804&lang=ro.

⁷³⁹ National Program for Social Inclusion of Persons with Disabilities for the years 2017-2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=101863&lang=ro.

⁷⁴⁰ Action Plan for support of the Roma population in the Republic of Moldova for the years 2016-2020, available in Romania at: https://www.legis.md/cautare/getResults?doc_id=93295&lang=ro.

⁷⁴¹ The Program for integrating active aging perspective into policies 2018-2021, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=102497&lang=ro.

⁷⁴² National Development Strategy of the youth sector 2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119872&lang=ro.

⁷⁴³ Child protection Strategy 2014-2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=18628&lang=ro.

⁷⁴⁴ Draft Roma action Plan for the years 2022-2025, available in Romanian at: <https://cancelaria.gov.md/sites/default/files/document/attachments/217.pdf>.

⁷⁴⁵ Law No. 121/2021 on ensuring equality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro.

⁷⁴⁶ Law No. 298/2012 on the activity on the Equality Council, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346943>

discrimination and ensure equality for all individuals who consider themselves victims of discrimination. The Council acts in conditions of impartiality and independence from all other public authorities. Para. (2) stipulates that the Equality Council consists of five members. At least three of them must be representatives of civil society and at least 3 must have a law degree. Members must not be politically affiliated and are appointed by Parliament for a period of 5 years. Only the President of the Council is permanently employed being a high-level state official.

At the beginning of each year, the Council presents to Parliament a general report on the situation in preventing and combating discrimination. The report is published on the website of the Council.

The Council was officially registered on 31th July 2013 and became functional at the end of 2013. Council is both a tribunal (quasi-judicial) and a promotion type of equality body meant to prevent and protect against discrimination, to ensure equality and to promote equal opportunities and diversity.

The Council has the following competences: to examine the compatibility of current legislation and draft laws with non-discrimination standards; to monitor implementation of the legislation; to examine complaints and reinstate the rights of victims of discrimination; to raise awareness and inform society in order to eliminate all forms of discrimination; to give to public authorities' proposals of a general character regarding the prevention and combating discrimination; to submit a request to the relevant authorities with regard to the initiation of a disciplinary procedures for those who have committed discriminatory acts; to detect contraventions with discriminatory elements according to the provisions of the Contravention Code and notify the prosecutor's office in cases when the committed discriminatory acts contain elements of crimes; to contribute to the amicable resolution of discrimination cases.

Decisions of the Equality Council become obligatory for the parties unless they were challenged in a court of law.

In 2018, being in full compliance with European equality standards, the Equality Council became a full member of EQUINET – the European network of equality bodies.

228. How is the independence of the equality body guaranteed? Please provide a brief description of legislation or other rules governing its independence. What are its powers and how is the financing of the equality body regulated?

Members of the Council are selected by a Special Commission established by Parliament that consists of deputies sitting in the Commission on Human Rights and Interethnic Relations and the Legal, Appointments and Immunities Commission. The selection is organised at least 30 days before the expiry of the mandate of the previously designated members. The information on the organization and holding of the contest, requirements for candidates, the documents that must be submitted, shall be placed on the web site of the Parliament 30 days before the contest. Candidates must not be politically affiliated, have a university degree, an impeccable reputation, a tolerant attitude towards minority groups and must be well-known experts in the field of human rights with at least five years of experience. At least three members of the Equality Council should be representatives from civil society. The Law on ensuring equality provides that the selection procedure is based on the following principles: open and

transparent process, free access for everyone meeting the requirements, equal treatment, objective and clearly defined selection criteria, diversity, gender equality and representation of ethnic and minority groups.

According to the Law on ensuring equality, the Council acts in conditions of impartiality and full independence of all other public authorities. Namely, it is stipulated in the law that the Council is an equality body, characterized by autonomy, which has organisational and functional detachment from other branches of state power: legislative, executive and judicial. The autonomy of the Council rests, in the first place, on the fact that it is established and organised by Law.

The principle of independence is guaranteed by a series of legal regulations, such as rules on the election and dissolution of the Council's members, rules on awarding the work of the Council's members, etc. The Equality Council is accountable to the Parliament, and not the Government, which is a good solution, because the accountability to Parliament is considered as being more appropriate from the point of view of independence.

The Equality Council has the right to request from any legal or individual entity copies of documents necessary to solve the complaint, as well as information and explanations, verbal or written, regarding the subject of the complaint. Unjustified refusals to present the requested information can be sanctioned by the Council.

Council's decisions are mandatory for the parties unless challenged in a court of law. Non-compliance with the recommendations formulated in the decisions of the Council is a misdemeanor and can be sanctioned by a fine according to Art. 71 of the Contravention Code of the Republic of Moldova No. 218/2008⁷⁴⁷.

The Council is financed from the state budget within the limits of the budgetary allocations approved by the annual Law on State budget. The budget of the Council is elaborated, approved and managed according to the principles, rules and procedures provided by the Law No. 181/2014 on public finances and budgetary-fiscal responsibility⁷⁴⁸.

229. Is there any feedback mechanism in place that shows how the equality body's recommendations have been implemented by the relevant authorities?

One of the competences of the Equality Council provided by Art. 12 para. (1) d of the Law on Ensuring Equality and Art. 21 (c and d) of the Law on the Activity of the Equality Council to monitor the implementation of legislation on non-discrimination, implementation of policy documents.

Art. 15 para. (4) of the Law on Ensuring Equality and Art. 61 of the Law on the Activity of the Equality Council provides that decisions of the Council shall include recommendations to reinstall victim's rights and to prevent similar cases.

Recommendations issued by the Equality Council could be related to a particular case or could have a general character, being related to a legislative gap or issue or to a

⁷⁴⁷ Contravention Code of the Republic of Moldova No. 218/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro#.

⁷⁴⁸ 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#.

systemic problem. Monitoring on individual recommendation is ensured by sending monitoring letters to the respondent. General recommendations are communicated to the state authorities and presented to the Parliament in the annual report of the Council. Hearings on implementation of the decisions of the Equality Council are held by the Parliamentary Commission on Human Rights and Interethnic Relations.

There is a comprehensive Monitoring Strategy developed by the Equality Council in cooperation with the Council of Europe and the Council is in the process of creating a separate monitoring department.

In 2020, the Equality Council made 183 recommendations, of which: 9 concerned education; 13 - the field of justice; 29 - the violation of dignity; 59 - on the field of work; 69 - access to goods and services available to the public; 5 recommendations focused on other areas. According to the information received by the Equality Council on the implementation of the recommendations, only 40 of them have been implemented, 54 are in the process of monitoring, 63 remain unimplemented so far, and 26 of them have been challenged in the courts. In 2021, the Council made 100 recommendations. The degree of implementation of the recommendations formulated by the Council in 2021 will be monitored during 2022⁷⁴⁹.

230. Do EU citizens have access to courts free of discrimination compared to Moldovan citizens?

Free access to justice is guaranteed by the Moldovan Constitution under article 20. The Constitution, just as other legal rules governing the free access to justice use the word “every person” for the reason not to limit the application of the respective norms merely to the citizens of the Republic.

The Code of civil procedure, under article 22 elaborates on the interdiction of any discrimination at all stages of justice administration, regardless of the party’s gender, age, ethnicity, nationality, religion, race, language, sex, political views, wealth, job position, social background, place of birth, as well as other potential discrimination criteria.

The Code of criminal procedure does have a similar provision under article 9, while the Administrative Code describes the principle of non-discrimination under article 23.

There is no special treatment or access to justice based on nationality in Moldova. There are legal provisions ensuring priority access to justice for some categories of plaintiffs, like domestic violence victims, for instance.

231. Does specific legislative protection for the rights of persons with disabilities exist? What measures does the legislation cover? Are there measures designed to ensure their independence and social and occupational inclusion? Are measures for the accessibility of persons with disabilities in place? What measure are taken to ensure independent living of persons with disabilities? Please explain.

⁷⁴⁹ General Report of the Equality Council from 2021, available in Romanian at: http://egalitate.md/wp-content/uploads/2016/04/CPEDAE_raport_-2021-final_site.pdf.

Moldova ratified the UN Convention on the Rights of Persons with Disabilities in 2010 and the Optional Protocol to the Convention in 2021. Following the ratification of the protocol, Law No. 60/2012 on the inclusion of people with disabilities⁷⁵⁰ was adopted in 2012. The law transposes the provisions of the Convention and protects the rights of people with disabilities to fully participate in all aspects of economic, social and political life of the country. The law covers: Political participation and property rights; Accessibility; education and professional training, Work and labour market integration; Health, medical and social rehabilitation; Social protection.

In 2020, Moldova submitted the 2nd and 3rd Report⁷⁵¹ on the implementation of the UN Convention on the Rights of Persons with disabilities in compliance with article 35 of the Convention.

There are a host of measures designed to ensure the social and occupational inclusion of people with disabilities. In order to facilitate their integration on the labour market, in accordance with article 33, paragraph 7, of Law on the inclusion of people with disabilities, employers are bound to take measures to: reasonably adapt the working space; design accessible working spaces; provide assistive technologies; offer training and all necessary support.

Furthermore, according to Article 33, employers with more than 20 employees must have at least 5% of their workforce represented by people with disabilities. Failure to comply with the provision, carries a fine according to article 56¹ of the Contravention Code. Pursuant to the Law No. 105/2018 on employment promotion and unemployment insurance⁷⁵² (in force as of February 2019), the National Employment Agency shall compensate 50% of the costs necessary to create or accommodate the job place, incurred by the employer, whereas the size of subsidy shall not exceed 10 national monthly average salaries for the previous year for each created or accommodated job place (Article 38); employers that hire unemployed people belonging to the most vulnerable groups, including persons with disabilities, shall benefit (during six months) from monthly subsidies worth 30% of the national monthly average salary for the previous year (MDL 1933.92 per month) for each unemployed person hired (Article 36).

To facilitate the implementation of these actions and the overall integration of people with disabilities on the labour market, the Government provides subsidies to employers. The Law No. 105/2018 regarding measures to support employment and provide protection from unemployment⁷⁵³ adopted in 2018 and the subsequent Governmental Decree No. 1276/2018, lay out a set of active measures in this regard among which: a. Subsidies for reasonably adapting the working space; b. Subsidies for hiring unemployed people with disabilities; c. Subsidies for covering transportation costs for the entire duration of employment for people with significant and severe disabilities.

The National Employment Agency provides training courses for the unemployed, including people with disabilities and stand-alone assisted employment services. In

⁷⁵⁰ Law No. 60/2012 on the inclusion of people with disabilities, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130550&lang=ro#.

⁷⁵¹ The 2nd and 3rd Report on the implementation of the UN Convention on the Rights of Persons with disabilities, available in Romania at: https://msmps.gov.md/wp-content/uploads/2020/12/Report-II-and-III-Implementation-of-CRPD_EN.pdf.

⁷⁵² Law No. 105/2018 on employment promotion and unemployment insurance, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129893&lang=ro#.

⁷⁵³ Law No. 105/2018 regarding measures to support employment and provide protection from unemployment, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129893&lang=ro#.

2021 of the 382 unemployed people with disabilities registered with the agency, 59 were hired due to the employment subsidies provided.

The policy and legal framework for supporting independent living is in place and it includes: 1. Law No. 123/2010 on social services⁷⁵⁴; 2. National Program on Social Inclusion of Persons with Disabilities for 2017-2022⁷⁵⁵; 3. National Program on the Deinstitutionalization of Persons with Intellectual and Psychosocial Disabilities for 2018-2026⁷⁵⁶; 4. Regulations and Quality Standards for community-based services (Supported living, Community home, Shared living, Foster care, Personal assistant etc.)

Several social services are provided by the state to facilitate independent living among which the most important are:

- The “personal assistant” service for people with severe disabilities. It provides full time support for this category of beneficiaries. Eligibility criteria and quality standards are set by the Governmental Decree No. 34⁷⁵⁷ adopted in 2012. There are currently 5950 beneficiaries of this service.
- The “protected housing” and “community house” services that offer shelter and support in developing the necessary skills for independent living for people with mental disabilities. Eligibility criteria and quality standards are set by the Governmental Decree No. 711⁷⁵⁸ adopted in 2020 and the Governmental Decree No. 885⁷⁵⁹ adopted in 2015. There are 248 beneficiaries of these services.
- The “mobile team” service that provides assistance for the person with disability living at home as well as for his/her caregiver if needed. Eligibility criteria and quality standards are set by the Governmental Decree No. 722⁷⁶⁰ adopted in 2011. There are 23 mobile team services created around the country that cater to the needs of approximately 850 beneficiaries.
- Translation service for people with hearing impairment. It can be accessed upon request based on the Governmental Decree No. 333⁷⁶¹ adopted in 2014.

People with locomotor, auditory and visual disabilities are provided with assistive devices and technologies free of charge. The sophistication and diversity of these devices is limited, yet they are available and financed by the state.

Consistent efforts are being made to further deinstitutionalization and prevent institutionalisation. 400 people with intellectual and psychosocial disabilities, including children, have been deinstitutionalized since 2009. To prevent unnecessary institutionalisation into residential care facilities and redirect cases towards community

⁷⁵⁴Law No. 123/2010 on social services, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129352&lang=ro.

⁷⁵⁵National Program on Social Inclusion of Persons with Disabilities for 2017-2022, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=101863&lang=ro.

⁷⁵⁶ National Program on the Deinstitutionalization of Persons with Intellectual and Psychosocial Disabilities for 2018-2026, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=109067&lang=ro.

⁷⁵⁷ Governmental Decree No. 34 adopted in 2012, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=103165&lang=ro.

⁷⁵⁸ Governmental Decree No. 711 adopted in 2020, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=119927&lang=ro.

⁷⁵⁹ Governmental Decree No. 885 adopted in 2015, available in Romania at:

https://www.legis.md/cautare/getResults?doc_id=119941&lang=ro.

⁷⁶⁰ Governmental Decree No. 722 adopted in 2011, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=22714&lang=ro.

⁷⁶¹ Government Decree No. 333 adopted in 2014, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=85199&lang=ro.

level services, the Ministry of Labour and Social Protection has established a multisectoral working group with the participation of CSOs partners.

On the issue of accessibility, the Law on the inclusion of people with disabilities provides for the duty of central and local public authorities, non-governmental organisations, businesses, regardless of the form of legal organisation, to facilitate access of persons with disabilities, on an equal footing with others, to the physical environment, transport, information and the media, including information technology and electronic communications, other utilities and services open or provided to the public. At the same time, the design and construction of public buildings and of residential neighbourhoods, installations, communications networks, as well as the production or acquisition of urban public transport, information and telecommunications without ensuring accessibility of people with disabilities is prohibited. Parking is free for persons with disabilities and their family members and at least 4% of available places have to be reserved for people with disabilities. All public buildings and places must be organised and designed in a way that makes them accessible for people with disabilities: equipped with access roads and ways in accordance with the existing accessibility standards such as: 1. NCM C.01.06: 2014 - “General safety requirements for construction objects when using them and their accessibility for people with disabilities”; 2. CP C.01.02: 2018 „Buildings and constructions. General design provisions to ensure accessibility for people with disabilities”; 3. CP C.01.10: 2018 „Living environment with systematized elements, accessible for people with disabilities. Design rules”; 4. CP C.01.11: 2018 „Public buildings and constructions, accessible for people with disabilities. Design rules”; 5. CP C.01.12: 2018 „Buildings and rooms with jobs for people with disabilities. Design rules”; 6. CP C.01.13: 2018 „Urban environment. Accessible design rules for people with disabilities”.

Although many actions were undertaken, and tangible accomplishments were achieved in terms of social inclusion of persons with disabilities, the implementation of rights of persons with disabilities to social protection, education, health, participation in political and social life needs to be improved.

232. Does Moldova ensure legally and in practice the respect of the right to non-discrimination based on racial or ethnic origin? Does Moldova ensure legally and in practice the respect of the right to non-discrimination based on religion or belief? Is there specific legislative protection for the right to non-discrimination based on age?

Discrimination on the grounds of race, colour, nationality, ethnic origin, religion or belief and age are explicitly prohibited in the Article 1, para.(1) of the Law on ensuring equality. Ground of race, nationality, ethnic origin and religion are also mentioned as prohibited grounds in Art. 16 of the Constitution. According to the Law No. 125/2007 on freedom of conscience, thought and religion⁷⁶², discrimination against any religious cult is punishable under applicable law.

In practice, the principle of non-discrimination on the abovementioned grounds is insured by the Equality Council through the decisions issued in cases where the Council found discrimination. The Equality Council, in its case law developed since 2013, found

⁷⁶² Law No. 125/2007 on freedom of conscience, thought and religion, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125815&lang=ro.

discrimination on the grounds of race and ethnic origin in 25 cases, on the grounds of religion and belief in 19 cases, and on the grounds of age in 37 cases.

Youth and Active aging are a priority of the Government. In 2014 a Government Program on the integration of ageing in public policies⁷⁶³ has been adopted. The policy has been operationalized through periodic Action Plans. The Ministry of Education and Research has recently started the process of elaborating the Strategy for the development of the youth sector "Youth 2030" and the Implementation Program⁷⁶⁴.

233. Has Moldova ratified relevant international conventions and agreements regarding the right not to be discriminated against on the basis of racial or ethnic origin namely the International Convention on the Elimination of All Forms of Racial Discrimination?

Moldova acceded to the International Convention on the Elimination of All Forms of Racial Discrimination by a Parliament Decision No. 707/1991⁷⁶⁵. The Convention entered into force for Moldova on 25 February 1993. In 2012, by adopting law No. 311 from 26 December 2012, Republic of Moldova formulated a declaration through which „Republic of Moldova has recognized the competence of the Committee for the Elimination of the Racial Discrimination to receive and to examine the requests from persons or groups of persons which are under the jurisdiction of the Republic of Moldova and claim to be a victim of the violation by the Republic of Moldova of any of the rights established by the Convention, provided that this Committee will not consider any communication without finding that the same cause is not considered or has not already been considered in another international investigation or regulatory procedure”.

234. Does Moldova ensure legally and in practice the respect of the principle of non-discrimination on the basis of sexual orientation?

Article 1, para.(1) of the Law on ensuring equality, which lists the grounds on which discrimination is prohibited, does not explicitly include sexual orientation and gender identity, which is covered by “any other similar grounds” provision. Sexual orientation is mentioned as a protected ground in Article 7 “Prohibition of discrimination in the workplace” of the same Law as provided by Directive 2000/78/EC.

In practice, the principle of non-discrimination on the grounds of sexual orientation or gender identity is insured by the Equality Council through the decisions issued in cases where Council found discrimination. Since its establishment, the Equality Council, found discrimination on the grounds of sexual orientation in 12 cases, covering various fields of application of the law. A recent case alleging discrimination on the ground of gender identity has been recently lodged by a notorious LGBT organisation. The case is pending the decision of the Equality Council. This strategic case may prompt legal

⁷⁶³ Government Program on the integration of aging in public policies, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=102926&lang=ro.

⁷⁶⁴ Available in Romanian at:

https://mecc.gov.md/sites/default/files/aviz_la_elaborarea_strategiei_tineret_2030_si_a_programului_de_implementare.pdf.

⁷⁶⁵ Parliament Decision No. 707 from 10 September 1991, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115564&lang=ro.

amendments that will address barriers faced by transgender people in changing identity documents.

235. Is any legal measure in place regarding gender identity? Is legal gender recognition in place? If so, what provisions apply to legally change one's gender marker in identity documents?

National legislation does not yet contain the notion of gender identity and one's gender marker as opposed to sex is not included in identity documents. However, following Moldova's ratification of the Istanbul Convention on the 31st of January 2021 and its expected entry into force on the 1st of May 2022, national legislation shall be amended to ensure the non-discriminatory application of the convention, including on the ground of gender identity.

In terms of preventing discrimination, although the term gender identity is not explicitly used, it is covered by article 1, paragraph 1 of the Law No. 121/2021 on ensuring equal treatment⁷⁶⁶ under the provision "any other similar criteria." Making use of this provision, the Equality Council has actively advocated for amending the legislation on non-discrimination. The draft law⁷⁶⁷ which is currently pending final review of the Ministry of Justice, provides the criteria of gender identity.

Moldovan legislation does specify a legal procedure for changing one's sex in identity documents. According to article 66, paragraph 2c of Law No. 100/2001 on civil status documents⁷⁶⁸, the Civil Registry Office shall update the identity documents of the applicant if an official document confirming the sex change is presented. The sex change is currently confirmed through an official ruling of the courts informed by the decision of the Committee for confirming gender dysphoria instituted by the Decree nr. 1268 of the Ministry of Health issued in 2012. Based on the court's ruling and upon the request of the applicant, the Civil Registry Office issues a new birth certificate with the revised sex that serves as the basis for updating all other relevant civil documents. The landmark case pending the decision of the Equality Body alleges articulates hurdles faced by transgender persons in changing identity documents, caused by the lack of a clear mechanism to obtain the official act on sex change.

236. Has Moldova taken measures to align with Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity of the Council of Europe.?

The Republic of Moldova has made a significant effort to improve the domestic anti-discrimination legislation, which are in line with the vector of provisions of the aforementioned recommendation. The relevant examples of legislation are the Law No. 5/2006 on ensuring equality between women and men⁷⁶⁹ and the Law on ensuring

⁷⁶⁶ Law No. 121/2012 on ensuring equal treatment, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro.

⁷⁶⁷ Draft law on amending the legislation on non-discrimination, available in Romanian at: http://www.justice.gov.md/public/files/dir_elab_acte_norm/Proiect_analiza.pdf.

⁷⁶⁸ Law No. 100/2001 on civil status documents, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112686&lang=ro.

⁷⁶⁹ Law No. 5/2006 on ensuring equality between women and men, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=107179&lang=ro

equality. The relevant provisions of the domestic Misdemeanor Code of the Republic of Moldova No. 218/2008⁷⁷⁰ and Criminal Code of the Republic of Moldova No. 985/2002⁷⁷¹ can be used as a remedy. For example, Article 176 of the Criminal code punishes a violation of equality of persons based on, *inter alia*, gender. The domestic Labour Code of the Republic of Moldova No. 154/2003⁷⁷² (art.8) contains clear provisions prohibiting discrimination based on sex. The general remedy, however, remains to be of a judicial nature. Additionally, the Council of Europe has published on its official website the follow-up questionnaire on the implementation of the CM/Rec(2010)5⁷⁷³.

In the National Human Rights Action Plan for 2018-2022, there are several provisions regarding the improvement in the specified dimension, as follows: “Increasing the acceptance of certain groups of people in the Republic of Moldova, *inter alia*, LGBT community” and also, “Increasing the degree of incorporation of the intersectional dimension, *inter alia*, LGBT women”. It is to be emphasized that there is no official data on the size of the LGBT population in Moldova. According to the Act on Personal Data Protection (art. 3 and 6 of the Law No. 133/2011 on data protection)⁷⁷⁴, information related to a person’s LGBT status is considered personal data which cannot be processed without the person’s explicit consent.

237. Has the Freedom of Assembly been exercised freely and without problems for instance in the organisation of gay prides or similar events? Provide information on any such events organised in the last three years.

The right to freedom of assembly is guaranteed by Article 40 of the Constitution of the republic of Moldova and is effectively realised in practice through the provisions of Law nr. 26 regarding assemblies adopted in 2008 and amended hitherto. According to article 12, para.5, meetings with less than 50 participants can be held with no prior notification of local authorities. In case of larger planned events, according to article 10, paragraph 1, the organisers have to notify authorities 5 days in advance or according to article 12, paragraph 1, as soon as possible, if the event is a spontaneous one. Violations of the right to freedom of assembly are illegal under Article 184 of the Criminal Code.

In recent years, the right has been exercised freely also in respect to the organization of gay prides. After Moldova’s condemnation in 2012 by the European Court of Human Rights in the case *GENDERDOC-M v. MOLDOVA*⁷⁷⁵, significant efforts have been made to adjust the legislative framework and ensure the practical realization of its provisions. The change in practice was noted in the decision

⁷⁷⁰ Misdemeanor Code of the Republic of Moldova No. 218/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=125094&lang=ro

⁷⁷¹ Criminal Code of the Republic of Moldova No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=122429&lang=ro

⁷⁷² Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113032&lang=ro

⁷⁷³ <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/work-completed/discrimination-on-lgbt/follow-up-recommendation-cm2010>

⁷⁷⁴ Law No. 133/2011 on data protection, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110544&lang=ro

⁷⁷⁵ Case *GenderDoc-M v. Moldova*, available at: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-111394%22%5D%7D>.

CM/Del/Dec(2019)1355/H46-14⁷⁷⁶ adopted by the Committee of Ministers of the Council of Europe on the 25th of September 2019, that “welcomed the fact that the applicant NGO can now hold pride events without undue restrictions imposed by the authorities and with adequate police protection, as evidenced by the pride marches held since 2016 and notably those in 2018 and 2019, which went along the entire route as planned, and encouraged the authorities to continue in the same vein for similar public events in the future.” Following the aforementioned decision, the Committee of Ministers adopted Resolution CM/ResDH(2019)239⁷⁷⁷ closing the case.

In 2018, 150 participants attended the LGBT Festival "Moldova Pride-2018" and the Solidarity March "No Fear", held in Chişinău. During the event, the participants enjoyed a significant level of police protection. In 2019, 100 people participated at the LGBT Festival and March, which took place in Chişinău. Moldovan police officers worked on the site to secure the LGBT rally. In 2020 and 2021 the pride march was held online due to COVID restrictions.

238. How are hate-motivated crimes addressed in the criminal code? Do hate crimes constitute stand-alone offences or an aggravating circumstance? What penalties are applied for cases of hate crimes? What grounds are covered by the legislation and how is it implemented?

Article 346 of the Criminal Code of the Republic of Moldova No. 985/2002 criminalizes actions oriented towards inciting hatred, differentiation, or discord on national, ethnic, racial or religious grounds.

According to this legal provision deliberate actions, public calls, through mass-media, written or electronic means inclusively, that incite hatred, differentiation, or discord on national, ethnic, racial or religious grounds, or that demean national honour and dignity, or limit directly or indirectly, the rights of citizens, or establish preferences directly or indirectly, on national, ethnic, racial or religious grounds carry a penalty of a fine, mandatory community work or a sentence of up to 3 years in prison.

Furthermore, committing actions out of social, national, ethnic, racial or religious hatred constitutes an aggravating circumstance according to Article 77 of the Criminal Code of the Republic of Moldova No. 985/2002.

Article 176 of the Criminal Code of the Republic of Moldova No. 985/2002 criminalizes violations of citizen's equal rights and carries a sentence of up to 6 years in prison.

Article 176¹ criminalizes infringements of citizen's rights through the promotion of fascism, racism, xenophobia and Holocaust denial. It carries a sentence of up to 10 years.

According to the latest data available from the General Police Inspectorate, between 2003 and 2019, 59 offences which fall within the definition of hate crimes were registered by the police:

⁷⁷⁶ Decision of the Committee of Ministers of the CoE CM/Del/Dec(2019)1355/H46-14112, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680972df3.

⁷⁷⁷ Resolution CM/ResDH(2019)239, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168097edc0.

- Article 346, Inciting hatred, differentiation, or discord on national, ethnic, racial or religious grounds - 23 criminal cases.
- Article 176, Violation of equal rights of citizens - 22 criminal cases.
- Article 145, para. 2 letter l), Intentional murder, motivated by social, national hatred, racial or religious hatred - 1 case
- Article 151, para. 2 letter i), Intentional serious bodily injury or of health motivated by social, national, racial or religious hatred - 3 causes
- Article 152, para. 2 letter j), Medium intentional bodily injury of health motivated by social, national, racial or religious hatred - 1 case
- Article 222. para. 2 letter b), Desecration of graves and monuments motivated by social, national, racial or religious hatred - 9 causes

Of these, 38 cases were sent to the Prosecutor's Office and 8 cases reached the courts.

Hate speech is expressly regulated by the Law No. 64/2010 on freedom of expression⁷⁷⁸ and is covered by the Law on ensuring equality under the incitement of discrimination.

The Code of Audio-visual Media Services of the Republic of Moldova No. 174/2018⁷⁷⁹ defines hate speech (art. 1) and expressly prohibits audio-visual programs that are “susceptible to propagate, incite, promote or justify racial hate, xenophobia, antisemitism or other forms of hate based on intolerance or discrimination based on sex, race, nationality, religion, disability or sexual orientation” (art. 11 para. 2 let. a). The Code also requires that discrimination is avoided in any audio-visual program such as news and debates, information on public interest issues, of political, economic, social and cultural nature, and that in any audio-visual program of news and debates on issues of public interest regarding ethnic, religious and sexual minorities the opinions of these minorities are presented (art. 13 para. 6 and 10). The Code expressly prohibits broadcasting of audio-visual programs that amount to hate speech in the national audio-visual space (art. 17 para. 3). The Code prohibits commercial audio-visual communications that “include and/or promote any discrimination based on criteria as sex, race, nationality, religion, age, disability, sexual orientation, freedom of belief, of thought” (art. 63 para. 4 let. d) According to the Code, the media service providers promote gender equality in their activity, including in the distribution of audio-visual programs, and sexist speech is prohibited (art. 18).

Parliament voted in first reading⁷⁸⁰ the draft Law No. 301/2016 that updates and extends the provisions of article 346 of Criminal Code to more explicitly condemn hate speech and hate crimes on any grounds, in line with the recommendations of the Council of Europe. In preparation for the second reading, the Ministry of Justice revised the draft law in 2019. Efforts to finalize the law were made again in December 2021 with public consultations being held. Currently the proposed amendments are under discussion with competent authorities with the expectation that the law shall be passed in the final reading by the end of the second quarter of 2022.

⁷⁷⁸ Law No. 64/2010 on freedom of expression, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=83916&lang=ro.

⁷⁷⁹ Code of Audio-visual Media Services of the Republic of Moldova No. 174/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130823&lang=ro.

⁷⁸⁰ <https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/3349/language/ro-RO/Default.aspx>.

239. Is hate/discrimination on the internet an issue in Moldova? What measures have been taken to implement provisions of the Additional Protocol to the Council of Europe Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems?

Moldova signed the Additional Protocol to the Council of Europe Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems in 2003 and ratified it in 2017 (ratification Law No. 302/2016⁷⁸¹). The Additional protocol entered into force on the 1st of June 2017. To implement the provisions of the Additional Protocol, a number of legislative measures have been adopted:

1. Amendments to the Criminal code (adopted by Law No.78/2021)⁷⁸², supplementing the Criminal code with the next articles:

- Art. 134¹⁸ which defines Fascist, racist or xenophobic organization and symbols
- Article 176¹. Violation of citizens' rights through the spread of fascism, racism and xenophobia and denial of the Holocaust

2. Amendments to the Law No. 64/2010 on freedom of expression⁷⁸³ (adopted by Law No.78/2021):

- Article 3 was supplemented with the para. 4, prohibiting the dissemination and / or public use of fascist, racist or xenophobic symbols, the propagation and / or use for political purposes of fascist symbols, and the promotion of fascist, racist or xenophobic ideologies and / or Holocaust denial, which shall be sanctioned in accordance with the legislation.

Additionally, with regards to hate speech on the Internet and in the media, the 2018 European Commission against Racism and Intolerance (ECRI) Report on the Republic of Moldova⁷⁸⁴ (fifth monitoring cycle) identified that in Moldova, hatred is often incited in cyberspace in particular in the comments sections of news portals, rather than in the articles themselves or the print media.

As for criminal responses, hate speech is covered by the criminal offence of incitement to violence and hatred because of nationality, race and religion - article 346 of the Criminal Code of the Republic of Moldova No. 985/2002⁷⁸⁵.

Moldovan law also provides for the punishment of hate speech as a misdemeanour under the Contravention code of the Republic of Moldova No. 218/2008⁷⁸⁶ – for instance art. 54. (2) Confessional intolerance manifested by acts that hinder the free exercise of a religious cult or by actions to spread religious hatred and art. 354 Petty hooliganism, that is, insulting the individual in public places, other similar actions that disturb public order and the peace of the individual. Article 2 of Law No. 64/20210 on freedom of expression⁷⁸⁷ expressly defines hate speech. Article 3 (5) also states that

⁷⁸¹ Available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=97014&lang=ro

⁷⁸² Available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁷⁸³ Available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126675&lang=ro

⁷⁸⁴ Available at: <https://rm.coe.int/fifth-report-on-the-republic-of-moldova/16808de7d7>

⁷⁸⁵ Criminal Code of the Republic of Moldova No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121991&lang=ro

⁷⁸⁶ Contravention Code of the Republic of Moldova No. 218/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro#

⁷⁸⁷ Law No. 64/20210 on freedom of expression , available in Romanian at:

guarantees on freedom of expression shall not be applied for discourses that incite hate or violence.

The Ministry of Internal Affairs developed a draft law on amending and supplementing legislation, aiming to amend the provision of the Criminal Code and the Contravention Code to align the national legislation with the provisions of the Convention of Council of Europe on Cybercrime. These proposals seek to regulate the criminalization of racist and xenophobic crimes committed through computer systems. The proposed amendments are:

- completing the Criminal Code with a new article, 134¹⁴, “Racist and xenophobic material”;
- completing the Criminal Code with a new article, 135², "Denial, gross minimization, approval or justification of genocide or crimes against humanity";
- completing the Criminal Code with a new article, 135¹, “Threat based on a racist and xenophobic motivation”;
- amending art. 346 of the Criminal Code, respectively, the provision has to be completed with the text "distribution, sale, or other forms of making available to the public, including through a computer system, racist and xenophobic materials";
- supplementing the Contravention Code with a new article, 691 “Insult based on a racist or xenophobic motivation”.

J. Right to education

240. Please provide information on how, and to what extent, the right to education is guaranteed in legislative and practical terms. Please comment on the allocation of resources and institutional framework in place to facilitate the exercise of this right.

The legislative framework which guarantees the right to education

The Constitution of the Republic of Moldova⁷⁸⁸ in Article 35, *Right to education*, stipulates that:

- (1) The right to education is ensured through compulsory general education, through high school and vocational education, through higher education, as well as through other forms of education and training.
- (2) The state ensures, in accordance with the law, the right to choose the language of education and training of persons.
- (3) The study of the state language is ensured in educational institutions of all levels.
- (4) State public education is free of charge.
- (5) Educational institutions, including the non-state ones, are established and operate in accordance with the law.

https://www.legis.md/cautare/getResults?doc_id=83916&lang=ro

⁷⁸⁸ Constitution of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro

- (6) Higher education institutions benefit from the right for autonomy.
- (7) High school, vocational and higher education are equally accessible to all, based on personal merit.
- (8) The state ensures, in accordance with the law, the freedom of religious education. State education is secular.
- (9) The parents have the priority right to choose the appropriate sphere of education for their children.

The Education Code of the Republic of Moldova No. 152/2014⁷⁸⁹ establishes the legal framework for planning, organization, operation and development of the education system in the Republic of Moldova at all levels of education, from early childhood to higher education. The citizens of the Republic of Moldova have equal rights of access to education and initial and continuing vocational training through the national education system.

The state ensures the inclusion of children and students with special educational needs through individualized approach, determining the form of integrating them in educational institutions. In general education, in the institutions that integrate students with special needs, trained support teachers are working to assist the integration and learning process.

The state guarantees the formation and development of the competence of efficient communication in the Romanian language, in the languages of the national minorities, as the case may be, and in at least two languages of international circulation.

The state promotes lifelong learning, in order to ensure support for citizens in training or development of skills necessary for achieving success from a personal, civic, social and professional perspective.

A draft Law on dual vocational education and training was approved by the Parliament of the Republic of Moldova in the first reading on 07 April 2022⁷⁹⁰ and is pending adoption in 2022. The draft law is focusing on ensuring legislative framework and incentives for business companies and vocational schools to engage in dual programs, for better theoretical and practical training of students. It is envisioned that the approval and implementation of the law will contribute to a better matching of trained skills with requirements of the labour market.

The subsequent normative framework, which guarantees the right to education includes:

- The standard regulation of the early education institution approved by the Ministry of Education Culture and Research (MECR) Order No. 254/2017⁷⁹¹;

⁷⁸⁹ Education Code of the Republic of Moldova No. 152/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110112&lang=ro

⁷⁹⁰ Draft Law on dual vocational education and training, available in Romanian at: <https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5916/language/ro-RO/Default.aspx>

⁷⁹¹ Standard regulation of the early education institution, available in Romanian at: https://mecc.gov.md/sites/default/files/reg-tip_.iet_14.11.2017_rom.pdf

- The standard regulation for the organization and functioning of primary and secondary education institutions, cycle I and II, approved by the Ministry of Education (ME) Order No. 235/2016⁷⁹²;
- The standard regulation for the organization and functioning of the Ethics Council of the general education institution approved by ME Order No. 1095/2016⁷⁹³;
- The instruction on the organization of distance education for children with disabilities approved by MECR Order No. 1934/2018⁷⁹⁴;
- Regulation on the evaluation and grading of learning outcomes, promotion and graduation in primary and secondary education approved by MECR Order No. 70/2020⁷⁹⁵;
- Joint Order of the Ministry of Education, Culture and Research (No. 970/2021) and of the Ministry of Justice (No. 90/2021) on the organization of secondary and high school education for detainees in penitentiary institutions⁷⁹⁶;
- The Framework Regulation on the organization of admission in the first cycle - higher bachelor's degree studies for the academic year 2021-2022, approved annually by the Order of the MECR (most recent Order)⁷⁹⁷;
- Plans (state order) for admission to higher education with funding from the state budget, approved annually by Government (most recent Decision No. 170/2021⁷⁹⁸);
- Regulation on the organization of undergraduate studies (cycle I) and integrated, approved by the Order of the MECR No. 1625/2019⁷⁹⁹;
- Regulation on the organization and conduct of higher master's degree studies - cycle II, approved by Government Decision No. 80/2022⁸⁰⁰;
- Regulation on the organization of higher doctoral studies, cycle III, approved by Government Decision No. 1007/2014⁸⁰¹;
- Government Decision No. 1009/2006 On the amounts of scholarships, monthly balances of other forms of social assistance for students in higher education institutions, students in post-secondary and post-secondary non-tertiary

⁷⁹² Order No. 235/2016, available in Romanian at:

https://mecc.gov.md/sites/default/files/regulament_organizare_si_functionare_institutii_invatamint_gene.pdf

⁷⁹³ Order No. 1095/2016, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordin_regulament_consiliul_etica_institutii.pdf

⁷⁹⁴ Order No. 1934/2018, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordinul_nr_1934_din_28.12.2018.pdf

⁷⁹⁵ MECR Order No. 70/2020, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordin_modificare_regulament_evaluare.pdf

⁷⁹⁶ Joint Order of the Ministry of Education, Culture and Research (No. 970/2021) and of the Ministry of Justice (No. 90/2021), available in Romanian at: https://mecc.gov.md/sites/default/files/ordin_nr_970_din_2021.pdf

⁷⁹⁷ Order No. 641/2021, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordin_641_regulament_admitere_2021.pdf

⁷⁹⁸ Government Decision No. 170/2021, available in Romanian at:

https://mecc.gov.md/sites/default/files/hg_107_din_14.07.2021_admiterea_2021.pdf

⁷⁹⁹ Order of the MECR No. 1625/2019, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordinul_nr_1625_din_12.12.2019.pdf

⁸⁰⁰ Government Decision No. 80/2022, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130035&lang=ro

⁸⁰¹ Government Decision No. 1007/2014, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=115655&lang=ro

technical vocational education institutions, secondary technical vocational and persons studying in post-graduate education⁸⁰²;

- The framework regulation on the organization and development of distance higher education, approved by the Order of the ME No. 474/2016⁸⁰³;
- The regulation on granting guarantees and compensations to employees who combine work with studies, approved by Government Decision No. 435/2007⁸⁰⁴;
- The framework regulations for the organization and functioning of technical vocational education institutions, approved by the orders of the ME No. 550/2015, No. 840/2015 and No. 1158/2015⁸⁰⁵;
- Regulation on internships in production in secondary technical vocational education, approved by ME order No. 233/2016⁸⁰⁶;
- Regulation on the organization and conduct of internships in post-secondary and non-tertiary post-secondary technical vocational education, approved by the order of the ME No. 1086/2016⁸⁰⁷;
- Regulation on the organization and conduct of the qualification exam, approved by the order of the MECR No. 1127/2018;
- Regulation on the organization and conduct of admission to technical vocational training programs, approved by MECR Order No. 459/2020⁸⁰⁸;
- Government Decision No. 1077/2016 on the cost-based financing per student of public institutions of technical vocational education⁸⁰⁹.

There is a variety of resources, which offer guidance for the practical implementation of the right to education:

- The Reference framework for early education approved by MECR order No. 1592/2018⁸¹⁰;

⁸⁰² Government Decision No. 1009/2006, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129828&lang=ro#

⁸⁰³ Order of the ME No. 474/2016, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordin_474_sin_24.05.2016.pdf

⁸⁰⁴ Government Decision No. 435/2007, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123542&lang=ro

⁸⁰⁵ Order of the ME No. 550/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113268&lang=ro#

Order of the ME No. 840/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113279&lang=ro;

Order of the ME No. 1158/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113286&lang=ro

⁸⁰⁶ Order of ME No. 233/2016, available in Romanian at:

https://mecc.gov.md/sites/default/files/ome_nr_233_din_25_martie_2016_0.pdf

⁸⁰⁷ Order of the ME No. 1086/2016, available in Romanian at:

https://mecc.gov.md/sites/default/files/ome_nr.1086_din_29.12.2016_0.pdf

⁸⁰⁸ Order of ME No. 459/2020, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordinul_459_cu_anexe_0.pdf

⁸⁰⁹ Government Decision No. 1077/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?lang=ro&doc_id=95325

⁸¹⁰ Order of ME No. 1592/2018, available in Romanian at:

https://mecc.gov.md/sites/default/files/cadrul_de_referinta_ed_timpurii_tipar_0.pdf

- The Reference framework of the national curriculum approved by MECR order No. 432/2017;⁸¹¹
- Curriculum for Early Education approved by MECR order No. 1699/2018⁸¹²;
- National curriculum for primary education MECR order No. 1124/2018)⁸¹³;
- Compulsory disciplinary curricula in secondary and high school education approved by MECR order No. 906/2019 of 17 July 2019⁸¹⁴;
- The framework plan for primary, secondary and high school education approved annually by order of the ME⁸¹⁵;
- The framework plan for undergraduate (cycle I), master's degree (cycle II) and integrated higher education, approved by the Order of the Ministry of Education, Culture and Research No. 120/2020 from 10 February 2020⁸¹⁶;
- The nomenclature of the fields of professional training and of the specialties in higher education, approved by the Government Decision No. 482/2017 of 28 June 2017⁸¹⁷;
- The reference framework of the curriculum for technical vocational education, approved by the order of the ministry No. 1128/2015⁸¹⁸;
- The framework plan for the technical vocational education study programs, approved by the orders of the ministry No. 1205/2015, No. 488/2019⁸¹⁹.
- Government Decision No. 853/2015 on the approval of the Nomenclature of vocational training fields, specialties and qualifications for post-secondary and non-tertiary post-secondary technical vocational education⁸²⁰
- Government Decision No. 425/2015 on the approval of the Nomenclature of vocational training fields and trades / professions⁸²¹

In general education, there are more than 150 curricula that have been developed and are implemented as **optional subjects**⁸²², based on students' and schools' choice, including courses such as Education for tolerance, Media Literacy, Economic and Entrepreneurial education, Education for Health, Education for gender equity and equal chances, Robotics, Ecology and environment, Intercultural education, Social and Financial education etc., etc.

⁸¹¹ Order of ME No. 432/2017, available in Romanian at:

https://mecc.gov.md/sites/default/files/cadrul_de_referinta_final_rom_tipar.pdf

⁸¹² Order of ME No. 1699/2018, available in Romanian at:

https://mecc.gov.md/sites/default/files/curriculum_pentru_educatia_timpurie_tipar_0.pdf

⁸¹³ Order of ME No. 1124/2018, available in Romanian at:

https://mecc.gov.md/sites/default/files/curriculum_primare_site.pdf

⁸¹⁴ Order of ME No. 906/2019, available in Romanian at: <https://mecc.gov.md/ro/content/invatamint-general#faq-Curricula-disciplinare-%C8%99i-Ghiduri-de-implementare.-2019>

⁸¹⁵ Orders of ME, available in Romanian at: <https://mecc.gov.md/ro/content/invatamint-general#faq-Planuri>

⁸¹⁶ Order of ME No. 120/2020, available in Romanian at: https://mecc.gov.md/sites/default/files/ordin_8.pdf

⁸¹⁷ Government Decision No. 482/2017, available in Romanian at:

https://mecc.gov.md/sites/default/files/nomenclatorul_nr_482_din_28.06.2017_0.pdf

⁸¹⁸ Order of ME No. 1128/2015, available in Romanian at: https://mecc.gov.md/sites/default/files/cr_ipt-30.11.pdf

⁸¹⁹ Order of the ministry No. 488/2019, available in Romanian at:

https://mecc.gov.md/sites/default/files/ordinul_488_din_07.05.2019.pdf

⁸²⁰ Government Decision No. 853/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?lang=ro&doc_id=93926

⁸²¹ Government Decision No. 425/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=93924&lang=ro

⁸²² Listed in Romanian at: <https://mecc.gov.md/ro/content/invatamint-general>

The institutional framework that guarantees/facilitates the right to education

According to the Education Code of the Republic of Moldova No. 152/2014, art. 15⁸²³, the structure of education in the Republic of Moldova ensures access to education based on a complex network of educational institutions:

- preschool education institutions - nursery, community center of early education;
- preschool education institutions - kindergartens, community centers of early education;
- primary education institutions - primary schools;
- secondary education institutions, cycle I - gymnasiums;
- secondary education institutions, cycle II - high schools;
- general education institutions with combined programs - educational complexes (primary school-kindergarten, gymnasium-kindergarten);
- secondary technical vocational education institutions - vocational schools;
- non-tertiary and post-secondary post-secondary technical vocational education institutions - colleagues;
- technical vocational education institutions with combined programs - centers of excellence;
- vocational secondary education institutions of arts, sports, etc.;
- higher education institutions - universities, institutes, etc.;
- specialized educational institutions for continuous training;
- extracurricular educational institutions - art schools; sports, creative centers, sports clubs;
- special education institutions.

Depending on the type of property, educational institutions are classified as follows:

- public educational institutions;
- private educational institutions.

The Ministry of Education and Research (MER), as the central public authority in charge with education (but also research, youth and sports) is responsible for the elaboration, promotion, monitoring of the implementation and evaluation of the impact of the national policy in the field of education. According to the law, the ministry may have decentralized bodies in the territory, with functions of administrative management of general education. Management at the regional level is ensured by Local Educational Authorities. Daily functioning of education entities in general education is ensured by educational managers. The **National Agency for Curriculum and Evaluation**, which reports to the ministry, is in charge of the national evaluation exams in general

⁸²³ Education Code of the Republic of Moldova No. 152/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130514&lang=ro#

education, as well as participation in the Programme for International Student Assessment (PISA).

A **National Agency for Quality Assurance in Education and Research** is in charge of quality assurance proceedings⁸²⁴.

The **Republican Centre for Psychopedagogical Assistance**, at the national level, and the Services for Psychopedagogical Assistance, at the regional level, offer guidance, assistance and tools for identifying and offering the support for inclusive education of children with special educational needs, as well as assisting teachers, psychologists and support teachers in their work, country-wide⁸²⁵.

The allocation of financial resources

According to the Education Code of the Republic of Moldova art.9, p.(3), the basic financing of general education is made according to the principle "money follows the pupil/student", according to which the resources allocated for a student are transferred to the educational institution where he / she studies.

The main source of financing the public education system consists of: the transfers with special purpose from the state budget to the local budgets, for the institutions of pre-school and pre-school, primary, secondary and high school education, as well as extracurricular education; the allocations from the state budget, for the vocational institutions, higher education institutions and other education institutions directly subordinated to the Ministry of Education and Research; other allowances from the state and from the administrative-territorial units, destined for education.

The special purpose transfers are made by the Ministry of Finance, in accordance with the allocation formula proposed annually by the Ministry of Education and Research and approved by the Government. The executed budget for education in 2021 constituted 6,11 % of GDP.

- Government Decision No. 868/2014 (including annually updates) regarding to the standard cost-per-student funding for primary and secondary general education institutions subordinated to local second-level public authorities⁸²⁶
- Government Decision No. 343/2020 regarding the budget financing methodology of public higher education institutions⁸²⁷
- Government Decision No. 1077/2016 (including annually updates) on cost-per-student funding of public vocational education institutions⁸²⁸

K. Right to property

241. Please provide information on how, and to what extent, the right to protection of property and the peaceful enjoyment of possessions is guaranteed in legislative and practical terms. Is there any limitation for certain categories of persons (e.g. foreigners, EU citizens)

⁸²⁴ ANACEC's Duties and entrusted rights available in English at: <https://www.anacec.md/en/node/155>

⁸²⁵ RCPA services enlisted, available in Romanian at: <https://incluziune.edu.gov.md/ro/content/servicii>

⁸²⁶ Government Decision No. 868/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=118772&lang=ro#

⁸²⁷ Government Decision No.343/2020, available in Romanian at: https://mecc.gov.md/sites/default/files/anexa_343_metodologia.pdf

⁸²⁸ Government Decision No. 1077/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126743&lang=ro#

or for certain types of property (e.g. agricultural land)? Are there exceptions to these limitations? How is the right to property assured?

The Republic of Moldova (Moldova) is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention), including its first Protocol that guarantees property and the peaceful enjoyment of possessions.

Article 46 of the Moldovan Constitution contains a general guarantee of private property, which has been on multiple occasions used by the Constitutional Court to strike down laws or regulations that unlawfully restrict or affect property⁸²⁹. The Constitution institutes a presumption of legality of acquisition of property, such that the burden of proof for illegalities lies on the prosecution and not the owner. The constitutional text allows expropriation provided that (1) it is for public utility; and (2) for fair and prior compensation. Moldova has had cases of expropriation and it complied with the special legal provisions for the declaration of public utility and payment of compensation.

Moldovan law does not allow nationalization. In the case a property was used in the commission of a crime or a contravention (petty offense) or was obtained as a result of the same, it shall be subject to confiscation under a judgment. In addition, the Customs Code provides for the customs regime of destruction where the imported goods are pirated or fake (violate intellectual property rights of a third party).

Finally, property is protected by sectoral laws, such as the Civil Code (which provides for the owner's right to revendicate property from an unlawful possessor), and the Criminal Code (which criminalizes serious violation of ownership). If property is violated by an administrative authority, any owner is allowed to commence an administrative claim in the courts against the authority under the Administrative Code.

The Moldovan Civil Code grants national regime to all foreigners (including EU citizens) located in Moldova. Some targeted restrictions apply, the principal restrictions being the prohibition of non-Moldovan citizens and non-Moldovan companies to buy agricultural or forest land⁸³⁰. Investors are allowed to acquire limited proprietary rights on such land (like leases and usufruct), but not ownership. Otherwise, non-Moldovan entities can acquire any immovable property (e.g. apartments and lands for residential or non-residential development).

In certain sectors, entities from countries designated as off-shore jurisdictions are prohibited from owning property (e.g. shares in banks⁸³¹, energy etc.).

There are no general exceptions to these limitations.

⁸²⁹ HCC nr. 15/2011 – statutul absolenților §§ 48-50; HCC nr. 24/2011 – retragerea licenței unei bănci §§46-47; HCC nr. 17/2012 – sancțiunile aplicate radiodifuzorilor §§39-42; HCC nr. 19/2012 – suspendarea licenței executorului judecătoresc §§75-81; HCC nr. 15/2013 – condițiile de suspendare și încetare a activității notarilor §§54-57; HCC nr. 8/2015 – încetarea contractului individual de muncă cu directorii unor instituții de învățământ publice §95; HCC nr. 11/2016 – limitarea drepturilor persoanelor afiliate băncii § 39; HCC nr. 31/2016 – valabilitatea autorizației de admitere temporară a mărfurilor §§51-57.

⁸³⁰ The Land Code; the Law on Manner of Sale and Purchase and the Normative Price of Land; and the Law on Investment in Business Activity.

⁸³¹ The Law on the Activity of Banks, and the Law on Mechanism of Review of Investments in Sectors of Strategic Importance for the State.

The courts examine multiple claims by owners of violation of their property and render judgments. For flagrant violations, the police are legally authorized to intervene.

Although the Moldovan government has over the last two decades been condemned by the European Court for Human Rights (ECHR) of violations of Article 1 of the first Protocol, it has executed all ECHR judgments and provided awarded remedies to victims.

Compliance with Article 1 is a major concern of the Moldovan judiciary, which recognizes the direct applicability of the European Convention by Moldovan judges. Parties oftentimes successfully rely on Article 1 and the case-law of the ECHR to obtain relief from courts.

242. What are the justifications permitted for restrictions placed on the exercise of this right and which body or bodies may impose such restrictions? Provide information on the main elements of the expropriation legislation Are there any relevant ECtHR judgments? If any, please provide details on the implementation of the same.

Under Article 54 (Restrictions on the Exercise of Certain Rights or Freedoms) of the Constitution of Moldova⁸³²:

(1) In the Republic of Moldova no law may be adopted which might curtail or restrict the fundamental rights and freedoms of the individual and citizen.

(2) The exercise of the rights and freedoms may not be subdued to other restrictions unless for those provided by the law, which are in compliance with the unanimously recognised norms of the international law and are requested in such cases as: the defence of national security, territorial integrity, economic welfare of the country, public order aiming at preventing mass riots and crimes, protection of the rights, freedoms and dignity of other persons, prevention of disclosing confidential information or the guarantee of the power and impartiality of justice.

[...]

(4) The restriction has to be proportionate to the situation that caused it and shall not affect the existence of the right or freedom.

Further, under Article 72(3)(i) of the Constitution, the general regime of property is to be solely regulated by organic law (adopted by an absolute majority of members of Parliament).

Therefore, property rights can only be restricted by organic law passed by Parliament or by the Government using the assumption of responsibility procedure (emergency procedure to directly enact laws). The Government or related authorities cannot impose restrictions on property rights except as specifically so authorized by an organic law (e.g. laws governing the state of emergency were used to impose various restrictions on the use of property, such as the use of shopping malls, restaurants, and other relevant businesses).

Main elements of the expropriation legislation

⁸³² https://constcourt.md/public/files/file/Baza%20legala/Constitutia_RM_EN.pdf

Apart from the general laws above, expropriation proceedings are governed by the Law on Expropriation of Public Utility Cause (No. 488/1999), which describes the process in two stages:

- administrative stage: prior research (feasibility) is conducted, and then Parliament or, as the case may be, the local council passes a decision of declaration of public utility (the list of publicity causes is limited, e.g. transportation, education, defense, etc.); the owner of the property receives an expropriation proposal with a proposed compensation. If he/she opposes the amount, a bipartisan conciliation commission determines the proper compensation;
- judicial stage: if the owner still disagrees with the compensation, he/she can appeal to a court, which administers expert reports on the value of the property and sets the final expropriation compensation. The state or local authority is registered as the owner of the property solely after payment of the compensation.

There are no ECtHR judgments against Moldova in respect of expropriation proceedings. There are however judgments rendered against Moldova for breach of property rights. These can be summarized as follows:

- loss of ownership following the cancellation of the privatization: e.g. Dacia S.R.L. v. Moldova (18/03/2008) §§ 51-66; Străisteanu and others (07/04/2009) §§ 96-97; Ipteh SA and others (24/11/2009) §§ 37-38
- invalidation or unjustified withdrawal of the licenses regarding the performance of the economic activity: e.g. Bimer (10/07/2007) §§ 31-60; Megadat.com SRL (08/04/2008) §§ 43-79; Bercut SRL (06/12/2011) §§ 15-16; Donprut SRL (21/07/2015) §§ 19-26, per. 2007-2009
- the rejection of the judicial claims that were legitimate according to the national legislation: e.g. Cazacu v. Moldova (23/10/2007) §§ 35-47; Dolneanu v. Moldova (13/11/2007) §§ 29-45; Bălan v. Moldova (29/01/2008)
- illegal confiscation of property: e.g. Ziaunys (11/02/2014) §§ 34-37
- cases that are linked to art. 6 ECHR (right to a fair trial): on-execution of judgments of national courts and annulment of irrevocable judgments by an appeal for annulment or improper application of the revision procedure.

Moldova reports (via its Agent at the Court) to the Council of Ministers of the Council of Europe on the execution of all ECtHR judgments.

L. Gender equality and women's rights

243. Please provide details on constitutional provisions and legislative measures, as well as soft law measures, which ensure equality between women and men, commenting particularly on equality in areas such as employment, working conditions and pay, as well as in the access to and supply of goods and services.

The Article 16, paragraph 2 of the Constitution of the Republic of Moldova⁸³³ states that all citizens of the Republic of Moldova are equal before the law and public authorities, regardless of their sex. In addition to that, Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men⁸³⁴ aims to ensure the respect and exercising of equal rights of women and men in political, economic, social, cultural and other life spheres so as to prevent and eliminate all forms of gender-based discrimination. Article 5, paragraph 2 of the Family Code of the Republic of Moldova No. 1316/2000⁸³⁵ stipulates the equality of spouses in family relationships, equal rights and obligations, irrespective of the sex and other social or personal attributes.

When it comes to equality in the military service, Article 7 paragraph 2 of Law No. 162/2005 on the status of the military⁸³⁶ stipulates that women employed in the military service by contract are equal in rights and obligations with men.

The Republic of Moldova has improved its public policy framework on gender equality and in other related fields. Important strategic policy documents were adopted and their implementation was commenced: the 2017-2021 National Gender Equality Strategy, the 2018-2023 National Strategy on Preventing and Combating Violence against Women and Domestic Violence, the National Action Plan on implementation of the provisions of the UNSCR 1325 Women in Peace and Security 2018-2021, as well as other sectorial strategies (health, employment, social protection, security, child protection, etc.).

The Law No. 121/2012 on Ensuring Equality prohibits any difference, exclusion, restriction or preference based on the criteria established by this law that can limit or undermine the equality of chances or treatment upon employment or dismissal, during work or professional training. Moreover, Article 8, paragraph 1 of the Labour Code of the Republic of Moldova No. 154/2003⁸³⁷ prohibits any direct or indirect gender discrimination of the employees. Earlier, several amendments have been made to Article 10, paragraph 2 (f, g) that oblige the employers to ensure equality in job enrolment and treatment to all persons applying for a job, in occupational guidance, vocational training and job career without any type of discrimination; ensure equal conditions for women and men to exercise both their work- and family-related obligations; and ensure the respect of the employee's dignity. Employers must also include in the organization's internal regulations provisions on prohibiting any type of discrimination and sexual harassment, undertake measures for the prevention of sexual harassment at the job place, as well as ensure equal pay for the equal work performed. Article 124 of the Labour Code provides the obligation of the employer to pay the maternity leave, and Article 124, paragraph 1 includes provisions on the paternity leave.

Article 2, paragraph 4 of the Law No. 105/2018 on facilitating employment and insurance for unemployment⁸³⁸ guarantees the prohibition of any kind of discrimination based on sex and other criteria.

⁸³³ Constitution of the Republic of Moldova, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro

⁸³⁴ Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=107179&lang=ro

⁸³⁵ Family Code of the Republic of Moldova No. 1316/2000, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=122974&lang=ro#

⁸³⁶ Law No. 162/2005 on the status of the military, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121250&lang=ro#

⁸³⁷ Labour Code of the Republic of Moldova No. 154/2003, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130513&lang=ro

⁸³⁸ Law No. 105/2018 on facilitating employment and insurance for unemployment, available in Romanian at:

Article 176 of the Criminal Code No. 985/2002 ⁸³⁹provides for the possibility of criminal prosecution for the violation of equal rights. The Criminal Code No. 985/2002 was supplemented by a separate chapter – Chapter IV on ‘Sexual life offenses’, and includes Article 173, amended in 2016 with the clause on the punishment for sexual harassment. According to the Contravention Code No. 218/2008 ⁸⁴⁰(amended in 2016), harassment, i.e. employer’s conduct based on grounds including sex that leads to an intimidating, hostile, degrading, humiliating or offensive environment at work shall be sanctioned by a fine with or without the deprivation of the right to hold certain positions or to undertake a particular activity for three months to one year.

It is worth mentioning that the law on the public pensions system has been adjusted in 2021 in order to gradually equalize the age of retirement for men and women to 63 until 2028. It is expected that this measure, along with other active employment services, will both decrease the gender pension pay gap and increase the employment rate of women aged 50+. In 2022, the Parliament adopted in the first reading legal amendments to the Labour Code in order to strengthen the principle of equal pay, equal work and pay transparency.

Finally, Article 12 and Article 12¹ of the Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men stipulate that women and men shall have equal access to opportunities to undertake entrepreneurial activities, as well as equal access to goods and services and the provision of goods and services. The principle of non-discrimination based on gender is also stipulated by the Civil Code of the Republic of Moldova (Article 1828 on access to insurance services),⁸⁴¹ and more broadly on non-discrimination and equality stipulated by Law No. 123/2010 on social services (Article 12 (a)),⁸⁴² Education Code of the Republic of Moldova No. 152/2014 (Article 7 (h)),⁸⁴³ and Law No. 121/2012 on ensuring equality (Article 8 on the prohibition of discrimination regarding access to public services and goods, such as services provided by public authorities, medical assistance and other health services, social protection services, banking and financial services, transport services, cultural and leisure services, the sale or rental of movable or immovable property, as well as other public services and goods)⁸⁴⁴.

244. Has Moldova ratified the relevant international conventions?

Moldova has ratified seven of the nine core United Nations human rights treaties.⁸⁴⁵ These include the Council of Europe Convention on Preventing and Combating

https://www.legis.md/cautare/getResults?doc_id=129893&lang=ro#

⁸³⁹ Criminal Code No. 985/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁸⁴⁰ Contravention Code No. 218/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro#

⁸⁴¹ Civil Code of the Republic of Moldova No.1107/2022, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro#

⁸⁴² Law No. 123/2010 on social services, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=112516&lang=ro

⁸⁴³ Education Code of the Republic of Moldova No. 152/2014, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110112&lang=ro

⁸⁴⁴ Law No. 121/2012 on ensuring equality, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁸⁴⁵ The two conventions that remain unratified are the Convention for the Protection of all Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of

Violence against Women and Domestic Violence (Istanbul Convention), ratified on October 14, 2021; The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ratified on September 16, 2005; and The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Convention), ratified on April 28, 1994 (along with its ratification Moldova assumed the obligations to ensure the observance of its provisions).

245. Are there any other practical measures and institutional mechanisms supporting gender equality? Describe the participation of civil society in the work of institutional gender mechanism, if any.

In accordance with Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men, a strong institutional framework for equality between women and men was established, which includes the Parliament, the Government, the Governmental Commission for Equality between Women and Men, the Ministry of Labour and Social Protection (a specialized body), ministries and other central administrative authorities (Gender Coordination groups, having as members gender units from each sectoral policy departments within an institution), local public administration authorities (gender units), the National Bureau of Statistics, the Council for Preventing and Eliminating Discrimination and Ensuring Equality, and the People's Advocate Office. Other multidisciplinary working groups on addressing gender based-violence have been institutionalized under local public authorities in most regions of Moldova (except the Transnistrian region). Additionally, the mandate of the Office of the People's Advocate (Ombudsman) has been accredited with A status by the Global Alliance of National Human Rights Institutions in 2018, and also covers the promotion and protection of women's rights and gender equality.

To institutionalize and ensure sustainability of approaches focusing on countering gender-based discrimination, the Academy of Public Administration acting under the Government of the Republic of Moldova trained senior key officials from the policy regulation units under the central level public administration authorities, focusing on gender equality and abilities/skills necessary for the development and evaluation of gender-sensitive policies. Additionally, the *Guidelines on gender mainstreaming into the public policies development process* have been developed with the involvement of the *Gender Coordination groups* acting under the Ministry of Economics and Infrastructure, Ministry of Defence, Ministry of Internal Affairs (General Police Inspectorate, General Inspectorate on Carabineers, General Border Police Inspectorate and the central apparatus of the Ministry of Internal Affairs).

To ensure the coordination of actions between ministries, other central administrative authorities with competences in the field to implement the provisions of Law No. 45/2007 on preventing and combating domestic violence⁸⁴⁶, the Interministerial Coordinating Council on preventing and combating domestic violence was created. The Steering Board is composed of representatives of governmental, non-governmental and international structures. The Council coordinates the activities of competent and relevant authorities in the field; examines the normative framework on services and

their Families.

⁸⁴⁶ Law No. 45/2007 on preventing and combating domestic violence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122823&lang=ro#

infrastructure for subjects of domestic violence, including legislative problems/gaps; and identifies needs and ensures the organization of information campaigns.

The role of civil society organizations in terms of providing the necessary services is substantial and essential, having currently covered about 60% of social services, including the specialized assistance to women and children affected by domestic violence (including in the Transnistrian region). These organizations provide shelter, psychological, social and legal counselling, and counselling through the helpline. The National Coalition “Life Free of Violence” comprising 23 CSOs and government-run institutions is operating on a national level in the field of preventing domestic violence. The cooperation between governmental and nongovernmental organizations is strengthened through Memoranda of cooperation, CSOs’ membership in the gender equality coordination bodies at the central level, regular inter-disciplinary meetings, as well as within the Multidisciplinary Working Groups addressing GBV cases at the local level. Through the national system of social services accreditation mechanism and in compliance with the existing national standards of quality of the services addressing survivors of violence, the CSOs can get accreditation so their services are subcontracted (procured) by the state.

246. Please provide statistics on women's representation in political life, judiciary, law enforcement bodies, public administration and state-owned companies, especially concerning management positions, as well as in employment.

Article 46 of Election Code No. 1381/1997⁸⁴⁷ and Article 7 of the Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men, state that political parties have the duty to make sure that the lists of candidates for parliamentary and local elections are to be drawn up in compliance with the minimum representation quota of 40% for both sexes. The positioning of the candidates on the lists is to be done according to the following formula: at least four candidates for every ten places, to make sure that a minimal 40% gender quota is applied when decision making bodies of the political parties are designated. There are also specific sanctions, i.e. if the election candidate fails to submit a list of candidates in line with the 40% quota, the election authority will refuse to register this list.

According to the latest available data:⁸⁴⁸ the share of women in parliament (2021) was 40%, the share of women with ministerial positions (2021) was 29%, the share of women in judiciary (2020) was 49.6%, the share of women in police was (2020) was 22.3%, the share of women elected in the local councils (2019) was 36%, the share of women elected as mayors (2019) was 22%. The 2019 World Bank Enterprise Survey in Moldova⁸⁴⁹ established the percentage of firms with female participation in ownership to be 39.9; the percent of firms with majority female ownership to be 17.9 and the percent of firms with a female top manager to be 18.6.

⁸⁴⁷ Election Code No. 1381/1997, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=125214&lang=ro

⁸⁴⁸ National Bureau of Statistics, Central Election Commission

⁸⁴⁹ 2019 World Bank Enterprise Survey in Moldova, data on gender
<https://www.enterprisesurveys.org/en/data/exploreconomies/2019/moldova#gender>

247. Is there a strategy/action plan in place in the area of gender equality? If so, please explain its scope and the main objectives to be fulfilled? Is there a monitoring mechanism in place? Please describe.

The *Strategy for ensuring equality between women and men in the Republic of Moldova for the years 2017-2021* and the Action Plan on its implementation was technically applicable only until 2021. It covered ten areas of intervention: women's participation in decision-making, the labour market and gender pay gap, social protection and family policies, health, education, climate change, institutional mechanisms, stereotypes in society and nonviolent communication, gender equality in the security and defence sector, and gender-sensitive budgeting. The monitoring mechanism involved the evaluation of the level of implementation of the Strategy, reflected in the annual reports issued by the Ministry of Labour and Social Protection, and through mid-term and end-line implementation of Action Plans. Pending a final impact evaluation, the Government intends to develop and approve a new strategic Program on Gender Equality by the end of 2022.

To improve its institutional and policy framework for accelerating the elimination of discrimination against women and promoting gender equality, the Government has adopted specific regulatory acts, such as the National strategy on preventing and combating violence against women and domestic violence (2018–2023) and the action plans for its implementation (2018–2020/2021–2022); the National programme on sexual and reproductive health and rights (2018–2022); the Third National human rights protection action plan (2018–2022); the National programme on the implementation of Security Council resolution 1325 (2000) on Women, Peace and Security (2018–2021) and the national action plan for its implementation, among others.

248. Have permanent gender equality bodies been established? Has Moldova established specialised services to combat discrimination based on sex? If so, which legislative framework, institutional context, composition, functions and powers pertain to these services?

The institutional framework to ensure gender equality is comprehensive, consisting of the Government Commission on Gender Equality, National Council on Human Rights⁸⁵⁰, Gender Equality Policies Department under the Ministry of Labour and Social Protection, Gender Units/Gender Coordinating Groups within line ministries⁸⁵¹ and other central public authorities, and Multidisciplinary Territorial Working Groups to address domestic violence within local public authorities.

The Council for Preventing and Eliminating Discrimination and Ensuring Equality was established in 2013 in Moldova as an autonomous and independent public authority. Articles 11-15 of the Law No. 121/2012 on ensuring equality go through the status of the Council, composition and organization, its competencies and responsibilities, as well as procedures for the examination of complaints.⁸⁵² To be more specific, the mission of the Council is to ensure the prevention and protection against discrimination,

⁸⁵⁰ The mandate of this Council includes also promoting legislative and practical measures to ensure gender equality.

⁸⁵¹ Appointed in correspondence with Article 19 of Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men.

⁸⁵² Law No. 121/2012 on ensuring equality, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro#

equality in all spheres of private, social and political life and the promotion of equal opportunities and diversity in Moldova. The Council consists of 5 members with no political affiliation, who are appointed by the Parliament for a period of 5 years, with 3 members being representatives of the civil society and at least 3 of them being required to have a degree in law. The members are involved in examining the compatibility of the current national legislation/draft laws to the non-discrimination standards, monitoring the implementation of gender-equality legislation, examining the complaints and reinstating the rights of victims of discrimination, as well as raising awareness about the importance of eliminating all forms of discrimination.

249. Has Moldova ratified the Council of Europe Istanbul Convention? If yes, how is its implementation followed and are there any reports on implementation available? If no, what are the main obstacles and reasons for non ratification?

On October 14, 2021, The Parliament of the Republic of Moldova has ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)⁸⁵³. On January 31, 2022, in Strasbourg, Moldova deposited the instrument of ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence. The Convention will enter into force only on May 1st, 2022.

The ratified Istanbul Convention, as representing the first and comprehensive instrument in Europe on the matter, with legally binding standards that aim to prevent gender-based violence, protect victims of violence and punish perpetrators, will catalyse the previous efforts of the Republic of Moldova and strengthen its commitment to implementing a comprehensive agenda and ensuring better coordinated policies between national and governmental bodies involved in the prevention, prosecution, and protection actions related to gender-based violence, in line with the internationally recognized standards and existing regional good practices in the field

250. How is gender-based violence and domestic violence treated in the legislation and in judicial practice in terms of prevention, victim support and prosecution? How many cases have been investigated by the prosecutorial office? How is data collected and monitored?

The Republic of Moldova adopted gender-based violence targeted legislation (Law No. 45/2007 on preventing and combating domestic violence; Law No. 137/2016 on the rehabilitation of victims of crime⁸⁵⁴; Government Decision No. 1200/2010 on the minimum quality standards for social services provided to victims of domestic violence⁸⁵⁵; Government Decision No. 129/2010 on the framework regulation for the organization and functioning of the rehabilitation centres for victims of domestic violence⁸⁵⁶; Government Decision No. 228/2014 on the regulation of activity of the

⁸⁵³ Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=210>

⁸⁵⁴ Law No. 137/2016 on the rehabilitation of victims of crime, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110484&lang=ro

⁸⁵⁵ Government Decision No. 1200/2010 on the minimum quality standards for social services provided to victims of domestic violence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=20068&lang=ro

⁸⁵⁶ Government Decision No. 129/2010 on the framework regulation for the organization and functioning of the rehabilitation centres for victims of domestic violence, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=5808&lang=ro

multidisciplinary territorial teams within the National Reference System⁸⁵⁷; Government Decision No. 575/2017 on regulations on the organization and functioning of the Free Telephone Assistance Service for victims of domestic violence and violence against women and the Minimum Quality Standards⁸⁵⁸; General Inspectorate of Police Order No. 360/2018 on methodical instruction on police intervention in preventing and combating cases of domestic violence; Orders of the Ministry of Health/Labour and Social Protection No. 903/2019 on the instruction on the intervention of the territorial structures of social assistance in cases of domestic violence and No. 1167/2019 on the instruction on the intervention of medical institutions in cases of domestic violence⁸⁵⁹ and policies to address gender-based violence and domestic violence. In terms of policy response, for instance, the GBV prevention measures have been institutionalized by including the topic of gender-based violence and domestic violence as compulsory within the country's school curricula and in other extracurricular educational activities, to which adds gender-sensitive and intersectional education programming. When it comes to the national legislation in the field, the provisions aim at ensuring justice, support, protection and remedies to victims of violence and holding perpetrators accountable. Law No. 45/2007 on preventing and combating domestic violence, for example, establishes which authorities and institutions are responsible for preventing and combating domestic violence, and refers to the implementation of the victim protection mechanism, i.e. the issuance of the protection order through specific regulations in both branches of law (civil and criminal), the qualification of domestic violence as a crime and the use of a multi-sectoral response in addressing this phenomenon and offering assistance to victims.

The legal framework on preventing and combating domestic violence was further amended to eliminate certain legislative gaps and inconsistencies highlighted during the implementation of the law. Certain criminal and contravention sanctions were established for non-execution or violation by the perpetrator of the measures applied by a protection order and an emergency restraining order. In addition to that, Article 201, paragraph 1 (domestic violence) of the Criminal Code No. 985/2002 was restated in accordance with the Istanbul Convention definition. Moreover, Article 37, paragraph 4 of the Family Code of the Republic of Moldova No. 1316/2000 was adjusted to prohibit the application by courts of the 6-months reflection delay while considering divorce requests in cases of domestic violence. At the same time, the range of rights of domestic violence victims (free primary and qualified legal aid, free assistance for physical and psycho-social recovery, compensation for pecuniary and non-pecuniary damage, right to compensation from the state) was expanded.

In 2021, the prosecutors conducted the criminal investigation in 947 criminal cases started based on Article 201, paragraph 1 of the Criminal Code No. 985/2002 (domestic violence), being registered an increase compared to 2020, during which 866 criminal cases were initiated (in 2019 - 969, in 2018 - 998). Within 56 criminal cases, the victims were children (in 2020 - 34). At the same time, in 2021, the police and prosecutors

⁸⁵⁷ Government Decision No. 228/2014 on the regulation of activity of the multidisciplinary territorial teams within the National Reference System, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=103074&lang=ro

⁸⁵⁸ Government Decision No. 575/2017 on regulations on the organization and functioning of the Free Telephone Assistance Service for victims of domestic violence and violence against women and the Minimum Quality Standards, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=101006&lang=ro

⁸⁵⁹ Order of the Ministry of Health/Labour and Social Protection No. 1167/2019 on the instruction on the intervention of medical institutions in cases of domestic violence, available in Romanian at: https://msmps.gov.md/sites/default/files/legislatie/ordinul_1167_din_15.10.2019.pdf

initiated 1662 contravention cases based on the provisions of Article 78, paragraph 1 of the Contravention Code No. 218/2008 (in 2021 - 1587 cases).

Data on gender-based violence and domestic violence are recorded in the Register of Criminalistic and Criminological Information of the Republic of Moldova, on the basis of Law No. 216/2003 on the Automated, integrated information system for recording crimes, criminal cases and perpetrators.⁸⁶⁰ Specific rules on the collection, processing and inputting of data are regulated by the Interdepartmental Order of the General Prosecutor's Office, Ministry of Internal Affairs, Customs Service, National Anticorruption Centre No. 121/254/286-O/95 of 18 July 2008 on the single record of crimes, criminal cases and perpetrators. Another relevant framework which ensures a proper collection and registration of criminal data by law enforcement authorities is the Interdepartmental Order of the Ministry of Justice, General Prosecutor's Office, Ministry of Internal Affairs, Customs Service, National Anticorruption Centre, No. 198/84/11/166/10/2-30/44 from 04 May 2007 on the single record of perpetrators, the results of criminal cases examination and the way of completing and presenting primary evidence documents, which are used in criminal cases.

251. What services are available for victims of gender-based violence and domestic violence? Are there shelters/safe houses financed by public funds? Are protection orders available? Are victims supported by social services to enable them to have the means to leave the abusive relationship? Do victims have access to free legal aid and court representation?

Currently, in the Republic of Moldova there are seven public institutions (financed from the central budget) that provide shelter and other services to victims of violence and to potential victims (women at risk, such as mother-child couples, victims of trafficking or potential victims of trafficking, single mothers and mothers at risk to abandon their child), including one *Rehabilitation Centre for survivors of domestic violence* in the Autonomous Territorial Unit Gagauzia. There are also 12 non-governmental organizations (including one shelter for survivors of GBV in Transnistria) that provide a wide range of essential services, including face-to-face/phone-based psychological counselling, legal counselling and informational support to women and child victims at local, regional and national levels. There are four centres dedicated to working with the family violence perpetrators.

There is no Crisis Centre for women and girls who are victims of sexual violence. However, with the support of UN Women and the European Union, in partnership with the Government of Moldova and local public authorities, the first specialized service for victims of sexual violence, which is based on best European and international practices, and is in line with the provisions of the Istanbul Convention, is currently under development in Ungheni district. Moreover, a Family Justice Centre service for victims of gender-based violence is being set up under the leadership of the Ministry of Internal Affairs. The methodology of operation of this centre has been already developed, and the Centre is supposed to be fully operational by the end of 2022.

The state guaranteed free legal aid system is operated under the Ministry of Justice and ensures free primary counselling to survivors of human trafficking and domestic violence, including free legal aid for criminal cases. As a result of the amendments

⁸⁶⁰ Law No. 216/2003 on the Automated, integrated information system for recording crimes, criminal cases and perpetrators, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122884&lang=ro

made to Law No. 113/2020⁸⁶¹, in force since 07 September 2020, good premises were created to ensure the early access of alleged victims of the crime to legal assistance guaranteed by the state and to the submission of a complaint to start the criminal investigation. Thus, Article 28 of Law No. 198/2007 regarding the legal assistance guaranteed by the state⁸⁶² was amended to offer victims the possibility to receive emergency legal assistance, at the request of the person or body that was notified with reference to a case of domestic or sexual violence. The National Council of State Guaranteed Legal Aid has lists of lawyers who provide assistance to such victims, and in 2021 started developing quality standards for the work of lawyers who provide such legal assistance. In 2021, 1113 victims of domestic violence benefited from the assistance of a lawyer providing state-guaranteed legal aid.⁸⁶³

The prosecutors and investigation officers have been trained in the framework of the institutionalized curricula under the *National Institute of Justice* to provide primary legal counselling and legal representation in the cases of human trafficking and domestic violence. The lawyers and paralegals working within the National Council on State Guaranteed Aid have been trained to provide information, advice and referrals on legal rights and remedies to the survivors of violence.

A mechanism which extended the number of services that crime victims can benefit from was created. Thus, Law No. 137/2016 on the rehabilitation of victims of crime aims to create the legal framework to ensure minimum conditions for rehabilitation of victims of crime, and the protection of legitimate rights and interests of these victims. Support services provide counselling and support to crime victims in their communication with public authorities, as well as assistance for physical, psychological and social recovery. Victims of crimes also benefit from services as informational counselling rights and eligible services; state-guaranteed legal aid; and financial state compensation of the damage caused by offense⁸⁶⁴.

By Law No. 196/2016 on amending and supplementing the legislative acts⁸⁶⁵ in the field of preventing and combating domestic violence, the national mechanism for the protection of victims of domestic violence was completed with the emergency restriction order. The improvement of the mechanism for urgent protection of the victim of domestic violence was achieved by supplementing Law No. 45/2007 on preventing and combating domestic violence with Article 12¹, by which the police force is obliged to immediately order the issuance of the emergency restraining order against the aggressor, lasting up to 10 days, to remove the crisis situation in case acts of domestic violence were committed and/or there is imminent danger of new violent acts. In 2021, the police released 5851 emergency restraining orders against family abusers (in 2020 - 4939 restriction orders were issued).

⁸⁶¹ Law No. 113/2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122517&lang=ro

⁸⁶² Law No. 198/2007 regarding the legal assistance guaranteed by the state, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123162&lang=ro#

⁸⁶³ The National Council for State Guaranteed Legal Aid, Quality standards of the activity of lawyers on criminal cases with the involvement of child victims of crimes https://cnaigs.md/uploads/asset/file/ro/1650/Standarte_copii_victim.pdf;

The National Council for State Guaranteed Legal Aid, Curriculum on continuous training for lawyers who provide state guaranteed legal assistance to children who are victims or witnesses of the crime https://cnaigs.md/uploads/asset/file/ro/723/Curriculum_V1.pdf

⁸⁶⁴ National Level Review on the Fulfillment of Commitments taken under Beijing Declaration and Platform for Action Beijing-25, p. 27, https://unece.org/fileadmin/DAM/Gender/Beijing_20/Moldova.pdf

⁸⁶⁵ Law No. 196/2016 on amending and supplementing the legislative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=95019&lang=ro

According to Article 15 of Law No. 45/2007 on preventing and combating domestic violence, the court issues, within 24 hours from the receipt of the request, an order for the protection of the victim of domestic violence, for a period of up to 90 days, which may be annulled if there are no longer dangers or extended in the event of repeated application or non-compliance with the conditions stipulated in the protection order. Since 3 January 2021 the protection measures are compulsorily applied with an electronic monitoring of the family aggressors. In 2021, the courts issued 766 protection orders.

M. Rights of the child

252. Has Moldova ratified the relevant international conventions to protect and promote the rights of the child and in particular the Hague Conventions? Please indicate when, for each convention.

The Republic of Moldova ratified the following international conventions:

- UN Convention on the Rights of the Child in force for the Republic of Moldova as of February 25, 1993;
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the UN Convention on the Rights of the Child;
- Optional Protocol on the Involvement of Children in Armed Conflict by Law No. 15/2004 for the ratification of the Optional Protocol on the Involvement of Children in Armed Conflict to the Convention on the Rights of the Child⁸⁶⁶, and is currently in the process of ratifying the Optional Protocol to the Convention on the Communication Procedure (Government Decision No. 213/2022);
- The Hague Convention of 25 October 1980 on Civil Aspects of International Child Abduction, in force for the Republic of Moldova as of 01 July 1998;
- The Hague Convention of 29 May 1993 on the Protection of Children and Cooperation in Respect of Inter-country Adoption, in force as of 01 August 1998;
- European Convention on the Recognition and Enforcement of Decisions on Child Surveillance and the Restoration of Child Surveillance of 20 May 1980 in force for the Republic of Moldova as of 01 May 2004.

253. Please elaborate on the legislative, administrative, and institutional framework in place to ensure effective protection of the rights of the child. Is an integrated child protection system in place? Are services for protection of children available at local level?

The child protection system in the Republic of Moldova is based on the Constitution, which proclaims the right of the family and of the child to be protected, including the right to life, physical and psychological integrity, ensuring social assistance and protection, the right to medical assistance and the right to live in a safe environment etc. The Republic of Moldova has recorded important progresses when it comes to the

⁸⁶⁶ Law No. 15/2004 for the ratification of the Optional Protocol on the Involvement of Children in Armed Conflict to the Convention on the Rights of the Child, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=26126&lang=ro

development of the system of protecting the rights of the child and the family, and its policies are oriented towards encouraging natality through the modernization and diversification of community services for families in order to prevent the institutionalisation of children and to improve the quality of life of the families.

Solving the most stringent problems currently faced by the families and children – caused by such negative phenomena as the economic downturn, the ageing of the population, the impact of legal and illegal migration of parents in search for work – and to ensure an adequate and efficient social protection represents a major objective of the Government. The main instruments to implement this objective are the Law No. 338/1994 on the rights of the child ⁸⁶⁷ and the Law No. 140/2013 on the special protection of children at risk and of children separated from their parents⁸⁶⁸.

The national system of social protection of the family and of the child contains two main components: social benefits and social services.

1. Social benefits

The document that regulates the types of social benefits offered to children is the Law No. 315/2016 on the social benefits for children⁸⁶⁹, which sets up the social benefits to be provided by the government at child birth, for childcare, for raising twins, as well as the social benefits for adopted children, for children that are temporarily left without parental care and children left without parental care, including for the continuation of their studies.

The Government Decision No. 1478/2002 ⁸⁷⁰ provides for the following types of allowances for families with children: the single child birth allowance (in 2022 it constitutes 10,068 MDL, equivalent to 505 EUR), the monthly allowance for non-insured persons provided for children up to 2 years of age (740 MDL, equivalent to 37 EUR), the monthly allowance for twin children or children born from a single pregnancy, for each child, provided up to 3 years of age (370 MDL, equivalent to 19 EUR).

Also, for the children placed in family-type services, by Government Decision No. 1278/2018 ⁸⁷¹ the following allowances are offered: single allowance at placement (3,688.7 MDL, equivalent to 185 EUR), monthly allowance (1,400 MDL, equivalent to 70 EUR), a single allowance at reaching the age of 18 (1,000 MDL, equivalent to 50 EUR). Additionally, for each child placed in the social services' community house for children at risk and placement center for children separated from their parents, who are enrolled in educational institutions, a daily allowance is paid starting from the 5th grade and until reaching the age of 18.

Vulnerable families with children also benefit from the Social Benefit Program („Ajutorul Social”), under the Law No. 133/2008⁸⁷², which is the main Government's

⁸⁶⁷ Law No. 338/1994 on the rights of the child, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=94939&lang=ro

⁸⁶⁸ Law No. 140/2013 on the special protection of children at risk and of children separated from their parents, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123160&lang=ro

⁸⁶⁹ Law No. 315/2016 on the social benefits for children, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123159&lang=ro#

⁸⁷⁰ Government Decision No. 1478/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129476&lang=ro#

⁸⁷¹ Government Decision No. 1278/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=119777&lang=ro

⁸⁷² Law No. 133/2008, available in Romanian at:

instrument to support families and help them overcome poverty. The Program has two components: the social benefit and the support for the cold period of the year. Both benefits are well targeted and provide a minimum guaranteed income to vulnerable families. Currently, there are around 40,000 families per month receiving the social benefit and 230,000 families per month receiving the support for the cold period of the year.

In 2022, the Parliament has passed a reform in order to enhance the number of families with children that benefit from the Social Benefit Program, to stimulate able bodied beneficiaries to find jobs, and to better cover families with agricultural daily workers.

2. Social services

The Law No. 123/2010 on social services ⁸⁷³establishes the general framework for the creation and the functioning of social services, determines the tasks and responsibilities of the central and local public administration, other legal and physical persons authorized to provide social services. There are three types of social services: (1) primary social services, that are offered at the level of the community to all the beneficiaries and aim at preventing or limiting difficult situations such as marginalization or social exclusion; (2) specialised social services, which involve specialists and aim at maintaining, rehabilitating or developing individual capacities for overcoming difficult situations of the beneficiary or its family; (3) highly specialized social services, provided in a residential or temporary placement institution, implying a series of complex interventions that can include any combination of specialized social services, provided to highly dependent beneficiaries that need continuous supervision.

The following social services are available for children and families with children at local level, implemented by the local Social Assistance Directorates:

- The day centre for children at risk (Government Decision No. 441/2015⁸⁷⁴), a public or private institution of social assistance providing specialised social child care services for children in risk situations, with the aim of their social and family reintegration, as well as in order to prevent the separation of children at risk from their families.
- The placement centre for children separated from parents (Government Decision No. 591/2017⁸⁷⁵), a public or private social assistance institution providing social services for a determined period of time.
- The maternal centre (Government Decision No. 1019/2008⁸⁷⁶), a public or private institution providing protection to the couple mother-child in order to prevent the abandonment of the child and to ensure the formation, maintenance and consolidation of family bonds.
- Community house for children at risk (Government Decision No. 52/2013⁸⁷⁷), a specialised social service for the upbringing and education, in a family-type

https://www.legis.md/cautare/getResults?doc_id=129347&lang=ro

⁸⁷³ Law No. 123/2010 on social services, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129352&lang=ro

⁸⁷⁴ Government Decision No. 441/2015, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=84308&lang=ro

⁸⁷⁵ Government Decision No. 591/2017, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110138&lang=ro#

⁸⁷⁶ Government Decision No. 1019/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=14244&lang=ro

⁸⁷⁷ Government Decision No. 52/2013, available in Romanian at:

home, of children temporarily or permanently deprived of their family environment, as well as of children at risk.

- Professional parental assistance (Government Decision No. 760/2014⁸⁷⁸), a specialised social service that provides children with care in the family of a professional parental assistant, in line with the U.N. guidelines on alternative childcare.
- Family-type children's home (Government Decision No. 51/2018⁸⁷⁹), an institution created on the basis of a complete family, which provides the child left without parental care with substitute family care in the family of the parent-educator.
- Social Support service for families with children (Government Decision No. 889/2013⁸⁸⁰) aims at preventing and overcoming risk situations in order to ensure the upbringing and education of the child in the family environment, connecting the family to the relevant resources from the community, as well as providing financial assistance to the family.
- Daycare centres for children aged from 4 months to 3 years (Government Decision No. 730/2018⁸⁸¹), aiming at preventing separation from families, marginalisation, social exclusion, and institutionalisation of children. The beneficiaries of the centres are children at risk of separation from their family environment on the basis of a complex evaluation of the child's and family's situation in the framework of the Social Support service for families with children.

254. How is child labour addressed in the legislation and what is the practical experience with its implementation? Please provide information on the existence / extent of child labour and on measures taken to address this issue.

The Republic of Moldova made some advancements in combating child labour and eliminating the worst forms of child labour. In January 2021, Parliament adopted Law No. 191, which reversed changes that had delegated responsibility for occupational safety and health inspections to 10 smaller agencies and returned it to the State Labour Inspectorate. The government also enacted legislation aimed at preventing the exploitation of children separated from their parents, usually due to labour migration. However, despite new initiatives to address child labour, the Republic of Moldova has challenges in addressing the elimination of the worst forms of child labour. About 24% of children (102,105) are engaged in child labour according to UNESCO Institute for Statistics, most of them (97.3%) working in agriculture. Only 2.2% of children work in the services sector and 0.6% work in the industrial sector.

https://www.legis.md/cautare/getResults?doc_id=103149&lang=ro

⁸⁷⁸ Government Decision No. 760/2014, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110307&lang=ro

⁸⁷⁹ Government Decision No. 51/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=109605&lang=ro

⁸⁸⁰ Government Decision No. 889/2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=103106&lang=ro

⁸⁸¹ Government Decision No. 730/2018, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128886&lang=ro#

The Republic of Moldova has ratified the following international conventions related to child labour:

- ILO Convention No. 138 concerning the Minimum Age for Admission to Employment;
- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;
- Palermo Protocol on Trafficking in Persons.

The Republic of Moldova has established laws and regulations related to child labour:

- Labour Code ⁸⁸²(Law No. 154/2003) states that the minimum age to work is 16 (art. 46). Employment for workers of 15 years of age is possible with the written consent of parents or legal representatives. The minimum age for hazardous work is 18 (art. 255). The application of a trial period for workers up to 18 years of age is prohibited (art. 62).

The Labour Code also states that workers up to 18 years of age are prohibited to work during the night shifts, working overtime, working on continuous shifts, and working during the rest days (art. 103, 105, 110, 257). Minors are also entitled to annual rest leaves during the summertime or on the basis of a written request during any time of the year (art. 116).

The reduced duration of working time per week represents 24 hours for workers from 15 to 16 years of age and 35 hours for workers from 16 to 18 years of age. The daily duration of the working time cannot exceed 5 hours. For workers between 16 to 18 years old, the daily duration of the working time cannot exceed 7 hours (art. 100).

The Labour Code provides additional guarantees for the dismissal of workers up to 18 years of age. Dismissal of workers up to 18 years of age, except in case of entity liquidation, is allowed only with the written consent of the territorial employment agency, respecting the general conditions of dismissal stipulated in the Labour Code (art. 257).

- The nomenclature of works with heavy, harmful, and/or dangerous working conditions in which persons up to 18 years of age are prohibited to work and the maximum allowed norms for persons up to 18 years of age when manually lifting and transporting weights (Government Decision No. 541/2014⁸⁸³). This normative act determines the industries with heavy, harmful and/or dangerous work to which the application of the work of persons up to 18 years of age is prohibited.

The government has established institutional mechanisms for the enforcement of laws and regulations on child labour:

- The State Labour Inspectorate enforces child labour laws through inspections of labor relations of enterprises, institutions, and organizations, regardless of their type or legal form.
- Committee for Combating Trafficking in Persons within the Ministry of Internal Affairs leads criminal investigations and arrests perpetrators, including for the

⁸⁸² Law No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130513&lang=ro#

⁸⁸³ Government Decision No. 541/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=22016&lang=ro

trafficking of children for both labor and sexual exploitation, cooperates with the Border Police Inspectorate, National Anti-Corruption Center, and Customs Service, and provides partial funding for the operation of a 24/7 trafficking in person hotline.

- Specialized Prosecution Office for Organized Crime and Special Cases and Anti-Trafficking Bureau within the Prosecutor General's Office (PGO) monitors and analyzes human trafficking cases in the Anti-Trafficking Bureau within PGO. It also includes a unit to investigate and prosecute cases.

Even though the lack of unannounced inspections in sectors in which child labour is known to occur exists, labour law enforcement agencies in Moldova took important actions to combat child labour. In 2019 authorities in Moldova found 109 violations, conducted 34 investigations, initiated 30 prosecutions, and imposed 16 convictions and 7 penalties for violations related to the worst forms of child labour. In 2020, authorities identified 23 child victims of trafficking, 20 of whom were trafficked for sexual exploitation, 2 for labour exploitation, and 1 for forced begging. Separately, nine minors ages 16 to 17 were used by criminal groups to traffic drugs.

The government funds and participates in programs that include the goal of eliminating or preventing child labour. One of them is the Decent Work Country Program that is renewed every four year. The current program for 2021-2024 and the previous program for 2016-2020 mandates that the programs must gather statistics on the prevalence of child labour, build the capacity of the labour inspectorate, and combat labour exploitation in construction and agriculture sectors. In 2020, the government approved legislative changes proposed as a part of this program that returned OSH inspections to the State Labour Inspectorate.

255. Please elaborate on legislative and non-legislative actions taken to address discrimination against children from ethnic minorities, children with disabilities, children living in remote areas as well as on grounds such as sex, birth status (married/unmarried parents), migration status or others. Are all children covered by compulsory health insurance?

The legal framework of the Republic of Moldova in the field of child protection is developed taking into account the principle of non-discrimination. In this respect, the most important provisions are laid out in:

- the Law No. 338/1994 on the rights of the child, which in Article 3 stipulates that “All children have equal rights irrespective of race, nationality, ethnic origin, sex, language, religion, beliefs, wealth or social origin”,
- the Law No. 140/2013 on the special protection of children at risk and of children separated from their parents establishes that protection is provided to all children without discrimination, irrespective of race, colour, sex, language, religion, political or other opinion, citizenship, ethnic or social origin, status obtained by birth, material situation, the degree and type of disability, specific aspects of upbringing and education of children, of their legal representatives or legal guardians, or of their place of residence (family, educational institution, social service, medical institution community etc.),

- the Law No. 60/2012 on the social inclusion of persons with disabilities⁸⁸⁴, which provides the right of persons with disabilities, including children with disabilities, for their social inclusion, guaranteeing the possibility of their participation in all aspects of life without discrimination, at the same level as other members of society, based on respect for human rights and fundamental freedoms.

In the field of health care, the state guarantees the protection of all citizens through the system that provides primary health care, emergency medical care, hospital health care, within the established limits and volume, addressing the needs of children, women and men, people with disabilities and the elderly, being one of the fundamental principles of the health care system stipulated by Art. 2 of the Health Care Law No. 441/1995⁸⁸⁵.

Pursuant to the provisions of the same law, the state guarantees the right to health regardless of nationality, race, sex, social affiliation and religion (Art. 17), and guarantees the protection of maternal and child health, protects the interests and rights of the children, ensuring conditions conducive to their physical and spiritual development (Art. 48).

Under the provisions of the Law No. 1585/1998 on compulsory health insurance⁸⁸⁶, the Government provides health coverage to all children under 18 years of age, as well as students enrolled in educational institutions. The Government is responsible for the payment of contributions for this category. Beneficiaries are provided free of charge preventive and medical services at all levels of the health care system, for diseases and conditions included in the package of medical services covered by the Mandatory Health Insurance funds. At the same time, children are provided at no cost with medication available through all National Programs addressing priority public health problems (tuberculosis, HIV, mental illness, diabetes, diabetes insipidus, rare diseases, etc.), financed by the state budget.

With respect to health services specifically designed for children with disabilities, the Government approved the Framework Regulation on the organization and operation of early intervention services and the Minimum Quality Standards for early intervention services (Government Decision No. 816/2016⁸⁸⁷). To ensure early identification of developmental delays and/or disabilities and provide medical, social, and psycho-pedagogical assistance to children and families, early intervention services at different levels of the healthcare system (primary, secondary, and tertiary), are included in the compulsory health insurance benefit package, were developed.

The National Program⁸⁸⁸ for Social Inclusion of Persons with Disabilities for 2017-2022 provides the policy framework for ensuring the rights of persons with disabilities, including children, and their effective and full participation in society. Specific actions are focused on increasing the access of children with disabilities and those at risk of disabilities to quality prevention and rehabilitation services.

⁸⁸⁴ Law No. 60/2012 on the social inclusion of persons with disabilities, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=130550&lang=ro

⁸⁸⁵ Health Care Law No. 441/1995, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128014&lang=ro#

⁸⁸⁶ Law No. 1585/1998 on compulsory health insurance, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128122&lang=ro#

⁸⁸⁷ Government Decision No. 816/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=93683&lang=ro

⁸⁸⁸ https://www.legis.md/cautare/getResults?doc_id=101863&lang=ro

In 2021, at the request of the Ombudsman Office, a study⁸⁸⁹ on *Human rights perceptions in the Republic of Moldova* was conducted, presenting the opinion of the population on observance of human rights, including the right to health care. According to the results of the study, more than half of the respondents (59.3%) consider that children's rights to health are mostly respected in the Republic of Moldova.

Non-legislative actions are taken by Social Assistance Directorates at local level to integrate children from ethnic minorities, children with disabilities, children living in remote areas, as well as refugee children in the local society. However, there is a clear need to reinforce the capabilities of the Social Assistance Directorates at regional level through the creation of specific positions for child protection specialists. This issue is addressed in the National Action Plan for child protection for the years 2022-2026.

256. Please elaborate on the measures in place to ensure education of all children, including those with disabilities. Is support to children with disabilities made available in regular schools?

The education system in the Republic of Moldova aims to ensure the right of access to quality education for all children, including children with special education needs.

In accordance with art. 32 and 33 of the Education Code of the Republic of Moldova No. 152/2014⁸⁹⁰, education for children with special educational needs is an integral part of the education system.

The systemic approach to inclusive education occurred after the approval, in 2011, by Government Decision No. 523 of July 11, of the Program for the development of inclusive education in the Republic of Moldova for the years 2011-2020. The period following 2011 was marked by the development of inclusive education at the national level through the development of the regulatory framework for the development of inclusive education, the creation of networks of educational support structures/services, the development of professional skills in the field of early intervention, and the creation of funding mechanisms for educational inclusion of children with SEN.

Currently, the Ministry of Education and Research is in the process of finalising the new country program - Program for the development of inclusive education in the Republic of Moldova for 2022-2027, which will address equal opportunities and access to quality education for every child, youth, adult.

The children with special education needs are integrated in general education institutions in common learning environments with other children. These children enjoy an individualized approach, based on evaluation and/or complex reassessment. Developing school support services and ensuring effective school-family collaboration also enhance the integration of children with special needs in general education institutions.

In order to ensure the right to education for children with SEN/disability in early education institutions, there was created a friendly, protective, secure and developmental environment, namely, 151 institutions were equipped with a slope/access ramp and 40 institutions have adapted toilets.

⁸⁸⁹ http://ombudsman.md/wp-content/uploads/2021/07/DO_raport_raport_OAP-2.pdf

⁸⁹⁰ Education Code of the Republic of Moldova No. 152/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130514&lang=ro#

At the primary and secondary general education level, 486 institutions have a slope/access ramp; 191 institutions have adapted toilets, and 24 educational institutions have special rooms, arranged for recovery and therapeutic activities for students with special educational needs, and support bars.

257. Which measures have been taken to promote and facilitate the registration of all children?

Moldovan legal framework provides for universal birth registration (Law No. 100/2001 on acts of civil status⁸⁹¹). Birth registration should take place no later than 3 months after the event; thereafter, the late birth registration process is applicable. In order to facilitate the registration of all children, the Government adopted a simplified procedure for registering newborns (Government Decision No. 258/2009⁸⁹²), allowing to place civil registrars from the Public Services Agency within maternity wards to provide on-site birth registration. As well, the legislation was amended to recognize civil status acts produced/ issued by the structures on the Left Bank of the Dniester River and Bender municipality, making it easier for parents living in the Transnistrian region to register the births of their children with the constitutional authorities of Moldova (Law No. 310/2017⁸⁹³).

The completeness of birth registration in Moldova was 99.6% in 2012 – the most recent year this data⁸⁹⁴ is available for. Aiming to enhance the quality of civil registration and vital statistics, the Government has initiated digitalization and interoperability of the respective systems to make available online service for ordering and getting official birth certificates.

Other normative acts for state registration of the facts of children's birth and their records includes the following:

- Instruction on the certification of civil status acts produced and recorded in the localities on the Left Bank of the Dniester River and Bender municipality, approved by the Government Decision No. 286/2019⁸⁹⁵;
- Instruction on how to register civil status documents, approved by DTI order No. 4 of January 21st, 2004;
- The nomenclature of public services provided by the Public Services Agency and the tariffs for them, approved by Government Decision No. 966/2020⁸⁹⁶;
- Integrated nomenclature of public administrative services and the list of life events associated with them, approved by Government Decision No. 670/2020⁸⁹⁷;

⁸⁹¹ Law No. 100/2001 on acts of civil status, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=112686&lang=ro

⁸⁹² Government Decision No. 258/2009, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=114574&lang=ro

⁸⁹³ Law No. 310/2017, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro

⁸⁹⁴ <https://data.worldbank.org/indicator/SP.REG.BRTH.ZS?locations=MD>

⁸⁹⁵ Government Decision No. 286/2019, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=114695&lang=ro

⁸⁹⁶ Government Decision No. 966/2020, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=124770&lang=ro

⁸⁹⁷ Government Decision No. 670/2020, available in Romanian at:

- The concept of the Automated Information System “State Register of Population” and the Regulation on the State Register of Population, approved by the Government Decision No. 333/2002⁸⁹⁸.

In accordance with the provisions of the Law No. 100/2001 on acts of civil status, state registration of the fact of the birth of children is mandatory and free of charge, is made on the basis of the medical certificate ascertaining the birth, takes place on the day when the parents or other proxies address to declare the birth of the child.

In order to avoid the non-declaration of the birth by the parents of the child within the stipulated legal term (3 months), the civil status bodies monitor, continuously and in particular, each case of failure to submit information about the birth of the child to the civil status bodies of the Republic of Moldova, based on reports on the number of birth facts produced and ascertained within the medical institutions and notify the police bodies, including the guardianship authority, about the circumstances detected in this sense.

With reference to the fact of children’s birth produced and recorded on the Left Bank of the Dniester River and Bender municipality, the provisions of the Instruction on the certification of civil status facts produced and recorded in the localities on the Left Bank of the Dniester River and Bender municipality, approved by the Government Decision No. 286/2019 are applicable.

In the context of the aforementioned normative act, the fundamental right of the child to birth registration and identity is ensured by issuing the approved single model birth certificate, if the registration of the fact of birth by the structures on the Left Bank of the Dniester River and Bender municipality took place under conditions similar to those regulated by the National normative framework.

For cases in which civil status bodies are unable to resolve in administrative proceedings (for example, in the situation where a ascertaining medical certificate cannot be issued in respect of the fact of birth), competent to ascertain, in Special Civil Procedure, the fact of the birth of the child by a concrete woman is the court, according to art. 20, par. (3) of Law No. 100/2001 on Civil Status Acts and art. 279-281, lit. n) of the Code of Civil Procedure.

If the legal representatives of the child did not declare the birth of the child within 1 year from the moment the event occurred, art. 60, 61 of Law No. 100/2001 on Civil Status Acts, they establish the possibility of registration of birth in the special procedure of subsequent registration of the given fact.

At the same time, we reveal that for the subsequent registration of birth, in Special Administrative Procedure, in accordance with the provisions of the Nomenclature of public services provided by the Public Services Agency and the respective tariffs/fees (approved by Government Decision No. 966/2020), a special examination deadline was established, 15 working days instead of 2 months, and free of charge, if the declarant is a guardianship authority or legal representative of the child left temporarily or permanently without parental protection.

Alternatively, we mention that the Public Services Agency is engaged in the project of optimising the operational processes of providing civil status services, in accordance

https://www.legis.md/cautare/getResults?doc_id=123053&lang=ro

⁸⁹⁸ Government Decision No. 333/2002, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=118956&lang=ro#

with the provisions of the Collaboration Agreement on the Modernization of some public services provided by the Public Services Agency, signed between the public institution “E-Government Agency” and the Public Services Agency on January 13th, 2020, as well as under the Prime Minister’s Decision No. 8 of 11 February 2020 and No. 28 of 07 September 2020 on the approval of the Action Plan for the implementation of the necessary activities within the project “Modernization of Government Services”.

Thus, within the implementation of the Modernization of Government Public Services Project, the public services related to the life event “Birth of a child” (approved by Government Decision No. 670/2020 on the approval of the Integrated nomenclature of administrative public services and the list of life events associated with them) are subject to reengineering, aimed at optimising the processes of interinstitutional interaction, streamlining the exchange of data through interoperability, recording all the facts of the birth produced, operative updating of the SIA “State Register of Population”, transparent monitoring of cases of default of legal obligations by parents of children and operative taking to record of children deprived of parental care and those in risk situations.

In addition, we note that according to the provisions of pt. 27 of the concept of the Automated Information System “State Register of Population” and of the pt. 8 of the Regulation on the State Register of Population, approved by Government Decision No. 333/2002, the state identification number (IDNP) is assigned to each natural person at the time of the initial entry of data about it in the State Register of Population (at the birth of the person, at the transcription of the birth act; at the first issuance of identity documents; at the first entry on the territory of the Republic of Moldova (for foreigners); at the registration of the person without issuing identity documents), and remains unchanged during the entire period of existence of these data, is included in all documents of the natural person.

The State Register of Population is the only official source of information on personal data for all automated information systems of Public Administration Authorities processing such data, and the IDNP is the basic index of identification of the individual in all automated information resources.

In this order of ideas, starting in 2003, the project “registration of minors” was launched, which provides the initial registration of minors in the State Register of Population, assigning them the state identification number based on the birth certificate.

Thus, minors who were not assigned IDNP at birth and who did not obtain identity documents are registered in the State Register of Population at the address of the legal representative, based on his/her request and the birth certificate of the minor, free of charge and without photographing him. The presence of the minor is not mandatory.

It is worth mentioning that within the project “Registration of minors”, starting with 2003 and until April 12, 2022, 409,254 children were registered in the State Register of Population.

258. Please describe the procedure for taking care of children without parental care. Are children separated from their parents housed in institutions, if so, what type and is a foster care system in place? What is the percentage of children with disabilities housed in institutions and what is the average age? Is a de-institutionalisation strategy in place and any measures to promote community-based care?

In order to establish a special legal framework for the protection and monitoring of children, the Ministry of Labour and Social Protection has promoted the Law No. 140/2013 on the special protection of children at risk and of children separated from their parents, which sets up the procedures of identification, evaluation, assistance, referral, monitoring and evidence of children at risk and of children without parental care, as well as the authorities and institutions responsible for the application of the respective procedures.

Thus, the guardianship authorities must take all necessary measures to assist and support the children and their families in order to prevent the separation of the child from the family or, as the case may be, with the aim to (re)integrate the child into the family. The placement of the child may be ordered by the guardianship authorities only if, following a special assessment, it is found that keeping the child with the parents is not possible or is contrary to his or her best interests.

In the case of separation of the child from its parents due to a risk situation, the guardianship authority may order the placement of the child, giving priority to the placement in its extended family or in the family of a person with whom the child has established close ties (neighbor, family friend etc.). If this is not possible, the child may be directed to other types of placement services – in this case, priority is given to family-type placement services as opposed to residential services.

The number of children placed in alternative family-type services is greater than that of children placed in residential services. At the end of 2020, there were 3747 children placed in family-type services, including:

- 812 children placed in the Professional parental assistance service (Government Decision No. 760/2014), developed in 34 out of 34 regions of the country;
- 264 children placed in the Family-type children's home (Government Decision No. 51/2018), developed in 21 regions;
- 2179 children placed in extended families;
- 492 children placed in families of a person with whom the child has established close ties (neighbour, family friend etc.)

In the same time, there were 896 children placed in residential services, including 245 children with disabilities (126 children with severe disability, 91 with accentuated disability and 28 with medium disability). The age distribution of these children is as follows: 5 children of up to 2 years of age, 10 children of 3 to 6 years, 67 children of 7 to 9 years, 120 children of 10 to 15 years, 43 children of 16 to 17 years. The age pyramid of children placed in residential services reflects the process of deinstitutionalisation of childcare in the Republic Moldova.

In recent years, efforts were made to implement a complex reform of the childcare system for children in difficult situations, based on a number of policy documents: (1) the National Strategy and the Action Plan⁸⁹⁹ on reforming the residential system of childcare for the years 2007-2012, (2) the National Program for the creation of the

⁸⁹⁹National Strategy and the Action Plan, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=15237&lang=ro

integrated system of social services for the years 2008-2012⁹⁰⁰, (3) the Strategy for Child Protection for the years 2014-2020⁹⁰¹, focused on three main objectives:

- Ensuring the necessary conditions for raising and educating children in the family environment;
- Preventing and combating violence, neglect and exploitation of children, promotion of non-violent practices in children's upbringing and education;
- Reconciling the family and professional life to ensure the child's harmonious growth and development.

Currently, the Government is finalizing the National Action Plan for child protection for the years 2022-2026, which aims to attain the following results:

- Families with children at risk are provided with the necessary support to prevent the separation of children from their parents;
- Alternative family-type care services are consolidated and available to every child in need;
- Residential childcare institutions are reformed and reorganized in favor of family-type social services for children.

259. As regards access to justice for children, indicate if a strategy or action plan on juvenile justice is in place and assess implementation. Are measures in place to ensure child-friendly proceedings in civil and administrative cases? Are measures for children victims and witnesses in place?

Although there is no separate sectoral Strategy for juvenile justice, the objectives to be achieved in this area are set out in other policy documents adopted at the national level. Thus, some aspects of improving the mechanisms and guarantees in relation to the juvenile justice system interfere with the priorities set out in the Strategy for ensuring the independence and integrity of the justice sector for 2022-2025⁹⁰² and the Action Plan for its implementation, adopted by Parliament on 6 December 2021. This document sets out measures to facilitate access to justice, in particular for vulnerable and under-represented groups, including children.

Also, the National Action Plan in the field of human rights for the years 2018–2022⁹⁰³ includes a distinct objective of “Strengthening the juvenile justice system”. In relation to this objective, measures have been implemented or are being implemented focusing on: ensuring the special hearing of child victims of crime; implementation of non-custodial measures applied to juveniles in conflict with the law; ensuring the right of juveniles in detention; strengthening the juvenile probation activity, etc.

In view of the international standards on the protection of the rights of the child, the national legislative framework includes special provisions related to the examination of

⁹⁰⁰ National Program for the creation of the integrated system of social services for the years 2008-2012, , available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=69464&lang=ro

⁹⁰¹ Strategy for Child Protection for the years 2014-2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=69464&lang=ro

⁹⁰² Strategy for ensuring the independence and integrity of the justice sector for 2022-2025, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129241&lang=ro

⁹⁰³ National Action Plan in the field of human rights for the years 2018–2022, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110031&lang=ro

cases involving minors (art. 474-486 of the Criminal Procedure Code). The rationale of these special procedures in criminal matters, that concern both the stage of criminal prosecution (pre-trial phase) and the stage of examining the case in court (judicial phase), derives from the psychophysical peculiarities of the minor, who do not reach the characteristic level of an adult, being in a period of formation both physically and intelligibly. From this perspective, adequate procedural and material guarantees are established, in which the educational and preventive sides of the criminal process prevail, and only in a subsidiary way, the repressive side shall be involved.

There are also separate regulations regarding the hearing of witnesses / juvenile victims, especially in cases of sexual offenses, trafficking in children, or domestic violence (art.110/1 Criminal Procedure Code). They are heard in specially arranged spaces, equipped with audio/video recording devices, through an interviewer (the interviewers involved are people who have legal education or education in the field of psychology, people specially trained for this task). The hearing of the juvenile witness must be carried out in such a way as to avoid any adverse effects on her/his mental state. At the same time, in the case where a minor is a victim or a witness, the court will hear her/his statements in a closed hearing session.

Legitimate rights, freedoms, and interests of minors between the ages of 14 and 18 are defended in court by their legal representatives, and the court is obliged to bring such minors into such cases. At the same time, as an exception, in cases provided by law, in cases arising from civil, marital, family, employment, and other legal relations, minors can personally defend their rights, freedoms, and legitimate interests in court. The court can introduce the minor's legal representative in the process if it deems necessary.

At the hearing of the witness up to the age of 14 years, or when the court finds it appropriate, at the hearing of the witness aged between 14 and 16, a teacher/educational staff will be summoned to assist. The parents or the legal representative of the minor are also summoned, where appropriate. The persons mentioned, as well as the participants in the proceedings, may, with the permission of the chairman of the hearing, ask questions to the witness, to set out their considerations regarding the witness and the content of her/his testimony. In exceptional cases, where certain circumstances of the case must be established, the court may order, by a decision, to hear the juvenile in the deliberation chamber without the parties or other persons present. Once the panel returns to the courtroom, the participants in the trial are informed of the testimony of the juvenile witness.

Additionally, according to the law, when the interests of minors are so required, the judge may decide to examine the case in a closed session.

The Law 198 on State-Guaranteed Legal Aid provides for the right to qualified legal aid for children, including child witnesses and victims of crime, victims of domestic violence, victims of sexual offenses, regardless of parental income. At the request of the child or the guardianship authority, the child enjoys the right to qualified legal assistance without the consent of the parents or the guardian. The National Council for State Guaranteed Legal Aid has 39 specialized lawyers on its lists in cases involving children.

In order to prevent revictimization and/or re-trauma of children in the process of collecting evidence in criminal cases, the Government Decision No. 708/2019⁹⁰⁴ has

⁹⁰⁴ Government Decision No. 708/2019, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119740&lang=ro

approved the Framework Regulation on the organization and operation of Regional Centers for Integrated Assistance to Child Victims/Witnesses of Crime, based on the Barnahus model. The beneficiaries of the Centers will be children victims or witnesses of sexual offenses, trafficking in children, domestic violence, as well as other cases where the interests of justice or of the child so require. The first regional center was opened in Balti municipality in March 2022 and is expected to provide specialized integrated assistance to around 120 children per year.

In order to enhance the cooperation of state institutions in the field of juvenile justice, the joint Order No. 528/2021 of the Ministry of Internal Affairs, Ministry of Labour and Social Protection, Ministry of Health, and Ministry of Education and Culture introduced the Guidelines for the practical application of the mechanism provided by the Government Decision No. 270/2014⁹⁰⁵ on the intersectoral cooperation for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation, and trafficking.

For a better access to justice for children, the following documents have been approved within the General Police Inspectorate of the Ministry of Internal Affairs:

- the Order of the General Police Inspectorate No. 448/2017 on the approval of the Standard Operational Procedure regarding the intervention of the Police in the case of children at risk;
- the Curriculum, the Guide for teachers and police officers and the Handbook for a new discipline offered to pupils were developed in 2019 under the Memorandum of Understanding between the General Police Inspectorate and "PH International". The purpose of the discipline is to inform children about their rights and freedoms, and to prevent victimization and juvenile delinquency. The project is implemented in 49 educational institutions in the 8th grade and piloted in 29 educational institutions in the 11th grade;
- the Order of the General Inspectorate of Police No. 219/2019 on the approval of the Methodical Instruction for the application of working practices and the prevention of juvenile delinquency.

⁹⁰⁵ Government Decision No. 270/2014, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=18619&lang=ro

II. Procedural rights

A. Liberty and security

260. What is the average length after the imposition of the sentence until the enforcement of criminal sanctions through incarceration? Is there a problem of backlog? If yes, please describe the nature of the problem and what strategy is being enforced to address the problem.

Pursuant to art. 196 of the Enforcement Code of the Republic of Moldova, the prison administration conveys the convicted person to the designated penitentiary within 15 days after receiving the enforcement order. When assigning the penitentiary, priority is given to institutions that are closer to the convict's place of residence or another locality upon his/her written request. In practice, it takes about one month on average from the final conviction day until the transfer to the prison for serving the punishment.

There are cases of delayed transfers caused by the fact that Courts issue the enforcement orders with delay, contrary to the provisions of art. 468 Code of Criminal Procedure which set a 10 days limit for sending a copy of the final sentence to the body responsible for punishment enforcement. In some cases, the transfer of the convicts to the penitentiary is delayed for a period of up to 3 months. To address these issues, the pre-trial and remand facilities contact the Courts and request the submission of the enforcement order for the final sentence.

261. Does the legislation allow for alternatives to prison sentences, e.g. supervision measures, probation period and conditional release? How are such alternatives managed? Is there a probation service in place? If so, please describe.

The Criminal Code provides for the following alternatives to imprisonment: fine, unpaid work for the benefit of the community (community service), deprivation of the right to hold certain positions or conduct certain activities, deprivation of the right to drive, annulment of military rank, special titles, qualification (classification) degrees, and state distinctions⁹⁰⁶.

The Moldovan legislation also provides for conditionally suspended imprisonment with probation, deferral of imprisonment for pregnant women and women who have children under the age of 8, conditional release from prison, the substitution of the unexecuted part of the punishment with a milder form of punishment, exemption from punishment of juveniles, exemption from punishment due to a situation change, exemption from executing the punishment of seriously ill persons⁹⁰⁷.

The Moldovan Probation service was established in 2007, as a Probation division of the Enforcement Department under the Ministry of Justice of Moldova. Prior to that, the supervision of conditional release was performed by the Prison Department. The Law on probation regulates the organization and functioning of probation bodies and establishes their powers, mandate and purpose⁹⁰⁸. The mission of the probation system is to participate in the administration of justice by providing support to the judiciary in

⁹⁰⁶ Criminal Code of the Republic of Moldova, art. 62-67

⁹⁰⁷ Criminal Code of the Republic of Moldova, art. 89-96

⁹⁰⁸ The Law No. 8 / 2008 on probation, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122825&lang=ro#

individualizing sentences, ensuring the supervision of alternatives to pre-trial detention, supervision, and enforcement of non-custodial sentences, and social reintegration of lawbreakers in order to reduce recidivism and increase public safety.

The probation service works *inter alia* with the following categories of subjects: Suspects, accused, or defendants for whom the pre-sentence report was requested (adults/minors); juveniles exempted from criminal liability or criminal punishment; persons conditionally exempted from criminal liability, those deprived of the right to hold certain positions or to practice a certain activity, persons sentenced to community service or convicted to conditional suspension of imprisonment, pregnant women and persons with children up to 8 years of age for whom the execution of the sentence has been postponed, amnestied or pardoned persons, etc.

262. What is the ratio of prison sentences compared with alternative sentences?

The share of imprisonment in the overall criminal sentences slightly varied around 20% in the last 10 years⁹⁰⁹. Out of total of 9401 criminal convictions issued by Courts in 2020, 26% represented prison sentences, and the rest - were alternatives. The share of community service in total criminal convictions doubled in 5 years. That is, the percentage of unpaid work for the benefit of the community was 19% in 2015 and 40% in 2020. The community service convicts represent the largest share (48%) of probation subjects.

263. Is there the possibility for conditional parole and conditional prison sentences and, if so, are the convicted in these cases subject to surveillance by a probation officer during the probation period?

Conditional parole in Moldova is regulated in the Criminal Code, Criminal Procedure Code, and Enforcement Code⁹¹⁰. The Criminal Code establishes the criteria to be met by the applicant for conditional releases, such as fulfilling the individual sentence plan, and repairing the damage caused by the crime, unless one proves that this condition was impossible to fulfill and other. Prisoners can lodge an application for release on parole to the Prison Board or directly to the Court⁹¹¹. The Prison Board examines if prisoners fulfill the set-out criteria and decide whether to submit the conditional release motion to Court. In case of a refusal by the Prison Board, the prisoners can still request his/her early release in Court. The decision of the judge can be appealed by the prosecutor, the inmate, or his lawyer. The Court of Appeals acts as the final Court in such cases.

The rate of admitted parole requests out of the total lodged applications is low. The total number of conditional parole requests examined by prison boards went down from 1652 cases in 2018 to 874 cases in 2021, of which about 48% cases were admitted and sent to Court in 2018 and 33% - in 2021. The total number of parole request cases

⁹⁰⁹ Data from National Bureau of Statistics. Persoane condamnate in prima instanta.

⁹¹⁰ Criminal Code art. 91, Criminal Procedure Code, art. 471, Enforcement Code art 266.

⁹¹¹ Following the introduction of the criterion related to the individual sentence plan in 2017, the Courts examine only the cases that were first examined by Prison Boards. Still, if a prisoner disagrees with the decision of the Prison Board, he/she can appeal in Court.

examined by Courts dropped from 801 in 2018 to 297 in 2021, of which more than half were accepted (53% in 2018, 57% in 2021).

The supervision and assistance of the conditionally released prisoners are provided by the National Probation Inspectorate. Probation officers visit the prisons and contribute to the preparation for release approximately 6 months prior to the expected release. During 2021, 254 conditionally released prisoners were admitted to probation. As of 01.03.2022, Probation had in supervision 427 persons on parole. In 2020, the conditionally released prisoners represented 5% of total probationaries, which is lower than the mean value of 12.9% for the Council of Europe countries⁹¹².

Conditional prison sentences

The Moldovan legislation provides for both fully and partially suspended custodial sentences with probation⁹¹³. For crimes committed with intention punishable with up to 5 years imprisonment and crimes committed by imprudence punishable with up to 7 years imprisonment, the Court may decide to conditionally suspend the prison sentence enforcement. In such cases, the Court may oblige the convict to a) not change his/her domicile/residence without prior consent from a competent body; b) not attend certain places; c) undergo certain treatment for addiction to alcohol, drugs, toxic substances, or for venereal disease; c¹) participate in a special treatment or counseling program aimed at reducing violent behavior; d) provide material support to the victim's family; e) repair the damages caused within the term set by the court; f) participate in probation programs; g) perform unpaid community work, h) be subjected to electronic monitoring for a period up to 12 months. The most frequently applied obligation is the requirement to not change the domicile, set in 63% of the conditionally suspended prison sentences, followed by the condition to participate in probation programs set in 19% of the cases according to 2021 data. Electronic monitoring was applied in only 3% of the conditionally suspended punishments.

The partially suspended prison sentence is applied when the Court finds it unreasonable to imprison the convict for the full term given the crime circumstances and the convict's personality. The Court decides the length of the imprisonment term and the length of the probation/suspended period, depending on the seriousness of the crime. The exceptionally serious crimes are exempted from this provision in line with art. 90¹ para.(4) of the Criminal Code. The imprisonment part is always enforced first. The list of obligations that may be applied is the same as for the fully suspended conditional imprisonment, pursuant to art. 90 para.(6) of the Criminal Code.

264. Please describe the rules and procedures governing pre-trial detention and the rules on extending it. Please explain if different rules apply to juveniles. What are the rules regarding the revision of decisions on deprivation of liberty and pre-trial detention (automatic or upon request of the suspected)? For how long can a suspected person be deprived of his liberty before a court review takes place? Is there a maximum time limit for the total duration of pre-trial detention, if so what is it? What is the average period of pre-trial detention?

⁹¹² Aebi, M. F., & Hashimoto, Y. Z. (2021). SPACE II – 2020 – Council of Europe Annual Penal Statistics: Persons under the supervision of probation agencies. Strasbourg: Council of Europe, p. 33 [*SPACE-II 2020 Final report 220131.pdf \(unil.ch\)](#)

⁹¹³ Criminal Code art. 90 Sentencing to a conditionally suspended punishment, art. 90¹ Sentencing to a partially suspended prison sentence.

The pre-trial detention is imposed solely by the Court decision based on the prosecutor's motion. This is an exceptional measure that can be applied only to an indicted person accused of crimes for which the law provides a punishment of more than 3 years imprisonment. The conditions set forth in the Criminal Procedure Code provide that pre-trial detention shall be applied only when there are sufficient and reasonable grounds to believe that other measures are insufficient to eliminate the risks justifying the application of the arrest/pre-trial detention, such as absconding, interfering with evidence, exerting pressure on witnesses, or impeding the finding of truth in a criminal proceeding, committing other crimes or the risk of public disorder in case of release. The pre-trial motions must be reasoned and based on evidence.

Pursuant to art. 186 para. (3) of the Criminal Procedure Code, the pre-trial detention may be imposed for not more than 30 days. The pre-trial detention may be prolonged by the Court upon the Prosecutor's request for another 30 days. The investigative judge or, as the case may be, the court must examine whether other non-custodial measures would be sufficient to prevent the risks which motivated the application of pre-trial detention. A person may be detained in pre-trial custody for not more than 12 months cumulatively until the first instance court issues the sentence. In the case of juvenile defendants, however, the total length of pre-trial detention may not exceed 8 months. Moreover, the pre-trial prolongation request for more than 2 months in cases of minors must be approved in writing by the hierarchically superior prosecutor, while the prolongation of pre-trial detention for more than 4 months must be approved in writing by the Prosecutor General or his deputy.

Based on carried out evaluations, it was found that in the last 5 years, the average length of stay in pre-trial detention was approximately 4 months.

According to the legislation of the Republic of Moldova, the pre-trial detention is a measure of coercion, for a short period of time - up to 72 hours, which can be applied to a person suspected of committing an offense for which the law provides a sentence of more than one year or if the accused, the defendant violates the conditions of the non-custodial preventive measures applied to him, or if he violates the protection order in case of domestic violence if the crime is punishable by deprivation of liberty; or to convicts in respect of whom the decisions of conviction with the conditional suspension of the execution of the sentence or of annulment of the conditional release of the sentence have been annulled before the term.

The legal grounds for detention are: if the person was caught in the act; If the eyewitness, including the victim, directly indicates that it was that certain person who committed the crime; if obvious traces of the crime are found on the person's body or clothes, at his home or in his vehicle; if the traces left by this person are discovered at the crime scene.

In other circumstances which serve as a basis for a reasonable suspicion that a person has committed the crime, it can only be detained if he/she has tried to hide or his/her identity has not been established. The suspect may also be detained if there are reasonable grounds for believing that he or she will evade prosecution, prevent the finding of the truth or commit other offenses. Minors may be detained for a period not exceeding 24 hours.

The detained person has the right to a lawyer chosen or appointed by the National Council for State Guaranteed Legal Aid, after informing this Council by the criminal investigation body one hour after the detention of the person. The detained person shall be informed immediately of the reasons for the detention, but only in the presence of the defender. Detained persons are provided with space and conditions for free communication with the lawyer. Upon detention of a minor, the prosecutor and the minor's parents or the persons replacing them shall be informed immediately. In the case of the detention of an adult, the prosecutor shall be informed within a maximum of three hours from the moment of drawing up the report of detention.

265. Please describe the rules governing detention during the trial phase.

By and large, the rules governing detention during both pre-trial and trial phases are similar. In other words, the conditions described under question 264 are applicable for the examination, application, prolongation, appeal, or revocation of the remand custody decision. One noteworthy difference is the fact that during the trial phase, remand custody is decided by a panel of judges. During the trial, the court may, ex officio or upon the parties' request, order the application, replacement or revocation of the preventive measure, including the pre-trial detention (remand custody). A new motion for the application, replacement, or revocation of the preventive measure, including pre-trial detention, may be lodged not earlier than one month after the previous decision on the matter. Furthermore, in case the defendant is being acquitted, exempted from punishment enforcement or sentences with the conditional suspension of imprisonment, sentenced to a non-custodial criminal sentence or if the criminal proceeding is ceased, the court should release the arrested defendant immediately after the court hearing⁹¹⁴.

According to art. 175 para. (9) of the Enforcement Code, the execution of the pre-trial detention is ensured by the national administration of penitentiaries in remand facilities (so-called 'criminal investigation isolators'). There are four such facilities in Moldova: Penitentiary No. 13 - Chisinau, Penitentiary No. 5 - Cahul, Penitentiary No. 11 - Balti and Penitentiary No. 17 - Rezina. Separate units designated for pre-trial detention may be created also in other prisons. Detainees are locked in rooms for 23 hours out of 24, with the exception of juveniles who may have extra time in the fresh air. Remand prisoners are held under permanent guarding and supervision.

All procedural actions conducted by criminal investigators or prosecutors must take place on weekdays. On holidays and non-working holidays, the procedural actions may be carried out only at the prior written request of the criminal investigation body, with the consent of the prison administration. In order to facilitate the inmates' interaction with the court or criminal investigation bodies, teleconferencing equipment and rooms have been created in all the designated penitentiary institutions.

266. Please describe the rules governing detention after conviction.

The execution of prison sentences is ensured by penitentiaries in accordance with the Enforcement Code, organic laws, ordinary laws, Government decisions, orders of the

⁹¹⁴ The additional provisions are stipulated in articole 329 and 398 of the Criminal Procedure Code No. 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

Ministry of Justice, orders of the National Administration of Penitentiaries, and orders of Prison Governor.⁹¹⁵ The type of prison (closed, semi-closed or open) an inmate is assigned to for the full term is decided by the Court based on the crime committed. This provision substantially limits the prison authorities' discretion to allocate, transfer and manage the prison population. Regardless of the type of prison, all convicts serve their sentences successively in three detention regimes: initial, common, and resocialization. In the case of life-sentenced prisoners - initial, common and facilitated. The transfer of the convict from one regime to another, within the same penitentiary, is decided by the penitentiary board. The duration of the initial regime is fixed in legislation as follows: up to 1 month for open prisons, up to 3 months for semi-closed prisons, and up to 6 months in closed prisons. In the common regime, prisoners enjoy a higher degree of freedom of movement within set areas. The purpose of the resocialization regime is to allow for the gradual adaptation to freedom by enjoying leaves from prison in the last 6 months of the sentence. However, the leaves from prison are rarely applied (17 prisoners benefited from this right in 2021, of which 13 inmates were allowed to work outside prison walls with electronic monitoring). Transfers to the initial regime are usually applied as a disciplinary reaction. The Ministry of Justice plans to revise relevant legislation so that the individualization and progression principles are ensured.⁹¹⁶

The arrival of inmates concurrently engages several prison services such as Regime and Supervision Service, Special Service, Healthcare Service, Security Service, Secretariat Service, and Prison Governor. Prison staff's actions are documented in the personal file of the inmate, register of inmates' arrivals, minutes of the body search, and medical examination records. In case of discovered bodily injuries, a report/minutes are sent to NAP and Prosecutor's office, and if needed the inmate is transferred to the hospital. After the arrival and reception procedures, the detainee is placed in quarantine for a period of up to 15 days, during which they are examined by the medical service, in order to determine the state of health and work capacity, and if needed to prescribe an individual treatment. During quarantine, detainees are informed about internal rules, his/her rights, and obligations, applicable incentives and sanctions, relevant provisions from the criminal code, criminal procedure, and enforcement legislation, the law on access to information and the complaining system, in both verbal and written form, in the official language or in a language they understand (as the case may be, using a translator). The prison administration of the penitentiary notifies the court about inmates' reception and the close relatives about inmates' whereabouts within 15 days of arrival.

The control and search of the detainees, the rooms, and the prison territory may be carried out both planned and on an *ad hoc* basis. The daily program is more or less standard for all prison institutions and the available education and work opportunities are rather limited. Under the current legislation, the prison administration is allowed to hire not more than 10% out of the total number of prisoners in a specific institution.

⁹¹⁵ Enforcement Code No 443/2004, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128195&lang=ro
Statute of Punishment Enforcement by Convicts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110142&lang=ro#

⁹¹⁶ Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules, rules 51.1 to 51.5. Recommendation Rec(2003)23 of the Committee of Ministers to member states on the management by prison administrations of life sentence and other long-term prisoners, general principles 3, 8.

The process of granting the right to visits, phone calls, receipt, and sending of parcels is heavily regulated and bureaucratic⁹¹⁷.

The convicted persons are accommodated individually or together with other inmates. The rooms intended for a living have natural and artificial lighting. The standard of 4 square meters per living space is set in the law, however, the infrastructure in most prisons provides limited privacy - due to the large communal living barracks housing dozens of prisoners. Each detainee is provided with an individual sleeping place, on which a sign indicating the name and surname of the respective detainee is fixed. Detainees shall be provided with clothing, underwear and footwear, and bedding as required, in accordance with established rules. In order to ensure the needs of personal hygiene, the detainees are provided with soap and detergents according to the established norms. Detainees are also entitled to wear their own clothing. The penitentiaries ensure strict observance of the sanitary-hygienic and anti-epidemic rules. The disinfection of residential, social-communal rooms and warehouses is carried out periodically, including through the competent services contracted by each penitentiary institution. The detainees are fed with hot food three times a day in dining rooms or in cells. Detainees are provided with permanent access to safe drinking water. An additional food ration may be established for juveniles, pregnant women, nursing mothers, convicts working in difficult and harmful conditions, and severely ill or severely disabled detainees, based on the doctor's instructions.

267. How are human and secure conditions for detainees (in respect of international human rights standards) ensured by the police, justice, prosecution and penitentiary systems? What measures are taken if such standards are not respected?

Based on the CPT reports⁹¹⁸ following monitoring visits to Moldova, the two most acute problems faced by the penitentiary system are an overcrowding and criminal subculture. In order to address CPT's long-standing recommendations, the Ministry of Justice and the National Prisons Administration undertake to promote sentencing to shorter periods of imprisonment and encourage wider use of existing alternatives among judges and prosecutors. A 2018 baseline study commissioned by the Council of Europe⁹¹⁹ found that the high prevalence of criminal subculture drives up levels of insecurity for both staff and prisoners, it generates and concentrates violence on particular subgroups of prisoners. The study formulates a specific set of recommendations concerning the architecture of the institutions (the problem with dormitory type accommodation and the cell-system 'solution'), deficits (in the supply of goods and services by the formal administration that produces a demand for alternatives), recognition by formal bodies of informal power, approaches to security and staff-prisoner relationships, collecting information and the use of informants, incentivizing rejection of the criminal subculture, the role of the judiciary and prosecution, replicating positive examples (such as the Women's Prison Rusca). With

⁹¹⁷ A visit request must be approved and signed by the head of sector (unit leader), head of the security service, head of the reintegration service, head of the regime and supervision service. The same rules apply for handling phone call requests. Moreover, the information about the visit is documented in multiple registers and sources (register of prison visitors, register of short term visits/register of long-term visits, inmate's card, register of objects and valuable goods transmitted for storage during the long-term visits, register of reports of supervisors and the digital database.

⁹¹⁸ The CPT reports can be found at [The CPT and the Republic of Moldova \(coe.int\)](https://rm.coe.int/criminal-subculture-md-en-/1680796111)

⁹¹⁹ Baseline study into Criminal Subculture in Moldovan Prisons, <https://rm.coe.int/criminal-subculture-md-en-/1680796111>

support from the Council of Europe Office in Chisinau, the Moldovan Prisons Administration developed a Programme and a budgeted Action Plan for reducing and preventing inter-prisoner violence within the Moldovan prison system (2021-2025).

In addition to the objective of reducing the prison population, Moldova also established a national remedy for finding violations of the provisions of art. 3 of the European Convention on Human Rights. By Law No. 163 from 20.07.2017, the preventive and compensatory mechanism for precarious detention conditions was established.⁹²⁰ After finding that the convict or the accused was detained in conditions contrary to the provisions of art. 3 of ECHR, the court applies the compensatory remedy by reducing the sentence of the convict (a reduction from 1 to 3 days for every 10 days of detention in precarious conditions). In cases when the remaining part of the sentence does not allow further reductions, monetary compensation is provided. For the remand custody, the reduction of the sentence shall be calculated as follows: two days' imprisonment for one day of pre-trial detention or, as the case may be, initiating a civil action.⁹²¹ In addition to the compensatory remedy applied, the court may oblige the prison administration to remove the precarious conditions of detention within a given deadline, but no longer than 15 days. Prisons inform the Court about the execution of the set obligation.

In 2019, 1410 detainees benefited from the mechanism, out of which 137 persons were released from detention places.⁹²² Out of total releases in 2020, 244 were released based on the mechanism for compensation for inadequate prison conditions, 193 prisoners were released on parole and 215 got a milder punishment (art. 92 of the Criminal Code). So far, 22107 applications have been examined by Moldovan courts, of which - 8745 have been admitted. As a result, 552 people were acquitted and accepted financial compensations amounting to approximately 320,000 euros in total.

The complaints against the penitentiary administration regarding the detention conditions may be brought before Court by the convicted/detained person, or through a lawyer within 6 months from the date when he/she is no longer detained in such conditions, but no later than 4 months from their release. These categories of complaints are examined by the investigating judge, with the participation of the defendant or convict or his/her lawyer and the representative of the prison administration.

In order to improve prison conditions and reduce overcrowding, the following actions have been taken within the limits of the allocated state budget:

- A detention block was rebuilt in Penitentiary No. 10 - Goian (105 places, the cells being equipped with separate sanitary units and artificial ventilation);
- The project documentation was elaborated for the reconstruction of a detention block in Penitentiary No. 5 - Cahul, with some adjustments in 2021;
- A detention block was rebuilt in Penitentiary No. 3 - Leova (the cells being equipped with separate sanitary units and artificial ventilation) creating an additional capacity of 34 new detention places;

⁹²⁰ Article 385 and articles 473² - 473⁴ of the Criminal Procedure Code, The Law No. 163/2017 for amending and supplementing legislative acts, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110301&lang=ro#

⁹²¹ Criminal Procedural Code art. 385 para. (5).

⁹²² NAP statistical [data](#).

- In Penitentiary No. 7 - Rusca, for the female inmates, a semi-closed sector with the capacity of 40 new places of detention and an open sector with a capacity of 20 places were created;
- The construction of the Balti Detention House with a capacity of 650 places is in progress (stage I was finalized and Stage II is to be initiated).

To ensure prison conditions compliant with national and international standards and to implement the CPT and CAT recommendations, the National Administration of Prisons conducts repairs, renovations, inspections, and inventory of living spaces on an annual basis. In 2021, the renovation was conducted in 245 cells, 158 offices, and other spaces, 54 toilets, 47 windows, 34 doors were replaced, 15 roofs separated by a wall and a door, and 6 penitentiary institutions were equipped with inventory items. Furthermore, the dormitories (“Barack” type with a capacity of 20-30 beds) were divided into cells with a capacity of 2, 4, 6 places with one-level-beds in the Penitentiaries No. 3 - Leova, No. 6 - Soroca, No. 8 - Bender No. 9 - Pruncul.

The sanitary blocks were separated from the cells by the construction of the walls around it up to the ceiling and the installation of the door, in 90% of the cells in these institutions. Additionally, the technical-engineering supply networks were rehabilitated and equipped in about 70% of the institutions.

Also, the National Prison Administration conducted various improvements to protect the health of detainees.

According to human rights NGOs and CPT there are improvements in the material conditions at the prisons in Chisinau, Cahul, Taraclia, and several police detention facilities. To prevent ill-treatment in prisons, the government permits independent monitoring of prison conditions by local and international human rights observers, including the CPT. Prison officials generally allowed observers to interview inmates in private. Prison administrations applied COVID-19 related restrictions on monitoring visits since the start of the pandemic, which limited the access of NGOs to prisons⁹²³. The state will continue to deploy efforts to improve detention conditions. As a matter of priority, is the construction of a new penitentiary near Chisinau municipality (to replace the existing Penitentiary No.13).

The Ministry of Justice is currently working on a draft law to improve and clarify the compensation mechanism for calculating compensation, including measured by days, for being detained in precarious conditions.

268. Please describe the penitentiary system, the type and number of prisons. How are prisons financed? What is the authority supervising the penitentiary system?

The National Administration of Penitentiaries is the central specialized body, with the status of an independent subdivision, subordinated to the Ministry of Justice, which exercises leadership, coordination, and control over the implementation of state policy in the field of enforcement of custodial criminal sentences, pre-trial detention, penal

⁹²³ Moldova 2020 Human Rights Report, page 10. [Moldova - United States Department of State](#)

detention and security measures applied to prisoners. Currently, the penitentiary system consists of the National Administration of Penitentiaries and 17 prisons and 2 specialized subdivisions: the Training Center and Special Intervention Unit (“Pantera”). The penitentiary institutions include: 4 remand custody institutions (‘isolators’); 7 closed prisons; 3 semi-closed prisons; 1 prison for women; 1 juvenile prison; 1 prison hospital.

There are 2951 employees in the prison system, of which 316 positions are vacant. This places Moldova in the category of countries with a high ratio of inmates per staff member. On the 31st of January 2021, there were 2.5 inmates per prison staff and 3.7 inmates per custodian, which is higher than the European median value among CoE countries (1.4 and 2.4 respectively)⁹²⁴.

The prison system is funded solely by the state budget. The allocated budget increased from 513 million Moldovan lei (MDL) in 2017 to 979 million MDL (over 48 million EUR) in 2020 and 731 million lei in 2021. However, the absorbed budget remained constant at just over 500 million MDL. The average amount spent per day for the detention of one inmate was EUR 10.6 in 2020, which is seven times lower than the European median (EUR 157 is the average among CoE countries).

269. What is the size of the prison population?

According to data presented by the National Bureau of Statistics, the population of the Republic of Moldova in 2021 amounted to 2,597,107 people⁹²⁵. According to data submitted by the National Administration of Penitentiaries, on 01.01.2022, 6396 persons were detained in the penitentiary institutions of the Republic of Moldova, thus the number of detainees per 100,000 inhabitants was 246 persons. Overall, the rate of the prison population in Moldova appears to be at least double the average prison population in CoE countries.⁹²⁶

270. Is special attention devoted to female prisoners and young offenders? Is separate accommodation available? If yes, please provide a detailed description.

There are designated custodial facilities for female prisoners and for minors. Female and juvenile remand prisoners are detained in separate sectors in the four pre-trial institutions. After receiving the final sentence juvenile girls and adult female prisoners will be transferred to Prison No. 7 Rusca, while juvenile convicts (up to the age of 18) will be transferred to Goian Penitentiary No.10.

For female prisoners the detention conditions provide good premises for resocialization: the material conditions are aligned to the ECHR and CPT standards and respond to women’s needs, the availability of work opportunities is more extensive than

⁹²⁴ Aebi, M. F., Cocco, E., Molnar, L., & Tiago, M. M. (2022). SPACE I - 2021 – Council of Europe Annual Penal Statistics: Prison populations. Council of Europe. *Aebi-Cocco-Molnar-Tiago 2022 SPACE-I 2021 FinalReport_220404.pdf (unil.ch)

⁹²⁵ The number of inhabitants does not include the population from the break-away region on the left bank of River Nistru , source: <https://statistica.gov.md/category.php?l=ro&idc=103>

⁹²⁶ Please see CoE data for comparison at: <https://wp.unil.ch/space/space-i/annual-reports/>. Note that data for Moldova may differ from the answer provided for Q. 269 due to different methodology of calculating the number of inhabitants.

in other institutions (around 40% of women are employed in remunerated work), several psycho-social programs are available. In addition to high school education, women can attend vocational education and training in Penitentiary No. 7 - Rusca. For pregnant women and mothers who have children up to 3 years of age, there is a separate sector created in the Penitentiary No. 7-Rusca and one in Penitentiary No. 16 - Pruncul (prison hospital). Obstetric care for pregnant women is provided throughout pregnancy exclusively by public health institutions. After the birth, specialized medical care is provided according to the medical prescriptions. Gynecological and obstetrical care for women detainees is provided in all 6 penitentiaries where sectors are created for mature female prisoners.

When children turn 3 years old, they are taken out of prison and given into the care of a person designated by his/her mother, or a residential institution for children, with the written consent of the mother and the consent of the guardianship authority. The prison administration ensures the mother's opportunity to keep in touch with her child if this does not prevent the normal development of the child and does not have a negative effect on him.

Juvenile detainees (convicted before turning 18 years old and those for which the Court ordered detention in the prison for minors and youngsters) are held in Penitentiary No. 10 - Goian after receiving the final sentence. This institution offers decent living conditions more aligned to children's needs, the possibility to continue their studies by engaging teachers from the community, psycho-social programs, vocational training, and leisure activities. A new block was recently rebuilt which provides an additional capacity of 105 places. The plan is to transfer the remand juveniles - minors and youngsters up to 23 years of age, into the new facility in the nearest future. The purpose is two-fold: to provide adequate detention conditions and to separate the juveniles from adult prisoners to reduce the influence of the criminal subculture.

271. Are there special provisions for prisoners with mental disabilities subject to compulsory psychiatric treatment? Are such prisoners incarcerated? Are they separated from others?

The criminal law and criminal procedure law of the Republic of Moldova provides special measures for persons with mental disabilities. In the case of persons accused of a crime, these measures are ensured from the stage of criminal prosecution. In this sense, art. 490 of the Criminal Procedure Code provides that when the prosecuted person under arrest is found ill, the investigating judge orders, based on the prosecutor's request, his admission to the psychiatric institution, adapted for the detention, ordering, at the same time, the revocation of the pre-trial detention.

The compulsory psychiatric treatment (without the patient's consent) can be ordered only by a court and is carried out in the Psychiatric Hospital. The civil/public psychiatric hospitals in the Republic of Moldova have units for forensic patients and units for persons charged with criminal offenses. In case a prisoner develops a mental illness while serving his/her prison sentence, the person is released from detention in line with the provision of the Ministry of Justice Order No. 331/2006.⁹²⁷

⁹²⁷ Order No. 331/2006 of the Ministry of Justice "on the manner of submitting of the seriously ill convicts for release from the execution of the sentence", available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=38904&lang=ro

Considering that the person's responsibility is a basic condition for her/him to be subject to criminal liability, according to art. 23 para. (1) to the person who at the time of the commission of a prejudicial act was in a state of irresponsibility, i.e. could not understand the nature of his/her actions or inactions or could not control his/her actions because of chronic mental disease, a temporary mental disorder, or some other the pathological condition, shall not be subject to criminal liability and, based on a court decision, medical constraint measures set forth herein may be applied. The same rule is applied to the person who commits a crime in a state of responsibility but who, prior to the sentence being delivered has become mentally ill and unable to understand his/her actions or inactions or to control his/her actions. But, according to art. 23 para. (2), upon recovery, the person may serve the punishment. The provisions of art. 499 of the Criminal Procedure Code establishes the manner of application of coercive measures of a medical nature in psychiatric institutions.

In accordance with art. 232 para. (2) of the Enforcement Code, the penitentiary system has the obligation to apply compulsory treatment to detainees suffering from alcoholism, and drug addiction, provision is de facto not applied. In the psycho-neurology section of the Prison Hospital No. 16 - Pruncul, there are inmates with mental disorders who undergo voluntary treatment and hospitalization. Thus, although the Statute of Punishment Enforcement section 44 provides for a procedure of coercive medical treatment in the psychiatric wards of the penitentiaries, these provisions are not applied. With the support of the Council of Europe, a strategy has been developed for the management of detainees with mental health problems, but the regulatory framework has not been yet approved.

272. Is health care in prison and pre-trial detention provided by staff under the Ministry of Health or the Ministry of Justice/the Interior?

The Enforcement Code provides *the right to health protection and health care according to the laws in force* (art. 169) and describes the rules on health care provision in articles 230-233. Healthcare is a guaranteed right of convicted persons, who receive free medical care and medicines in the volume established by the Single Program of Compulsory Health Insurance. Additionally, the Ministry of Justice Order No 478/2006⁹²⁸ details the manner of providing medical assistance to persons detained in penitentiaries.

Prisoners receive therapeutic, surgical, psychiatric, and dental care. The convicted person may benefit from external healthcare provided that he/she can pay for it and the prison administration agrees. The remand prisoners may also benefit from the services of a private doctor, except the psychiatrist and the forensic doctor, provided that there is the consent of the penitentiary administration and the criminal investigation body, the investigating judge, or the court.

The healthcare personnel are hired by the prison system and are organized as a Division within the National Administration of Prisons. During its activity, the penitentiary medical services interact with the public medical-sanitary Institutions under the Ministry of Health, through the annual contracts concluded for their provision of

⁹²⁸ Order No. 478/2006 of the Ministry of Justice “on the manner of providing medical assistance to persons detained in penitentiaries”, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=63829&lang=ro

qualified medical assistance to the detainees. The financing of the medical assistance to the persons detained in the penitentiary institutions is made from the public budget (the budget of the Ministry of Justice, the budget of the National Administration of Prisons, and from other sources acceptable according to the legislation. However, the medical staff follows the approved protocols and programs valid for the entire country. It is worth mentioning that the penitentiary administration system is, for the first time, a member of the working group on the elaboration of the National Mental Health Program.

The medical assistance within the National Anti-corruption Center's Remand Centre is provided by the staff of the Ministry of Health. The National Anti-corruption Center has a service contract concluded in this regard. In case of emergency, the intervention of the Single National Emergency Service "112" is requested.

It should be noted that Medical care during the period of detention in isolation is provided also by the medical staff of the Police Temporary Detention Isolator, who are employees of the General Police Inspectorate.

There are currently 15 Police Temporary Detention Isolators in function, staffed by a medical assistant, working from Monday to Friday, from 08:00 to 17:00.

The method of providing medical assistance to persons in TDI is provided in the Order of the Head of the General Police Inspectorate No. 444 of 15.11.2019, „Standard Operating Procedure regarding the mechanism of providing medical care to the detained people and people placed in the Police Detention Isolator ”.

If it is necessary to examine the person in the custody of the Police within the Territorial Police Inspectorates who do not have a detention isolator or after finishing the working hours of the medical assistant, it is done by presenting the person to the nearest medical unit or in case Emergency medical care crew is required.

At the same time, the detained person can benefit from private healthcare services on their own.

B. Right to a fair trial and procedural safeguards for suspects and accused persons

273. How is the right to a fair trial enshrined in the legislation? How is the right to an effective remedy before an independent and impartial tribunal enshrined in the legislation?

The right to a fair and public trial is enshrined in the Moldovan Constitution. Defendants have the right to be promptly informed about the charges against them, and about their right to a fair trial. Defendants have the right to a lawyer and to attend proceedings, confront witnesses, and present evidence. The practice of appointing temporary defense lawyers without allowing them to prepare adequately was reported in independent reports. This undermines the right to legal assistance. Defendants can request postponement of a hearing if attorneys need additional time for preparation. Interpretation is provided upon request. Judges can delay hearings if additional time is needed to find interpreters for certain uncommon languages. Defendants may refuse to provide evidence against themselves unless they plead guilty and the judge reviews and

endorses their guilty plea. The law provides a right to appeal convictions to a higher court on matters of fact and law.

274. Is the presumption of innocence a central part of the criminal justice system and, if so, how is it applied in practice?

The presumption of innocence is an essential legal principle enshrined in the Constitution of the Republic of Moldova (art. 21). The national criminal procedure legislation⁹²⁹ states that the defendant is presumed innocent until proven guilty in the manner provided by law, through a public trial in which all his/her guarantees are ensured, and until sentenced by a final Court decision. No one is bound to prove their innocence. A conclusion on guilt shall not be based on assumptions, and any remaining doubts about the incriminating evidence shall be interpreted in the favour of the accused (*in doubt pro reo*). Although the law presumes the innocence of defendants in criminal cases, judges' remarks occasionally jeopardized the presumption of innocence.⁹³⁰

275. Can trials be held *in absentia*? Please describe the rules on *in absentia* proceedings in your legal system.

For ensuring the right to a fair trial, the proceedings in the first instance court and appeal court take place with the participation of the defendant. Exceptions from this rule are provided in the legislation.⁹³¹ Trials may be held in absentia if the defendant evades appearing in court, if the remand/arrested defendant refuses to be brought before the court for the hearing and if his/her refusal is confirmed also by his/her defense counsel or the prison administration; and if the case refers to a minor crime and the defendant requires that the case is heard in his/her absence. The first exception can be applied only if the prosecutor submits sound evidence that the accused expressly waived his/her right to appear before the court and to defend himself/herself personally and has evaded criminal investigation and trial. In the case of remand/arrested defendants, the Court may coercively bring the person to the hearing to confirm his refusal to participate in the trial. In all these cases, a trial is held in the absence of the defendant, however, the participation of the defense counsel or of his/her legal representative is mandatory.

276. Is a system of legal aid in place, which ensures equal access to justice? If so, please explain the scope and resources of the legal aid system. Please give details on the criteria for receiving legal aid in all types of proceedings (criminal, civil and administrative).

In order to effectively ensure the right to free access to justice, a state-guaranteed legal aid system has been established in the Republic of Moldova, regulated by Law No. 198/2007 on state-guaranteed legal aid. Currently, the types of state-guaranteed legal aid are primary legal aid and qualified legal aid. The primary legal assistance includes

⁹²⁹ Art. 8 of the Criminal Procedure Code No 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

⁹³⁰ Moldova 2020 Human Rights Report [Moldova - United States Department of State](#)

⁹³¹ Art. 321 Criminal Procedure Code No 122/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129481&lang=ro#

providing information on the legal system of the Republic of Moldova, the legislation in force, the rights, and obligations of legal subjects, and how to realize and capitalize on judicial and extrajudicial rights; providing legal advice and assistance in drafting legal documents. These services are provided by para-lawyers. The qualified legal assistance covers the provision of legal advice, representation, and/or defense services during the investigation, prosecution, or trial in criminal, misdemeanor/contravention, civil or administrative litigation cases, as well as representation before public administration authorities. These services are provided by public lawyers as well as lawyers who provide qualified legal assistance upon request.

The administration of the state-guaranteed legal aid system is carried out by the National Council for State-Guaranteed Legal Aid, which has territorial offices and an administrative apparatus. For the proper functioning of the system and for an adequate remuneration of lawyers providing qualified legal assistance, approximately 76,525,400 MDL were allocated to finance the state-guaranteed legal aid in 2021.

In order to be eligible for primary legal aid, the applicant must cumulatively meet the following conditions: have a legal problem; reside on the territory of the Republic of Moldova; be a citizen of the Republic of Moldova or a foreigner or stateless person, and for the case to be within the competence of public authorities or courts of the Republic of Moldova. Primary legal aid is provided to applicants regardless of their income level. However, for benefiting from qualified legal assistance, two mandatory conditions must be cumulatively met: (a) citizenship and (b) eligibility of the case category.

The category of the case is a more complex condition and provides for the following criteria:

- the applicant needs legal assistance in criminal cases, and the interests of justice require it, but he/she does not have sufficient means to pay for this service;
- the applicant needs legal assistance in criminal, civil and administrative litigation cases, but does not have sufficient means to pay for these services, the cases being complex from a legal or procedural point of view;
- the applicant needs urgent legal assistance in the eventuality of detention, regardless of income level;
- the applicant has the right to compulsory legal assistance in accordance with Law No. 198/2007, Code of Criminal Procedure or Code of Civil Procedure, regardless of income level (e.g. victims of torture, inhuman and degrading treatment, victims of trafficking in human beings, asylum seekers, in the asylum procedure, etc.).

In most cases, qualified legal aid is provided to people who cannot afford to pay for legal aid services, that is, the income is lower than the minimum subsistence level per capita, as estimated by the National Bureau of Statistics.⁹³² However, legal aid may also be provided upon request, which opens the door for many cases. In 2021 in a total of 61 354 cases, the parties benefited from legal aid assistance. Out of which 47990 were qualified legal aid and 13364 were primary legal aid assistance.

⁹³² Regulation on the method of calculating the minimum income for subsistence approved by Government Decision No. 285/2013, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=19426&lang=ro

277. What are the rules and procedures for the appointment of legal aid lawyers? Are they entitled to fees according to normal lawyer tariffs?

The qualified legal aid is provided by state attorneys and lawyers upon request.⁹³³ Their selection is conducted through a competitive process organized by the National Council for State Guaranteed Legal Aid. The appointment decision is taken by the coordinator of the territorial office of the Council. The rights and obligations of the lawyer providing qualified legal aid are attested by a decision on granting legal aid, issued in accordance with the law. In addition, the lawyer appointed to provide qualified legal assistance in a particular case may be replaced, by the decision of the coordinator of the territorial office, in the following cases:

- upon the well-founded request of the applicant for qualified legal assistance;
- upon the well-founded request of the lawyer who provides qualified legal assistance;
- in case of finding a conflict of interests or other circumstances according to which the appointed lawyer cannot provide qualified legal assistance on a certain case.

Qualified legal assistance, granted in accordance with Law No. 198/2007, is fully paid from the state budget and other sources not prohibited by law. The remuneration method is established in accordance with the Regulation on the size and method of remuneration of lawyers for the provision of qualified state-guaranteed legal aid.⁹³⁴ Public attorneys receive a fixed monthly remuneration for the provision of qualified legal assistance as set by the National Council for State Guaranteed Legal Aid. In 2021, the amount of public lawyers' remuneration was set at MDL 13,570. Currently, there are 12 public attorneys. Overall, 485 attorneys have been involved in providing qualified legal assistance.

On the other hand, the remuneration of lawyers providing qualified legal aid on request is calculated in conventional units, equal to 50 moldovan lei for each action relevant to the process of providing legal aid. For example, participation in a court hearing, and conducting a procedural action is remunerated with 5 conventional units. For drafting and submission of motions, requests, appeals, etc. the lawyer is remunerated with 10 conventional units. The full list of fees (remuneration level) is set out in the Regulation on the size and method of remuneration of lawyers for the provision of qualified state-guaranteed legal aid.

278. Are there specific safeguards in the legislation for children and vulnerable adults who are suspects or accused persons in criminal proceedings? If so, please provide information on the scope and nature of such safeguards. In particular, please explain how it is ensured that children are able to effectively understand, follow and participate in the proceedings.

⁹³³ Law No. 198/2007 on the state-guaranteed legal aid, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123162&lang=ro

⁹³⁴ Decision of the National Council for State Guaranteed Legal Assistance No. 22/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=126089&lang=ro

The criminal law and criminal procedure law provides for a special procedure in cases concerning minors⁹³⁵. These special provisions apply to juveniles who are below 18 years of age. As a rule, the trial with the participation of minors is not public. Enforcement of preventive coercive measures such as: apprehension and pre-trial detention can only be applied in exceptional cases when serious, violent, particularly serious, or exceptionally serious crimes have been committed. In the hearing of a juvenile accused/defendant, the participation of defense counsel and pedagogue/educator? or psychologist is mandatory. Moreover, any interrogation or hearing cannot last more than 2 hours without breaks, and not more than 4 hours per day in total.

Upon the completion of a criminal investigation with regard to a juvenile, the criminal investigative body may, by reasoned order, not present to the accused juvenile some criminal investigative materials, which, to its mind, may have a negative impact on the juvenile; however, these materials shall be presented to the legal representative of the juvenile.

If it is established during the criminal investigation for a minor or less serious crime committed by a juvenile, that the juvenile committed such a crime for the first time and that he/she may reform without subjecting him/her to criminal liability, the prosecutor shall order the termination of the criminal investigation of the juvenile and exemption of the juvenile from criminal liability based on the grounds provided in art. 54 of the Criminal Code and instead apply coercive educational measures in line with the provisions in art. 104 of the Criminal Code.

In addition to providing procedural guarantees, the legal professionals are expected to investigate more in-depth such factors as: the minor's personality, his/her background and environment, his/her skills, the possible causes of the criminal behavior and eventual protective factors, and the most appropriate measures to achieve re-education/behavior change.

With regards to vulnerable adults, the procedural-criminal legislation, provides additional requirements for the individualization and application of preventive measures/punishments, taking into account age, health condition, exercise capacity, etc. In case of finding certain disabilities, limited exercise capacity, or incapacity, assistance in criminal proceedings is provided by legal representatives, specialists may order social reports, the person may request independent medical assistance, compulsory insurance with a lawyer in case of difficulties if the person is mute, deaf, blind, or other essential disorders of speech, hearing, vision and physical or mental defects (art. 66, paragraph 2; points 18, 18/1, art. 69 paragraph 1 point 2) Criminal Procedure Code, etc).

279. Please provide information on how the following rights are guaranteed in legislative and practical terms to suspected and accused persons.

a) The right of the defendant to be informed promptly in a language which s/he understands of the nature and cause of the accusation against him/her;

⁹³⁵ Criminal Procedure Code, Title II Special Procedures, Chapter I Procedure in cases concerning minors

- b) **The right to have the free assistance of an interpreter, if one cannot understand or speak the language used in the court;**
- c) **The defendant's right to have adequate time and facilities for the preparation of his/her defence;**
- d) **The right to defend oneself in person or through legal assistance of one's own choosing;**
- e) **The right to examine, or have examined, witnesses against him/her and to obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him/her.**

The right of the defendant to be promptly informed in a language which s/he understands of the nature and cause of the accusation against him/her is regulated in the Criminal Procedure Code art. 16. As a rule, the criminal proceedings are conducted in the state language. A person who does not speak the state language has the right to examine all the documentation on the case and to speak before the criminal investigative body and the court through an interpreter. The procedural acts of the criminal investigative body and the court shall be handed over to the suspect/accused/defendant translated into the native or another language he/she understands. Therefore, the suspect or accused enjoys the right to be informed, as soon as possible, in a language which he/she understands and in detail, of the nature and cause of the accusation brought against him.

The free assistance of an interpreter is provided when there are reasons to believe that the suspect/defendant cannot understand or speak the language used in court or upon request. The interpretation costs are covered by budgetary means.

The defendant's right to have adequate time and facilities for the preparation of his/her defense is ensured in the Criminal Procedure Code. In a criminal proceeding, the accused or defendant is provided with all the necessary guarantees for his defense. The prosecutor shall inform the accused, his legal representative, the defence counsel, the injured party, the civil party, the civilly liable party, and their representatives about the completion of the criminal investigation, the place and time for accessing the criminal investigation materials. There is no time limit for reviewing the investigation materials, however, if this right is abused the prosecutor sets a deadline based on the file volume. Given that the deadline to be set for acquaintance with the materials of the criminal case must be sufficient for the preparation of the defence, the prosecutor shall take into account the real possibilities of the person to study all the materials within the given time limit. Participants can make notes, excerpts, and copies, on their own, of all the materials presented.

The right to defend oneself in person or through legal assistance of one's own choosing is expressly enshrined in art. 26 of the Constitution. Thus, the criminal investigation body and the court are obliged to ensure that the suspect, accused, or defendant has the right to legal assistance from a lawyer of his choice or a lawyer who provides state-guaranteed legal aid. When it comes to the right to self-defense in criminal proceedings, the national legal framework provides for such a possibility under certain conditions. Thus, the suspect, accused, or defendant can exercise his own defense by requesting a waiver of the defense. The waiver of defence can be accepted by the prosecutor or the court only if it is submitted by the suspect, accused, voluntarily accused, on his own

initiative, in the presence of the lawyer providing state-guaranteed legal aid. The prosecutor or the court is entitled not to reject the waiver of defense when the interests of justice require it or prevail, and when the participation of the defense counsel in criminal proceedings is mandatory. Hence, the prosecutor will not accept the waiver if the reason for waving legal assistance is a lack of money, or the prosecutor believes that the prosecuted individual's rights may be hurt without legal defense.

The right to examine, or have examined, witnesses against him/her and to obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him/her is regulated in art. 66 para. (2) point 17 of the Criminal Procedure Code. The accused or the defendant has the right to request the hearing of prosecution witnesses and to insist on summoning defense witnesses under the same conditions as prosecution witnesses. Before the defendant can be found guilty, all the evidence must, in principle, be presented to him in public, for an adversarial hearing. This principle is not applied without exception, but it can only be accepted with the assurance of the right of defense. As a general rule, they require the accused to be given an adequate and sufficient opportunity to challenge the evidence of the prosecution and to question its perpetrators, either at the time of their deposition or at a later stage.

280. Please provide details on how the right not to be tried or punished twice in criminal proceedings for the same criminal offence is interpreted in domestic law.

According to art. 7 para. (2) of Criminal Code⁹³⁶ no person can be subjected to criminal investigation and criminal punishment twice for one and the same act. This is a specific principle of criminal law, called the principle of uniqueness of criminal liability (*non bis in idem*) and it is connected with the principle of individualization of criminal liability and criminal punishment. The reasoning of this principle is that for a single offence there is a single criminal liability. This does not mean that criminal liability cannot coexist with other forms of legal liability, such as civil, disciplinary liability, or others. This principle does not exclude the possibility that for a crime several criminal sanctions may be applied to the same offender, but only if these sanctions are cumulated for different reasons and if they have different functions. Therefore, the main sanctions may be accompanied by additional penalties or may be associated with security measures.

The constitutional principle of not being prosecuted, tried, or punished several times for the same act broadly imposes on the competent public authorities not only the interdiction to judge repeatedly, the person, but also the prohibition to follow the person several times for the same deed. The Constitutional Court, giving this principle a constitutional connotation, reveals that it applies only when a final act has been issued, whether it is an order to finalise the criminal investigation, or a sentence of indictment or acquittal. If the act can be challenged by ordinary means of appeal, the non bis in the idem rule does not apply.⁹³⁷

⁹³⁶ Criminal Code No. 985/2002 art. 7 para. (2), available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129474&lang=ro

⁹³⁷ Constitutional Court Decision No. 26/2010, para. (6), available in Romanian at: https://www.constcourt.md/public/ccdoc/hotariri/ro_2010_h_26.pdf

C. Rights of victims of crime

281. Please provide details on how the rights of victims of crime are ensured in criminal proceedings. Is there legislation in place concerning the fair and appropriate compensation for the injuries that crime victims have suffered?

The rights of victims of crime are ensured, both within and outside the criminal proceedings (but in connection with them), through the provisions of the *Criminal Procedure Code No. 122/2003* and *Law No. 137/2016 on the rehabilitation of victims of crime*. In addition to her/his initial procedural rights, the victim may request the prosecuting body or the prosecutor to recognize her/him as an injured party, thus acquiring additional rights related to the criminal side of the proceedings and/or be recognized as a civil party, thus acquiring additional rights related to the civil side of the proceedings. Thus, the victim of the crime with the procedural status of injured party / civil party has the right to request and collect in full the compensation for the damage caused by the crime, including by: 1) restitution in kind of the property or the value of the property lost or destroyed as a result of the crime; 2) compensation of expenses for the purchase of lost or destroyed property or restoration of their quality, as well as reparation of damaged property; 3) compensation of lost income due to the commission of the crime; 4) reparation of the moral damage or, where appropriate, of the damage caused to the professional reputation. At the same time, if the damage caused by the crime was not and cannot be compensated from other sources, including reparation at the expense of the perpetrator, the victim of the crime is entitled to a financial compensation granted by the State under the above-mentioned *Law No. 137/2016*. The pertinent legal norms in that matter are provided for by articles 58–62 of the *Criminal Procedure Code No. 122/2003* and articles 12–20 of the *Law No. 137/2016*.

Another guarantee to support the rights of the victims of torture was instituted through the incrimination of torture in Moldovan legislation due to the introduction of the Article 166¹ into the Criminal Code: Torture, inhuman, and degrading treatment. A special legal status is provided to the victims of torture (Law No. 985/18.04.2002).

282. What kind of support services are available to victims of crime? Do family members have access to support services? Who provides these services? Do victims have access to shelters, to interim accommodation, to counselling and psychological support?

The framework legislative act regulating the support services available to victims of crime is the *Law No. 137/2016 on the rehabilitation of victims of crime*. The particular category of the victims of trafficking in persons benefit from support and assistance in accordance with *Law No. 241/2005 on the prevention and combating of human trafficking*. When it comes to victims of domestic violence, and additional legislative regulation applicable to them is the *Law No. 45/2007 on prevention and combating domestic violence*.

The victims of crime may benefit from the following support services: counselling and guidance about one's rights and available services, psychological counselling, state-guaranteed legal aid, and financial compensations for damages caused by the suffered crime. Family members, i.e. husband, children, and the dependents of the deceased victim, benefit from psychological counselling and financial compensation granted by the State for the damage caused by the crime.

By the Government Decision No. 708/2019 was approved the Framework Regulation on the Organisation and Operation of the **Regional Centre for Integrated Assistance to Child Victims/Witnesses of Crime** and the Minimum Quality Standards. The purpose of the Centre is to provide specialized assistance to children, in order to prevent their revictimization and/or retraumatization in the process of collecting evidence in criminal cases. The objectives of the Center are: 1) granting in the same location of specialized psychological, legal, medical, and social assistance to victims / witnesses of crime through immediate, coordinated, and professional interventions; 2) facilitating the process of collecting pertinent, conclusive, and useful evidence in the criminal proceedings; 3) granting the support of the legal representative / trusted person. In the process of granting specialized assistance within the Center, the child is accompanied by the legal representative or trusted person.

When it comes to the assistance and protection of the victims of domestic violence and victims of human trafficking, the following state-funded specialized services are available:

- The centre for assistance and protection of victims or potential victims of human trafficking (Chisinau), which is also a shelter;
- The Family Crisis Centre „Sotis” (Balti)
- The Maternal Centre „Pro Familia” (Causeni), which The Maternal Centre „ProFemina” (Hancesti)
- The Maternal Centre (Cahul)
- The Maternal Centre (Anenii Noi)
- The Centre for assistance and counselling of domestic violence victims „Ariadna” (Drochia)
- The regional Centre for rehabilitation of domestic violence victims (Chirsova) - shelter
- The regional Centre of holistic assistance of children victims or witnesses of crime (Balti).

All maternal centres provide shelter for both victims of domestic violence and mothers with children in vulnerable situations.

Starting with 2017, the Ministry of Labour and Social Protection finances a Trust Line for Women and Girls managed by the International Centre La Strada (phone line 0 8008 8008). In addition to the State-funded services, several non-governmental organizations provide assistance, psychological counselling, legal services, and guidance, such as: The International Centre “La Strada”, Women’s Law Centre (CDF), Moldovan Institute for Human Rights, the National Centre for Preventing Abuse Against Children (CNPAC), NGO “PromoLEX”, the Association against violence “Casa Marioarei”, the Centre for the Rehabilitation of Torture Victims „Memoria”, the Centre “The honour and rights of contemporary women” from Balti, the Resource Centre for Youth „Dacia” from Soroca, the organization „Stimul” from Ocnița, „Vesta” from Comrat, and other.

Currently, a new draft law is being drawn up on the rights and protection of victims of sexual crimes and domestic violence, which will oblige the law enforcement professionals to inform victims about their rights and the access/availability of services, social assistance, and support.

283. What kind of measures are in place to ensure that victims of crime are protected from secondary and repeat victimisation, from intimidation and retaliation?

The Moldovan legal framework contains a range of provisions aiming at ensuring the protection of victims from repeated victimisation, intimidation, and eventual retaliation. The *Criminal Procedure Code* provides for several special guarantees for preventing revictimization, intimidation, and retaliation against victims, such as:

- The victim's hearing (interrogation) takes place under the same conditions as the hearing of witnesses. A minor victim under the age of 14 is heard in special conditions if the case refers to sexual crimes, trafficking in children, domestic violence, as well as other cases where the interest of justice or the superior interest of the child prevail. Hence, the hearing of victims and witnesses may take place according to the provisions of Articles 110 and 110¹ of the *Criminal Procedure Code*. In this way the revictimization of victim or witnesses during criminal investigation and trial is avoided or reduced;
- The victim or the injured party may request to have a court hearing in the defendants' absence, in which case the latter will be given the possibility to get acquainted with the statements and submit his/her questions (Article 369 of the *Criminal Procedure Code*). The request for having the hearing in the defendant's absence can be lodged also by the Prosecutor;
- In case the victim or the witness is a minor, the Court will hear his/her statements in a closed hearing (Article 18 para.(2¹) of the *Criminal Procedure Code*);
- Victims of particularly serious or exceptionally serious crimes, victims of torture and inhuman or degrading treatment, victims of trafficking in persons or trafficking in children have the right to be accompanied by a person they trust along with their lawyer to all investigations including to the closed hearings, regardless of the fact that they are an injured party in a criminal or civil case (Article 58 para. (4) of the *Criminal Procedure Code*);
- The victims of domestic violence may benefit from protection measures (Article 215¹ of the *Criminal Procedure Code*). The criminal investigation body or prosecutors are obliged to promptly intervene for obtaining protection measures for the victim in case s/he is in danger, subjected to violence, or a victim of other illegal acts including property destruction.

The protection of participants in criminal proceedings is also regulated by the Law No. 105/2008 on the protection of witnesses and other participants in criminal proceedings.

More specifically for the victims of domestic violence and victims of trafficking in persons, there are: (a) standard operational procedures for the specialists from social work, police, and healthcare; (b) methodological guidelines for relevant professionals; and (c) multi-disciplinary teams which intervene following a legal and methodological framework.

Also, by Government Decision No. 708/2019, the Framework Regulation on the Organisation and Operation of the **Regional Centre for Integrated Assistance to**

Child Victims/Witnesses of Crime and the Minimum Quality Standards was approved. The purpose of the Centre is to provide specialized assistance to children, in order to prevent their revictimization and/or retraumatization in the process of collecting evidence in criminal cases.

The beneficiaries of the Centre are children victims/witnesses of crimes of a sexual nature, child trafficking or domestic violence, children who were subject to life and/or health-threatening violence, as well as those concerned in other cases – where the interests of justice or of the child require – that have or may have a serious impact on a child's physical and/or psychological integrity. Child victims/witnesses of domestic violence or children who were subject to life and/or health-threatening violence, where the interests of the child require, can also be beneficiaries of the Centre. The first regional center started to operate in Balti municipality in March 2022 and is expected to attend to about 120 children a year.

284. What guarantees are in place to ensure a public hearing in court?

In both civil and, in particular, criminal proceedings, the legislation of the Republic of Moldova provides for a number of mandatory guarantees to ensure public hearings in courts.

Thus, according to art. 18 of the *Criminal Procedure Code*, the public character of the court hearing is a general principle of criminal proceedings. In all courts, the hearings are held in public, except in the cases provided for by the Code. Access to the courtroom may be denied to the press or the public, by reasoned decision, throughout the whole or part of the proceedings, in the interests of morality, public order, or national security, when required by the interests of minors or the protection of privacy of the parties, or to the extent deemed strictly necessary by the court when, due to special circumstances, publicity could harm the interests of justice.

The hearing of a minor victim or a minor witness is always held in a closed session. In addition, the hearing of the case regarding a minor, as a rule, is not public.

The trial of the case in the closed court hearing must be argued and carried out in compliance with all the rules of judicial procedure. However, in all cases, the court decisions are pronounced in public sessions.

Moreover, pursuant to art. 251 para. (2) of the *Criminal Procedure Code*, the violation of the legal provisions regarding the public character of the court hearing, if it is mandatory according to the law, entails the nullity of the procedural act.

In the same manner, the *Civil Procedure Code* provides that the public character of judicial proceedings is a fundamental principle of civil procedure law. In all courts, court hearings are held in public. Closed hearings may be held only for the purpose of protecting information that constitutes a state secret, trade secret, or other information the disclosure of which is prohibited by law. Additionally, the court will order the trial of the case in a secret (closed) hearing to prevent the disclosure of information related to intimate aspects of life that harm the honor, dignity or professional reputation or related to other circumstances that could harm the interests of participants in the trial, public order or morality.

285. Is a comprehensive legal and policy framework in place to allow victims of torture to obtain civil redress in the form of a fair and adequate compensation, including full rehabilitation as possible, in line with United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment? If yes, please provide information on its functioning.

The victim of the crime of torture can initiate, in a criminal trial (proceedings), a civil action filed against the author of the crime, by which s/he can request compensation for both the material and moral damage suffered (according to articles 219-226 of the *Criminal Procedure Code*). The initiation of civil action in criminal proceedings is done upon the written request of the victim or her/his successors (in case of the victim's death) who has been recognized as a civil party, and it can be filed at any time from the initiation of criminal proceedings until the end of the judicial examination. A person who has not brought a civil action into criminal proceedings has the right to submit such action within a civil proceeding (trial).

At the same time, if the offender has failed to fully compensate for the harm suffered by the victim of an act of torture, the latter may make use of the mechanism for the rehabilitation of victims of crime, in obtaining financial compensation (according to articles 12-20 of the *Law No. 137/2016 on the rehabilitation of victims of crime*).

The holder of the right to financial compensation is the victim of the crime of torture committed on the territory of the Republic of Moldova, who is a citizen of the Republic of Moldova, a foreigner, or a stateless person. If the victim of torture has died as a result of the committed crime, the right to financial compensation belongs to his/her spouse, children, or dependents, including expenses incurred in the victim's burial. The financial compensation for the damage caused by the crime is granted from the state budget following the fulfilment of certain conditions: - the decision of conviction has become final and irrevocable; - the claim was filed within 3 years from the date of entry into force of the court decision; - the offender's sources are insufficient to cover the damage caused by the crime. When the state grants financial compensation for the damage caused by the crime, from the amount of that compensation are deducted the sums paid by the offender up until then as compensation, as well as the sums obtained or entitled to be obtained from other sources for the damages caused by the commission of the crime.

The request for financial compensation is examined by an Interdepartmental Commission (the secretariat of the Commission is under the Ministry of Justice) who, according to the law, is entitled to grant a financial compensation and establish its amount, or to reject it with reasons in its support. The decision of the Interdepartmental Commission to grant financial compensation is then forwarded to the Minister of Justice, who shall issue an order to that effect. The financial compensation is not taxed, and the State, through the Ministry of Justice, is subrogated into the rights of the victim of the crime who receives financial compensation granted by the State for the recovery from the offender of the amounts paid to the victim.

The amount of financial compensation for the damage caused by the crime is 70% of the amount of the calculated damage but may not exceed 10 average monthly salaries per economy forecast for the year in which the victim filed the claim for compensation (the average monthly salary per economy is set in every year by the Government, for the year 2022 this amount is 9900 lei - the equivalent of 490 EUR). From the date of adoption of *Law No. 137/2016 on the rehabilitation of victims of crime* to date no

requests for financial compensation have been filed with the above-mentioned Commission.

286. Is there a comprehensive legal and policy framework in place to safeguard the status of victims of war crimes involving sexual violence in a non-discriminatory fashion? If yes, please provide details of its scope and functioning.

There is no specific regulatory framework to safeguard the status of victims of war crimes involving sexual violence. Ensuring the conditions for the rehabilitation of the victims of such crimes, as well as their protection, is made based on the provisions of the same general normative framework specified in the answer to question 281, i.e. based on the provisions of *the Criminal Procedure Code No. 122/2003 and the Law No. 137/2016 on the rehabilitation of victims of crime*.

On the other hand, please note that the *Criminal Code of the Republic of Moldova* expressly incriminates art. 137 para.(3) lett. c) (**War crimes against persons**) the commission, in an armed conflict with or without an international character, against one or more persons protected by international humanitarian law, of one of the following acts: rape, sexual exploitation, coercion into prostitution, illegal detention of a woman who became forcibly pregnant, with the purpose of altering the ethnic composition of a population, forced sterilization or any other sexual act of a violent nature. The punishment for committing these crimes is imprisonment from 10 to 20 years.

In addition, the *Criminal Code of the Republic of Moldova* incriminates in art. 135¹ para. (1) lett. e) (**Crimes against humanity**) the commission, in the context of a widespread or systematic attack on a civilian population and in a state of being aware of this attack, of one of the following acts: rape, sexual exploitation, coercion into prostitution, illegal detention of a woman who became forcibly pregnant, with the purpose to change the ethnic composition of a population, forced sterilization or any other form of sexual violence. The punishment for committing these crimes is imprisonment from 10 to 20 years.

You may also note that the Government is in the process of drawing up and promoting a draft law on ensuring the rights of victims of crimes related to sexual life and domestic violence, which seeks a complex incrimination of acts threatening sexual freedom and inviolability of the person. In the same context, an aspect relevant to the subject matter in discussion is the proposal for the regulation of a new aggravating circumstance for sexual offenses, namely the commission of such offenses with the application of a weapon or other objects used as a weapon.

III. Respect for and protection of minorities and cultural rights

287. How is the principle of non-discrimination and equal treatment of minorities ensured? Please provide details of constitutional and legislative provisions as well as the institutional framework.

The legal framework on non-discrimination and equal treatment of minorities is well-established and is continuously improved in line with international standards and national priorities:

The Constitution of the Republic of Moldova lays the foundations for equality and non-discrimination. The preambula states that the Constitution is adopted in “striving to satisfy the interests of citizens of a different ethnic origin who alongside with the Moldovans constitute the people of the Republic of Moldova”. Art. 10 (2) expressly states that:” the State recognises and guarantees all its citizens the right to the preservation, development, and expression of their ethnic, cultural, linguistic and religious identity”. While the provisions of art. 16 (2) guarantees that “All citizens of the Republic of Moldova are equal before the law and public authorities, regardless of the race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, property or social origin”.

The Legislative provisions ensuring the principle of non-discrimination and equal treatment of minorities are embodied in numerous laws: Law No.382/2001 on regarding the rights of persons belonging to national minorities and on the legal status of their organizations); Law No.344/1994 on the special legal status of Gagauzia (GagauzYeri); Law No.173/1994 on the manner of publication and entry into force of official acts; Law No.338/1994 on the Child’s Rights; Law No. 273/1994 on Identity Documents in the National Passport System; Law No.514/1995 on the organization of the Judiciary; Law No.1227/1997 on Advertising; Law No.413/1999 on Culture; Citizenship Law No. 1024/2000); Law No.982/2000 on the access to information; Law No.125/2007 on Freedom of Conscience, Thought and Religion; Law No. 133/2011 on personal data protection; Law No.121/2012 on ensuring equality; the Education Code No. 152/2014; the National Human Rights Action Plan 2018-2022 (Parliament’s decision No.89/2018) focusing also on the rights of persons belonging to national minorities ; Decrees of the President and decisions of the Government of the Republic of Moldova on ensuring the cultural development of national minorities (Ukrainians, Russians, Bulgarians, Roma, Jews), etc.

Consecutive government action plans, from 2015 to date, also refer to the implementation of policies in the field of interethnic relations and the protection of the rights of persons belonging to national minorities; The National Development Strategy (NDS) “Moldova 2030” provides the increasing quality of life of the citizens of the Republic of Moldova, regardless of age, place of residence, sex, ethnicity, disability, religion, and other differences, in which no one should be left behind.

Institutional Framework: The Council for Preventing and Eliminating Discrimination and Ensuring Equality (Equality Council) is an autonomous, unbiased and independent public authority, established and acting as of 2013, based on the Law No.121/2012 on Ensuring Equality and Law No. 298/2012 on the activity of the Equality Council.

As per art. 11(1) of the Law No.121/2012, the Equality Council is a collegial body with a status of a public legal entity, created in order to ensure the protection against discrimination and ensuring equality for all the individuals who consider themselves

victims of discrimination. The Council acts in conditions of impartiality and independence in regard to all public authorities, having the following competencies:

- Assesses the compliance of legislation and draft laws with non-discrimination standards;
- Monitors the implementation of the relevant legislation;
- Examines complaints and reinstate the rights of victims of discrimination;
- Raises awareness and informs society in order to eliminate all forms of discrimination;
- Submits to the public authorities proposals of a general character regarding the prevention and combating discrimination;
- Claims relevant authorities with regard to the initiation of disciplinary procedures in respect of those who have committed discriminatory acts;
- Imposes fines for offences with discriminatory elements according to the provisions of the Contravention Code and notifies the Prosecutor's office in cases when the committed discriminatory acts contain elements of crimes;

Council's Decisions are mandatory, unless they are not challenged in the law court. Since 2013 the Equality Council found 110 discrimination cases on the grounds of race, colour, nationality, ethnic origin, and language.

288. Has the Framework Convention for the Protection of National Minorities and other relevant international instruments been ratified? How are they implemented and monitored? Have recommendations by the Council of Europe and other relevant organisations been implemented?

The Framework Convention for the Protection of National Minorities was signed by the Republic of Moldova in 1995 and ratified by the Decision of Parliament No.1001 on 22 October 1996. Five country reports have been submitted so far (in 2000, 2004, 2009, 2015, 2019). Thus, four Resolutions on the implementation of the Framework Convention by Moldova were adopted by the Committee of Ministers of the Council of Europe in 2003, 2005, 2010, and in 2021.

As per the European experts' assessment, there were recognized a wide range of specific practical measures implemented in Republic of Moldova, t, highlighting that the Moldovan Government has managed, to a large extent, to ensure the application of all recommendations and good international practices, in particular inline with Council of Europe and EU standards.

The resolutions of the Committee of Ministers emphasize that the Republic of Moldova has and consistently is developing its own legislative and regulatory framework aimed at regulating interethnic relations and ensuring the right of the national minorities to preserve, develop and express their ethnic, cultural, linguistic and religious identity.

Some of the main achievements in minority rights protection system made by Moldova following the implementation of recommendations contained in the 4th Resolution of the Committee of Ministers of the Council of Europe on Moldova are the following:

- Adoption of the Strategy on the Consolidation of Interethnic Relations in the Republic of Moldova for 2017-2027 (Government Decision No.1464/2016);

- Adoption of the National Human Rights Action Plan for 2018-2022 that includes an chapter dedicated to the national minorities rights and related measures (Parliament Decision No.89/2018)
- Adoption of the 2nd Action Plan for 2021-2024 on promoting the memory of the Holocaust and the culture of tolerance to combat racism, anti-Semitism, xenophobia, and other forms of intolerance (Government Decision No.980/2020);
- Endorsement of the working definition of anti-Semitism adopted by the International Alliance for Holocaust Remembrance;
- Adoption of the Action Plan to Support the Roma Population in the Republic of Moldova for 2016-2020 (Government Decision No.734/2016);
- Establishment of a Roma community-based mediator service aimed at contributing to the Roma people's social inclusion, etc.

The coordination of the Framework Convention implementation is entrusted to the Agency for Interethnic Relations (the central administrative body under the Government of the Republic of Moldova responsible for consolidating interethnic relations). The Agency monitors the application of the Framework Convention' basic provisions, in collaboration with central and local public administration, civil society representatives, non-governmental organisations of national minorities and other specialised institutions, and monitors the application of the document's basic provisions. In addition, the National Human Rights Council also coordinates and assesses the implementation of the Framework Convention.

Since the last monitoring cycle under the Framework Convention aimed at promoting the rights of national minorities, the overall portfolio of activities carried out by central specialised public administrative bodies and other central administrative authorities, as well as the level of their participation in the promotion of the Convention provisions in the spheres of their competence have increased.

The cooperation with NGOs tackling national minority rights increased in the last years, including by implementing diverse common projects, conferences, training on issues arising, inter alia, from the context of the Framework Convention. These actions are held in cooperation with the development partners, under various programmes of the EU, CoE, OSCE, UN and diplomatic missions of the United Kingdom, USA, Germany, etc. accredited in the Republic of Moldova.

289. Please give an overview on the constitutional and legislative provisions to this effect as well as on the strategic and policy tools adopted for the implementation. To what extent are the rights of persons belonging to minorities respected, protected and monitored?

After proclaiming its independence and sovereignty in 1991, the Republic of Moldova has taken a number of important measures to recognize the rights of national minorities and to secure the State's commitments towards human rights: the preamble of the Constitution of the Republic of Moldova provides for: "Striving to satisfy the interests of citizens of different ethnic origin, which together with the Moldovans, constitute the Republic of Moldova people, / Considering the rule of law, civic peace, democracy, human dignity, fundamental human rights and freedoms, the free development of human personality, justice and political pluralism as supreme values [...]". The

fundamental law also recognizes the key elements of identity that the State has the obligation to respect: “The State shall recognize and guarantee the right of all citizens to the preservation, development and expression of their ethnic, cultural, linguistic, and religious identity” (art. 10 (2)). These principles reflected in the Constitution are fully in line with the approach of the relevant international and regional documents, including the Council of Europe Framework Convention for the Protection of National Minorities.

The normative and institutional framework of Moldova for the promotion and protection of national minority rights, with a human rights-based approach is well-established and in constant development in light of international standards, national priorities, and aspirations for European integration.

Particular attention is paid to the issue of improving the laws’ enforcement and ensuring their effectiveness. The principles of non-discrimination and equal treatment in relation to the national minorities and their integration into various spheres of public life have been also strengthened through a number of laws adopted in recent years.

The development of legislation and policies in the field of interethnic relations and national minority rights protection is a subject of constant attention by the Government of the Republic of Moldova which entails implementation through targeted actions of balanced policy for preserving cultural diversity and creating the conditions necessary for development and expression by the persons belonging to national minorities of their ethnic and cultural identity. The appropriate legislative framework of the Republic of Moldova corresponds to the highest and most recognized international standards, containing a number of legislative and normative acts.

The main legal framework regulating the protection of the rights of national minorities in the Republic of Moldova in various fields consists of the following documents: Law No.382/2001 on the rights of persons belonging to national minorities and on the legal status of their organizations; the Law No.344/1994 on the special legal status of Gagauzia (GagauzYeri); Law No.173/1994 on the manner of publication and entry into force of official acts; Law No.338/1994 on the Child’s Rights; Law No. 273/1994 on Identity Documents in the National Passport System; Law No.514/1995 on the organization of the Judiciary; Law No.1227/1997 on Advertising; Law No.413/1999 on Culture; the Citizenship Law No. 1024/2000; Law No.982/2000 on the access to information; Law No.125/2007 on Freedom of Conscience, Thought and Religion; Law No. 133/2011 on personal data protection; Law No.121/2012 on ensuring equality; the Education Code No. 152/2014; the National Human Rights Action Plan 2018-2022 (Parliament’s decision No.89/2018) focusing also on the rights of persons belonging to national minorities; Decrees of the President and decisions of the Government of the Republic of Moldova on ensuring the cultural development of national minorities (Ukrainians, Russians, Bulgarians, Roma, Jews), etc. The consecutive Government’s Plans of Actions⁹³⁸ also make reference to implementation of policies in the field of interethnic relations and national minority rights protection.

These policy documents include objectives and activities aimed at increasing participation of persons belonging to national minorities in public life, facilitating

⁹³⁸ The Government’s Programme of Action for 2015-2018, the Government’s Plan of Action for 2016-2018, approved by the Government Decision No.890/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=100974&lang=ro, the Government’s Plan of Actions for 2020-2023, Approved by the Government Decision No. 636/2019, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128516&lang=ro#.

intercultural dialogue, enhancing civic identity towards the Republic of Moldova, ensuring necessary conditions for studying the state language by non-native speakers, including the adult population, promoting languages of national minorities, ensuring access of national minorities to information and mass-media in their languages, promoting diversity in society, etc.

The National Human Rights Action Plan 2018–2022, approved by the Parliament's Decision No. 89/2018, is the third public policy document aimed at specifically fulfil and promote human rights in the Republic of Moldova. The Action Plan is based on the recommendations accepted by the Republic of Moldova in the second cycle of the Universal Periodic Review of Moldova, as well as the ones received from other human rights monitoring bodies of the UN, the Council of Europe, OSCE, and other international mechanisms.

Two of the 16 areas of activity in the document are dedicated to non-discrimination and equality (chapter 6) and the rights of persons belonging to ethnic minorities (chapter 15).

Since the population of the Republic of Moldova is ethnically, culturally, and religiously diverse, there are often many individual differences between members of the minority communities themselves. The document emphasises this diversity as the way of overcoming society divisions along ethnic, linguistic and religious lines.

Therefore, in line with preparations for the ratification of the European Charter for Regional or Minority Languages, the Action plan proposes measures aimed at the effective social, cultural, and economic integration of members of ethnic minorities. This raises a number of challenges such as sufficient budgetary resources for the related policy framework, institutional capacity-building of the government agencies involved in monitoring, identifying common positions of persons belonging to ethnic minorities, as well as introducing in school curricula for religious education that reflect religious diversity independently from some religious dogmas. Moreover, additional measures to reduce the social distance faced by members of minority communities will be based on the increased effectiveness of investigations into criminal offences and incidents motivated by prejudice, contempt or hatred, reviews of criminal legislation, capacity-building for the relevant criminal justice actors, provision of the necessary support to victims and the collection of relevant disaggregated data.

Policy tools adopted for the implementation

The Strategy for the Consolidation of Interethnic Relations in the Republic of Moldova for 2017-2027, adopted by the Government Decision No. 1464/2016 is focused on encouraging inclusive diversity of the Moldovan society by integrating national minorities into various spheres of life, ensuring equality of citizens regardless of ethnic, cultural, linguistic identity, etc., respecting national legislation and international standards, reducing the risk of interethnic tensions and addressing the integration of Moldova's diverse society in four priority areas: 1) Language as a means of integration; 2) Participation in public life; 3) Intercultural dialogue and civic belonging to the Republic of Moldova; 4) Mass media.

Objectives outlined in the Strategy are to be put into practice gradually, in three stages, based on Action Plans approved by the Government:

- The Action Plan for 2017 - 2020 for the implementation of the Strategy for the consolidation of interethnic relations in the Republic of Moldova for 2017-2027 (Government Decision No.1019/2017);

- The Action Plan for supporting the Roma population in the Republic of Moldova for the years 2016-2020 (Government Decision No. 734/2016);
- The National Program for Improving the Quality of Romanian Language Learning in General Education Institutions with Education in National Minority Languages (2016-2020) (Government Decision No.904/2015);
- The Action Plan on promoting the memory of the Holocaust and the culture of tolerance in order to combat racism, anti-Semitism, xenophobia and other forms of intolerance (2021 – 2024) (Government Decision No. 980/2020);
- The Framework regulation on the organisation of the activity of the Roma community mediators (Government Decision No.557/2013).
- The following documents are currently under development:
- The Program on the implementation of the Strategy for strengthening interethnic relations in the Republic of Moldova for 2017-2027 (2022- 2025);
- The Program for supporting the Roma population in the Republic of Moldova for the years 2022-2025;
- The Program for learning the Romanian language by national minorities, including the adult population for the years 2022-2025.

290. Does an overall strategy on the protection of minorities and related action plan exist?

Yes. Noticeable progress in the process of improving the national minority protection system was the adoption of the Strategy for the Consolidation of Interethnic Relations in the Republic of Moldova for 2017-2027⁹³⁹ - elaborated in close partnership with OSCE. Through this Strategy, the Government confirmed its determination to take the appropriate measures to fulfil the rights of members of ethnic minorities in an integrated and multilingual society based on respect for diversity.

The strategy is a policy document that determines the national mechanisms for strengthening interethnic concord, developing civic identity towards the State of the Republic of Moldova, ensuring the necessary conditions for non-native speaking citizens, including adults, to study and use the state language, promoting national minority languages, ensuring the access of persons belonging to national minorities to information and media in their languages, promoting diversity in society and participation of national minorities in public life and facilitating intercultural dialogue. The document intends to contribute to a wider implementation of national minority rights endeavours, to the consolidation of Moldovan society as well as to a harmonious development of interethnic relations.

The Strategy provides clarity, consistency, and convergence to the state policy and practices, facilitating national minority integration in four priority areas: 1. Participation in public life. 2. Language as a means of integration: policies in relation to the state language and minority languages. 3. Intercultural dialogue and civic belonging to the State of the Republic of Moldova 4. Mass media. The implementation of the Strategy is based on action plans approved by the Government, in three stages.

⁹³⁹ Approved by the Decision of the Government No. 1464/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=97804&lang=ro.

The first Action Plan for 2017-2020 on the Implementation of the Strategy for the Consolidation of Interethnic Relations in the Republic of Moldova was adopted by the Government' Decision No.1019/ 2017. The structure of the Action Plan followed the overall concept of the Strategy and included four chapters that cover four priority areas of action set out in the Strategy. Along with the organisational measures, the Action Plan provided for a series of studies geared toward analysing the current situation and identifying pressing problems and risks. It was planned to study the situation in the field of representation and participation of various ethnic groups in public service, to consider enforcement and compliance of national legal and institutional framework to the principles of integration policy, and to carry out biennial studies of the ethnolinguistic situation, etc. Focus was also on the development of competence and awareness-raising activities among representatives of NGOs, journalists, and civil servants through trainings, seminars, and consultations. The Action Plan envisaged the continued organisation of traditional ethnocultural events, such as festivals, round tables, conferences, summer camps, and other events aimed at developing intercultural dialogue, education, and cooperation.

A new Programme for 2022-2025 on the implementation of the Strategy and the respective Action Plan is being developed by the Government. These are designed to address the following issues and challenges faced by the national minorities: participation in public life; study of the Romanian language; promotion of cultural and linguistic diversity, the history and traditions of national minorities; promotion of diversity and multilingualism in mass media. The Programme is being developed by the Ministry of Education and Culture in collaboration with the cross-sectoral Working Group comprising the representatives of key public administration authorities, civil society and national minorities, with the support of the Office of the OSCE High Commissioner on National Minorities, and the UN Office for Human Rights (OHCHR).

291. What measures have been taken to ensure proper representation of minorities? Please specify any budgetary allocations to this end.

Interethnic dialogue is key to consolidating a strong society in the Republic of Moldova. In this regard, strong commitments have been undertaken to ensure an equal participation of minorities in political and social life. As mentioned above, the Government of the Republic of Moldova adopted the Strategy on the Consolidation of Interethnic Relations in the Republic of Moldova for 2017-2027, the Action Plan for its implementation for 2017-2020, and is developing the Program for 2022-2025, which envisages budgetary allocations of 2 570 795 MDL (about EUR 130 000) for various activities.

Political life. The right to stand for election is guaranteed by the Constitution to all citizens of the Republic of Moldova without discrimination, who are entitled to vote, attained the age of 18, according to the law, and applies in accordance with the European Convention on Human Rights, the Covenants, and other treaties to which the Republic of Moldova is a party. Pursuant to the Electoral Code, every citizen is treated on an equal footing, including from a gender perspective.

The Electoral Commission Decision in accordance with the Law on state budget No. 205/2021 as for budgetary allocation for the political parties is based on the performance of the early parliamentary elections of 11 July 2021, the presidential elections of 1 November 2020, and the general local elections of 20 October 2019.

According to art. 27 para. (1) of Law No. 294/2007 on political parties, they have the right to receive annual funding from the state budget (the allowance from the state budget is limited to 0.1% of the revenues to the state budget, subject to certain exception) through the Central Electoral Commission which is distributed as follows:

- 30% of political parties in proportion to the performances obtained in the parliamentary elections;
- 30% of political parties in proportion to the performances obtained in the local general elections;
- 15% of political parties in proportion to the performances obtained in the presidential elections;
- 7.5% of political parties in proportion to the women actually elected in the parliamentary elections;
- 7.5% of political parties in proportion to the women actually elected in the local elections;
- 5% of political parties in proportion to the young people actually elected in the parliamentary elections;
- 5% of the political parties in proportion to the young people actually elected in the local elections.

Social life. According to the Law No. 411/1995 on health care, minorities have the same rights and obligations in the field of compulsory health insurance as all citizens of the Republic of Moldova. At the same time, there is a low rate of the Roma people with compulsory health insurance policies which leads to limited access to health care and untimely access to doctors ((more details on point 300).

Roma families, including those with people and / or children with disabilities, receive social assistance (benefits and services), as needed, in accordance with the provisions of the Law on Social Assistance, No. 547/2003, Law on social assistance, No. 133/2008, Law on social services, No. 123/2010 and other normative acts. According to the Report on the implementation of the Action Plan for supporting the Roma population for 2016-2020, in the field of social protection, 1,795 Roma families received social assistance; 1,869 Roma families received help for the cold period of the year; 713 Roma people benefited from primary social services; and 252 Roma people benefited from specialized social services.

The Roma population tends to be over-represented as beneficiaries of social assistance, especially in the case of child allowances, thus being an important source of income. E.g, in Moldova, social assistance accounts for about 6% of Roma income, compared to 3% for non-Roma families. On the other hand, only a small percentage of the Roma population is entitled to social security benefits due to the low levels of formal employment associated with long-term unemployment. The share of Roma participation in the social security system and their inclusion in social assistance programs is unknown due to lack of data. Roma often do not declare their identity because they fear discrimination.

The above-mentioned facts were among the main reasons for the development of the service of community mediators in Moldova since 2013.

Further, by Government Decision No. 425/2018, the financing of community mediators from the state budget was established, which boosted their employment process at the

local level. For the years 2020-2022, financial resources in the amount of 3904.3 thousand lei are planned to ensure the activities of 54 community mediators, that is 74% more funds allocated compared to 2018 (2239.6 thousand lei). It is appropriate to note that until 2018 the service was financed from local budgets (2015-2017), and starting from 2018, financial resources are allocated from the national budget (more details on point 300).

As a result of the collaboration of local authorities, administrations of educational institutions, mediators and representatives of Roma communities, 1634 Roma children were enrolled in the compulsory education system in 2020. At the same time, in the 2019-2020 academic year, 10 Roma children being out of school and 52 Roma children have been drop out of school (more details on point 301).

In recent years, the Ministry of Education and Science has taken steps to ensure that Roma children have access to higher and vocational education. Admission to vocational and higher education institutions carried out in accordance with the Regulation on the organization and conduct of admission to vocational education programs and the Framework Regulation on the organization of admission to the first cycle - higher education, according to which 15 percent of the total number of places (according to each speciality/profession) envisaged in the admission plan, financed from the state budget, is reserved for several categories of candidates, including Roma children.

While Roma face barriers related to ethnicity and education, other ethnic groups face language barriers that limit their prospects of joining the public service in Moldova. In order to address the issues related to language barriers and ensure the functioning of the languages of national minorities, the Government of the Republic of Moldova allocated 4.19 million lei for the period 2019-2021.

292. How is the effective participation in political life of persons belonging to minorities ensured?

The Moldovan Constitution, as well as the Election Code ensures that persons belonging to minorities, citizens of the Republic of Moldova, benefit of the same rights: they all are entitled to choose, to express by vote their will regarding the most important issues of the state, and to be elected under the general legal provisions. Every citizen, irrespective of his/her ethnicity, has the right to vote beginning with the age of 18 years old, fulfilled until the day of the elections, except for those deprived of the right to vote by the final decision of the law court. Election participation is free (voluntary). Citizens of the Republic of Moldova residing abroad enjoy full electoral rights. Diplomatic missions and consular posts are obliged to create conditions for all citizens to exercise their electoral rights freely.

There are numerous programs aimed at encouraging and training minority to participate in political life. Thus, for example, in 2019, the “Roma Women in Politics” program was implemented, in which 38 Roma women received training, mentoring, and guidance. The project was aimed at increasing the number of Roma women in the local decision-making process. The civic and political empowerment program for 50 women with various types of disabilities in the Republic of Moldova was launched in 2019, offering training to potential candidates for the local elections that took place in 2019.

As a fact, by collective efforts of the Government in partnership with the development agencies to increase the number of Roma women in the decision-making process at the

local level, 7 Roma women were registered on the electoral lists of political parties and as independent candidates in the local elections in 2019 for mayors and local councillors for the first time in history of Moldova. As a result of the 2019 local election, a number of 12 Roma local councillors were elected, half of whom were women (for comparison: in 2015 only 2 Roma women obtained local councillor mandates). In addition, after the parliamentary elections, one Roma deputy was elected in the Moldovan Parliament. In 2019 Agency for Interethnic Relation (AIR) was led by a leading Roma activist. In the last 2 years (2019-2021) Moldovan Government was advised by two Roma activists who served as members of the cabinet of the Prime-Minister.

Institutional Framework. As of 2018, the Agency for Interethnic Relations (AIR) is the central administrative authority subordinated to the Government of the Republic of Moldova and responsible for the implementation of policies in the field of interethnic relations and the language functioning (Government Decision No. 593/2018)⁹⁴⁰. AIR mainly focuses on: 1. consolidation of interethnic relations; 2. development of intercultural dialogue and strengthening of civic identity; 3. language functioning and promotion of linguistic diversity.

The Committee on Human Rights and Interethnic Relations of the Parliament of the Republic of Moldova as well as the Presidents' advisor in the field of culture and interethnic relations bring their contribution in overseeing the implementation of the international standards, the legal framework and national policies.

Representation of persons belonging to national minorities in the Parliament of the Republic of Moldova: As a result of the 2019 parliamentary elections, 18 parliamentarians, representing five minority groups, were elected to the national legislature thus representing 17.82% of the total number (101) of deputies. Out of the five largest groups in terms of numbers (Ukrainians, Gagauzians, Russians, Bulgarians and Roma), only two (Gagauzians and Bulgarians) are not represented according to the principle of "approximately proportional" which is based on the demographic correspondence and political quotas of the representation of minorities in the country. At the same time, even for the two ethnic minorities, the under-representation is not so significant, because the Gagauz minority is represented by three parliamentarians, and the Bulgarian one - by a parliamentarian.

Pursuant to the Law No. 344/1994 on the special legal status of Gagauzia (GagauzYeri), the Governor (Bashkan) of Gagauz-Yeri is a full member of the Government. The Governor is the supreme official of Gagauzia and all the public administration authorities of Gagauzia are subordinated to him/her.

293. Please provide statistical information, if available, on the situation of minorities as compared with the majority population in respect of: housing, education (participation in primary, secondary, and tertiary education), health services, employment and unemployment, infant mortality and life expectancy.

⁹⁴⁰ With the support of the OSCE HCNM, the study on the effective participation of national minorities in public life in the Republic of Moldova was conducted aiming at the establishment of the benchmark and the evaluation of the policy framework for 2020. The study report was structured in three sections: first, it sets out the relevant international standards (ie COE FCNM (1998), Lund Recommendations (1999) and Ljubljana Guidelines (2014)) on the effective participation of national minorities in public life. Second, the discrepancies between national legal and policy frameworks and relevant international standards are presented. Thirdly, the inconsistencies between the national legal and political frameworks and the real practice in this field at the national and local levels are reflected (the full report in Romanian and English can be accessed on the website <http://ari.gov.md/ro/transparenta-decizionala-rapoarte-de-activitate>

The latest statistical information by ethnicity, including on minorities, dates as of 2014, when the last *Population and Housing Census (PHC)*⁹⁴¹ took place. It includes data on housing, education, employment, and unemployment. Data related to health services, infant mortality, and life expectancy, that are produced based on administrative data sources (ADS), are not available by ethnicity because of the lack of variable ethnicity in ADS.

Within the 2014 PHC, the information about ethnicity has been collected based on persons' voluntary declarations. Thus, the information on ethnicity is available for 2,754.7 thousand people (98.2% of the population covered by the census): 73.7% of Moldova's population declared themselves as Moldovans, 6.9% – as Romanians, 6.5% – as Ukrainians, 4.5% – as Gagauzs, 4.0% – as Russians, 1.8% – as Bulgarians, 0.3% – as Roma, while the other ethnicities represented 0.5% out of the total population.

Education. In comparison with the majority of the population (Moldovans) only Roma registered a bigger share of the population with a low level of education⁹⁴² (85.1% for Roma versus 43% for Moldovans).

Roma ethnicity (12.4%) registered the lowest share of the population with a medium (secondary) level of education than the majority population (44.5% for Moldovans). The biggest share of the population with secondary education completed was Ukrainians (50.1 %), Russians (49.9%) and Bulgarians (48.0%). Romanian and Russian ethnic groups have registered the biggest share of the population with the high completed levels of education (35.4% and, respectively, 25.3%) compared to Moldovans (12.4%).

According to The National Bureau of Statistics, in the academic year 2021 - 2022, primary and general secondary education is provided in 1231 education institutions: 99 primary schools, 786 secondary schools, 338 high schools, and 8 schools for children with intellectual or physical disabilities. According to international standards, since 2004, the National Bureau of Statistics does not collect any data about ethnicity for individuals younger than 16 years of age.

Living conditions. Regarding the living conditions of minorities, the 2014 PHC data showed that Russians, Romanians, Bulgarians and Gagauz have the larger share of the population that has access to bathroom/showers (75,8%, 68,8%, 62,2% and 56,4% respectively) in comparison with majority population (43.3%).

The share of the majority population with the availability of flush WC, water supply system for cold and hot water, sewage disposal system, and air conditioning is lower than the respective share of population among such ethnic groups as Romanians, Russians or Bulgarians. Moreover, the Roma population has the highest rates as regards the lack of the mentioned facilities.

Economic status. The employment rates range from 42,6% for the majority population to 38% for Ukrainians and Gagauzs and 13,1% for Roma ethnicity. The highest rate of unemployment was registered for the Roma ethnicity with 7,7% followed by Russians

⁹⁴¹ The statistical information is presented without data on the left side of the river Nistru and municipality Bender, for more details on Census results please see <https://statistica.gov.md/pageview.php?l=ro&idc=479> (Romanian), <https://statistica.gov.md/pageview.php?l=en&idc=479> (English).

⁹⁴² Grouping of the level of education is:

- low: gymnasium, primary, without primary school;
- medium: lyceum, secondary vocational, secondary specialised;
- higher: university, master degree, postgraduate (doctorate).

with 3,6%. The lowest rates are for Gagauzs with 2,7% and the majority population with 2,8%.

294. What is the legal basis providing for information and education in minority languages? Please provide a description of existing language legislation and language training programmes for minority languages. Provide a description of existing arrangements on education in the language of minority communities and the right to have history and culture of the persons belonging to such communities included in the curricula. Has the Council of Europe Charter for Regional and Minority Languages been ratified? How are those rights ensured and monitored? Please provide a detailed explanation for each national minority. What arrangements have been taken to ensure translation and interpretation?

The fundamental principles in the field of education of national minorities in the Republic of Moldova are provided in the Constitution of the Republic of Moldova (1994), Law No.234/2020 on the Functioning of the Languages spoken on the Territory of the Republic of Moldova (1989), Law No. 382/2001 on the Rights of Persons Belonging to National Minorities and the Status of their Organisation, Education Code of the Republic of Moldova No.152/ 2014, Decrees of the President of the Republic of Moldova and Government Decisions on actions to ensure the development of the culture of national minorities.

The creation of adequate conditions for the organisation of the educational process in the children's mother tongue is one of the essential requirements for the educational policy concerning the national minorities in the Republic of Moldova.

The Ministry of Education and Research (MER) is responsible for: the creation of a network of institutions at all levels of education; the development of curricula for pre-university educational institutions with instruction in the national minority languages; initial and continuous professional training of teachers; the promotion of international standards and best practices of multilingual and multicultural education.

To ensure the rights of national minorities to education in their mother tongue, MER is developing various model frameworks: 1. Framework plan for primary and secondary education with mother tongue as the language of instruction for students of Ukrainian, Gagauz, Bulgarian nationality; 2. Framework plan for primary and secondary education with the Romanian language of instruction for students of Ukrainian, Gagauz, Bulgarian nationality; 3. Pilot framework for primary and secondary education with the Russian language of instruction for students of Ukrainian, Gagauz, Bulgarian nationality; 4. Framework plan for high school education with the Romanian language of instruction for students of Russian, Ukrainian, Gagauz, Bulgarian nationality; 5. Pilot framework for high school education with the Russian language of instruction for students of Ukrainian, Gagauz, Bulgarian nationality.

Decisions regarding the activity of organising and carrying out the educational process in pre-university education institutions are approved by the teachers' councils in accordance with the parents' requests regarding the choice of the language of instruction for pupils/students.

Currently, the national minorities of the Republic of Moldova are studying in accordance to the "Framework Plan for Primary and Secondary Education with Russian Language Training for Students of Ukrainian, Gagauz, Bulgarian Nationality". Teaching the ethnocultural component to national minorities is one of the priorities of

the multicultural education system implemented in the European space. Mother tongue and literature, History, Culture, and traditions of Ukrainians / Russians / Gagauzians / Bulgarians / Roma are compulsory school subjects in primary and secondary school, with 4 hours per week.

Three models of minority language teaching have been developed in the Republic of Moldova: schools with the Russian language of instruction and the discipline “History, culture and traditions of Russian people” are taught 1 hour per week; schools with the Russian language of instruction where the Ukrainian, Gagauz, Bulgarian, etc. languages are studied as a discipline for 3 hours per week, and the discipline “History, culture and traditions of Ukrainian, Gagauz and Bulgarian people” is taught 1 hour per week; that provide education in the Bulgarian language of instruction at primary level (Theoretical Lyceum “V.Levski”, Chisinau Municipality).

The Council of Europe Charter on Regional and Minority Languages was signed by the Republic of Moldova on 11 July 2002, but has not yet been ratified.

The measures aimed at the ratification of the Charter were included in the National Action Plan for the Implementation of the RM-EU Association Agreement for 2017-2019⁹⁴³. Furthermore, the National Human Rights Action Plan for 2018-2022 also includes activities on ratification of the Charter. In particular, it involves identification of the options to ratify the European Charter for Regional or Minority Languages by revising and clarifying the State commitments in relation to the languages supposed to be covered by the Charter; implementation of the pilot project on the application of the provisions of the European Charter for Regional or Minority Languages in 7 settlements densely populated by persons belonging to national minorities and approval of the commitments to be assumed; and ratification of the Charter itself.

Efforts taken to this end contributed to the following outcomes:

- According to article 2, the ratifying state undertakes to apply at least 35 paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter. In 2012 the national authorities have launched an extensive assessment process in order to estimate the short, medium and long term costs and implementation tools. The implementation costs assessment has been carried out in 2012 by two independent experts assisting the State Chancellery within the ECORYS project “*Strengthening management capacities of public policies*”. The study emphasised that the Republic of Moldova would have to apply the Chart in 180 out of 898 towns and villages (communities where national minorities represent 20% or 50% of the population).
- A research into the cost/expenditure figures involved in the ratification of the Charter by the Republic of Moldova was carried out under the ECORYS project “Support to Policy Management Capacity” between June and August 2012 at the request of the Ministry of Foreign Affairs and European Integration and with the support of the State Chancellery. According to the findings of the study at the time of estimation (2012) in addition to MDL 947,534,811 annually allocated from the State budget to support minority languages, the Republic of Moldova would need at least another MDL 34,034,485 to meet commitments under the Charter in the field of education and use of minority languages. At the

⁹⁴³ Approved by the Decision of the Government No. 1472/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119199&lang=ro, amended in the first half of 2018 following the reform of the Government.

same time, as a large part of cost/expenditure figures for the Charter's implementation (in the following fields: Judicial Authorities, Administrative Authorities and Public Services, Media, Cultural Activities and Facilities and Economic and Social Life) could not have been estimated (need to further research), the authors of the study suggested that for the implementation of Charter commitments the State should allocate about MDL 70 000 000.

- At the initiative of the Council of Europe Office in Moldova, in partnership with the Agency for Interethnic Relations (AIR) and the State Chancellery a project was launched which implied involvement of some pilot municipalities of the Republic of Moldova in application of the Charter at local level. A number of 7 localities were selected for the participation in the project, among them: municipalities of Chisinau, Balti, Ceadar-Lunga, and Soroca, Taraclia city, Ciobanovca village of Anenii Noi district, Vulcanesti village of Nisporeni district. The selected localities were expected to adopt objectives and principles of the Charter and to select the concrete measures from among the Charter's provisions in order to promote the use of the national minority's (-ies') language (-s) that reside compactly on its territory.
- Within the CoE/EU Partnership for Good Governance (PGG) Project "Protecting national minorities and minority languages in Georgia, the Republic of Moldova and Belarus" the Municipality of Chisinau as one of 7 chosen pilot localities for the Charter's application was provided a grant for installation of multilingual signposts of national minorities' cultural heritage monuments throughout the capital in the Romanian and English languages, as well as in a minority language (Russian, Ukrainian, German, Bulgarian or Yiddish). The aim of the project was to increase the visibility of minority languages in the Republic of Moldova, to promote multilingualism, national cultural heritage, and tourist infrastructure in Chisinau. The total cost of the project amounts to 24500 EUR, of which 14700 EUR was allocated by the CoE. The project involves installation of 23 signposts of 71 tourist destinations in the central part of the city. This significant step towards implementing one of the Charter's standards by installing signs in minority languages further laid the ground for future ratification of the treaty.

Given the sensitivity of the topic and all the implications for central and local levels, as well as financial ones, in the process of preparing the ratification of the European Charter for Regional or Minority Languages, the Moldovan authorities consider it appropriate to undertake the following actions:

- further implementation of a project on simulation of the Charter's implementation by 7 pilot localities and subsequent evaluation of the results and progress made
- identifying the number of further possible commitments under the Charter and their coordination with the national minority communities in the Republic of Moldova, given the fact that the state ratifying the Charter may apply a limited number of engagements in the first stage (at least 35 out of 68);
- developing the draft Instrument/Law on ratification of the Charter and its coordination with central and local authorities, national minority NGOs, submission for approval in accordance with the applicable law;

- developing an Action Plan on gradual implementation of the Charter indicating sources of funding;
- identifying the mechanisms for the Charter's implementation at central and local level, and the monitoring mechanism.

295. What are the measures taken to improve inter-ethnic relations? What is the methodology used to identify ethnically motivated incidents? How are such cases investigated and prosecuted by the law enforcement bodies and the judiciary? Please provide updated figures on the number of ethnically motivated complaints.

The Criminal Code of the Republic of Moldova includes a series of strict provisions aimed at guaranteeing the social relations of peaceful coexistence and ensuring the equality of all persons and to punish persons who would tend to commit acts of hatred, as follows:

- Genocide (art.135 of the Criminal Code);
- Crimes against humanity (art.135¹ of the Criminal Code);
- Violation of equal rights of citizens (art. 176 of the Criminal Code);
- Intentional actions aimed at inciting enmity, differentiation or national, ethnic, racial or religious division (art. 346 of the Criminal Code).

The methodology used to identify ethnically motivated incidents is based on an analysis of the existing legal framework and relevant research on disaggregated data collection and international standards. It is also based on information gathered from stakeholders, who are responsible for their work to address ethnically motivated discrimination.

Thus, the methodology used by the relevant entities is based on the following acts and instruments: Law 121/2010 on ensuring equality; Law on the rights of persons belonging to national minorities and the legal status of their organisations, Code of audio-visual media services; Contravention Code of the Republic of Moldova; Criminal Code of the Republic of Moldova; Electoral Code of the Republic of Moldova; Reports of the Council for the Prevention and Elimination of Discrimination and Ensuring Equality and of the Office of the Ombudsman and the Audiovisual Council; Studies that provide research data and statistics on ethnically motivated discrimination; International studies and reports of relevant human rights bodies, such as: CERI, OSCE, UN bodies and others; Information received from the following authorities: the Council for the Prevention and Elimination of Discrimination and Ensuring Equality, the Office of the Ombudsman, the Audiovisual Council, the Central Electoral Commission; Information received from civil society and the public.

Ethnically motivated incidents which fall under the remit of the Code of Criminal Procedure are investigated accordingly, pursuant to its relevant provisions as for any criminal investigation.

The prosecutor's office does not have disaggregated data on complaints or grievances regarding ethnically motivated incidents. However, a fully automated information system for recording crimes is owned by the Ministry of Internal Affairs according to the provisions of Law No. 216/2003.

Relevant entities responsible for preventing and countering ethnically motivated incidents are permanently trained in accordance with legal national requirements and international best practices.

296. Do all citizens, including persons belonging to minorities have access to identity documents and how is this right guaranteed? What measures have been taken to improve the civil registration for the Roma minority, including birth certificate and identification documents? Is the ethnic origin registered in the birth certificate?

Under the legislation, all Moldovan citizens, including persons belonging to minorities have access to identity documents. The registration of newborn children takes place without any differences in relation to the ethnicity of the parents or family members. The provisions of Law No. 100/2001 on Civil Status Acts (art. 5) states that civil status acts and civil status documents are completed in the state official language, through information systems, the names and surnames of the citizens of the Republic of Moldova being entered in accordance with the spelling of the official language.

At the same time, the civil status bodies ensure the entry of names and surnames of foreign ethnic origin in the civil status documents (certificates/extracts) according to the spelling of the respective languages. The registration of the newborn 's parents' data on nationality and/or ethnic affiliation is optional.

Considering the above, there is no statistical indicators data available, referring to the number of Roma children, for example, whose births were declared to the civil status body or were not subject to registration.

Law No. 100/2001 provides for the right of a person to self-identification, in terms of his / her affiliation to a certain ethnic group. Thus, the person is entitled to modify the data about his / her ethnic affiliation in the birth act and the birth certificate via a declaration on his / her own responsibility to the civil status body.

Legislation allows for the nationality or ethnic affiliation of the child to be included in the birth certificate, upon child's request, based on the declaration on his/her own responsibility, after reaching the age of 16.

In order to ensure the ethnic self-identification of persons of Roma origin, the civil status bodies do register the nationality/ethnic affiliation of "Roma" and of "Gypsy" in the civil status documents upon person's request, under the general legal provisions. The identity document issuing services of the Public Services Agency (local offices from districts of Soroca, Riscani, Orhei, Ocnita, Otaci, etc.), in partnership with local public administration authorities, periodically organise information campaigns on the obligation to hold identity documents from the age of 16.

Specialists from the Public Services Agency regularly participate in meetings and workshops, seminars, as well as other interinstitutional meetings, organised at national level with representatives of national minorities, in particular, with representatives of Roma communities in the Republic of Moldova, addressing the various problems (social, economic, financial, educational, etc.) that they face, including the provision of public services, identify the actions to be included in the Governmental Programs and Action Plans, to ensure the rights and freedoms of national minorities in the Republic of Moldova.

297. Please indicate when the last population census was held. Did the questionnaire include a question on ethnic origin? How is the protection of personal data ensured while gathering the needed statistics on minorities? Please explain.

According to the Law No.90/2012⁹⁴⁴ on Population and Housing Census (PHC) 2014 , the last PHC was conducted in May 2014, with the reference date 12 May 2014.

Protection of personal data during the Census was properly addressed. Census questionnaire included a question on ethnicity⁹⁴⁵ (declared on a voluntary basis; the respondents that have not responded to the question counted for 1.8% of the whole population covered by the Census).

All census temporarily-hired personnel have signed contracts and declarations on the commitment to privacy with clear obligations to protect personal data. One of the provisions stipulated that the data should be used only for statistical purposes and in case of violation of the mentioned obligations, the census staff may be held liable for punishment in accordance with the legislation of the Republic of Moldova. All Census personnel committed to respecting the contract obligations not to disclose confidential data to which they had access.

At the processing stage, a number of 200 operators were hired to input information from paper questionnaires in electronic format through the data entering application (Census and Survey Processing System-CSPPro). The office where the operators have undertaken data entering was placed under video surveillance, as an additional measure to ensure the physical protection of personal data. IT equipment was secured having no access to Internet and with no technical facility to enable the copy or transmission of any information by any means (CD, USB stick, DVD or other). The representatives of the National Centre for the Protection of Personal Data have participated in all the training sessions, communicating to the operators the vigilance with which they must fulfil their contractual obligations in order to ensure the protection and confidentiality of personal data.

According to art. 7 para. (1) letter h) of the Law No. 90/2012 on the census of population and housing in the Republic of Moldova in 2014, the census collects nationality/ethnicity (based on respondent's voluntary declaration).

As per art. 5 (5) of Law No. 133/2011 on personal data protection, the personal data subject's consent is not required where: the processing is necessary for carrying out an obligation of the controller, under the law; the processing is necessary for the performance of tasks carried out in the public interest or in the exercise of public authority prerogatives vested in the controller or in a third party to whom the personal data are disclosed; the processing is necessary for statistical, historical or scientific-research purposes, except where the personal data remain anonymous for longer period of processing. In addition, art. 6 (1) of the same Law stipulates that the processing of special categories of data (e.g, ethnic origin) is prohibited, unless: the personal data subject has given his/her consent; processing relates to data that are voluntary and manifestly made public by the personal data subject.

At the end of the personal data processing operations (art.11(3) Law No.133/2011), if the subject of these data has not given his/her consent for another destination or for

⁹⁴⁴ Law No.90/2012, available in Romanian at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=343677>

⁹⁴⁵ <https://statistica.gov.md/pageview.php?l=ro&id=5175&idc=479>

further processing, they will be destroyed; transferred to another controller, provided that the original controller guarantees that further processing shall be carried out for purposes similar to those for which the data initially have been processed; transferred into anonymous data and stored exclusively for statistical, historical or scientific-research purposes.

Under art.31 of the Law 131/2011, for statistical purposes, historical, scientific, sociological, health research, legal documentation, the controller shall depersonalise the data by withdrawing those, which permit the identification of a natural person, rendering it in anonymous data, which cannot be associated with an identified or identifiable person. Where the personal data are rendered anonymous, the confidentiality treatment established for this data shall be cancelled.

298. Is there a Roma inclusion strategy / action plans in place? If so, please set out their main parameters and indicate who is responsible for implementation, monitoring and reporting?

The Moldovan authorities strive to ensure a comprehensive approach to the social integration of the Roma population and continue to adhere strictly to the international standards and best practices, as well as the relevant recommendations of the international organisations addressed to the Republic of Moldova. Legal provision has been put in place and resources have been directed specifically to meet Roma integration goals. Moreover, the progress achieved on developing a holistic approach towards the consolidation of interethnic relations and Roma developed under the umbrella of the Council of Europe Framework Convention for the Protection of National Minorities as well as OSCE and UN bodies.

The authorities of the Republic of Moldova are consistent in pursuing policies aimed at long-term improvement of Roma people integration. The successive Roma-specific policy documents have been adopted and implemented since 2001, including, the following normative acts:

- Roma Action Plan for 2007-2010 (approved by the Government Decision No.1453/2006 with amendments and supplements);
- Roma Action Plan for 2011-2015 (approved by the Government Decision No.494/2011 with amendments and supplements);
- Roma Action Plan for 2016-2020 (approved by the Government Decision No.734/2016 with amendments and supplements).

Moreover, Roma related actions and provisions are synchronised with the National Human Rights Action Plans from 2004 till present, and the Strategy on the Consolidation of the Interethnic relations for 2017-2027. In this sense, a certain horizontality in action is ensured by engaging in this inclusion process all ministries and state agencies, not only some.

The Agency for Interethnic Relations (AIR) was designated to lead, facilitate and report on the integration process alongside other key institutions such as Ministry of Education and Research, Ministry of Labour and Social Protection and Ministry of Culture. For that purpose, AIR (formerly Bureau for Interethnic Relations) received additional funding and competencies.

On the other hand, local public administrations were strongly advised by Moldovan Government to elaborate local action plans to support the Roma population residing on their territories. Such local Roma Action plans or specific strategic actions were approved and implemented in Chisinau and Balti municipalities as well as in other locations with considerable Roma population.

Currently, the Programme for Supporting the Roma Population in the Republic of Moldova for 2022-2025 is being developed. The new plan aims, on the one hand, to address the issues and constraints faced by the Roma people, and, on the other hand, to strengthen the already functioning system of the mediators of Roma community. The Programme is a policy document that contains objectives and actions to support the Roma population in the Republic of Moldova in the following priority areas: 1) Education; 2) Health; 3) Work and the development of entrepreneurship; 4) Social protection and housing; 5) Roma participation in public life, including in decision-making processes; 6) Combating discrimination; 7) The rights of Roma migrants and the fight against trafficking in human beings; 8) The activity of community mediators; 9) Culture and mass-media.

The Programme is to address recommendations of both local civil society and international and regional human rights bodies on the rights of Roma people in the Republic of Moldova. The monitoring and evaluation of the Programme will be carried out by the Ministry of Education and Research and the Agency of Interethnic Relations, in partnership with the state authorities / institutions responsible for the implementation of the respective policy document.

The monitoring exercise involves a continuous evaluation based on a set of indicators and results foreseen for each action envisaged in the Program. Monitoring will be carried out by collecting, processing and analysing available outputs and outcomes, collecting opinions of Roma civil society activists, identifying gaps or other unforeseen effects. Statistical and administrative data will be collected both from the resources available to the central public administration authorities responsible for sectoral policies, local public administration authorities, and by means of surveys conducted by specialised institutions.

The final report on evaluation, after the full implementation of the Program, will be prepared by the Ministry of Education and Research with the participation of central and local public authorities and the key partners, such as Roma non-governmental organisations, development partners, etc.

In order to ensure transparency of the Programme's implementation process, annual monitoring reports and the final evaluation report will be published on the official website of the MER and the Agency for Interethnic Relations.

299. Which mechanisms exist to coordinate the implementation between different institutions and ministries and between central and local levels?

In order to coordinate efficiently the implementation of policy in the field of interethnic relations between different institutions and ministries and between the central and local levels, in accordance with the Regulation on the organization and functioning of the Agency for Interethnic Relations (Government Decision No. 593/2018), the Agency established an Advisory Board. The Board is composed of representatives of AIR, the Ministry of Education and Research, Chisinau City Hall, the Council for Prevention and

Elimination of Discrimination and Ensuring Equality as well as Civil Society representatives.

Another advisory mechanism is the cross-sectoral working groups on the implementation of policies in the field of interethnic relations: the inter-sectoral working group on implementation of the Strategy for Consolidation of Interethnic Relations for 2017-2027, the inter-sectoral Working group on the implementation of the Roma Action Plan, the inter-sectoral Working group on the implementation of the Action Plan on promoting the memory of the Holocaust and the culture of tolerance to combat racism, anti-Semitism, xenophobia, and other forms of intolerance).

300. What type of measures (Roma specific or Roma dimension in mainstream initiatives) are given priority to ensure Roma effective equal access to education, employment, healthcare and social services, housing and essential services, as well as access to civil documentation?

Strengthening the Roma community and improving the situation of Roma people is one of the goals of the Government of the Republic of Moldova while tackling equality, inclusion and fundamental human rights. The studies and analyses carried out by national and international organisations indicated that establishing a bridge between the local public authority and the Roma community was pivotal in coping effectively with problems faced by Roma population. Moldovan Government invested efforts into creating a mechanism to answer that need. In this sense, an applicable tool for improving the situation of the Roma population was the *institutionalisation (from January 2013) of Roma community mediators*. The role of Roma community mediators is to facilitate communication/interaction between Roma communities and public local authorities, to ensure a better access to available public services in the area of health, education, labour and social assistance. Moldovan Government made the needed amendments in the law and secured financial resources specifically for this purpose. Most of the measures are contained/described in the Roma Actions Plans (see answer to question 298).

The work of the Roma community mediators officially became a recognized occupation following its inclusion in the Classification of Occupations of the Republic of Moldova (Order of the Minister of Labour, Social Protection and Family No. 694-p/2012). The recommendations of the Report “Mapping of densely populated Roma communities in the Republic of Moldova”, carried out in 2013 with the support of the United Nations Development Program (UNDP) Moldova, were used to establish the need for community mediator units. According to this report, it was proposed to hire 48 mediators in 44 localities in the Republic of Moldova.

The legal status of the community mediator is regulated by the Law No. 69/2013 for the completion of article 14 of the Law No. 436/2006 on local public administration by which local councils were assigned a new competence: the right to create the position of community mediator as part of local administration in compact or mixed localities populated by Roma.

In 2016, a group of Roma community mediators initiated the registration of the National Association of the Roma Community Mediators (ANMC) of the Republic of Moldova. The Government approved Decision No. 425/2018, which establishes that community mediators are to be funded from the State budget rather than from allocations approved in the budgets of first-level local administrative units (town and villages) - a change

that boosted their recruitment at the local level. The State budget laws for 2018 and 2019 provided for 2.2 million MDL to cover the salaries and activity-related costs of 48 community-based mediators in 44 localities. In 2020, at the recommendation of Roma Civil Society, the number of Roma community mediators increased by 6 units. For this purpose, the State budget allocated all the needed extra costs. The planned amount of expenses included not only remuneration of the mediators' work, but also those related to the endowment of the job (furniture, office equipment, consumables, etc.) and professional training. As of October 2021, 48 mediators out of 54 planned units were actively employed in the Republic of Moldova. There is currently an intense dialogue with local public authorities in order to further develop the Roma community-based mediator service, based on the local needs.

Among the main achievements in the field of the Roma people support in the Republic of Moldova can be mentioned the following:

- approval of the curriculum on the subject “History, culture and traditions of the Roma in the Republic of Moldova” and “Intercultural education”;
- ensured free travel for children from localities with high concentrations of Roma to the nearest educational institution, provided that there is no general educational institution of the relevant cycle (primary, lower secondary or upper secondary) within 2 km of their place of residence;
- increase the number of Roma people registered as unemployed at the local unemployment offices;
- material assistance to Roma people from socially vulnerable families for the rehabilitation / repair of houses, according to the legislation in force. Due to partial collapse of the residential block in Otaci town, caused by the technical accident, 70 families, mainly of Roma origin, received compensation for the value of the destroyed houses, according to the Government Decision on the allocation of financial means (Government Decision No. 367/2019 and Government Decision No. 407/2019);
- considerable simplification of the process of issuance of personal identification documents, including to the Roma people.

The “Roma Women in Politics” program was implemented and provided for training, mentoring and guidance of 38 Roma women. The project aimed at increasing the number of Roma women participating in the local decision-making process. The civic and political empowerment program for 50 women with various types of disabilities in the Republic of Moldova was launched to prepare future candidates for the local elections (6 Roma women and 6 women with disabilities were chosen as local councillors as a result of the local elections in 2019).

Health. In accordance with the national legislation in force, Roma have the same rights and obligations in the area of mandatory health insurance as all citizens of the Republic of Moldova. Under the mandatory health insurance system, the public receives the amount of medical care specified in the national mandatory health insurance scheme, which was developed with the resources of the mandatory health insurance funds. In accordance with the scheme, insured persons receive the following types of medical care: emergency pre-hospital medical care, inpatient medical care, primary health care, specialised outpatient medical care, including dental care, highly specialised medical services and home-based care.

Uninsured persons are provided with emergency medical services and primary health care, including prescriptions for reimbursable medicines, as specified under the national health insurance scheme, without out-of-pocket payments for such services.

Specialised outpatient and inpatient medical care in cases of diseases associated with socioeconomic factors that have a major impact on public health is covered by the mandatory health insurance funds in accordance with current legislation.

The population receives reimbursable medicines covered by mandatory health insurance funds for specialised outpatient care, in accordance with the list of reimbursable medicines, as well as medicines provided free of charge under national programmes and purchased centrally by the Ministry of Health, Labour and Social Protection, including for tuberculosis, endogenous psychiatric disorders, diabetes mellitus and diabetes insipidus. At inpatient facilities, patients receive the medicines provided for in national clinical protocols.

Insured persons receive the following types of medical care: emergency pre-hospital medical care, inpatient medical care, primary healthcare, specialised outpatient medical care, including dental care, highly specialised medical services and home-based care.

Uninsured persons are provided with emergency medical services and primary health care, including prescriptions for reimbursable medicines, as specified under the national health insurance scheme, without out-of-pocket payments for such services. Specialised outpatient and inpatient medical care in cases of diseases associated with socio-economic factors that have a major impact on public health is covered by the mandatory health insurance funds in accordance with current legislation.

The population receives reimbursable medicines covered by mandatory health insurance funds for specialised outpatient care, in accordance with the list of reimbursable medicines, as well as medicines provided free of charge under national programmes and purchased centrally by the Ministry of Health, including for tuberculosis, endogenous psychiatric disorders, diabetes mellitus and diabetes insipidus. At the moment of hospitalisation, patients receive the medicines provided for in national clinical protocols.

Annually, family physicians hold approximately 11,000 information events with the ethnic Roma population on the following topics: types of medical care and the general range of services to which persons insured under the mandatory health insurance system are entitled (approximately 2,900), the prevention of communicable diseases through immunisation (approximately 3,000), the prevention of smoking and alcohol and drug abuse (approximately 2,500) and youth-friendly health services (approximately 2,700).

A departmental commission for combating discrimination in the health sector has been established under the Ministry of Health in order to assess and analyse legislation in the area of health care with a view to identifying potentially discriminatory provisions and ensuring equality in the delivery of health-care services. The mission of this commission is to combat discrimination by identifying cases and addressing those brought to the Ministry's attention in petitions.

Issuance of personal identification documents. The Public Services Agency is responsible for issuing identity documents to all citizens of the Republic of Moldova, regardless of their ethnicity or race, and takes steps to optimise the processes of issuing identity documents and registering the population.

Upon issuing the identity documents to ethnic Roma, civil status bodies face cases when personal identification is impossible or there are no civil status documents on record. Majority of these cases are generated by the fact that parents do not declare the birth of a child to a civil registry office within three months of the birth, irrespective of legal provisions of art. 22 (5) of the Civil Registration Act, No. 100/2001 requiring that.

In accordance with paragraph 31 of the Regulations on the issuance of identity documents and the registration of citizens of the Republic of Moldova, approved by the Government Decision No. 125/2013, in order to issue temporary proof of identity to persons who do not have all the paperwork needed to obtain an identity document, the branches of the Public Services Agency that issue identity documents and diplomatic missions or consular offices check whether there are civil status records in the applicant's name, either by using information held by the State population register or by making an official request to the Central Civil Status Department. There are specific legal conditions for preparing civil status documents, including through the law courts, for a person whose birth was not registered with the register office. Paragraph 36 of the above-mentioned regulations states that the person's identity must be established by a court of law if all administrative means of identification have been exhausted.

The amendments introduced to these regulations, approved by Government Decision No. 125/2013 brought an expansion of the categories of persons who have the right to make sworn statements to identify a person whose identity had not been established at the time of application or for whom the identity previously established could not be confirmed, because the person lacks either documents confirming his or her identity or first- to third-degree relatives who can identify him or her. Persons can thus be identified on the basis of sworn statements made simultaneously by three third persons who are citizens of the Republic of Moldova, hold valid identity documents and know the identity of the person being identified. This provision has greatly simplified the process of establishing identity and obtaining identity documents, in particular for ethnic Roma.

In the areas in which ethnic Roma predominantly live (Soroca, Rîșcani, Orhei, Ocnîța, Otaci, etc.), the offices of the Public Services Agency responsible for the issuance of identity documents and local public administrations carry out periodic information campaigns to raise their awareness of the requirement to hold identity documents, the services provided and the social and economic benefits that they will be able to enjoy in the future.

Education, raising awareness. The Ministry of Education and Research in partnership with non-governmental organisations and local public administrations, has been conducting regular awareness-raising campaigns for parents to promote the enrolment of children in the compulsory education system. At the beginning of the 2019/2020 academic year, more than 450 awareness-raising campaigns were conducted for Roma parents with a view to include their children into the compulsory education system and ensure their enrolment, reaching more than 1,900 parents.

Constantly, the People's Advocate (Ombudsman) is addressing the local public administration to increase efforts towards a better integration of Roma in the education system. Previously, he has addressed ex-officio, the Ministry of Education, requiring to introduce a control in all the educational institutions from the regions populated by Roma, in order to exclude any differentiated treatment.

All local public administrations provide free travel for children from localities with high concentrations of Roma to the nearest education institution, if there is no general educational institution of the relevant cycle (primary, lower secondary or upper secondary) within 2 km of their place of residence. A total of 31 Roma children benefit of free transportation to and from an educational institution.

The regulations on the organisation and conduct of admissions to higher education institutions provide that, for each subject or area of vocational education, a quota of 15 % of the total number of budget-funded places must be set aside for applicants belonging to certain categories, including young Roma.

Over the period 2016–2019, a total of 120 Roma enrolled in vocational education institutions: 58 in 2016–2017, 43 in 2017–2018 and 19 in 2018–2019. All students were granted dormitory accommodation upon request.

In order to raise awareness about the work of the police force among Roma and involve them in solving the problems that their communities face, a number of 80 meetings were held annually involving 1,037 members of the Roma community. The participants in the meetings were provided with information about how they could organise and actively participate in campaigns and projects initiated or supported by the police, such as neighbourhood watches, alley of safety, caring grandparents and grandchildren, coffee breaks with police officers, etc.

301. As regards education, what is the percentage (differentiated by gender) of Roma children that complete compulsory education? What is the percentage of Roma children participating in early childhood education and care? What are the main barriers for Roma children to access compulsory education and which are the measures taken to address them?

In 2020, 330 Roma children were enrolled in childhood education institutions. Compared to 2016, the situation with the access of Roma children in the targeted institutions has significantly improved (from about 201 to 330 children, an increase of 40% in 5 years). Despite the fact that local public authorities in urban and rural areas cover the maintenance costs of early education institutions, including food, some Roma children do not attend these institutions for various reasons: refusal of parents, non-compliance with registration documents, lack of vaccination, the precarious financial situation, limited accessibility and long distances to the kindergarten, lack of knowledge of the Romanian language.

In fact, main barriers for Roma children to access compulsory education are frequent migration, resettlement, poor material conditions, language as well as prejudice towards Roma at the local level.

Admission to vocational schools and higher education institutions is carried out according to the organization rules and admission plans, which provide places with funding from the state budget for Roma candidates. Thus, in the admission session 2020-2021 only 2 students were enrolled (compared to 18 students in the 2019-2020 session). In the 2020-2021 session, 15 Roma students were admitted to vocational schools (compared to 66 in 2019).

As measures undertaken by the Ministry of Education and Research (MER) to ensure Roma effective equal access to education are the following:

- organising informational and awareness-raising campaigns for parents on the necessity of children's enrolment in the education system, the importance of compulsory primary and secondary education, and the need to pursue studies;
- organizing special training on intercultural education for teachers and managers to create an inclusive and effective educational system based on the principles of equity, non-discrimination, and respect for diversity;
- provision of free travel for children from localities mainly inhabited by Roma to the nearest educational institution, if it is located not less than 3 kilometres away;
- providing textbooks;
- providing meals for Roma children;
- cooperating with Roma NGOs and voluntary organisations in discussion on issues relating to the inclusion of children in the educational process;
- developing the mechanisms for identifying Roma children who do not attend a school or have a high level of absenteeism, the MER actively cooperates with the local public authorities and non-governmental organisations promoting Roma inclusion;
- ensuring access to professional technical and higher education through reserving places with funding from the state budget for several categories of candidates, including Roma children;
- organising informational sessions for Roma children, Roma community mediators, and Roma leaders about the opportunities for Dual Education in Moldova;
- elaboration and implementation of the school curriculum "History, culture, and traditions of the Roma in the Republic of Moldova" for the primary classes (in three languages: Russian, Romanian, and Romanians);
- organising and conducting training on cultural differences in the preschool and school education process in partnership with Roma organisations.

**Dynamics of indicators in the field of Education for the Roma population
in the Republic of Moldova**

Indicator	2016	2017	2018	2019	2020
Number of Roma children enrolled in early education institutions	201	213	226	372	330
Number of Roma children enrolled in the compulsory education system	37	29	31	1778*	1634*
Number of Roma students enrolled in higher education institutions	5	13	–	18	2
Number of Roma students enrolled in technical vocational education institutions	–	–	–	66	15

* Note: - in the Report on the implementation of the Action Plan for supporting the Roma population in the Republic of Moldova for 2016-2020 is presented the total number of children enrolled in the compulsory education system in the country (and not separately for Roma people).

Source: Annual reports on the implementation of the Action Plan for supporting the Roma population in the Republic of Moldova for the years 2016-2020.

302. What is the situation as regards employment for Roma men and women? What are the major issues and which measures are taken to ensure equal treatment of Roma in access to the labour market and to employment opportunities?

According to the Law on the Promotion of Employment and Unemployment insurance as well as Government Decision on the Access to Employment a number of measures were adopted aiming to prevent and reduce unemployment and its social effects, reduce the risk of unemployment and ensure a high level of employment and adjustment of the workforce while **eliminating any form of discrimination** based on race, nationality, ethnic origin, language, religion, beliefs, sex, age, disability, opinion, political affiliation, wealth, social origin or any other criterion to ensure the right to decent work.

To increase the **employment rate** among Roma, a Cooperation Agreement between the Agency of Interethnic Relations and the National Employment Agency (ANOFM) was signed. During 2021 in the territorial subdivisions for employment (STOFM) of ANOFM registered 1830 Roma people as unemployed (5% of the total number of 37001 registered unemployed), including 1059 women (58% women) or 547 more than in 2020. Those registered by domicile indicate the following: 1129 people live in urban areas (62%), including women - 681 (60%), and in rural areas - 701 people (38%), including women - 378 (54%). It can be seen that the majority of Roma people are from urban areas - this speaks about Roma people searching for better opportunities while avoiding rural areas with reduced employment opportunities.

In 2021, 126 Roma people, including 68 women, registered as unemployed, have received support for employment. In 2021, compared to 2020, 34 more people were employed. The distribution of employment, according to their place of residence, was: 47 Roma people - in rural areas and 79 people - in urban areas and according their occupation – unskilled worker in agriculture – 59, auxiliary worker - 26, viticulturist - 6, fruit and vegetable store worker - 6, seamstress - 3, double-glazed window assembly - 3 etc.

From a total number of 126 Roma people, assisted by the ANOFM on employment, 68 people belong to the age group 16 - 34 years, 45 people to - 35 - 49 years and 13 – to age group 50 - 65 years. In addition, 9 Roma people received unemployment benefits, compared to 23 people in 2020.

The barriers regarding the employment of Roma people are: lack of general education studies and diplomas certifying the possession of a profession, lack of documents necessary for registration of unemployment status; poor communication abilities in the Romanian language; preferences for self-employed activities.

**Dynamics of indicators on labour market for Roma people
in the Republic of Moldova⁹⁴⁶**

Indicator	2016	2017	2018	2019
Number of Roma people registered as unemployed STOFM	814	1599	1902	1427
<i>including</i> : number of Roma people in search of employment for the first time	721	1397	1666	1217
<i>including</i> : number of Roma people who graduated primary school or without formal education	609	1183	1415	1098
Number of Roma people for whom employment was secured	77	152	203	198
Number of Roma people receiving unemployment benefits	2	2	7	9
Number of Roma people who graduated vocational training courses	6	15	4	7

303. Do Roma communities have equal access to universally available healthcare services? Which healthcare services (if any) are insurance based, and which measures are taken to ensure equal access to these services? What is the situation as regards sexual and reproductive healthcare? Are Roma children covered by free vaccination programmes?

Article 16 of the Constitution of the Republic of Moldova provides that all citizens are equal before the law and public authorities regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin. Pursuant to the provisions of the Health Care Law No. 411/1995⁹⁴⁷, the inhabitants of the Republic of Moldova have the right to health care regardless of nationality, race, gender, social status, and religion.

The Republic of Moldova has a universal solidarity-based healthcare system. According to the Law No. 1585/1998 on compulsory health insurance⁹⁴⁸, 14 categories of non-working individuals (children, students, pensioners, pregnant women, people with disabilities, etc.) receive insurance coverage provided by the Government.

⁹⁴⁶ Annual reports on the implementation of the Action Plan to support the Roma population in the Republic of Moldova over the years 2016-2020.

⁹⁴⁷ Law No. 411/1995, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128014&lang=ro

⁹⁴⁸ Law No. 1585/1998 on compulsory health insurance, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128122&lang=ro.

Individuals who do not belong to the respective categories, have the obligation to make a premium contribution payment - persons employed or self-insured persons. In accordance with the current legislation, Roma people have the same rights and obligations related to compulsory health insurance as all residents of the country. Individuals enrolled in the mandatory health insurance scheme receive a benefit package of covered services, including emergency care, primary and secondary care services, hospital care, dental care, high performance services, home care visits.

Pre-hospital emergency care and primary care services were extended, free of charge, *to all, irrespective of insurance status*, including Roma people. Medical services for socially conditioned diseases with a major impact on public health⁹⁴⁹ are also guaranteed at no cost to both insured and uninsured individuals. In addition, services and medications provided within National Programs addressing priority public health issues (tuberculosis, HIV, viral hepatitis, diabetes, mental health, etc.) are state funded and universally available.

Since the National Health Insurance Fund keeps no records of insured and uninsured people by ethnicity, accurate data on the number of Roma with no health insurance is difficult to obtain. Data available through surveys show that Roma are less likely to have insurance coverage compared with the general population.^{950,951,952} Most frequently they fall under the category of self-insured persons.

Although Moldova has a universal health care system, Roma population frequently struggle to access essential health services they are entitled to and are more likely to report unmet health needs than the general population^{953,954}. A number of barriers to good health for Roma arise from other policies, including housing, employment, education, transport, etc. The socio-economic status and place of residence of Roma are major factors of vulnerability in access to health services. That is why the assistance of Roma community mediators is essential in utile informing of both Roma residents about existing opportunities and local authorities about the need to include Roma residents in the supervision of local medical units.

A recently conducted survey showed that access to the state health insurance was not identified as one of the key issues for accessing medical consultations for Roma⁹⁵⁵.

A series of national action plans on supporting Roma population, covering health among other priority areas were adopted and implemented starting with 2007⁹⁵⁶. The 4th cycle of this policy covering 2022-2025 is at the final stage of consultation prior to approval. The main activities related to addressing the situation of disadvantage of the

⁹⁴⁹ tuberculosis; psychosis and other mental and behavioral disorders; alcoholism and drug addiction; confirmed malignant oncological and hematological conditions; HIV / AIDS and syphilis; acute viral hepatitis A, botulism, viral, bacterial and parasitic meningitis and meningoencephalitis, pandemic influenza, chickenpox, measles, leptospirosis, malaria, typhoid and paratyphoid fever, exanthemous typhus, cholera, tetanus, anthrax, brucellosis, epidemic, rabies, trichinosis, plague, yersinosis, tularemia, diphtheria, poliomyelitis, rubella, new type Coronavirus infection (COVID-19).

⁹⁵⁰ Raport actualizat privind cartografierea localitatilor dens populate de Romi din Republica Moldova, 2021, available in Romanian at:

https://mecc.gov.md/sites/default/files/final_raport_privind_cartografierea_localitatilor_dens_populate_de_romi.pdf

⁹⁵¹ Profile of Roma women and girls, 2016 https://www.md.undp.org/content/dam/moldova/docs/Publications/06_machet-FEMEILE-Roma_2018_ENG.pdf

⁹⁵² Impact of COVID-19 on Human Rights in the Republic of Moldova, 2021, available at:

<https://moldova.un.org/en/138288-impact-covid-19-human-rights-republic-moldova>

⁹⁵³ https://mecc.gov.md/sites/default/files/final_raport_privind_cartografierea_localitatilor_dens_populate_de_romi.pdf

⁹⁵⁴ Unequal Moldova, 2019 https://cef.md/media/files/files/unequal-moldova-report-english-web_1278956.pdf

⁹⁵⁵ Impact of COVID-19 on Human Rights in the Republic of Moldova, 2021 <https://moldova.un.org/en/138288-impact-covid-19-human-rights-republic-moldova>

⁹⁵⁶ https://www.legis.md/cautare/getResults?doc_id=110246&lang=ro

Roma population to improve Roma health include (i) informing the Roma population on the benefits of compulsory health insurance, (ii) strengthening the capacity of health care providers in the area of preventing discrimination against Roma population and (iii) communication campaigns focused on children vaccination, infectious disease prevention, drug addiction, etc.

Sexual and reproductive care. The right to sexual and reproductive health is considered a fundamental human right in the Republic of Moldova. Access to safe and efficient sexual and reproductive health care services, as an integral part of the right to health care, is entitled by the Constitution of the Republic of Moldova and Law No. 138/2012 on reproductive health⁹⁵⁷.

The National Program on sexual and reproductive health and rights for 2018-2022, approved by Government Decision No. 681/2018⁹⁵⁸ defines interventions in the area of sexual and reproductive health and rights. It is based on the principle of ensuring the right of every person to all aspects of sexual and reproductive health at any stage of life and providing access to sexual and reproductive health services, adapted to the needs of beneficiaries, including people with special needs (e.g. adolescents, victims of sexual violence and trafficking in human beings, socio-economically vulnerable people, people with disabilities, the elderly, etc.), without any discrimination.

One of the objectives of the Program is to ensure equitable and universal access for the entire population of the Republic of Moldova to the comprehensive range of sexual and reproductive health services through:

- ensuring in every settlement at least one competent provider to provide the comprehensive range of sexual and reproductive health services according to the level of medical care (primary, outpatient and hospital specialist);
- increasing the access of population groups with special needs, including people with disabilities, to the comprehensive range of sexual and reproductive health services;
- reducing the unmet need for modern contraceptive methods.

Studies show that Roma women in Moldova rarely ask for reproductive health services, which are available at the community level. At the same time, reproductive health risks are higher amongst Roma women compared to their non-Roma counterparts. The high incidence of gynecological diseases, miscarriages, and unwanted pregnancies among Roma people is caused mainly due to lack of knowledge about family planning and contraception⁹⁵⁹. Conducted surveys showed a decline in the percentage of early teenage births and a higher share of Roma women who accept contraception⁹⁶⁰.

In the Republic of Moldova, all children, regardless of their ethnic affiliation, are insured by the Government (Law No. 1585/1998 on compulsory health insurance⁹⁶¹). All children, including the Roma population, benefit from *free vaccination* provided under the national immunisation program.

⁹⁵⁷ https://www.legis.md/cautare/getResults?doc_id=106297&lang=ro

⁹⁵⁸ https://www.legis.md/cautare/getResults?doc_id=108813&lang=ro

⁹⁵⁹ <https://eca.unwomen.org/en/digital-library/publications/2014/11/study-on-the-situation-of-romani-women-and-girls-in-the-republic-of-moldova>

⁹⁶⁰ <https://www.unicef.org/moldova/en/reports/roma-children-and-their-access-services>

⁹⁶¹ https://www.legis.md/cautare/getResults?doc_id=128122&lang=ro

Vaccination rate among preschool Roma children varies insignificantly from non-Roma population, as revealed by several studies conducted in different periods^{962,963,964}. According to medical providers, Roma mostly do not refuse immunisation, however disruption in vaccination schedule are related to migration, early births, and postponed medical visits.

304. On housing:

- a) Do the Roma communities mainly live in segregated or desegregated areas?**
- b) Do Roma have equal or preferential access to social housing? And on which criteria are such measures taken?**
- c) How many Roma settlements (in percentages by location) have access to public utilities (such as water, electricity, gas and public transport)?**
- d) What legislation is in place to govern evictions and which rules are to be respected in case of evictions? Are these rules in compliance with international obligations, including UN rules?**

According to the 2014 Population and Housing Census (PHC)⁹⁶⁵, Roma population live in 227 localities that represent 14% out of all Republic of Moldova localities. The need for social housing was a subject of Governmental attention as a way of offering a viable solution.

The allocation of social housing is carried out according to the Regulation on the record, method of allocation and use of social housing, approved by the Government and coordinated with the social partners. There are several laws governing the situation of social housing: Civil Code of the Republic of Moldova 1107/2002 with amendments; Law No. 75/2015 on housing; Law No.1324/1993 on privatisation of the housing fund, on extending the action of the Provisional Rules for the operation of housing; Government Decision (GD) No. 988/2012 on the Construction Project Implementation Unit of housing for socially vulnerable groups II; GD No. 447/2017 on the Regulation on how to allocate and use social housing, GD No. 1271/2002 on maintenance of residential blocks and related territories in the Republic of Moldova; GD No.143/2002 on supporting the housing construction process; GD No.1224/1998 on the approval of the Provisional Rules for the operation of housing, maintenance of residential blocks and related territories in the Republic of Moldova.

One of the instruments at the Central level is envisaged under the project of social housing (I, II and III) covered under the Council of Europe Development Bank programme.

UN reports indicate that levels of housing deprivation for Roma households are much higher than for the majority of households. According to the reports' data, about nine of ten Roma dwellings do not have a flushing WC and piped potable water in the dwelling. However, this situation is also characteristic for the majority of the non-Roma population, where 71% have no flushing WC and 76% live without potable water. In

⁹⁶² <https://www.unicef.org/moldova/en/reports/roma-children-and-their-access-services>

⁹⁶³ https://www.md.undp.org/content/moldova/ro/home/library/effective_governance/romii-in-republica-moldova-in-localitate-preponderent-locuite-de.html

⁹⁶⁴ https://www.md.undp.org/content/dam/moldova/docs/Publications/06_machet-FEMEILE-Roma_2018_ENG.pdf

⁹⁶⁵ The statistical information is presented without the data on the left side of the river Nistru and municipality Bender.

2014, 38.3% of the Roma population had access to cold water from community schemes and 26.4% - from their own system in comparison with the national averages of 42.4% and, respectively, 28.4%. The share of the Roma population with access to electricity is 98.2%. The share of the Roma population with centralised heating of dwelling accounts for 1.1%, with heating from own installations – 21.7% and with other types of heating facilities – 77.1%. Moreover, the share of the Roma population that uses natural gas (from the public network) for heating counts for 18.9%, and solid fuel – 79.8% in comparison with the national averages of 19.5% and, respectively, 89.7%.

While Roma use predominantly wood for cooking (44%), non-Roma use gas, either piped or bottled (61%). However, wood is the primary heating source for both groups during the cold period of the year, though the non-Roma population uses more charcoal (27%) and gas (15%) than Roma.

Legal provisions on eviction are non-discriminatory and strictly regulated so that rights, liberties and safety of all is ensured. In the case of eviction from the social housing damaged or in danger of collapse, the art.19 of the Law No. 75/2015 on housing provides that the tenants who are evicted from these rooms will be given another lease, based on the decision of the local council, within the limit of available housing.

305. Is there legislation or specific measures in place to combat and prevent antigypsyism and discrimination, anti-Roma rhetoric and hate speech, and addressing racist, stereotyping or otherwise stigmatising behaviours that could constitute incitement to discrimination against Roma?

On 25 May 2012 The Parliament of the Republic of Moldova passed organic Law No. 121 on Ensuring Equality⁹⁶⁶, which creates the necessary framework for the enforcement in the Republic of Moldova of the Council's Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment among individuals, irrespective of racial or ethnic origin and of the Council's Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

The Law 121 establishes legal and institutional framework for preventing and combating discrimination and ensuring equality for all persons on the territory of the Republic of Moldova. It prohibits discrimination in the political, economic, social, cultural and other spheres of life. The grounds protected from discrimination are race, colour, nationality, ethnic origin, language, religion and beliefs, sex, age, disability, opinion, political affiliation or any other similar ground. The list of grounds is not exhaustive. The Law applies to individuals and legal entities from both public and private spheres. Grounds of race and ethnic origin are also mentioned as prohibited grounds in Art. 16 of the Constitution⁹⁶⁷.

Law No 121 on Ensuring Equality not only provides a general framework on equality and non-discrimination, but also creates Council for Preventing and Eliminating Discrimination and Ensuring Equality (Equality Council).

⁹⁶⁶ Law No. 121/2012 on Ensuring Equality, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

⁹⁶⁷ Constitution of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128016&lang=ro#

The Equality Council is a collegial body with a status of a public legal entity, created in order to ensure the protection against discrimination and ensuring equality to all the individuals who consider themselves victims of discrimination. The Council acts in conditions of impartiality and independence in regard to all public authorities. Council is both tribunal (quasi-judicial) and promotion type of equality body, meant to prevent and protect against discrimination, to ensure equality and to promote equal opportunities and diversity. Decisions of the Council become obligatory for the parties unless they are challenged in the court of law.

In practice, principle of non-discrimination against Roma population is ensured by the Equality Council through the decisions issued in cases where Council found instigation to discrimination against Roma. Equality Council, in its case law since 2013, found instigation to discrimination against Roma in 8 cases.

Measures against racism and xenophobia

306. What is the legislative, institutional and policy framework for measures against racism and xenophobia (including against hate speech and hate crime)?

The legal framework of the Republic of Moldova guarantees full protection against discrimination, racism and xenophobia of any person under its jurisdiction, in compliance with the relevant international standards. After being ratified via the Parliament's decision No.707/1991, the provisions of the Convention on the Elimination of all forms of racial discrimination and the observations of the Committee on the Elimination of Racial Discrimination (the competence of which was recognized under the Law No.311/2012) are applied in the country, alongside with the recommendations from the European Commission against Racism and Intolerance (ECRI).

In recent years a consolidated effort has been concentrated on the new legal stipulations regarding hate speech. Currently, the General Prosecutor office is working on developing and integrating a guide for the investigative bodies on how to document hate-crime cases.

Under the EU - Council of Europe regional project "Strengthening access to justice for victims of discrimination, hate speech and hate crime in the Eastern Partnership"⁹⁶⁸ additional efforts have been done. On June 2021 a round table on enhancing equality and non-discrimination by training law enforcement and the judiciary on hate crime was organised, following ECRI's 2021 conclusions on the implementation of its priority recommendations for the Republic of Moldova. The main purpose of the event was to increase awareness with relevant national stakeholders about the latest ECRI Conclusions on the Republic of Moldova⁹⁶⁹ and on successful practices on training of law enforcement officials and judiciary on hate crime and future steps on combating hate crime and discrimination in the.

Provisions of the Law No. 216/2003 on the Fully Automated Information System to record offences, criminal cases and those who have committed crimes is being improved. It is a central bank data containing centralised evidence of criminal information, as well as the issuance of generalised statistical reports on the state of

⁹⁶⁸ <https://www.coe.int/en/web/inclusion-and-antidiscrimination/eap-regional-project>

⁹⁶⁹ <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/republic-of-moldova>

crime in the country are carried out by the Ministry of Internal Affairs, which is the owner of the central bank of data.

307. Provide information concerning specific legislative or policy measures to counter hate speech (both to the online and offline world).

The State's commitment to implement a "zero tolerance" attitude towards prejudice and hatred is reflected in the draft law on "Amending some legislative acts" (draft law project No.306) that is currently being examined by the Parliament. The draft provides for the inclusion into the Criminal Code of the aggravating circumstance "for reasons of prejudice" for several offences. At the same time, it proposes a new wording of Art. 346 of the Criminal Code, "Incitement to violent actions on grounds of prejudice," and introduction of a new article defining the notion of "reasons of prejudice."

In order to combat the hate speech phenomenon, targeted actions were implemented with the aim to develop and strengthen the dialogue and cooperation in combating racism and xenophobia in the audiovisual and media sectors. Thus, cooperation with the Ombudsman, the Central Electoral Commission (CEC), the Equality Council and other institutions whose mandate, *inter alia*, is to eradicate the hate speech phenomenon is strengthened via various measures (participation of experts at the events organised on a regular basis, regional seminars with the broadcasters, round tables).

Recognizing the social importance of the audiovisual sector and the ever-changing media market, the process of re-evaluating the methodology used to monitor the audiovisual programs broadcasted has been initiated at the national level, with the financial and logistical support through the Joint European Union - Council of Europe project *Promoting Media Freedom and Pluralism in the Republic of Moldova*. Thus, in order to link the given segment to the needs and difficulties the audiovisual field is facing, especially referring to ways of identifying and combating propaganda, fake news and hate speech that are ever present on the audiovisual market, Broadcasting Council (BC) developed a new monitoring methodology which contain elements for identifying and combating the aforementioned challenges. *The National Concept of Media Development in the Republic of Moldova 2025* has been approved by the Parliament on 16 June 2018. The Concept was designed to serve as a strategic document for the Annual Action Plan of the BC.

The Code of Audio-visual Media Services contains provisions related to the observance of fundamental rights and freedoms and prohibits audio-visual programs that may spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance or discrimination on the grounds of sex, race, nationality, religion, disability or sexual orientation (art 122, (2) Law No.174/2018). The Code also prohibits the broadcast of audiovisual programs that constitute discourse that incites hate (art.17, (3)).

According to the art. 84 of the Code, for the infringement of the two articles, a sanction of a fine varying from 40,000.00 to 70,000.00 MDL applies (about EUR 2,000 to 3,500), followed by a fine of 70,000.00-100,000.00 MDL for repeated violation (about EUR 3,500 to 5,000). Withdrawal of licence is applied after the gradual application of the first two sanctions. The Broadcasting Council approved the Regulation on audio-visual content, which contains provisions regarding hate speech and any forms of hatred based on intolerance and discrimination, attack on the person and human dignity, audio-

visual content praising past and present totalitarian regimes, perpetrators of crimes and abuses of these regimes, as well as denigrating their victims.

As for the aspect related to the electoral campaigns, at the beginning of electoral campaigns, Central Electoral Commission, according to Article 22 paragraph (1) (f) of the Electoral Code, proposes to electoral competitors (parties, other social-political organisations, electoral blocs, independent candidates) and media institutions to sign the Code of Conduct on deployment and reflection of the electoral campaign which provides the moral obligation to organise fair electoral campaigns, respecting the dignity of the participants in the electoral campaign.

Also, the Electoral Code expressly sets out in art. 71 the category of subjects whose actions / inactions are challenged according to the electoral procedure, these being electoral bodies and electoral contestants. Therefore, as an example, the involvement of religious cults in the electoral campaign, inclusive by using a discriminatory language, will be evaluated by specialized bodies for this purpose, including authorities with competences in the legal field.

Special measures were taken to combat Anti-Semitism via the Action Plan for 2021-2024 to promote Holocaust remembrance and the culture of tolerance in order to combat racism, anti-Semitism, xenophobia and other forms of intolerance.

Equality Council, under the project Accessibility for All, transposed the Law No. 121/2012 on ensuring equality in an easy-to-read/easy-to-understand format. In addition, and translated the Petitioner's Guide into four minority languages (Gagauz, Bulgarian, Ukrainian and Romani). The Ombudsman Office, the Interethnic Relations Agency and the Equality Council signed a Memorandum of Understanding aiming to strengthen their cooperation and join efforts to ensure the implementation of rights of national minorities.

308. What is the methodology used to collect data on hate speech and hate crime, including on their bias motivations? How are such cases investigated and prosecuted by the law enforcement bodies and the judiciary? Please provide any available figure on cases of hate speech and hate crime reported to the public authorities, including, if available, a breakdown according to their bias motivations as well as on victims or perpetrators.

In its efforts to address hate speech and hate crimes, the General Inspectorate of Police of the Republic of Moldova, starting with 2019 has been participating with other institutions and authorities of the Republic of Moldova in the regional project "Strengthening access to justice through non-judicial compensation mechanisms for victims of discrimination, hate crimes and speeches to incite in the Eastern Partnership countries" - a project funded by the EU and the CoE. A number of 10 workshops and trainings were held with the representatives of the Anti-discrimination Department of the Council of Europe.

Within the project was created the Strategic Group for unitary training of employees in the field of law enforcement to combat hate crimes in the Republic of Moldova. Members of this strategic group are representatives of the Prosecutor General's Office, Superior Council of Prosecutors, Academy of Police "Stefan cel Mare", CIPAL, National Institute for Justice and the Ministry of Justice. Didactic research was launched on criminal cases of hate crimes in the Republic of Moldova for 2017-2020

period in order to create case studies for training on the segment of hate crimes and identify issues encountered in investigating cases, in order to define a training curriculum on this segment.

The assessment and evaluation procedure of the database at the level of the Police and the Information Technology Services of the Ministry of Internal Affairs was launched, in order to improve the collection of disaggregated data on discrimination, hate speech and biased crimes; the methodology, thematic and preliminary calendar of the trainers' training activities (ToT) and cascade trainings for the year 2021 were established / planned, with the beginning of the trainers' training course on the equality segment.

Collection of disaggregated data on discrimination, hate speech and biased offenses training were attended by representatives of the Police, Prosecutor's Office and the Information Technology Service of the Ministry of Internal Affairs (which manages criminological registries). Following the meetings, it was confirmed the need to adjust the platforms of the "Integrated Automated Information System for the Detection of Crimes, Criminal Cases and Criminals" and the information system "Register of forensic and criminological information" to international data collection standards, disaggregated in the case of hate crimes, hate speech and discrimination. In particular, filling in the database with fields / categories related to biased offences / hate speech and biased reasons (protected criteria).

According to the provisions of art. 7 of Law No. 216/2003 on the fully automated information system for recording crimes, criminal cases and perpetrators, the administration of the central data bank, the registration and centralised record of criminal information, as well as the issuance of reports, generalised statistics on the state of crime in the country are carried out by the Ministry of Internal Affairs. The Ministry is the owner of the central data bank, in charge with the managements and development of the central bank of disaggregated data on all criminal cases.

In May 2021, the second joint working meeting of the entities involved in data collection was organized as part of the regional project "Strengthening access to justice for victims of discrimination, hate crimes and hate speech in the Eastern Partnership countries". Following the meeting, the recommendations presented by the experts of the Council of Europe for the examination and submission of the proposals regarding the modification of the Interdepartmental Order No. 121/254 / 286-0 / 95 of 18.07.2008 on the single record of crimes, criminal cases and persons who have committed crimes.

Upon registration of complaints on prejudices, prosecutors, in charge of registration, record keeping and examination of notifications of offences, must pay special attention to the procedure of receiving and registering the notifications concerning discrimination or violence based on ethnicity, religion or any other criteria.

In accordance with Art. 274 of the Code of Criminal Procedure, either the criminal investigation body or the notified prosecutor, initiate by ordinance, the beginning of the criminal investigation:

- based on the received claim/notification, if from the content of this claim/notification act or, results at least a reasonable suspicion that an offence has been committed and there are no circumstances that preclude criminal proceedings. The complaining person is notified on the initiation of the investigation as well; or

- the criminal investigation body or the prosecutor self-notifies the initiation of the criminal investigation. In such case he/she draws up a report recording the findings on the detected crime.

The order to initiate the criminal investigation, issued by the criminal investigation body, within 24 hours from the date of the beginning of the criminal investigation, shall be notified in writing to the prosecutor who conducts the criminal investigation activity, and the file shall be presented to him. At the moment when he becomes aware of the order to start the criminal investigation, the prosecutor sets the deadline for the investigation in the respective case.

The purpose of the investigation is to establish the circumstances of:

- The material and spiritual conditions in which the crime was committed;
- The manner of preparation, commission and concealment of the act and its consequences, to the personality of the perpetrator, the victim and other persons involved;
- Objects and instruments (in certain cases specially adapted) exploited in the criminal act or which are the product of the crime;
- The psychic attitude of the perpetrator towards the deed and the victim;
- The nature of the damage caused.

After the completion of the criminal investigation, if there is sufficient evidence that the crime was committed, the criminal case is sent to the law court.

The Criminal Code provides for the following offences with elements of social, national, racial or religious hatred:

- Intentional murder of art.145 paragraph (2) letter l) Criminal Code;
- Serious intentional injury to bodily integrity or health, art.151 paragraph (2) letter i) Criminal Code;
- Medium intentional injury to bodily integrity or health, art.152 paragraph (2) letter j) Criminal Code;
- Intentional destruction or damage to property, art.197 paragraph (2) letter b) Criminal Code;
- Desecration of graves, art.222 paragraph (2) letter b) Criminal Code;
- Intentional actions aimed at inciting enmity, differentiation or national, ethnic, racial or religious division, art. 346 Criminal Code.

Also, the punishment of hate crimes is carried out by including in paragraph (1) art.77 of the Criminal Code, the motive for reasons of social, national, racial or religious hatred, as a general aggravating circumstance that may serve as a basis for increasing the punishment for any offence, unless this circumstance is provided for in the relevant article of the Special Part of the Criminal Code as a qualifier of the composition of the offence.

In order to ensure the capacity of criminal prosecutors and prosecutors to effectively apply criminal law in investigation of hate crimes and those that include hate speech, in accordance with the provisions of Art. 531 (4) of the Code of Criminal Procedure, by the Order of the Prosecutor General No. 28/11 of 01.08 .2019, the Methodological Instructions "Guide on the investigation and trial of hate crimes" was approved.

The Prosecutor's Office does not have statistics on hate speech and hate crimes. At the same time, in the context of the development of the Automated Information System "Criminal Investigation: E-File" managed by the General Prosecutor's Office, this information system is to be completed with new features that would generate disaggregated data, including crimes related to prejudice

The Superior Council of Magistracy, by decision No. 371/32 of 22 December 2020, established that from 1 January 2021, the national courts will use the Electronic Statistical Reporting Module, an integral part of the Integrated File Management Program. Currently, MRSE allows the generation from the PIGD of 165 statistical reports for judges, courts of appeal and the Supreme Court of Justice. By form and content, the statistical reports generated by the use of the MRSE fully comply with the provisions of the Instruction on Electronic Statistical Reporting in Judges and Courts of Appeal. According to the generalised statistical data by the SCM for 9 months of 2021, in the court procedure 1 file was under examination based on art. 176 Criminal Code, Violation of the rights of citizens' equality, which was finalised at the end of the reporting period.

Equality Council, in its case law since 2013, found instigation to discrimination on different grounds such as sex, gender, disability, language, age, race, ethnicity and other grounds in 37 cases.

IV. Protection of personal data

309. Provide information on any legislation or other rules governing this area, and the coherence of such rules to relevant international conventions, including Convention 108+ of the Council of Europe and the EU *acquis*. What is done in order to ensure efficient protection of personal data?

Ensuring the protection of personal data is a legal obligation that the Republic of Moldova assumed with the ratification of the Convention No. 108 for the Protection of Individuals regarding Automatic Processing of Personal Data (Convention No. 108). On 4 May 1998, the Republic of Moldova signed it, followed by the ratification procedure by Parliament Decision No. 483/1999, which entered into force on 1 June 2008.

Once ratified, Convention No.108 and the Additional Protocol to this Convention became part of national law and have priority over national laws, and if there are inconsistencies between the agreements and treaties on fundamental human rights to which the Republic of Moldova is a party and its national laws, international regulations have priority, under Article 4 para. (2) of the Constitution of the Republic of Moldova.

In order to implement the *Communautaire acquis* on personal data protection, the Republic of Moldova has formulated some Declarations to the Convention and has designated the National Centre for Personal Data Protection (NCPDP) as the competent national authority for the implementation of the provisions of Convention No 108. Currently, the legislative act governing the field of personal data protection is the Law No. 133/2011 on personal data protection⁹⁷⁰:

The legislative Act lays down the basic conditions/principles for the processing of personal data; provides in a separate chapter the rights of personal data subjects; establishes the obligation for data controllers to carry out, in certain cases prior to processing, a personal data impact assessment of envisaged processing operations on personal data protection; provides the designation of data protection officer; regulates the procedure for the examination of complaints submitted by personal data subjects, as well as the mechanism for carrying out controls on the compliance of the processing of personal data with the requirements of the law; regulates the cross-border transfers of personal data, which are carried out taking into account the principle of free movement of data to the Member States of the European Economic Area and the states that ensure an adequate level of personal data protection, etc., regulations which, taken as a whole, are compatible with the general principles laid down in the relevant European acts.

At the same time, to strengthen the framework in this field, national legislation has been adjusted with the provisions of personal data processing in various sectors, such as: educational, medical, financial, electronic communications, in the field of special investigative activity, in the police and judicial sector, etc. Also, the opinion of the NCPDP is regularly consulted by public institutions in the procedure of endorsement of draft normative acts, which concern the processing of personal data, an obligation established by the Law No. 100/2017 on normative acts.

⁹⁷⁰ Available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129123&lang=ro. The English version of the law is available at: <https://datepersonale.md/en/legislation/national-legislation/law/>

Cooperation in the field of personal data protection and ensuring a high level of personal data protection in line with EU standards are key objectives of the Republic of Moldova, set out, including in the main documents governing relations between the European Union and the Republic of Moldova - Article 13 of the EU-Moldova Association Agreement.

In the context of the adoption of the new legislative package on personal data protection at European Union level, published on 4 May 2016, the NCPDP has developed a new national legal framework in the field of personal data protection, which responds to the developments of the European rules. In this regard, the NCPDP, with the support of EU Twinning project experts "Capacity Building of the National Center for Personal Data Protection of the Republic of Moldova" has developed the:

- Draft Law on Personal Data Protection;
- Draft Law on the National Centre for Personal Data Protection of the Republic of Moldova.

The draft laws concerned were voted by the Parliament of the Republic of Moldova on 30 November 2018 in the first reading. Subsequently, in order to finalize for the second reading, the above-mentioned draft laws, the Committee on National Security, Defense and Public Order of the Parliament of the Republic of Moldova created the Inter-institutional Working Group for further analysis in order to finalize the concerned drafts. In the framework of this initiative, a number of comments and proposals for adjustments to these drafts, aimed at a faithful and complete transposition of the EU regulations on personal data protection, were submitted by the private and public sectors, as well as by the independent experts contracted, which were analyzed and taken into account by the NCPDP, as author of the drafts.

Moreover, during 2021, in the framework of the EU project *"Support for Structured Policy Dialogue, Coordination of the Implementation of the Association Agreement, and Enhancement of the Legal Approximation Process"*, the analysis of the above-mentioned drafts was carried out, with the amendments proposed after their approval in the first reading by the Parliament of the Republic of Moldova. The analysis was carried out by European experts in the field and working meetings were organized during which these draft laws were further discussed with representatives of the Economic Council under the Prime Minister of the Republic of Moldova and civil society.

The recent amendments made to the Law No. 133/2011 on personal data protection (in force since 10 January 2022) have brought national data protection rules closer to European regulations. At the same time, the adoption in final reading of the above-mentioned draft laws will further contribute to the fulfilment of the commitments undertaken by the Republic of Moldova in relation to the European Union and, eventually, to the recognition of the adequate level of personal data protection in the Republic of Moldova, which will generate a wide range of benefits, including: increasing the credibility of the state, strengthening the economic strategy, developing the business environment, attracting investment, etc.

NCPDP has initiated the procedure for signing the Protocol No. 223 amending the Convention for the Protection of Individuals regarding Automatic Processing of Personal Data (ETS No. 108) and has submitted to the Ministry of Justice the set of materials necessary to promote special internal procedures in this regard.

310. What is the scope of the existing data protection legislation (commercial operators, public authorities, specific rules concerning data protection in criminal law enforcement)?

The scope of application of the Law No. 133/2011 on personal data protection is governed by Article 2 of the Law, according to which:

1) This law regulates relations arising in course of the processing operations of personal data performed wholly or partly by automatic means, and otherwise than by automatic means, which form part of a filing system or are intended to be included in such a filing system.

2) This Law shall apply:

- to the processing of personal data carried out in the context of the activities performed by the controllers established on the territory of the Republic of Moldova;
- to the processing of personal data carried out within the diplomatic missions and consular offices of the Republic of Moldova, as well as carried out by other controllers that do not have permanently establishment on the territory of the Republic of Moldova, but are situated in a place where the domestic law of the Republic of Moldova applies by virtue of international public law;
- to the processing of personal data carried out by controllers that are not established on the territory of the Republic of Moldova, making use of equipment situated on the territory of the Republic of Moldova, unless such equipment is used only for purposes of transit through the territory of the Republic of Moldova;
- to the processing of personal data in the context of actions of prevention and investigation of criminal offences, enforcement of convictions and other activities within criminal or administrative procedures, in terms of the law;

3) The provisions of this law are applicable to the processor, without prejudice to legal actions which could be initiated against the controller himself.

4) This Law shall not apply:

- to the processing of personal data carried out by controllers exclusively for personal and family needs, where the rights of personal data subjects are not violated thereby;
- to the processing of personal data assigned to state secret, according to an established procedure, excepting the information referred to in paragraph (2), d);
- to the processing operations and cross-border transmission of personal data referring to the perpetrators or victims of genocide, crimes against humanity and war crimes.

According to Article 3 of Law No. 133/2011 on personal data protection, the notion of controller includes the natural or legal person governed by public law, or by private law, including public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data expressly

provided by applicable law, order in which, the legal provisions in this field apply to the public sector, the private sector, as well as to the individuals.

Regarding the rules on the protection of personal data in the application of criminal law, the following should be mentioned:

According to the provisions of art. 15 para. (2) of the Criminal Procedure Code of the Republic of Moldova, the processing of personal data in criminal proceedings shall be carried out in accordance with the provisions of Law No. 133/2011 on personal data protection.

At the same time, the aforementioned norm states that, when performing procedural actions, information about the private and intimate life of the person cannot be accumulated without the need. At the request of the criminal investigation body and the court, the participants in the procedural actions are obliged not to disclose such information and a written commitment is made about this.

According to art. 5 of Law No. 59/2012 on the special investigation activity (*entitled Protection of personal data in the process of carrying out the special investigation activity*), persons who have access to the personal data of the person subject to the special investigation measure are obliged to maintain the confidentiality of such data in accordance with the provisions of Law No. 133/2011 on the protection of personal data.

Subsequently, art. 4 para. (1) of the aforementioned law states that any person subject to the special investigative measure has the right to be informed, after its performance, by the prosecutor or by the investigating judge who authorized the measure if he did not attract the order of another special investigative measure. This norm corroborated with the provisions of art. 15 para. (2) and (3) of Law No. 133/2011 on the protection of personal data, on the one hand establishes the obligation of the criminal investigation body and on the other hand guarantees the data subject, ensuring the right to information of the latter after the completion of special investigative measures.

Last but not least, it should be noted that when violations are found following the verification of the lawfulness of the personal data processing, coercive and contravention sanctions are imposed. Thus, by a reasoned decision of the NCPDP, by which is found a violation of the legislation on personal data protection, the authority orders, where appropriate, the suspension, cessation of personal data processing operations, rectification, blocking or destruction of unlawful or illegally obtained data. The decision on the finding of violation of the legislation on personal data protection and the evidence gathered shall serve as a basis for the drawing up of the official report on the infringement, in accordance with the Contravention Code.

Subsequently, in relation to the provisions of Articles 74¹ - 74³ of the Contravention Code, the contraventions related to the protection of personal data for which sanctions are applied are:

- failure to comply with the basic conditions for the processing, storage and use of personal data;
- infringement of the rights of personal data subject to be informed, to have access to personal data, to intervene on personal data, to object and not to be subject to an individual decision;
- cross-border transmission of personal data breaching personal data protection legislation;

- refusal to provide information or documents requested by the National Centre for Personal Data Protection in the process of exercising its supervisory powers, submission of unauthentic or incomplete information, as well as failure to submit the requested information and documents within the legally prescribed time limit;
- preventing the access of the staff authorized by the National Centre for Personal Data Protection to control the premises and the territory of the location of the personal data filing systems, the personal data processed by the controllers and/or processors, the processing equipment, the programs and applications, any document or record relating to the processing of personal data;
- failure to comply within the established time limit with the decision of the National Centre for Personal Data Protection to reinstate the rights of the personal data subject, including the suspension or termination of the processing of personal data, the blocking, partial or total destruction of personal data processed in violation of the legislation on personal data protection.

Penalties as fines ranging from 30 to 300 conventional units (one conventional unit is equal to 50 MDL, equivalent to 2.5 euros) may be imposed for the offences described above. Thus, the contravention fine ranges from 75 euros (1500 MDL) to 750 euros (15000 MDL).

It is worth mentioning that the resolution of the contravention cases and the imposition of fines is within the competence of the court, which, according to the Contravention Code, once the guilty party has pleaded guilty and the pecuniary sanction has been imposed, it has also the possibility to impose an additional sanction in the form of deprivation of the right to process personal data for a period from 3 months to 1 year.

311. Does existing data protection legislation require the designation of a data protection officer in appropriate cases (e.g. where the processing is carried out by a public authority or body, except for courts acting in their judicial capacity; or where the core processing activities of the controller or the processor require regular and systematic monitoring of data subjects on a large scale, or where the core activities of the controller or the processor consist of processing on a large scale special categories of data (sensitive data) or personal data relating to criminal convictions and offences)?

The national legislation in force provides regulations regarding the designation of the data protection officer, an obligation established with the entry into force, on January 10, 2022, of the amendments to Law No. 133/2011 on personal data protection. The establishment of the rule on designation the data protection officer is of major importance for the field of data protection, taking into account the role of this function to ensure: informing and advising the controller or processor, as well as the employees in charge of data processing regarding the obligations incumbent on them, providing on-demand advice on assessing the impact on data protection and monitoring its operation, assuming the role of contact point for the NCPDP on data processing issues, including prior consultation, etc.

Thereby, Law No. 133/2011 on the protection of personal data, in Articles 25, 25¹ and 25², **sets out the obligation and conditions for the appointment of the data protection officer; the function and tasks of the data protection officer.**

Pursuant to those provisions, the controller and the processor shall designate a data protection officer whenever:

- the processing is carried out by a public authority or institution, with the exception of courts acting in the exercise of their judicial function;
- the main activities of the controller or the processor shall consist of processing procedures which, by their nature, scope and / or purposes, require regular and systematic monitoring of large-scale data subjects;
- the main activities of the controller or the processor consist in the large-scale processing of special categories of data.

A group of undertakings may designate a single data protection officer, provided that such person is easily accessible to each undertaking.

If the controller or the processor is a public authority or public institution, a single data protection officer may be designated for several of these authorities or institutions, taking into account their organizational structure and size.

The data protection officer is designated on the basis of professional qualities and, in particular, of the specialized knowledge regarding the regulations and practices in the field of data protection, as well as on the basis of the capacity to fulfill the tasks provided by law. The data protection officer may work for the controller or the processor or may perform his duties under a service contract.

In cases other than those mentioned above the controller or the processor, as well as the associations and other institutions representing categories of the controller or the processor may designate or, where the legislation provides, obligatorily designate a data protection officer. The data protection officer may act in favor of such associations and other institutions representing the controller or the processor.

312. Does existing data protection legislation provide for the possibility of limitations or exceptions to certain data protection principles and data subject's rights for important public interest grounds? If yes, please specify.

National legislation in the field of personal data protection provides for certain exceptions and restrictions to the principles of data protection and the rights of personal data subjects. Thus, the exceptions and restrictions mentioned above are expressly provided in Article 15 of Law No. 133/2011 on personal data protection, according to which:

Provisions regarding the *Characteristics/principles of personal data* (art. 4), *Informing the personal data subject* (art.12), *Right of access to personal data* (art. 13), *The right of intervention upon personal data* (art. 14) **shall not apply where the processing of personal data is carried out in the context of the actions of prevention and investigation of criminal offences, enforcement of convictions and other activities within criminal or administrative procedures under the law (art. 2 para. (2) let.(d)) for the purposes of national defense, state security and the maintenance of public order, protection of the rights and freedoms of the data subject or other persons, if their application would prejudice the effectiveness of the action or the objective pursued in the exercising the lawful powers of public authority.**

It should be noted that the exceptions and restrictions applied to the processing of personal data for the purposes indicated above **may not exceed the period necessary to achieve the objective pursued. Or, after the situation justifying the application of these exceptions and restrictions, the controllers shall take the necessary measures to ensure that the rights of the personal data subjects** provided in art. 12-14 of Law No. 133/2011 on personal data protection.

313. Please provide information on the supervisory authority responsible for monitoring the application of data protection provisions, in particular on the legal and practical measures taken to ensure its complete independence, and on the organisation of the supervisory authority, including the number of its staff, notably of inspectors, technical and financial resources, premises and infrastructure necessary for the effective performance of its tasks and exercise of its powers.

Following the ratification of Convention No. 108 and its Additional Protocol, the Republic of Moldova formulated some declarations to the Convention and designated the National Centre for Personal Data Protection (NCPDP) as the competent national authority for the implementation of the provisions of Convention No. 108, which started its activity in 2008.

NCPDP is an autonomous public authority, independent of other public authorities, natural persons and legal entities, which exercises its legally awarded attributions given by Law No. 133 on personal data protection.

NCPDP is a legal entity, has a stamp and a letterhead with the image of the State Coat of Arms of the Republic of Moldova. The permanent headquarter of the NCPDP is located in the municipality of Chisinau.

The Authority is financed from the state budget within the limits of the budget allocations approved by the annual budget law. The budget of the NCPDP shall be developed, approved and administered in accordance with the principles, rules and procedures laid down in the Law No. 181/2014 on Public Finance and Budgetary and Fiscal Responsibility.

The aim of the NCPDP is to protect the fundamental rights and freedoms of natural persons, and in particular their right to privacy in relation to the processing and cross-border transmission of personal data.

Thus, in its activity, the NCPDP is guided by the Constitution of the Republic of Moldova, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, the Additional Protocol to the Convention, other international agreements to which the Republic of Moldova is a party, the Law on Personal Data Protection, the Regulation of the National Centre for Personal Data Protection, its structure, staff limits and financing, approved by Law No 182/2008, as well as other normative acts.

In the context of the tasks laid down in Article 20 of Law No. 133/2011 on the personal data protection, the NCPDP monitors compliance with the legislation on the protection of personal data and controls its application, in particular the data subject's right to information, access to data, intervention on data and objection; it makes proposals for the improvement of the legislation in force in the field of protection and processing of personal data; issues the necessary instructions to bring the processing of personal data

in compliance with the provisions of this law, without interfering in the competence of other bodies; carries out the control of the legality of the processing of personal data; orders the suspension or termination of the processing of personal data carried out with violation of the provisions of the law; finds contraventions and concludes minutes according to the Contravention Code of the Republic of Moldova, etc.

By Law No. 182/2008 on the approval of the Regulation of the National Centre for Personal Data Protection, the structure, staff limit and financing of the National Centre for Personal Data Protection, the structure of the authority was approved, consisting of 8 structural subdivisions, as well as the staff limit of the authority, in the amount of 45 units, which are distributed as follows:

- 2 positions of public dignity, the Director and the Deputy Director, who are appointed by Parliament for a 5-year term. The Deputy Director is appointed on the proposal of the Director of the NCPDP;
- 42 civil service positions, including 28 state inspectors who control the lawfulness of the processing of personal data;
- 1 driver.

At present, 38 employees are actually working at the NCPDP and they are provided with the technical resources necessary for the smooth running of the activity.

It is worth mentioning that in 2017, the NCPDP has been accepted as an observer to the Art.29 Working Party, currently - the European Data Protection Board (EDPB) and regularly participates in the meetings of this forum.

Similarly, the NCPDP is a permanent member of the Bureau of the Committee of the Convention for the protection of individuals with regard to automatic processing of personal data and participates in the meetings of this Committee.

Participation in the above-mentioned plenary meetings of both the EDPB and the CoE provides the opportunity to be involved in discussions and activities aimed at enhancing international cooperation in the field of enforcement of personal data protection legislation and provides the opportunity to promote mutual exchange and documentation on data protection legislation and practices.

REGIONAL ISSUES AND INTERNATIONAL OBLIGATIONS

- **Please provide a list of all regional initiatives in which Moldova participates. Please specify which regional agreements have been signed or ratified.**

The Republic of Moldova participates in the following regional initiatives/organizations:

- Central European Initiative (CEI)
- Black Sea Economic Cooperation (BSEC)
- South East European Cooperation Process (SEECP)
- Organization for Democracy and Economic Development (GUAM)
- Regional Cooperation Council (RCC)
- South-eastern Europe Health Network (SEEHN)
- Southeast European Law Enforcement Center (SELEC)
- Regional anti-corruption initiative (RAI)
- Commonwealth of Independent States (CIS)

Republic of Moldova has signed the following regional agreements:

Regional agreements/Title	Regional Initiative/Organization	Date of signing/Place	Status (Date of entry into force for the Republic of Moldova)
1. Guidelines and Rules of Procedure of the Central European Initiative	Central European Initiative (CEI)	27/11/2007	
2. The Black Sea Convention on cooperation in the fields of culture, education, science and information	Black Sea Economic Cooperation (BSEC)	06/03/1993, Istanbul	10/10/1994
3. Agreement Establishing the Black Sea Trade and Development Bank	Black Sea Economic Cooperation (BSEC)	30/06/1994, Tbilisi	24/01/1997
4. Agreement among the Governments of the Participating States of the Black Sea Economic Cooperation (BSEC) on collaboration in Emergency Assistance and Emergency Response to natural and man-made Disasters	Black Sea Economic Cooperation (BSEC)	15/04/1998, Sochi	11/03/2003
5. Additional protocol to the Agreement among the governments of the participating states of the Black Sea Economic Cooperation (BSEC) on collaboration in emergency assistance and emergency response to natural and man-made disasters	Black Sea Economic Cooperation (BSEC)	20/10/2005, Kyiv	05/07/2007

6. Charter of the Black Sea Economic Cooperation (BSEC)	Black Sea Economic Cooperation (BSEC)	05/06/1998, Yalta	01/05/1999
7. Amendment to Article 24 of the Charter of the Black Sea Economic Cooperation on the International Center for Black Sea Studies	Black Sea Economic Cooperation (BSEC)	25/06/2004, Istanbul	
8. Additional Protocol on the Privileges and Immunities of the Organization of the Black Sea Economic Cooperation	Black Sea Economic Cooperation (BSEC)	30/04/1999, Tbilisi	01/05/2004
9. Memorandum of Understanding on the Development of the Pan-European Transport Area of the Black Sea	Black Sea Economic Cooperation (BSEC)	01/07/1999, Tbilisi	01/07/1999
10. Agreement among the governments of the Black Sea Economic Cooperation participating states on cooperation in combating crime, in particular in its organized forms	Black Sea Economic Cooperation (BSEC)	02/10/1998, Corfu	23/10/1999
11. Additional protocol to the agreement among the governments of the Black Sea Economic Cooperation participating states on cooperation in combating crime, in particular in its organized forms	Black Sea Economic Cooperation (BSEC)	15/03/2002, Kyiv	16/04/2003
12. Additional protocol on combating terrorism to the agreement among the governments of the Black Sea Economic Cooperation participating states on cooperation in combating crime, in particular in its organized forms	Black Sea Economic Cooperation (BSEC)	28/10/2005, Chisinau	
13. Memorandum of Understanding on Facilitation of Road Transport of Goods	Black Sea Economic Cooperation (BSEC)	06/03/2002, Kyiv	20/07/2006
14. Protocol Concerning the Privileges and Immunities of the Parliamentary Assembly of the Black Sea Economic Cooperation	Black Sea Economic Cooperation (BSEC)	31/10/2003, Baku	01/03/2009
15. Memorandum of Understanding for the coordinated development of the Black Sea Ring Highway	Black Sea Economic Cooperation (BSEC)	19/04/2007 Belgrade	01/11/2008
16. Memorandum of Understanding on the development of the maritime transport network in the region of the Organization for Economic Cooperation on the Black Sea	Black Sea Economic Cooperation (BSEC)	19/04/2007 Belgrade	01/01/2009
17. Agreement on the simplification of the visa process for professional truck drivers of the	Black Sea Economic Cooperation (BSEC)	23/10/2008, Tirana	

member states of the Organization for Economic Cooperation on the Black Sea			
18. Charter on Good-Neighbourly Relations, Stability, Security and Cooperation in South-Eastern Europe (SEE)	South East European Cooperation Process (SEECp)	10/10/2006	10/10/2006
19. Memorandum of Understanding on Cooperation and Supporting Secretariat of Police Cooperation Convention for South East Europe (SEE)	South East European Cooperation Process (SEECp)	29/09/2011	
20. Agreement between the BiH Council of Ministers and governments of other SEECp participating countries, the United Nations Interim administration Mission in Kosovo on behalf of Kosovo in accordance with the United Nations Security Council Resolution 1244 on the arrangements of the host country for the Secretariat of the Regional Cooperation Council (RCC)	South East European Cooperation Process (SEECp)	14/09/2007, Plovdiv	05/06/2008
21. Memorandum of Understanding on the Future of the South-eastern Europe Health Network in the framework of SEECp	South East European Cooperation Process (SEECp);	22/04/2009, Podgorica	22/04/2009
22. Agreement on Cooperation to Prevent and Combat Trans-Border Crime	Southeast European Law Enforcement Center (SELEC)	26/05/1999, Bucharest	01/02/2000
23. Charter for Organization and Operation of the SECI Regional Center for the Combating of Trans-border Crime	Southeast European Law Enforcement Center (SELEC)	26/05/1999, Bucharest	01/02/2000
24. Memorandum of Understanding on the Facilitation of International Road Transport of Goods in SECI region	South East European Cooperation Process (SEECp);	28/04/1999	29/06/1999
25. Memorandum of Understanding on the Institutional Framework of the Disaster Preparedness and Prevention Initiative for Southeastern Europe (DPPI)	Disaster Preparedness and Prevention Initiative for Southeastern Europe (DPPI)	24/09/2007 Zagreb	24/09/2007 Since 2014, Republic of Moldova has ceased its membership to DPPI
26. Convention of the Southeast European Law Enforcement Center	Southeast European Law Enforcement Center (SELEC)	09/12/2009, Bucharest	07/10/2011
27. Agreement between the member states of health network of South East Europe on the	South-eastern Europe Health Network (SEEHN)	12/07/2010, Skopje	

arrangements of the host country and the headquarters of the Secretariat of the South East Europe health network (SEEHN)			
28. Protocol on Privileges and Immunities of the Southeast European Law Enforcement Center	Southeast European Law Enforcement Center (SELEC)	15/02/2013 Bucharest	12/07/2014
29. New York Memorandum of the Presidents of the Republic of Azerbaijan, Georgia, the Republic of Moldova, Ukraine, and the Republic of Uzbekistan	Organization for Democracy and Economic Development (GUAM)	06/12/2000 New York	06/12/2000
30. Convention of GUUAM Member States on Mutual Rendering of Assistance in Consular Matters	Organization for Democracy and Economic Development (GUAM)	07/06/2001 Yalta	30/07/2012
31. Provisional Statute of the GUUAM Information Office in Kyiv	Organization for Democracy and Economic Development (GUAM)	20/07/2002 Yalta	10/05/2005
32. Agreement on Cooperation among the Governments of GUUAM Participating States in the Field of Combat Against Terrorism, Organized Crime and Other Serious Types of Crimes	Organization for Democracy and Economic Development (GUAM)	20/07/2002 Yalta	17/09/2007
33. Agreement on the establishment of a free trade area between GUUAM Member States	Organization for Democracy and Economic Development (GUAM)	20/07/2002	
34. Statute of the Council of Ministers for Foreign Affairs of GUUAM States	Organization for Democracy and Economic Development (GUAM)	20/07/2002 Yalta	20/07/2002
35. Yalta GUUAM Charter	Organization for Democracy and Economic Development (GUAM)	07/06/2001 Yalta	
36. Agreement among the Governments of GUUAM Participating States on Cooperation in the Field of Prevention of Emergencies and Elimination of their Effects	Organization for Democracy and Economic Development (GUAM)	04/07/2003	09/12/2005
37. Agreement among Governments of the GUUAM Member States on Mutual Assistance and Customs Collaboration	Organization for Democracy and Economic Development (GUAM)	04/07/2003 Yalta	
38. Protocol on Cooperation among the Border Services of GUUAM Participating States	Organization for Democracy and Economic Development (GUAM)	04/07/2003 Yalta	

39. Memorandum of Understanding among GUUAM Participating States on Trade and Transportation Facilitation	Organization for Democracy and Economic Development (GUAM)	04/07/2003 Yalta	
40. Agreement on Cooperation in the Field of Health Services among the Ministries of Health of GUUAM Participating States	Organization for Democracy and Economic Development (GUAM)	22/04/2005 Chisinau	11/04/2007
41. Agreement on Cooperation in the Field of Education among the Ministries of Education of GUUAM Participating States	Organization for Democracy and Economic Development (GUAM)	04/07/2003 Yalta	
42. Protocol on Cooperation among Operative Bodies of the Border Services of GUUAM Participating States	Organization for Democracy and Economic Development (GUAM)	22/05/2006 Kyiv	22/05/2006
43. Protocol on temporary Rules of determination of the country of origin of goods of GUUAM Participating States, for further implementation of the Agreement on Establishment of Free Trade Area among GUUAM Participating States	Organization for Democracy and Economic Development (GUAM)	22/05/2006	22/05/2006
44. CHARTER of the Organization for Democracy and Economic Development	Organization for Democracy and Economic Development (GUAM)	23/05/2006 Kyiv	07/05/2012
45. Agreement on Creation of the GUUAM Virtual Center for fight against terrorism, organized crime, drug trafficking and other dangerous types of crime and the GUUAM Interstate Information Management System (IIMS)	Organization for Democracy and Economic Development (GUAM)	04/07/2003 Yalta	08/10/2004
46. Agreement between the Ministries of Foreign Affairs of the GUAM Member States on the training of diplomatic officials	Organization for Democracy and Economic Development (GUAM)	22/05/2006 Kyiv	22/05/2006
47. Memorandum on cooperation and mutual assistance on the issues of nuclear and radiation security between the Governments of the \member States of the Organization for Democracy and Economic Development - GUAM	Organization for Democracy and Economic Development (GUAM)	19/06/2007 Baku	
48. Agreement on privileges and immunities of the Organization for Democracy and Economic Development - GUAM	Organization for Democracy and Economic Development (GUAM)	19/06/2007 Baku	
49. Agreement among the Governments of the Member State of the Organization for Democracy	Organization for Democracy and Economic Development	19/06/2007 Baku	11/04/2010

and Economic Development-GUAM on international multimodal transportation of goods	(GUAM)		
50. Additional Protocol to the Agreement on Cooperation among Governments of the GUUAM Member States in the Field of Combating Terrorism, Organized Crime and Other Serious Crimes, signed in Yalta on 20/07/2002	Organization for Democracy and Economic Development (GUAM)	04/12/2008	18/03/2010
51. Agreement, via exchange of notes, between the Government of the Republic of Moldova and the Organization for Democracy and Economic Development - GUAM on the transmission of the Cryptographic Protection Machine of the "Plena-E" IP-Package Coding Device Code for the Information-Analytical GUAM	Organization for Democracy and Economic Development (GUAM)	28/11/2011 Chisinau	28/11/2011
52. Protocol on Cooperation among the Academies of Sciences of GUUAM Participating States in the Field of Science and Techniques	Organization for Democracy and Economic Development (GUAM)	04/07/2003 Yalta	04/07/2003
53. Memorandum of Understanding between GUAM Member States on Trade and Transport Assistance	Organization for Democracy and Economic Development (GUAM)	28/07/2003 Yalta	28/07/2003
54. Protocol between customs administrations of GUAM member-states on organization of the exchange of preliminary information about goods and vehicles moved through the state borders of GUAM member-states	Organization for Democracy and Economic Development (GUAM)	08/07/2015 Baku	14/06/2016
55. Protocol between the customs administrations of GUAM Member States on mutual recognition of certain results of customs procedures regarding goods and vehicles moved across the state borders of GUAM Member States	Organization for Democracy and Economic Development (GUAM)	27/03/2017 Baku	07/09/2017
56. Protocol on approval of the Regulations on the establishment and activity of the Working Body coordinating the actions of the Contracting Parties of the Agreement on Establishment of Free Trade Area among the GUUAM Participating States of 20 July 2002	Organization for Democracy and Economic Development (GUAM)	27/03/2017 Baku	21/11/2017
57. Protocol among the customs administrations of the	Organization for Democracy and	05/10/2018 Chisinau	14/03/2019

GUAM Member States on cooperation in the field of fight against customs offences related to the movement of goods by air transport across the state borders of the GUAM Member States	Economic Development (GUAM)		
58. Protocol amending the Statute of the Organization for Democracy and Economic Development - GUAM	Organization for Democracy and Economic Development (GUAM)	26/09/2019 New York	27/04/2021

The Ministry of Foreign Affairs and European Integration (MFAEI) web-page provides a database of all the international treaties that the Moldova has concluded in various frameworks⁹⁷¹.

The list of treaties concluded within the Commonwealth of Independent States (CIS) are presented on pages 24-90 of the above-mentioned document. Information contains date of entry into force, external link (where applicable) internal link to the official gazette on international treaties and other relevant information.

- **Is Moldova a party to the Rome Statute on the International Criminal Court?**

The Republic of Moldova is a party to The Rome Statute on International Criminal Court, adopted in Rome on July 17, 1998. The Rome Statute was ratified by Law No. 212/2010⁹⁷², and entered into force on January 1st, 2011.

The Law No. 235/2021⁹⁷³ on amending the Criminal Procedure Code No. 122/2003 and Law No. 371/2006 on international legal assistance in criminal matters, ensures the implementation of the Rome Statute and provides for effective cooperation of the Republic of Moldova with the International Criminal Court (ICC). Pursuant to the Article 116⁴ of the Law 371/2006 on international legal assistance in criminal matters⁹⁷⁴, in case the International Criminal Court has ruled on a procedure, the General Prosecutor's Office or, as the case may be, the Ministry of Justice may challenge the jurisdiction of the International Criminal Court according to art. 19 of the Rome Statute of the International Criminal Court, and if, following the examination of the appeal, it is established that the respective procedure belongs to the jurisdiction of the Republic of Moldova, it is carried out according to the legislation of the Republic of Moldova. If the jurisdiction of the International Criminal Court is not contested, as well as if the Court, following its own investigations into the case, establishes its jurisdiction, all procedural documents in the Republic of Moldova shall be transmitted to the International Criminal Court.

- **Is Moldova a member of the Hague Conference on Private International Law?**

⁹⁷¹ https://mfa.gov.md/sites/default/files/lista_tratatelor_multilaterale_incheiate_de_republica_moldova_4.pdf

⁹⁷² Law No. 212/2010 on the ratification of the Rome Statute, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=3469&lang=ro

⁹⁷³ Law No. 235/2021 on amending of normative acts, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129343&lang=ro

⁹⁷⁴ Law No. 371/2006 on international legal assistance in criminal matters, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129479&lang=ro#

The Republic of Moldova is a state-member to Hague Conference on Private International Law. The Statute of The Hague Conference on Private International Law, adopted in Hague, on October 31, 1951, was transposed by the Republic of Moldova via Law No. 229/2015⁹⁷⁵, and entered into force on March 16, 2016

- **Please describe Moldova's obligations and commitments deriving from membership to the Council of Europe, the measures taken to date to honour these obligations and the envisaged actions for any pending obligations.**

Moldova became a member of the Council of Europe on 13 July, 1995. The Parliament of the Republic of Moldova ratified the European Convention on Human Rights on 24 July 1997. By acceding as a Member State to the organization, Republic of Moldova assumed obligations and commitments, related to the principles of the rule of law and enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, but also to collaborate sincerely and effectively in the realization of the aim of the Council.

The Council of Europe strives to assist the Republic of Moldova in honour the Organisation's standards on democracy, human rights and the rule of law, through a range of mechanisms which monitor Republic of Moldova's progress in these areas, as follows:

- **Prevention of torture:** The European Committee for the prevention of torture (CPT) visits places of detention (for juvenile or immigration detainees, police stations, psychiatric hospitals) in order to assess how persons deprived of their liberty are treated. The mechanism consists of visits and country reports, last one being organized in 2020⁹⁷⁶.
- **Fight against racism:** The European Commission against Racism and Intolerance (ECRI) is an independent and unique human rights monitoring body, which specializes in questions relating to the fight against racism, discrimination (on grounds of "race", ethnic/national origin, colour, citizenship, religion, language, sexual orientation, gender identity and sex characteristics), xenophobia, antisemitism and intolerance in Europe. It prepares reports and issues recommendations to member States. The last Report was issued in the context of the 5th round of evaluation of the Republic of Moldova, in 2018, but also a follow-up report⁹⁷⁷ in 2021 on implementation of recommendations.
- **Protection of social rights:** The European Social Charter is a Council of Europe treaty which guarantees social and economic human rights. The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. The Charter is mentioned in the Constitution of the Republic of Moldova "*1. Constitutional provisions concerning human rights and freedoms shall be understood and implemented*

⁹⁷⁵ Law No. 229/2015 on the ratification of the Statute of The Hague Conference on Private International Law, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=90327&lang=ro

⁹⁷⁶ <https://www.coe.int/en/web/cpt/republic-of-moldova>

⁹⁷⁷ <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680a27d9c>

in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties to which the Republic of Moldova is party. 2. Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations.”. The latest 17th National Report⁹⁷⁸ on the implementation of the European Social Charter was submitted on 15 February 2022.

- **Protection of minorities:** The Framework Convention for the Protection of National Minorities provides for a monitoring system to evaluate how the treaty is implemented in State Parties. It was signed by the Republic of Moldova in 1995 and ratified by the Decision of the Parliament No. 1001 from 22 October 1996. An Advisory Committee adopts recommendations to improve minority protection. Currently, Republic of Moldova is evaluated in the context of the 5th cycle - the Report⁹⁷⁹ envisage information on application of the Convention’s provisions and the main results achieved in the period 2014-2018.
- **Fight against corruption:** The Group of States against Corruption (GRECO) monitors member states' compliance with the Council of Europe anti-corruption standards with the objective to improve the capacity of its members to fight corruption. Moldova is a member to GRECO since 2001. Currently, the Republic of Moldova is under the 4th Round of Evaluation – “Prevention of corruption in respect of members of parliament, judges and prosecutors” – Report adopted in 2016. Since then, it has been adopted two compliance reports and, recently, on 9th of February 2022, GRECO has made public its Fourth Evaluation Round Interim Compliance Report⁹⁸⁰ on the Republic of Moldova, which assesses the implementation of the pending recommendations.
- **Fight against money laundering:** Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

Currently, the Republic of Moldova is under the Fifth Evaluation Round of MONEYVAL – Report⁹⁸¹ adopted and published in 2019. This report provides a summary of the anti-money laundering (AML) and countering the financing of terrorism (CFT) measures in place in the Republic of Moldova as at the date of the on-site visit (1-12 October 2018). It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of

⁹⁷⁸ 17th National Report on the implementation of the European Social Charter <https://rm.coe.int/rap-rcha-md-17-2022/1680a59bbd>

⁹⁷⁹ Framework Convention for the Protection of National Minorities Fifth Report submitted <https://rm.coe.int/5th-sr-moldova-en/168094d328>

⁹⁸⁰ GRECO Interim compliance Report <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a5722f>

⁹⁸¹ MONEYVAL 5th Evaluation Round Report on Moldova <https://rm.coe.int/moneyval-2019-6-5th-round-mer-repmoldova/168097a396>

Moldova's AML/CFT system and provides recommendations on how the system could be strengthened. Since 2019, the Republic of Moldova is within the follow-up process for the implementation of recommendation – technical and effectiveness compliance. In addition, the Conference of the Parties under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) monitors the proper implementation of the Convention by the Parties.

- **Democracy through Law:** Republic of Moldova is a member to the European Commission for Democracy through Law - the Venice Commission, since its adherence to the Council of Europe in 1995. It is an advisory body on constitutional matters, which plays a leading role in the adoption of constitutions that conform to the standards of Europe's constitutional heritage. Since then, Moldova benefited from the Opinions and Amicus Curiae of the Commission on constitutional issues and developed legislation, and reforms.
- **Fight against trafficking in human beings:** The Group of Experts on Action against Trafficking in Human Beings (GRETA) is responsible for monitoring implementation of the Convention on Action against Trafficking in Human Beings by the Parties. It regularly publishes evaluation reports. Moldova is under the 3rd Round of Evaluation of GRETA – Report⁹⁸² published in 2020, which assesses the progress made by the country in the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings since 2016 – when it did its previous evaluation - with a particular focus on access to justice and effective remedies. Currently, Moldova is in the follow-up reporting period.
- **Justice system:** Republic of Moldova is the member of European Commission for the Efficiency of Justice (CEPEJ), which has the aim to improve the efficiency and functioning of justice in the member States. The last CEPEJ evaluation exercise on the Republic of Moldova's judicial system has been published in 2020⁹⁸³. Another relevant mechanism is the Consultative Council of European Prosecutors (CCPE), a body to the Committee of Ministers, prepares opinions, promotes the implementation of Rec(2000)19 and collects information about the functioning of prosecution services in Europe. This work is carried out on the basis of the replies by delegations to the questionnaires proposed by the CCPE. The last presented national information was on “Implications of the decisions of international courts and treaty bodies as regards the practical independence of prosecutors (2021)”⁹⁸⁴.

The Republic of Moldova is also under the monitoring of the Parliamentary Assembly of the Council of Europe (PACE) which assesses the honouring of obligations and commitments by the country. The mechanism consists of the PACE co-rapporteurs onsite visits and further monitoring reports. One of the main documents is the Resolution 1955(2013)⁹⁸⁵, where emphasized that the Assembly remains committed to

⁹⁸² GRETA 3rd Report on Moldova, available in English at: <https://rm.coe.int/greta-2020-11-fgr-mda-en/1680a09538>

⁹⁸³ CEPEJ evaluation exercise, available in EN at: <https://rm.coe.int/en-republic-of-moldova-2018/16809fe2f2>

⁹⁸⁴ CCPE questionnaire, available in EN at: https://www.coe.int/en/web/ccpe/implications-of-the-decisions-of-international-courts-and-treaty-bodies-as-regards-the-practical-independence-of-prosecutors-2020-?p_p_id=56_INSTANCE_CkatsASMs1cv&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-4&p_p_col_count=1

⁹⁸⁵ <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20211&lang=en>

considering the possibility of moving to a post-monitoring dialogue should the expected reforms be carried out in line with this resolution. Since then, there have been held fact-finding visits of the PACE co-rapporteurs for Moldova, the last one organized in October 2021.

An important framework document relevant for the implementation of Moldova's obligations and commitments as a member of the Council of Europe is the Council of Europe Action Plan for the Republic of Moldova 2021-2024⁹⁸⁶. The Action Plan is a strategic programming instrument that aims to bring the Republic of Moldova's legislation, institutions, and practice further into line with European standards in the areas of human rights, the rule of law and democracy. The Action Plan is intended to support the country's efforts to honour its obligations as a Council of Europe member State. Under this Action Plan, the Council of Europe and the Moldovan authorities have agreed to carry forward jointly, through co-operation projects, reforms initiated in the past in areas such as the implementation of the European Convention on Human Rights (ECHR) and the European Court of Human Rights' (ECtHR) case law at national level, aligning national legislation and practice concerning anti-discrimination and gender equality with European standards, strengthening the national child protection framework to combat sexual exploitation and abuse of children, enhancing the independence and accountability of the judicial system, improving electoral legislation and practice, reforming the prison system and promoting alternatives to detention, advancing the compliance of national practices with European standards in the field of media and Internet governance, enhancing data protection in the country, developing the capacity of law enforcement and other agencies to respond to corruption and money laundering and increasing dialogue and building confidence between both banks of the Nistru river.

- **Are there any exceptions to the Rome Statute applied by Moldova including any bilateral immunity agreements granting exemptions from the jurisdiction of the International Criminal Court? Please provide examples.**

The Republic of Moldova does not apply any exceptions from the jurisdiction of the ICC.

⁹⁸⁶ Council of Europe Action Plan for the Republic of Moldova for 2021-2024, available in EN at: <https://rm.coe.int/prems-043221-eng-1501-action-plan-moldova-couv-texte-a4-bat-web/1680a22649>

ECONOMIC CRITERIA

THE EXISTENCE OF A FUNCTIONING MARKET ECONOMY

I. Macroeconomic stability

314. Please provide last year's official report on the macro-economic developments in English.

In 2021 the Republic of Moldova rebounded strongly from the Covid-19 pandemic and the 2020 drought. The all-time record GDP growth of 13.9% took economic activity well above pre-pandemic levels. Nominal GDP amounted to Moldovan lei (MDL) 241.9 billion (EUR 11.56 billion) which, in real terms, was 4.5% above the 2019 level.

On the expenditures side, domestic final consumption accounted for the bulk of growth (+13.2 p.p. contribution to GDP growth). This strong rebound pushed up the import bill, with the net exports contributing negatively to growth (-5 p.p.).

On the supply side, the largest contributions came from agriculture (+4.2 percentage points contribution to GDP growth), trade (+2.2 p.p.), transport and storage (+1.6 p.p.), information and communications (+1.2 p.p.), and energy (+0.9 p.p.). A few sector-specific developments are notable:

- Industrial production increased by 12.1%, driven by a recovery of the manufacturing industry (+7.9%), the extractive industry (+14.8%), and energy production (+18.3%). However, this increase was offset by the growth in intermediate consumption, bringing the industrial sector's contribution to GDP growth to zero.
- Following the severe 2020 drought, 2021 was particularly favourable for agriculture. Production grew by a record rate of 50%, fueled by a significant increase in vegetable production (+75.5%). Maize, sunflower, and wheat were the main crops contributing to growth (+85%). The livestock sector remained on a downward trend (-7%), which was exacerbated by drought consequences.
- The transport sector grew strongly in 2021. Freight transport increased by 19.2%, while passenger transport - by 9.5%. Freight transport recovered to the pre-crisis level, while passenger transport remained 41% below the 2019 level.
- Retail trade and services grew strongly on the background of a rebound in household demand. Retail trade turnover increased by 12%, while services to households - by 71% in real terms. The volume of services provided to enterprises also increased by 28.1%, as did wholesale trade. However, the tourism sector is yet to recover to pre-pandemic levels, with the number of tourists (most of them domestic) remaining over twice below pre-pandemic levels.

Investment activity increased modestly in 2021. Investments in fixed assets increased by 4.8%. Key factors behind this growth were business investments in new machinery and equipment financed from own resources, as well as investments in public infrastructure financed from external sources. Public investment financed from the budget decreased significantly (-12.4%), reflecting tighter budgetary constraints caused

by the pandemic. Investments in the construction sector decreased (-3.6%), including due to a sharp rise in prices for construction materials (+7.1%).

Inflation has risen, fueled by post-pandemic demand recovery and imported inflation. Year-end inflation reached 13.9%, well in excess of the National Bank of Moldova's (NBM) target of 5% (with a symmetrical 1.5% band). Exchange rates versus major currencies remained on the whole stable (3.1% depreciation against the US dollar, but 4.9% appreciation against the Euro). The end-of-period official reserve assets held by the NBM amounted to USD 3.9 billion (equivalent to 6.3 months of imports), a year-on-year increase of 3.1%.

Household credit has grown explosively. Newly approved bank loans increased by 35.8% in 2021 compared to 2020, with credit-to-GDP reaching 23%. Loans granted to individuals increased the most, by 1.7 times, of which real estate loans - 1.9 times. New deposits in commercial banks increased by 18.1%. At the beginning of 2022 the NBM tightened the monetary policy to address the risks associated with the excessive credit growth.

Public finances are rapidly recovering from the pandemic. The unwinding of pandemic support has reduced the budget deficit to 1.9% of GDP, down from 5.3% in 2020. Budget revenues grew by 23.5% on account of consumption and wage taxes, as well as social contributions; all driven up by the rebound in domestic demand. External grants reached 1% of GDP, roughly tripling relative to 2020. At the same time, expenditures increased by 11.9%, with expenses on healthcare and social protection having the largest contributions to the increase in total budgetary expenditures.

Public debt is low and sustainable. As of December 2021, government debt remained at a comfortable level of 32.2% of GDP, a 1.8 p.p. decrease from 2020. External public debt accounted for 57% of the total, virtually all of which is long-term debt.

The external balance has deteriorated on account of domestic demand recovery and worsening terms of trade. The current account deficit widened to 11.6% of GDP. In nominal dollar terms, exports of goods increased by 32%, and exports of services by 28%. Imports of goods increased by 34%, and that of services - by 31%. Remittances went up by 8% on a net basis, while foreign direct investment inflows reached USD 244.8 million (1.8% of GDP), up from USD 157.4 million in 2020. Despite this growth, FDI inflows remained well below the level recorded in 2019 (USD 506.8 million).

Wages exhibit a positive dynamic. The 2021 average gross monthly wage amounted to MDL 9,115.9 (EUR 436), a 6.9% increase over 2020 in real terms. Wages in the private sector are about 23% higher than in the public sector, and they also grew faster in 2021 (14.2% vs. 6.5% in nominal terms). On 1st of January 2022 the average size of the monthly pension was MDL 2,578.46 (EUR 123), which is about 7.6% real year-on-year increase. The disposable monthly income per person averaged MDL 3,510.1 (EUR 168), i.e., a 7.8% real year-on-year increase. The subsistence monthly minimum in 2021 was MDL 2,154 per person (+3.1% increase in nominal terms vs. 2020).

Moldova has traditionally low unemployment and employment rates. The unemployment rate in 2021 was 3.2%, i.e. 0.6 p.p. lower than in 2020. Unemployment is higher among men (3.8%) compared to women (2.5%). The labour employment rate in 2021 was 39.9%, including 44.7% for men and 35.4% for women.

315. What are the main objectives, rules and institutions in the area of fiscal and monetary policy?

The Ministry of Finance is the central public authority responsible for fiscal policy, in accordance with Law No. 181/2014 on public finance and fiscal responsibility⁹⁸⁷. According to its Regulation⁹⁸⁸, the mission of the Ministry of Finance is to manage public finances, to implement the principles of good governance, to develop effective public policies and to monitor the quality of policies and rules in the following areas: public finance (budget, public sector debt, state guarantees and state recrediting, state assets, financial inspection and public capital expenditures); taxes and fees; customs; accounting and reporting in the budgetary system; accounting and auditing standards; public procurement; external assistance; internal public financial control; payroll in the budget sector; evaluation activity.

The main objectives of the fiscal policy are set in the same Law No. 181/2014 on public finance and fiscal responsibility and are as follows:

- ensuring general fiscal discipline and stability of the national public budget in the medium and long term;
- ensuring efficient management of state debt and the debt of administrative-territorial units, maintaining it at a sustainable level in the medium and long term;
- developing a predictable and transparent fiscal framework;
- optimising the tax burden and streamlining the tax administration system.

The fiscal and budgetary policy is implemented by subordinated bodies of the Ministry of Finance: State Tax Service, Customs Service, Financial Inspection, and Procurement Agency.

The above-mentioned law also sets several fiscal rules:

- Fiscal policy should be designed in correlation with other economic policies and should ensure that the annual deficit of the national public budget (excluding grants) does not exceed 2.5% of GDP. Exceeding the deficit limit is allowed only if there is committed financing from external sources for capital investment projects and the capacity to implement them exists.
- In setting policy priorities, authorities should ensure consistency and continuity of the objectives committed to in the Medium-Term Budgetary Framework. The only admitted exceptions are for periods of up to three years in cases of natural disasters and other exceptional situations that endanger national security; decline in economic activity and/or if the level of inflation exceeds the forecasted/planned level by 10 percentage points; need to cover the debit balance of the general reserve fund of the NBM; as well as in case of systemic financial crisis, for the capitalization of banks and for guaranteeing emergency loans granted to the banks by the NBM. In the period of exceptions, the Government must report every six months to the Parliament on the trends of the

⁹⁸⁷Law No. 181/2014 on public finance and fiscal responsibility, available in Romanian at: www.legis.md/cautare/getResults?doc_id=126152&lang=ro#

⁹⁸⁸Government Decision No. 696/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121803&lang=ro

macro-budgetary indicators, and on measures undertaken and planned to comply with the rules of fiscal policy.

- According to the budget balance rules, the trigger level of the budget balance should be set by annual budget laws, which indicate the sources of budget deficit financing or how the budget surplus is directed. Any change in the budget balance is allowed only following amendments to the annual budget law.
- Finally, according to the financial impact rules and according to the Law No. 100/2017 on legal acts, draft legal acts which have a financial impact on the budget are subject to mandatory financial expertise. At the same time, during the budget year, decisions leading to a decrease in revenues and/or to an increase in expenditure cannot be approved if their financial impact is not foreseen in the budget. Also, committing specific amounts or shares of the budget or of Gross Domestic Product to certain areas, sectors or programmes by legal acts other than the annual budget law is not allowed.

The National Bank of Moldova (NBM) is the institution in charge of establishing and implementing monetary and foreign exchange policy. According to Article 4 of the Law No. 548/1995 on the National Bank of Moldova⁹⁸⁹, the primary objective of the NBM is to ensure and maintain price stability. Additionally, without prejudice to the primary objective, the NBM aims at ensuring the stability and viability of the banking system and supporting the general economic policy of the state.

Price stability is understood as a situation in which price growth is small and stable enough so that it does not interfere with society's economic decisions. The NBM quantitatively measures price stability in terms of the consumer price index (CPI) published monthly by the National Bureau of Statistics. The NBM targets an annual inflation rate of 5% with a symmetric band of ± 1.5 percentage points. This target is expected to: keep nominal interest rates low and stimulate long-term investment and preserve domestic and external competitiveness; discourage speculative activities and strengthen financial stability; support economic growth, job creation, and productivity; and protect persons with fixed incomes (e.g., pensions) and the socially vulnerable groups who are particularly affected by high inflation rates.

Open market operations are the main tool for achieving the 5% target. The NBM also uses auxiliary monetary policy instruments, such as standing facilities (overnight deposits and loans), the reserve requirement, and interventions in the foreign exchange market. The Executive Board of the NBM sets the base rate – the main indicator for the short-term interbank money market – to manage money market conditions and achieve the inflation target.

The Executive Board meets monthly on monetary policy issues, with decisions based on periodic inflation forecasts and other internal analytics. The NBM publishes a quarterly Inflation Report⁹⁹⁰, which contains an analysis of the macroeconomic situation, a medium-term forecast of inflation and of key macroeconomic indicators, and an analysis of relevant risks.

In line with the inflation targeting, the NBM's exchange rate regime is a managed float. Avoiding a fixed target (or depreciation rate) of the exchange rate allows the economy

⁹⁸⁹ Law No. 548/1995 on the National Bank of Moldova, available in English at: <https://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995>

⁹⁹⁰ Inflation Report, available in English at: https://www.bnm.md/en/search?partitions%5B0%5D=674&post_types%5B674%5D%5B0%5D=840

to respond adequately to price signals associated with external and internal shocks. Forex market interventions are limited to those necessary in order to support the implementation of open market operations, insofar as they are necessary to reach the inflation target and do not interfere with FX market fundamentals. However, the NBM retains the right to intervene in order to mitigate excessive fluctuations in the exchange rate, stop speculative operations, and replenish the reserve assets, without prejudice to reaching the inflation target.

Other core functions of the NBM include: acting as banker and agent of the state; conducting economic analyses; licensing, regulating and supervising the activity of banks; establishing, licensing, operating, regulating, and supervising financial market infrastructures; acting as the sole issuer of the national currency; establishing the exchange rate regime of the national currency; holding and managing foreign exchange reserves; undertaking, on behalf of the Republic of Moldova, obligations and performing transactions resulting from the participation of the Republic of Moldova in the activity of international public institutions in banking, credit, and monetary areas; elaborating the balance of payments, international investment position, and external debt statistics; licensing, regulating, and supervising payment services provision, etc.

316. What are the particular structural challenges/priorities for Moldova's economic policy, and which measures have been planned to tackle them?

The most significant structural challenges to the Republic of Moldova's long-term development potential include: population decline, ageing and emigration; weak rule of law; poor legislative and institutional framework for fighting corruption and preventing conflict of interests; entrenched poverty, income inequality and socio-economic vulnerability; significant exposure and vulnerability to climate change and natural disasters; weak educational outcomes; poor quality of transport infrastructure; and poor governance of state-owned enterprises that hinders competition and results in resource misallocation. The cumulative impact of these shortcomings is reflected in GDP growth rates slowing down in 2011-2021 compared to 2000-2010, and limited number of well-paid jobs.

Rule of law, the anti-corruption framework and governance of state-owned enterprises are viewed as binding constraints, and are already being addressed. Fighting corruption is going to be improved, *inter alia*, by changes to the Criminal and Criminal Procedures Code meant to ensure that corruption cases are treated as serious crimes and that reduction of imprisonment terms in corruption cases is prohibited. Narrowing down the mandate of the National Anticorruption Centre to high-level corruption cases involving public officials and corruption in large proportions is a planned institutional measure undertaken to ensure that resources are not misallocated. The weaknesses in the judicial system are going to be addressed by introducing pre-vetting and vetting procedures with the purpose of ensuring the integrity of magistrates. Governance of state-owned enterprises will be improved by ensuring regular submission and scrutiny of financial statements and by the elaboration of a state ownership strategy to identify enterprises subject to privatisation, reorganisation, liquidation or corporate governance strengthening.

Economic reforms in these areas are supported by the ongoing IMF program and operations of other IFIs. In addition, the IMF program envisages a number of other

reforms, including consolidation of the tax administration, improvement of the public investment management framework, and strengthening financial sector oversight.

With institutional shortcomings addressed, it is expected that other structural vulnerabilities will recede as well. Poverty and migration are expected to decline as better-paid jobs are created by an increased number of more vibrant SMEs benefiting from improved rule of law. Reduced corruption will enhance firms' willingness to invest and innovate. Introduction of good corporate governance in state-owned enterprises will release productive capacities and resources for more efficient use in the private sector. The educational sector's links with the real economy are set to improve by wider adoption of dual learning in the vocational education sector and from a better alignment of the university governance structures to societal priorities.

I. The functioning of product markets

A. Business environment

317. What is the size of the corporate sector? Please describe the main features of the sector.

Moldova's corporate sector counts about 58 thousand enterprises, generating an aggregate turnover of MDL 382 billion (about EUR 19.1 billion) and employing circa 513.4 thousand people. In terms of annual investments, the gross fixed capital formation constitutes circa 25% of GDP, based on 2020 data.

Moldova has in place a well-established legal framework on business regulation and development . In this regard, the Law No. 845/1992 on Entrepreneurship and Enterprises is to be mentioned . The law establishes the requirements for economic agents that have the right to carry out entrepreneurial activity in the Republic of Moldova and determines the legal, organisational and economic principles of this activity. According to this Law, the entrepreneurial activity in the Republic of Moldova, including of the enterprises with foreign capital, can take the following legal forms of organisation:

- individual enterprise;
- general partnership;
- limited partnership;
- joint stock company;
- limited liability company;
- production cooperative;
- entrepreneurial cooperative;
- leasing company;
- state owned enterprise and municipal enterprise.

In addition, specific regulations are applied for certain types of enterprises, which are contained in special laws (Law on Joint Stock Companies, Law on Limited Liability Companies, Law on State and Municipal Enterprise, Law on investments in entrepreneurial activity, etc.)

Investors may place their investments throughout the Republic of Moldova in all areas of entrepreneurial activity, if they respect the interests of national security, antitrust law, environmental protection, public health and public order and other relevant regulations.

According to the Law, firms qualify as Small and Medium Enterprises (SMEs) if they fall in one of the following categories:

- Micro enterprises have at most 9 employees, achieve an annual turnover of up to MDL 9 million (EUR 450 thousand) or have total assets of up to 9 MDL million;

- Small enterprises have from 10 to 49 employees, achieve an annual turnover of up to MDL 25 million (EUR 1.25 billion) or have total assets of up to MDL 25 million;
- Medium enterprises have from 50 to 249 employees, achieve an annual turnover of up to MDL 50 million (2.5 million euros) or have total assets of up to MDL 50 million.

In 2020, out of the total of 58 thousand active enterprises in the Republic of Moldova, 57.2 thousand were SMEs, or 98.6% of the total.

According to the ownership structure, domestic private enterprises constituted 92.1% of the total, public enterprises - 1.6%, foreign enterprises - 4.0% and mixed ownership enterprises - 2.3%.

By types of economic activity the number of enterprises breaks down in the following categories:

- Wholesale and retail trade; maintenance and repair of motor vehicles and motorcycles - 42.4%;
- Manufacturing industry - 10.0%;
- Professional, scientific and technical activities - 9.9%;
- Real estate transactions - 7.4%;
- Constructions - 7.1%;
- Transport and storage - 6.8%;
- Information and communications - 5.0%;
- Others - 11.4%.

Total turnover generated by SMEs in 2020 was roughly MDL 150 billion (about EUR 7.5 billion), which amounts to 39.3% of the turnover of all companies operating in Moldova – MDL 382 billion (about EUR 19.1 billion).

Of the total of 513.4 thousand people employed in the corporate sector in 2020, circa 316.8 thousand, or 61.7%, were employed by SMEs. The detailed employment breakdown by enterprise size is as follows:

- Micro-enterprises - 21%;
- Small enterprises - 21.8%;
- Medium-sized enterprises - 18.9%;
- Large enterprises - 38.3%.

318. Please describe the main requirements for market entry and exit for the corporate sector (business register, number of licensing procedures, number of separate administrative procedures, average amount of time and costs for corporation, bankruptcy procedures etc.) How has the average time for company registration evolved since 2016?

The state registration of legal persons and individual entrepreneurs is regulated by the Law No. 220/2007. Following Government Decision No. 314/2017, the "State Registration Chamber", the State Enterprise "Cadastre" and the "Licensing Chamber" have been reorganised into a single state authority, the "Public Services Agency" (PSA). PSA provides options for expedited services in which company registration can be completed within 4 hours (same day). The fees for registering companies under the standard and expedited procedure are as follows:

- State registration: MDL 1,149 (24 hours) / MDL 4,596 (4 hours);
- Development (editing) incorporation document: MDL 202 (24 hours) / MDL 404 (4 hours);
- Enterprise name verification: MDL 71 (24 hours) / MDL 156 (4 hours);
- Certification of signatures by the State Registrar: MDL 63 (fixed);
- Certification of the statutory documents-MDL 197 (fixed);
- Publication: MDL 131 (fixed);
- Extract (for permanent bank account): MDL 110 (fixed).

Apart from the registration cost, the applicant can order a stamp, the cost of which may vary between MDL 200 and MDL 450. The requirement to hold a company stamp has been abolished, however, the majority of companies prefer to get the stamp.

In accordance with the Law, the following documents must be submitted to the PSA in order to register a limited liability company:

- Filled application form (template provided by the PSA);
- Decision on incorporation of the company approved by founder/s;
- Incorporation documents;
- Document confirming payment of applicable registration fees;
- Declaration of the company's beneficial owners.

In practice, the PSA drafts the incorporation documents and founders' decisions in a special form that is supplementary to the decision provided by the founder. The Law No.308/2017 on prevention and combating money laundering and terrorism financing requires the legal entities to declare the ultimate beneficiary owners. From the legal point of view, the ultimate beneficiary is the individual, who directly or indirectly controls 25% or more in the new company that will be incorporated.

A unique state identification number is attributed to each legal entity at the date of its registration. It is inserted in the Registration Certificate and in the constitutive act. The Law No. 220/2007 allows the reservation of the name, under which a person or entity intends to register a company, for a term up to 6 months. Accordingly, no other third

party will be allowed to register a company under the same name during the reservation period. PSA informs the Tax Authority, the Social Security Fund, the Health Insurance Fund, and the Statistical Agency about the registration of a new legal entity. The authorities then exchange all relevant information. In some cases, the taxpayer is required to visit the tax authority to separately register for electronic reporting by the companies. It does not represent a part of regular registration, it is required by the law and it depends on the number of employees and the VAT status. At the same time, the right for voluntary registration is available for legal entities, in order to electronically submit the reports.

	Units	2016	2017	2018	2019	2020
<i>Starting a business</i>						
Time	days	6	6	5	4	3
Average Cost (income per capita)	%	4.3	6.2	5.6	5.0	4.0
Number of procedures	days	5	4	4	3	3
<i>Resolving an insolvency</i>						
Time	years	2.8	2.8	2.8	2.8	2.8
Cost (% of estate)	%	15	15	15	15	15
Recovery rate (cents on the dollar)		28.0	28.1	30.9	32.1	32.0
<i>State inspections</i>						
Number of days per year at a company		58	58	18	18	18
Average number of inspections per company		2.0	2.9	2.3	1.9	2.3
Rate of planned inspections from total	%	50	-	31	47	31
<i>Permissive acts</i>						
Number of permissive acts		416 ⁹⁹¹	302	152	152	152

319. Please describe the initiatives taken to enhance the business environment, tackle corruption, and the results achieved so far. Please provide focused information on the main obstacles for doing business, including those that hinder operating in a single economic space.

Moldova has made advances in enhancing its business environment over the years. Before the discontinuation of this initiative, Moldova ranked 48th in the World Bank's Ease of Doing Business top, ahead of Croatia (51), Hungary (52) and Romania (55), yet trailing countries like Belgium (46) or Serbia (44). Nevertheless, while on certain aspects like Starting a Business (13) or Registering Property (22), Moldova ranks among the easiest countries in the world, items like Dealing with Construction Permits (156) are notoriously cumbersome. Moreover, institutional weakness and, despite the government's focus, a legacy of problems in the judiciary, continue to hinder the business environment. That being said, Moldovan Government is committed to advancing the reform agenda, while enhancing the business environment remains a top priority. In the following sections, reform initiatives are discussed in greater details, including: (I) Regulatory reforms, (II) State controls reforms, (III) Reporting reforms and (IV) Reforms pertaining to the enhancement of the IT sector.

⁹⁹¹ According to the Law No.181/2016, 114 permissive acts have been excluded from the Nomenclature of permissive acts approved by Law No.160/2011

I. Regulatory reforms

The Permissive Acts Reform set as goal to streamline permissive (licensing) acts, abolishing some 70% of permissive acts, while a remaining 152 were simplified. To date, 129 permissive acts out of 152 were configured in a format of One Stop Shop (OSS), of which 69 are already fully operational. Of the 30 agencies issuing permits, 26 have configured their processes to meet the OSS demands. A total of 39 Multifunctional Service Centres (physical OSSs) are also operational throughout the country so that businesses get support for submitting applications through the OSS platform, which was launched in July 2018.

During 2018-2021, about 60,000 permissive acts were issued through OSS, of which 40 % were online.

II. State control reforms

The initiatives aimed at reforming the state controls process, focus on (1) Institutional reform, (2) Procedural reform and (3) Digitization of control processes. Each reform is briefly described in the sections below.

1. Institutional reform. To minimise the adverse impact of controlling bodies on business operations, the number of organisations with control functions has been reduced from 58 to 18, including 5 national regulators.

2. Procedural reform. The reform aims to simplify the controlling process for entrepreneurs, bring more transparency and offer greater protection for the entrepreneurs subjected to regulatory controls. The key initiatives are as follows:

- Control planning to be made public for a full calendar year, in advance, including details on the scope of the proposed controls;
- Limiting the scope of items triggering unannounced controls;
- For the first three years of an enterprise's activity, the measures undertaken by the state authorities should have an advisory role i.e. no sanctions or restrictive measures to be applied;
- Ensuring a fairer balance between the undertaken penalising measures and the gravity of the identified shortcomings or infringements.

3. Digitization of the control processes. To further enhance the transparency of the controlling process, the State Register of Single Controls was established, aiming at offering greater predictability to the actions planned by the controlling authorities. Some features of this new approach to controlling include:

- Priority is given to documents in electronic format created and stored in the State Register of Controls;
- Inspector to exhaust any other possible ways of obtaining and analysing the information prior to initiating a controlling visit;

- Internal supervision of the rationale behind unannounced controls.

To date, the State Register of Controls is fully operational for 10 of 13 state control bodies. In June 2020, the Government also approved the Methodology for establishing the objectives and performance indicators of the state control bodies.

Overall, these reforms have created a more predictable, transparent and fair approach to approaching the controls performed by the state authorities, thereby minimising regulatory abuses and possible disruptions to entrepreneurial activity.

III. Reporting reforms

Another important component of the reform of entrepreneurial activity is the simplification of the financial and statistical reporting process, by developing and launching a single reporting platform for the State Fiscal Service, the National Social Insurance House, the National Insurance Company in Medicine and the National Bureau of Statistics. Efforts to merge various reporting obligations into a Single Report are also underway. The main achievements of this reform effort are:

- Removing duplicate data and lowering reporting volume by circa 40%;
- Reducing the time and cost of drafting and reporting to public authorities;
- Limiting the interaction of economic agents to a single public authority, the State Fiscal Service, as opposed to four distinct authorities;
- Concentrating data on the payroll fund, calculated taxes and contributions, and setting a single reporting and payment period for them;
- Provide the State Fiscal Service with an effective tool to combat tax evasion.

Today, all economic agents are directed to the single electronic reporting platform accessible at <https://raportare.gov.md/page/lista-autoritati-publice-de-raportare>. As a result, economic agents also benefit from a single reporting deadline, which is the 25th of each month. Furthermore, following the adoption of Law No. 141/2020 for the amendment of the Insolvency Law No. 149/2012, a series of mechanisms have been introduced to simplify insolvency proceedings as much as possible, based on international advanced practices. An important facilitating mechanism will be ensured by implementing a functional Register of Insolvency Cases synchronised with the Judicial Information System. This measure has already been included in the Government Action Plan under the responsibility of the Ministry of Justice in ch. VI / Justice and anti-corruption, with the execution deadline - December 2022.

IV. Reforms pertaining to the enhancement of IT sector

A major initiative aimed at developing a favourable business environment for the IT business and increasing its competitiveness at the regional level was the adoption of the Law No. 77/2016 on information technology parks, with a subsequent promotion of the Government Decision No. 1144/2017 on the creation of "Moldova IT Park". The Law on IT Parks regulates the creation and functioning of information and technological parks. Among the major incentives provided to domestic and foreign investors – residents of IT parks, there are:

- A flat, 7% tax on turnover, which is to replace: Corporate Income Tax (CIT), Personal Income Tax (PIT), social security and medical insurance taxes due by employers and employees, local and real estate taxes, as well as the road tax;
- Extensive list of eligible IT and related activities (such as software development, IT services, digital graphics & design, R&D, educational projects;
- Virtual residency, as resident companies may carry out their activity anywhere on Moldova's territory. No physical presence is required in the park;
- Simplified compliance and reporting procedures, the flat tax being calculated on a monthly basis. The residents must carry out an annual verification by an audit company accredited on the territory of the Republic of Moldova. Given the single payment, there is a reduced time and staff needed for accounting purposes and there is a reduced risk of committing errors in calculation. This, in turn, leads to a significantly reduced risk of sanctioning by inspection authorities;
- An IT Visa can be obtained through a simplified process, as an additional benefit to the IT Park residents. The work and residence permit can be issued for up to 4 years for people of managerial levels, and up to 2 years for IT Specialists, both with the possibility of extension;
- 9 years guarantee period, until 01 January 2026, provided by the state on the activity under the preferential regime prescribed by law.

During its four years of operation (2018-2021), Moldova IT Park has achieved an unprecedented positive impact on the IT industry development in Moldova, as well as on the structure of its exports. Positive developments showed an increase in the number of residents. Thus, the number of active residents of the Moldova IT Park reached 1055 companies, of which newly created companies after its launch – 673, companies with foreign capital – 182 from 40 countries. Moreover, despite the constraints imposed by the pandemic and the regional development context, the revenues achieved by the resident companies during 2021 reached the value of MDL 6.88 billion (EUR 338 million), a 38% growth year-on-year. Circa 85% of the turnover generated by the Park's residents were export sales, mainly to the EU, USA, UK and Canada. The Park's residents employed a total of 15,100 people, earning an average monthly salary of circa MDL 35,900 (EUR 1,780).

Considerations regarding operation in a single economic space

While the state authorities do not exercise de facto control over a part of the territory to the left of Dniester River, the regulatory framework does assume the obligation to comply with the applicable laws of all Moldova's citizens and enterprises, including taxation and customs duties. Therefore, all residents have to comply with the legal requirements for crossing the state and customs border. Non-residents will be subject to the same legal procedures upon entering the territory of the Republic of Moldova. In order to practice foreign trade operations, state or fiscal registration is required, also for entities based in the Transnistrian region. However, registration as an individual entrepreneur in the Republic of Moldova is very accessible and fast without providing restrictive rules for any category of citizens. The co-habitation of two distinct tax and customs regimes is not frictionless.

320. What is the estimated share of the informal economy? How is it estimated? What effects does it have on public finances, employment and market competition?

The estimated size of the informal economy

The National Bureau of Statistics from the Republic of Moldova (NBS) develops national accounts in line with the methodology of the UN System of National Accounts, version 2008 (SNA-UN-2008), compatible with the methodology of the European System of Accounts, version 2010 (SNA, UN-2008/ESA-2010)⁹⁹². For complexity and accuracy reasons, the national accounts get adjusted with the unobserved economy elements, and estimates are produced in line with the SNA methodology, UN-2008/ESA-2010 and OECD recommendation⁹⁹³. The level of informal economy in the Republic of Moldova is also reflected in labour force statistics. The Labour Force Survey (LFS) carried out by the NBS is the main source of information regarding the situations and the trends on the labour market⁹⁹⁴. This survey is carried out in line with international recommendations in force in the area of labour statistics, adopted by the International Labour Office (ILO). With certain exceptions, the LFS methodology complies with the EU Framework Regulation for Labour Force Survey in EU countries. The survey covers in a comprehensive way, aspects related to informal employment as well. Hence, the Republic of Moldova uses direct methods for determining the level of informality: the LFS is carried out on a sample of households and implies interviewing households' members who are aged 15 years old and over.

According to the NBS methodology, the unobserved economy includes the following components:

- Informal sector covers the totality of production units involved in production of goods and services meant for the market, which are not registered or have a number of employees under the established threshold.
- The hidden production in the formal sector (hidden economy) covers the totality of productive and legal activities, intentionally underestimated and hidden by economic units and not registered by the relevant public bodies.
- The households' production for self-consumption covers the totality of goods and services produced and consumed by the households themselves – agricultural production, agricultural products' processing, construction of individual houses, rent-service and services of the personnel employed in these households.

At the same time, NBS does not calculate illegal production, because it is rather difficult to carry out such an exercise.

The latest estimates for the unobserved economy are provided by NBS for 2020, when it accounted for 27% share of GDP. Over the last few years, it registered a rather volatile evolution with a long-term downward trend. Nevertheless, as a result of the Covid-19 pandemic, it increased slightly, compared to 2019, when it represented 25% of GDP. The largest share of the overall unobserved economy is represented, traditionally, by households' production for self-consumption (11% of GDP), reflecting the important

⁹⁹²https://statbank.statistica.md/PxWeb/pxweb/en/40%20Statistica%20economica/40%20Statistica%20economica_13%20CNT_SCN2008/?rxid=9a62a0d7-86c4-45da-b7e4-fecc26003802

⁹⁹³ Ibidem.

⁹⁹⁴ <https://statistica.gov.md/public/files/Metadate/AFM.pdf>

economic and social role of the agricultural sector in the Moldovan economy. These types of activities do not necessarily imply tax evasion, reflecting a structural peculiarity of the economy. At the same time, the other two types of unobserved economy do imply tax evasion and are most problematic from the economic and fiscal point of view: informal sector (6% of GDP), which is mostly observed in constructions and the hidden production in the formal sector (10% of GDP) mostly observed in the services sector.

An important component of the unobserved economy is the informal employment. Thus, according to NBS estimates, 22.8% of total jobs in 2021 were informal, marking a moderate increase compared to 2020 (22.4%) due to the remarkable growth in the agricultural sector that traditionally accounts for the largest share in total informal jobs (61.2% of total informal jobs in 2021). At the same time, during the crisis induced by the pandemic, which overlapped with a recession in the agricultural sector as a result of drought, the share of informal employment decreased (22.4% compared to 23.1%). It revealed the vulnerability of informal jobs to economic shocks. The most exposed to informal employment are the people from rural areas (81.8% of total informal jobs in 2021), mostly men (64.4% of total informal jobs).

Effect of informal economy on public finances, employment and market competition

First, it deprives the informal workers of decent employment conditions, because of low wages and exclusion from the social and medical insurance schemes. The issue of low wages is revealed by the fact that the labour productivity in the observed economy is much higher compared to that of the informal economy⁹⁹⁵. This is mainly explained by the lower competitiveness of informal activities, as well as by the fact that the informality is concentrated in sectors with traditionally low productivity, such as agricultural activities.

Second, it implies significant forgone tax revenues. According to a recent study⁹⁹⁶, the tax losses generated by the unobserved economy during 2015 – 2020 increased from 8,9 billion MDL up to 15 billion MDL annually. When reported to the Gross Domestic Product, the respective losses registered an ascending trend (with several episodes of moderate decrease in 2016-2017 and a more pronounced increase in 2018 and 2020), growing from 6.1% in 2015 up to 7.3% in 2020. A similar dynamic is registered for Gross Value Added generated by the informal economy in total Gross Value Added in economy, from 18.8% in 2015 to 20.3% in 2020. At the same time, the ratio between the tax losses and tax revenues varied around the level of 25%.

Third, it exposes many categories of the population to a series of vulnerabilities. According to a recent study⁹⁹⁷, the COVID-19 crisis of 2020 provides a clear picture about the most vulnerable groups in this regard. Namely, the informal workers in the formal sector represent a major vulnerable group because of limited alternatives and bargaining power in relation to the employers, especially during crises that undermine the demand for labour force. Usually, such workers are also among the first in line to

⁹⁹⁵ “The phenomenon of informal economy and employment in the context of Covid-19 pandemic”, UNDP Moldova and Expert-Grup, 2021: https://www.md.undp.org/content/moldova/en/home/library/inclusive_growth/fenomenul-economiei-i-ocuparii-informale-in-contextul-pandemiei-c.html

⁹⁹⁶ Ibidem

⁹⁹⁷ “Impact of Covid-19 on the Moldovan labour market and policy responses for the lockdown, gradual reopening and recovery phases”, ILO and Expert-Grup, 2021

be fired during crises. In 2020, the number of these employees decreased by 12.2% compared to 2019 or by 6.4 thousand people, whereas the number of formally employed in the formal sector decreased at a much lower rate (-3.5%) during the same period of time. The most severe consequences were felt by women, as the total number of informal workers in the formal sector declined by -24.3% compared to -1.1% in the case of men, which means that out of the total number of -6.4 thousand informal jobs closed in the formal sector, 6.1 thousand were represented by women. This vulnerability is aggravated by the fact that, because the salaries of these workers are not officially reported (fully or partially), they cannot get the legal unemployment benefit (the situation with the workers with no employment contract is even worse, because they cannot be eligible for the unemployment indemnity with no official employment record). It makes these workers to accept any austerity measures imposed by the employer, limiting their rights and incomes.

321. To what extent and how does corruption affect the business environment?

While Moldova's score in Transparency International's Corruption Perception Index has been slowly but steadily improving since 2016, from 30/100 to 36/100, most recently ranking 105th out of 180 countries, corruption remains an important barrier to accelerated development of a competitive market economy. This is why the current government has campaigned primarily on anti-corruption issues, making it the top priority of their mandate. While the anti-corruption legal and institutional infrastructure is largely in place, it still faces challenges effectiveness-wise. According to the Global Business Bribery Risk Index, developed by the association of non-governmental enterprises TRACE International, Moldova is assessed with a medium risk level, ranking 115th out of 194 countries⁹⁹⁸. Compared to previous years, the index has improved (from high to medium) mainly due to the strengthening in the "business interactions with government" score. Some 12% of businesses polled in the World Bank's Enterprise Survey (2019) have reported paying bribes at least once. Corruption scores as the 6th most pressing concern in World Bank's Enterprise Survey (2019), ahead of items like labour regulation or electricity access, but behind top concerns like access to an educated workforce, political stability or tax rates. Unfortunately, the latest comprehensive survey by the World Bank was conducted as far back as 2019, so certain data points are likely to lack relevance, but at that time, some specific drivers fueling corruption as a phenomenon were as follows:

State control of entrepreneurial activity. The legal framework that regulates entrepreneurial activity still leaves space for discretionary policy implementation. Therefore, businesses report that abusive state controls and the application of unfair fines and penalties represent an issue for open and transparent business policy implementation. According to the World Bank Report "Cost of State Regulation of Entrepreneurial Activity in 2019", 46% of respondents believe that laws and regulations on state control over entrepreneurial activity are applied selectively, the control/inspection decision depends on the attitude of the public figures⁹⁹⁹. Additionally, the report stresses the increasing pressure from the Fiscal Service. Thus, in 2019, fiscal inspections were carried out at almost half of the enterprises, and the

⁹⁹⁸ <https://www.traceinternational.org/trace-matrix>

⁹⁹⁹ World Bank (2020), Moldova: Cost of Doing Business Survey

share of companies that had been fined went up from 31% in 2018 to 50% in 2019. Also, according to the same survey, one of ten companies offered a bribe to the fiscal inspector.

Dealing with permissive acts. Following the reform of the entire legislative framework on permissive acts for the business environment (licences, authorizations, and certificates), the number of permissive documents issued by the central public administration authorities was reduced from 416 to 152. Also in 2018 was launched the Electronic One-Stop Shop for issuing permits. These measures aimed at diminishing the administrative burden on the business environment and resulted in estimated savings of circa 12 million USD.

Public Procurement. Companies report that favouritism in decisions of government officials is still occasionally taking place. The World Bank Enterprise Surveys report shows that 12% of businesses had been asked or expected to pay a bribe for government contracts. Despite significant improvements particularly in terms of transparency in public procurement in Moldova, including via e-tendering, the law enforcement involvement in the sector is insufficient.

Judicial system. The justice system is widely recognized as still being susceptible to corruption. Law enforcement agencies occasionally intervene in business activity in an exaggerated, disproportionate, and abusive manner. Therefore, businesses identify the court's system as a major constraint in their activity¹⁰⁰⁰, ranking it as the 7th most important constraint in the World Bank's Enterprise Survey.

It is quite difficult to assess the losses from corruption, as there are no conclusive data in this respect. Moldova's total losses from corruption can be estimated at 8% to 13% of GDP¹⁰⁰¹. Corruption increases transaction costs, hampers business competition and discourages investments. These phenomena leave space for fiscal evasion and the development of the informal economy, with negative repercussions on the national public budget.

B. State influence on product markets

322. Public sector: What is the public sector's aggregate share in the economy, including in terms of value added and employment? What sectors are still publicly controlled and/or owned and to what extent? Please outline the government plans as regards public-owned enterprises.

The public sector's share in the economy is declining. According to statistical data for 2020, the contribution of the public sector to the GDP formation is 14.6% (including the state property - 9.3% and municipal property - 5.1%) and has been declining in recent years (by 2.7 p.p. compared to 2017). More than half of the GDP produced by the public sector is generated by the sectors "Public administration, defence, education, human health and social work activities" (54%).

¹⁰⁰⁰ Ibidem

¹⁰⁰¹ The Cost of Corruption in the Republic of Moldova and Who Covers, Expert-Grup, 2017, available at: https://www.expert-grup.org/media/k2/attachments/Costul_corupției_în_Republica_Moldova_EN.pdf

The population employed in the public sector amounted to 248,4 thousand persons or about 29.8% of the total in 2020. The majority (74%) were employed in the “Public administration, defence, education, human health and social work activities” sector, being followed by the “Transportation and storage, information and communication” (8.2%) and Industry (6.1%).

The state maintains relatively significant shares in some economic sectors. In addition to “Public administration, defence, education, human health and social work activities”, where the share of the public property is about 62%, relatively significant shares of the state are in the fields such as: “Professional, scientific, technical, administration and support service activities” (25%), “Manufacturing, mining and quarrying and other industry” (13%), “Arts, entertainment and recreation, other service activities, activities of households as employers; undifferentiated goods- and services-producing activities of households for own use, activities of extraterritorial organisations and bodies” (12%), “Wholesale and retail trade, transportation and storage, accommodation and food service activities” (8%).

State-Owned Enterprises (SOEs) in the Republic of Moldova can take the form of State Enterprises (SE), Municipal Enterprises (ME), Joint-Stock Companies (JSC) or Limited Liability Companies (LLC). In the structure of the public sector, about 64% represent state property and 36% - municipal property, with these shares remaining practically constant in the recent few years. Estimates and statistical data regarding the economic importance of SOEs vary, but in general, state ownership remains large in a number of backbone sectors that are of importance to the overall competitiveness of the economy such as telecom, energy, and transport. The significant share of the state in the industrial sector is mainly determined by the energy sector, where the state's share is about 60%. Table X lists the 8 largest SOEs by sales, as of the end of 2020.

Table. The largest 8 State-owned enterprises by sales, 2020 (MDL million)

Company	Activity	Total Assets	Sales	Net profits	State ownership (%)
Moldovan Railways	Rail transport	3968	599	-215.9	100%
JSC Electric Thermal Power Plant North	Electricity	758	330	-2.8	100%
JSC Termoelectrica	Electricity	5482	2177	-4.9	100%
JSC Electric Thermal Power Plant North-West	Electricity	2917	677	-17.9	100%
JSC Moldtelecom	Telecommunications	5371	1573	86.0	100%
Nodul Hidroenergetic Costesti	Hydropower plant	65	39	24.4	100%
Fabrica de Sticlă din Chişinău	Glass	418	311	23.1	100%
JSC Barza Alba	Alcoholic beverages	354	34	3.4	100%

Source: Public Property Agency.

The government is determined to launch comprehensive SOEs reforms. The government is determined to launch comprehensive public-owned enterprises reforms in order to address challenges with SOEs governance, transparency, information disclosure, and efficiency. Reforms will focus on enhancing oversight capacity and coverage, strengthen financial reporting and assessment, improve monitoring and managing of fiscal costs and risks, as well as transparency, accountability, disclosure and controls. In this regard, government will develop and adopt a state-ownership strategy/law – for all SOEs operating at the central government level – to identify public enterprises to undergo *reorganisation, privatisation or liquidation*, as well as plans to strengthen their governance in accordance with the *OECD Guidelines on Corporate Governance of State-Owned Enterprises*.

Going forward, the government will expand fiscal and financial monitoring of SOEs to the local government level. At the same time, the government will strongly recommend to local public authorities to Improve Corporate Governance and/or examine the opportunity to reorganise the Municipal Enterprises into other legal forms of organisation provided by the legislation.

323. Protected sectors (e.g. utilities, transport, housing): Which sectors are subject to specific protection (market entry, price setting, etc.). Please describe recent developments in this respect, such as specific measures of liberalisation or deregulation. Which sectors are to remain under special protection? Are there provisions of preferred treatment as regards former state-owned enterprises?

ENERGY

Electricity market

According to the national legislation, in the electricity sector the National Agency for Energy Regulation (ANRE) regulates:

- Prices for electricity produced by district heating power plants,
- Tariffs for electricity transmission and distribution services,
- Prices for the supply of electricity by universal service providers and suppliers of last resort.

ANRE has eliminated any cross-subsidies between different types of activities, licensees or types of end-users. These are prohibited by law, and at the practical level being eliminated by applying the regulations. Any licensed company, regardless of the form of ownership and the activity carried out, has non-discriminatory treatment, operating in clear and transparent conditions, established by normative acts.

The electricity market counts one Transmission System Operator (Moldelectrica, a state owned company), two Distribution System Operators (Premier Energy Distribution, a private company and RED Nord, a state owned company) and two universal service providers and suppliers of last resort (one being a state owned company). In the field of electricity production and supply activities, a total of five producers have been granted relevant licences, given that only plants with more than 5 MW in capacity are subject to licensing. In the field of electricity supply, 48 licences have been granted, including to two state-owned companies.

In 2021, the opening of the electricity market was 9.2%.

In order to protect consumers, there are 2 regional suppliers that supply electricity at regulated prices as a public service obligation of universal service offered to consumers who want price protection. The regulated electricity prices are approved by ANRE, based on calculations performed by suppliers, applying transparent tariff methodologies.

The country's electricity sector relies on limited production sources: domestic supply comes from two combined heat and power (CHP) plants in Chisinau operated by Termoelectrica, one CHP plant in Balti, additional eight small CHP plants and the Costesti hydropower plant, all together covering up to 20% of consumption west of the Dniester River. The Cuciurgani-Moldavskaya GRES gas-fired power plant (installed capacity of 2 520 MW), owned by the Russian company Inter-RAO and located in the Transnistrian region, covers the remainder of consumption. In addition, Ukrainian companies have access to the Moldovan market after the lifting of electricity export restrictions imposed by Ukraine in November 2014.

Moldelectrica as TSO and the two DSOs have been legally unbundled from generation and supply activities. The Electricity Law provides an ownership unbundling model for the TSO and the conditions for certification as per Moldova's commitment to the Energy Community Treaty. Premier Energy Distribution, the private operator, covers about two-thirds of the country, with RED Nord, the state operator, covering largely the northern part of the country. The wholesale electricity market is based on bilateral contracts. Under the new Law on Electricity, former electricity suppliers at regulated tariffs (Premier Energy and Furnizare Nord) are designated to act as universal suppliers for end-consumers and as suppliers of last resort for a period of ten years, 2016-25. While the Electricity Law grants switching eligibility to all customers, the competitiveness of the market is low, given the limited access to wholesale suppliers.

Natural gas market

According to the national legislation, in the natural gas sector ANRE regulates:

- Tariffs for gas transmission and distribution services,
- Prices for the natural gas supply as public service obligations.

The national natural gas market is dominated by a vertically integrated company Moldovagaz JSC, which is 35% state owned, the rest of the package being owned or effectively controlled by Gazprom PJSC. Moldovagaz JSC is both a supplier of last resort designated for 3 years by ANRE's Decision, and a supplier at regulated tariffs (public service obligation), also designated by ANRE's Decision for a period of 7 years. Other 9 companies with regional distribution networks that supply gas to less than 100,000 consumers are also designated as suppliers at regulated tariffs.

Moldovagaz JSC currently has a 5-year natural gas purchase contract with Gazprom PJSC, the price being established by a formula. The contract was signed in October 2021, following the gas crisis. The natural gas wholesale market proved its functionality in October 2021, when, amid the natural gas crisis, Energocom, a state-owned supplier, was able to access international gas traders and purchase significant quantities of

natural gas. With regard to the natural gas retail market, the legal degree of market opening is 100%.

Petroleum products

The petroleum products market in the Republic of Moldova is partially regulated. ANRE has extended its powers for issuing licences to all fuel market participants, as well as for applying the methodology for calculating the maximum retail prices for COR 95 petrol and standard diesel that oil companies must comply with at refuelling stations. The methodology for calculating and applying prices to petroleum products, which came into force in September 2021, stipulates that ANRE regulates the way in which maximum retail prices are calculated and establishes the specific commercial margin for the retail sale of petroleum products which includes transport and insurance costs in the Republic of Moldova (including refinery margin), handling and storage costs, other retail and profit expenses, MDL/litre.

As of April 2022, 23 licence holders are participating in the petroleum products market with permission to import and wholesale trade gasoline and diesel, and 12 licence holders that can import and wholesale trade liquefied gas. Similarly, there are 87 licence holders who can retail gasoline and diesel and 74 licence holders who can sell liquefied gas at gas stations. These licensees operate 701 gas stations in the Republic of Moldova.

TRANSPORT

Rail transport

Currently, “Calea Ferată din Moldova”, a state-owned company, has a monopoly on the management of transport infrastructure and services. Starting August 2024, according to Railway Transport Code No. 19/2022, the railway infrastructure will be managed by the Infrastructure Administrator (a joint stock company wholly owned by the state), and the transport services could be provided by private operators. By the end of 2022, “Calea Ferată din Moldova” will be reorganised into JSC “Cale Ferată”. In 2024, JSC “Cale Ferată” will be divided into JSC “CFM Pasageri și Marfă” (CFM Passengers and Freight) and JSC “CFM Infra”, thereby unbundling the infrastructure and transportation side of the railway business.

Road transport

Access to the freight transport services market and paid road transport for people through occasional services, in national and international traffic, are liberalised and organised based on the demand and supply of road transport services.

Paid road transport by regular services is subject to the authorization regime, and access is offered on a competitive basis. Tariffs for freight and occasional passenger services are liberalised. In the case of paid road transport, the services are regulated. Tariffs for road transport services through regular services in district and inter-district traffic are established by the central specialised body (Ministry of Infrastructure and Regional Development), and tariffs for road transport services through regular services in local or municipal traffic are established by local or municipal councils, respectively.

Transport operators and bus station representatives are obliged to ensure the application of tariffs for the passenger carriage by road by regular services in the district and inter-district traffic, within the limits of the established capped tariffs.

Ship transport

The tariffs for the transport of cargo, passengers, their luggage, as well as for the towing of ships and other floating objects are set by the transport operator.

- within the International Free Port Giurgiulesti - the operator establishes its tariffs.
- within the Giurgiulesti Port of Freight and Passengers - the tariffs are established by the Board of Directors of "Ungheni River Port", a state-owned company and the Public Services Agency.

Air transport

Chisinau International Airport is the only international airport performing international passenger transport. Its activity is carried out under the conditions of natural monopoly. There are no legal restrictions on the operation of another international airport in the Republic of Moldova. By its concession, according to the Concession Agreement of the assets under the management of Chisinau International Airport state-owned company and its related land (No. 4/03 of 30.08.2013), to the private entity of LLC Avia Invest, the state undertook to maintain a level of airport tariffs not lower than the one established at the time of the concession in 2013.

MoldATSA state-owned company is the only company that provides air navigation services in the Republic of Moldova. Respectively, the company operates under a natural monopoly regime. There are no legal restrictions on the appearance of another air navigation service provider.

COMMUNICATIONS INFRASTRUCTURE

The electronic communications sector has been liberalised since 01.01.2003. The postal and courier services sector has been liberalised since 01.09.2021. The former (and current) state-owned enterprises do not benefit from any preferential treatment. To support the access of population to TV programs in the national audiovisual space (including the national public media service provider - Teleradio-Moldova) and those of the regional public media service provider - the company Gagauziya Radio Televizionu), after the ending on 01.05.2022 of the broadcast in analog format, according to Law No. 60/2022 on amending some normative acts¹⁰⁰², it is foreseen the granting of state aid to Radiocommunications state-owned company within the limits of the allocations provided for this purpose in the Annual State Budget Law and under the conditions of Law No. 139/2012 on state aid¹⁰⁰³.

¹⁰⁰² Law No. 60/2022 amending some normative acts, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130740&lang=ro

¹⁰⁰³ Law No. 139/2012 on state aid, available in Romanian at: https://www.legis.md/search/getResults?doc_id=121239&lang=ro#

324.State aid: What is the legal framework for awarding state aid? What are the main features of this framework? How have subsidies and public guarantees developed over the past five years? According to what economic criteria is state aid granted? Please provide data on direct subsidies awarded since 2016. Please provide also information on the size and structure of all schemes for government guarantees on bank loans to the private sector as well as to state-owned enterprises. Is there a medium-term target on scaling down public guarantees? Please provide available annual reports on state aid.

The legal framework for awarding state aid

Legal framework in the field of State aid control is laid down in the Law on State Aid No. 139/2012¹⁰⁰⁴ (published in the Official Monitor of the Republic of Moldova, No. 166-169a art. 565 as of 16.08.2012). The Law on State Aid was amended in 2014, 2018 and 2020¹⁰⁰⁵.

For the purpose of implementing the Law No. 139/2012, secondary legislation relevant for the state aid compatibility assessment was adopted between 2013 and 2016: 23 Regulations on state aid and 1 Regulation on the modality of keeping the State Aid Register¹⁰⁰⁶.

In 2020, the Competition Council started to replace old regulations with new ones: Regulation on the Assessment of State Aid for Environmental Protection approved by the Competition Council Decision No. 03 as of 03.12.2020¹⁰⁰⁷; Regulation on the Assessment of State Aid for Regional Development, approved by the Competition Council Decision No. 02 as of 15.10.2020¹⁰⁰⁸; and Regulation on *de minimis aid*, approved by the Competition Council Decision No. 01 as of 06.08.2020¹⁰⁰⁹

Thus in 2013-2014 the following legislation has been adopted:

1. Regulation on the notification form, examining procedure and decision making on state aid, approved by the Competition Council Decision No. 1 as of 30.08.2013¹⁰¹⁰.
2. Regulation on the *de minimis aid*, approved by the Competition Council Decision No. 2 as of 30.08.2013 (repealed on 30.11.2020)
3. Regulation on the Assessment of State Aid for Regional Development, approved by the Competition Council Decision No. 4 as of 30.08.2013 (repealed since 22.02.2021)

¹⁰⁰⁴ Law on State Aid No. 139/2012, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121239&lang=ro

¹⁰⁰⁵ All amendments to the Law on State Aid are available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121239&lang=ro#

¹⁰⁰⁶ Government Decision No. 1112/2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=124079&lang=ro

¹⁰⁰⁷ Competition Council Decision No. 03 as of 03.12.2020, available in Romanian at:

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

¹⁰⁰⁸ Competition Council Decision No. 02 as of 15.10.2020, available in Romanian at:

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

¹⁰⁰⁹ Competition Council Decision No. 01 as of 06.08.2020, available in Romanian at:

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

¹⁰¹⁰ Competition Council Decision No. 1 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=97717&lang=ro

4. Regulation on state aid for training employees and jobs creation, approved by the Competition Council Decision No. 5 as of 30.08.2013¹⁰¹¹
5. Regulation on state aid register, approved by the Competition Council Decision No. 3 as of 30.08.2013¹⁰¹²
6. Regulation on State rescue aid for beneficiaries in difficulty, approved by the Competition Council Decision No. 6 as of 30.08.2013¹⁰¹³
7. Regulation on state aid for the establishment of enterprises by women entrepreneurs, approved by the Competition Council Decision No. 7 as of 30.08.2013¹⁰¹⁴
8. Regulation on State aid for research, development, and innovation, approved by the Competition Council Decision No. 8 as of 30.08.2013¹⁰¹⁵
9. Regulation on the Assessment of State Aid for Environmental Protection, approved by the Competition Council Decision No. 9 as of 30.08.2013 (repealed since 12.03.2021)
10. Regulation on State aid to small and medium-sized enterprises, approved by the Competition Council Decision No. 10 as of 30.08.2013¹⁰¹⁶.
11. Regulation on State aid granted to beneficiaries providing services of general economic interest, approved by the Competition Council Decision No. 11 as of 30.08.2013¹⁰¹⁷
12. State aid regulation intended to remedy a serious disturbance of the economy, approved by the Competition Council Decision No. 12 as of 30.08.2013¹⁰¹⁸
13. Regulation on the assessment of State aid to finance airports and start-up aid to airlines, approved by the Competition Council Decision No. 4 as of 25.07.2014¹⁰¹⁹.

In 2016, by the Competition Council Decision No. 3 as of 08.09.2016¹⁰²⁰ regarding the approval of some normative acts on the assessment of sectoral state aid, the following regulations were adopted:

¹⁰¹¹ Competition Council Decision No. 5 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=39769&lang=ro

¹⁰¹² Competition Council Decision No. 3 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=97726&lang=ro

¹⁰¹³ Competition Council Decision No. 6 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=10443&lang=ro

¹⁰¹⁴ Competition Council Decision No. 7 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=39770&lang=ro

¹⁰¹⁵ Competition Council Decision No. 8 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=40454&lang=ro

¹⁰¹⁶ Competition Council Decision No. 10 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=56571&lang=ro

¹⁰¹⁷ Competition Council Decision No. 11 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=10463&lang=ro

¹⁰¹⁸ Competition Council Decision No. 12 as of 30.08.2013, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=10465&lang=ro

¹⁰¹⁹ Competition Council Decision No. 4 as of 25.07.2014, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=61438&lang=ro

¹⁰²⁰ Competition Council Decision No. 3 as of 08.09.2016, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=100262&lang=ro

- Regulation on the assessment of State aid on the rapid deployment of broadband electronic communications networks
- Regulation on the assessment of State aid on the steel sector
- Regulation on the assessment of State aid on the public service broadcasting
- Regulation on the assessment of State aid on films and other audiovisual works
- Regulation on the assessment of State aid for public rail and road transport passenger services
- Regulation on the assessment of State aid to ship management companies
- Regulation on the assessment of State aid to the postal services
- Regulation on the assessment of State aid on culture and heritage preservation
- Regulation on the assessment of State aid for sports and multifunctional leisure facilities
- Regulation on the assessment of State aid to railway undertakings

The main features of the state aid framework

The State Aid Law No.139/2012 sets out the main principles that derive from the TFEU as well as from the secondary rules of the EU State Aid Law and establishes the legal framework for the ways of authorization, monitoring and reporting of the state aid granted to beneficiaries from all the sectors of national economy, except for the agriculture sector, aiming at maintaining a regular competition environment.

The economic criteria for granting state aid

Section 11 of the Regulation regarding the notification form, examining procedure and state aid decision making (“The assessment of the state aid compatibility with the normal competitive environment”)¹⁰²¹ provides indirectly the economic criteria of state aid granting.

Under the provisions of the art 339 of the Association Agreement: “State aid granted by the Union or the Republic of Moldova, or through the resources of one of the Parties, in any form whatsoever, which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods and services and which affects trade between the Parties, shall be incompatible with this Agreement”.

Art. 1 par. (1) of the State Aid Law No.139/2012, provides for the following categories of state aid that may be deemed compatible with a regular competition environment:

- a) the aid aimed at the remediation of a severe economic disturbance;
- b) the aid granted for the staff training and creating new jobs;
- c) the aid granted to SMEs;
- d) the aid granted for the research, development and innovation;

¹⁰²¹ Competition Council Decision No. 1 as of 30.08.2013, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=97717&lang=ro

- e) the aid granted for the environment protection;
- f) the aid granted to the beneficiaries providing services of general economic interest;
- g) the aid provided for the rescue of beneficiaries in difficulty;
- h) the aid for the creation of enterprises by women entrepreneurs;
- i) sectoral aid, depending upon the sectors of activity in the national economy;
- j) regional development aid.

Thus, in case of necessity, if the state aid provided falls into one of the aforementioned categories, it will be considered compatible with the normal competitive environment, under the condition that the requirements of the relevant regulatory acts in the field of State Aid are complied with.

Information on state subsidies and public guarantees over the last five years.

In the period of 2016-2020, the grants and/or subsidies offered were directed mainly towards the development objectives as follows:

- regional development, especially through the state aid scheme of stimulation of investments for the development of post-harvest and processing infrastructure;
- promotion of culture and preservation of cultural heritage;
- energy efficiency projects;
- job creation;
- development of the infrastructure;
- private sector development;
- development of the services of general economic interest.

The value and structure of the state aid, de minimis aid (except the aid for service of general economic interest - SGEI) and aid for SGEI reported in the form of *grants and/or subsidies*, granted in the period 2016-2020, is presented in the table below:

Year	2016	2017	2018	2019	2020
State aid (thousand MDL)	320 438	426 239	530 601	451 647	400 221
%	11.90	63.54	54.79	46.05	49.73
Total state aid granted	2 693 270	670 773	968 345	980 726	804 817
De minimis aid (thousand MDL)	67 504	60 101	75 614	158 867	105 779
%	69.36	82.92	83.23	88.77	72.58
Total de minimis aid granted	97 324	72 481	90 850	178 972	145 733
Aid for SGEI (thousand MDL)	48 061	65 988	73 506	144 373	124 215
%	19.86	34.49	28.68	29.49	24.71
Total aid for SGEI granted	241 942	191 309	256 285	489 600	502 761

In 2017, the increase in the share of state aid offered in the form of grants and/or subsidies compared to 2016 is explained by the reduction of the total volume of reported state aid, taking into account the review of state aid schemes in the light of legislation on state aid.

In the period of 2016-2020, the substantial volume of the state aid in the form of grants and/or subsidies was offered by central public authorities on the bases of state aid schemes.

In the analysed period, the largest share of de minimis aid was reported in the form of grants and/or subsidies.

According to international experience, state aid granted in the form of budget expenditures (including grants) is considered usually less harmful than the state aid in the form of waivers of budget revenues (exemptions and reductions from the payment of taxes and fees and other compulsory payments, price reductions on goods and services provided etc.). Therefore, it is necessary to analyse the opportunity to redistribute the forms of offering state aid by increasing the amount of support measures allocated in the form of budget expenditures and reducing those granted in the form of waivers of budget revenues.

In the period of 2016-2020, the main volume of the guarantees offered on preferential conditions by public authorities were directed towards the consolidation of the services of general economic interest and the development of small and medium enterprises.

The value and structure of the state aid, de minimis aid (except the aid for service of general economic interest - SGEI) and aid for SGEI reported in the form of state guarantees, guarantees granted by public authorities/institutions, in the period 2016-2020 is presented in the Table 2 below:

Year	2016	2017	2018	2019	2020
State aid (thousand MDL)	6 656	6 365	1 377	1 058	-
%	0.25	0.95	0.14	0.11	-
Total state aid granted	2 693 270	670 773	968 345	980 726	804 817
De minimis aid (thousand MDL)	120	71	24	-	432
%	0.12	0.10	0.03	-	0.30
Total de minimis aid granted	97324	72481	90850	178972	145733
Aid for SGEI (thousand MDL)	301	6 892	19 121	17 368	32 672
%	0.12	3.60	7.46	3.55	6.50
Total aid for SGEI granted	241 942	191 309	256 285	489 600	502 761

**Source: Annual reports on the state aid granted in the Republic of Moldova for 2016-2020*

The information for 2021 shall be provided following the development, completion and approval of the Report of the state aid granted in the Republic of Moldova for 2021.

In order to ensure efficient use of the financial resources allocated from NARDF, applications for financial support submitted by potential beneficiaries of subsidies are carefully reviewed by a working group of specialists from MAFI and AIPA and selected in terms of the support measures based on their contribution to achieving the objectives set out in the National Strategy for Agricultural and Rural Development, the import-

export ratio of agri-food products, feasibility studies and economic arguments, which would support the measures proposed for subsidy.

The state provides incentives to agricultural producers to better perform, by achieving plausible quantitative and qualitative indicators. Subsidies are also awarded on the basis of compliance with crop rotation, soil protection, good use of natural, human, financial and production resources, application of quality systems for agricultural products and food stuff, compliance with agri-environmental rules etc.

Attached are the reports on the management of the NARDF for the period 2017- 2021:

Support provided to agricultural producers on the basis of the Regulation on the determination of the amount of diesel from the external humanitarian aid granted by Romania to support farmers affected by drought 2020, approved by the Government Decision no 27/2021.

Compensation granted under the Government Decision No. 582/2020 to mitigate the consequences of natural disasters (drought/hail) on the 2020 harvest.

Concerning the areas approved under the terms of the Government Decision no 846/2020 for the compensation of the damage caused by drought in 2020 to maize cultivation and soil preparation for the 2021 harvesting.¹⁰²²

Availability of medium-term targets on scaling down public guarantees

Following a domestic banking crisis in Nov. 2014 _Feb. 2015 that has resulted in the provision of emergency lending by the central bank, at preferential rates and under Government guarantees to three banks that have eventually failed, the legal framework applicable to the central bank has changed. Consequently, for financial stability purposes, the central bank can provide emergency liquidity assistance, at a penalty rate to solvent and viable domestic banks, accordingly the central bank does not provide loans that could fall under the definition of state aid.

The legal framework applicable in this respect is the Article 181 of the Law on National Bank of Moldova No. 548/1995 and the Regulation on emergency liquidity assistance, approved by the decision of the Executive Board of the NBM, no 343/2019 (effective on Jun. 30, 2020).

Annual reports on state aid

In accordance with art. 342 of the Association Agreement and art. 21 par. (3) of the Law on State Aid, the Competition Council prepares annual reports on the aid granted that are available in English on the Competition Council's official web page¹⁰²³.

¹⁰²² More details in the five year report regarding the subsidy process results that could be accessed at the following links: <https://maia.gov.md/ro/content/evaluation-national-fund-development-agriculture-and-rural-environment-years-2017-2021>; <http://aipa.gov.md/sites/default/files/AIPA%20Evaluarea%20FNDAMR%202017-2021.en%20update.pdf>

¹⁰²³ <https://www.competition.md/lib.php?l=en&idc=51&t=/Transparency/Reports/Reports-on-state-aids/>. According to the state aid regulations, until 31 March 2022 the providers were to submit information to the Competition Council on state aids and de minimis aid granted in 2021. Based on the information submitted by the providers, there will be elaborated the Report on State Aid granted in the Republic of Moldova in 2021

325. Please report on additional economic support measures related to the pandemic, their transparency, targeting and cost, and whether they continue to be applied in 2022.

In order to support businesses that have been deeply affected by the pandemic crisis the Government adopted such measures as:

- A reduced 6% VAT rate in the Horeca sector, during the state of emergency (Law No.76/2021 in the editorial office of law No.123 of September 23, 2021);
- Allowances for employees who are technically unemployed, in the amount of 50% from the basic salary, if the activity of the economic agent is completely stopped (the allowance can be paid in full or in part from the state budget as a result of the declaration of the state of emergency and the restrictions imposed in the state of emergency);
- Providing assistance to employees with reduced activity regime, in the context of the changes caused by the COVID-19 pandemic;
- Compensation of 50% of the salary for the days provided for caring for children up to 12 years old and children with disabilities in case of stopping the educational process in physical regime;
- Granting employees two days off paid from the state account for each dose of COVID-19 vaccination during the state of emergency. (Government decision No. 316/2021);
- In 2020, through the Credit Guarantee Fund, managed by the Organization for Small and Medium Enterprises Sector Development (ODIMM), a Guarantee Product was launched targeted at companies that were affected by the consequences of the pandemic crisis. According to this program, the SMEs affected by the pandemic crisis, received loans for working capital and investment purposes, that were state-guaranteed up to 80%, with a value of guarantees up to MDL 5 million per loan, and a guarantee fee of 0%. For 2022, the guarantee capacity allows the granting of financial guarantees amounting up to MDL 1 billion, which would facilitate the access to credit resources of over MDL 2 billion.
- In May 2020, the Ministry of Economy of the Republic of Moldova adopted the Instrument for support of the digitization of small and medium-sized enterprises. ODIMM, as the implementing organisation, responded promptly to the challenges of the pandemic crisis, by supporting the digital transformation, maximising the innovative potential of enterprises and facilitating the access of companies to internal and external markets. Since the launch of the Support Instrument on SME Digitization, support was provided to 566 companies in form of trainings, while 286 businesses received financial support, of which: 168 companies were granted business vouchers (up to MDL 20 thousand / EUR 1 thousand), totalling about MDL 3.4 million; 118 companies were provided grants (up to MDL 200 thousand / EUR 10 thousand), of a total amount of about MDL 19.6 million. Also, the financial support provided to the 286 companies during the implementation of the Instrument contributed to the creation and maintenance of 3,242 jobs in the Republic of Moldova.
- To address the adverse effects of the spike in gas prices, the government initiated a temporary subsidy program compensating in full the difference

between the new tariffs recently approved by National Agency for Energy Regulation and the tariff of December 2021 for the first 500 m3 of natural gas consumed by non-household consumers in the period of the period January – March 2022. Additionally, a temporary compensation program aimed at non-household consumers was developed, targeting enterprises with an increased consumption of gas in the production process. For this measure an amount of MDL 60 million was budgeted.

- In 2020, the Government presented a Roadmap for Boosting the Process of Digitization of the National Economy and Development of Electronic Commerce. By assuming the priorities of the roadmap, it has allowed the implementation in a short period of time of important initiatives in the field of remote business interaction with authorities and promotion of digital services for the business environment, stimulation of electronic commerce development, the use of e-commerce tools by SMEs, but as well the simplification of customs and postal procedures.
- In order to ensure the increase and competitiveness of the SMEs performance, as well as to facilitate the prompt adjustment to economic and technological changes imposed by the pandemic crises, in 2020 the SME Digitalization Support Tool was approved. The support tool comprised a set of activities with a complex approach, which aimed to support technology transfer and digital development of small and medium-sized enterprises to exploit their innovative potential, including facilitating their access to internal and external markets. It aimed to support the digitalization of SMEs by providing informational, consultative and financial support.
- The instrument was financed from the state budget, supplemented by European Union funds and GIZ Moldova with the financial support of the German Government, being implemented by the Organization for the Development of Small and Medium Enterprises (hereinafter - ODIMM) in partnership with GoOnline of COR Association, The Startup Academy program developed by the TEKWILL project, with the support of USAID, Sweden and UK aid.
- Thus, since the launch of the SME Digitization Support Tool until the end of 2021, 284 companies have been supported, of which 168 were supported in the form of business vouchers and 117 were supported by grants. The total value of the provided financial support constituted MDL 24 million (EUR 1.2 million), from which 41.7% was allocated from the National Public Budget, 41.7% from the EU Delegation to Moldova and 16.7% from GIZ Moldova. The total amount of investments in the economy constituted MDL 35.4 million (EUR 1.76 million). Also, the financial support provided to those 284 companies during the implementation of the support tool, contributed to the creation and retention of 3,240 jobs in the Republic of Moldova.

C. Privatisation and restructuring

326. Please provide an overview of the privatisation process since 2016 for state-owned and socially owned companies, respectively:

The Republic of Moldova defines state-owned enterprises (SOE) as legal entities that are created by a government in order to partake in commercial activities on the government's behalf. It can be either wholly or partially owned by a government and is typically earmarked to participate in specific commercial activities.¹⁰²⁴

a) What have been the main methods of privatisation?

The basis of the process of privatisation of state public properties during the years 2016 - 2022 is built on the objectives of the Government Activity Programs for the years 2016-2018, 2019, 2019-2020 and 2021-2022, the provisions of Law No. 121/2007 on the administration and denationalisation of public property¹⁰²⁵, and the regulatory framework related to privatisation.

According to the law, the main purposes of property denationalisation are to restructure the national economy and increase competitiveness by attracting private investment, ensuring efficient management and general economic and political stability of the country, and mitigating the influence of political and regional crises and other factors.

The law establishes the objects of privatisation, the modalities of privatisation, and the application of the modalities of privatisation, which are regulated by special normative acts, in particular:

- sale on the regulated domestic market (Stock Exchange);
- traditional auction calls;
- sale via commercial competition;
- sale by investment competition, including based on individual projects;
- sale at auction with discount;
- auction sale without announcing the initial price;
- sale of shares under the conditions of the public offer;
- transfer of shares free of charge;
- exchange of goods, including shares, subject to privatisation.

The List of state-owned public goods subject to privatisation was approved by Government Decision No. 945/2007 with subsequent amendments and completions¹⁰²⁶.

During the privatisation rounds in this period, the following activities were organised:

¹⁰²⁴ <https://www.oecd.org/corporate/soes/>

¹⁰²⁵ Law No. 121/2007 on the administration and denationalisation of public property, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=129363&lang=ro

¹⁰²⁶ Government Decision No. 945/2007, available in Romanian at:

https://www.legis.md/search/getResults?doc_id=129546&lang=en

- auctions on the regulated market (on the Stock Exchange) for the sale of state-owned shares,
- auction calls (traditional),
- commercial and investment competitions, for the sale of state-owned enterprises, real estate, movable assets, and complex assets that include mixed real estate with movable assets¹⁰²⁷.

b) How many enterprises have been privatised/liquidated/restructured/sent into bankruptcy procedures? Please provide information on the size, employment and activity of these enterprises. In which cases have the sales contracts been revoked?

From 01.01.2016 until 13.04.2022, 67 state-owned public enterprises were subject to privatisation (for MDL 1,420,976,620), including:

- 16 state-owned enterprises (for a total price of MDL 376.62 million or about EUR 14.91 million);
- 21 packages of state shares from state-owned companies (for a total price of MDL 550.00 million or EUR 24.1 million);
- 30 state properties (construction land plots, property complexes, unfinished objects) for a total price of MDL 494.36 million or EUR 21.36 million;

51 state-owned entities are currently in insolvency proceedings and 11 state-owned companies are in liquidation. At the current stage, the process of reorganisation (merger by absorption) of 27 state-owned enterprises, which will be later into 9 joint stock companies, has been initiated. The reorganisation (through transformation) of another 27 state-owned enterprises has been initiated. At the next stage, another 10 state-owned enterprises will be reorganised.

c) Have any enterprises been re-nationalised after their initial privatisation?

During the reference period, no sale-purchase contracts of state-owned entities were terminated, and no enterprise was re-nationalised after privatisation.

d) Is the government considering potential cases for renationalisation?

The Public Property Agency (PPA) is in the process of evaluating and monitoring the execution of the investment obligations of the Concession Agreement of the State Owned-Enterprises (SOE). This includes "Chisinau International Airport" assets and the land related to it, as well as the Public Private Partnership Agreement on the efficiency and modernisation of the activity of the SOE "Stations and Car Stations". In this regard, the Public Property Agency has requested investigations from the Financial Inspection and the Agency for Technical Supervision. It should be noted that in both cases, contract obligations on investments were not fulfilled by the private partners, which serves as grounds for their termination. A decision on these matters will be taken following an independent audit, which will ensure an impartial view on the problem, keeping in mind the public benefit, the state's role as a partner in good standing, and

¹⁰²⁷ Government Decision No. 919/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128856&lang=ro

ensuring that the invested resources have clear origins and are not obtained as a result of corrupt activities.

e) What activities are necessary to finalise the privatisation process?

In the absence of a state ownership policy, privatisation is conducted in a discretionary manner, without dedicated investment portfolios, and subject to individual or political decisions. The government will develop and adopt a state-ownership strategy for all SOEs operating at the central government level to identify public enterprises to undergo reorganisation, privatisation or liquidation, as well as plans to strengthen their governance. Going forward, the PPA will expand fiscal and financial monitoring of SOEs, develop investment portfolios, and initiate communication campaigns and training of the Public Property Agency staff on this subject.

f) What is the status and portfolio of the agencies in charge of privatisation?

The PPA is the central administrative authority of the Government, and it implements state policy in the field of administration and denationalisation of state public property¹⁰²⁸. The list of state-owned public goods subject to privatisation was approved by Government Decision No. 945/2007 with subsequent amendments and completions¹⁰²⁹.

g) What are the prospects for the further privatisation and termination of activities of the same agencies?

PPA is committed to maximise the potential revenue that the privatisation process could bring to the national budget, though it is aware of the recent changes in the regional economic outlook, and also the need to review the approach itself to benefit the public interest. There are several main changes in the way the privatisation will be conducted in the future. Following the organisation of the corporate portfolio along sectoral lines, the PPA will focus on creating value enhancement in corporate and real-estate portfolios, and establishing a distressed-assets unit that will deal with problematic assets. Human capital will be front and centre of the future changes, setting up a recruitment unit in the main office to assist SOEs in attracting human capital capable of generating change. It is anticipated that human capital will continue to be sourced from Moldova, its diaspora, and international markets.

h) Please quantify privatisation in terms of sales revenues and fees since 2016. How did the authorities use privatisation receipts? How will the future funds resulting from privatisation be used?

Revenues from the privatisation of public property between 01.01.2016 - 13.04.2022 amounted to MDL 1,421 billion (EUR 62.34 million). In addition, the buyer pays a private tax of 1% from the purchase value of the goods according to the State Budget Law. The fees obtained from the administration and denationalisation of public

¹⁰²⁸ Government Decision No. 902/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=102747&lang=ro

¹⁰²⁹ Government Decision No. 945/2007, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125547&lang=ro#

property are transferred to the state budget and are used in accordance with the budget law. Pending changes in the state ownership policy, the resources obtained from the privatisation process will continue to be a component of the state budget and will be used in accordance with the budget law.

i) What measures have been applied and are planned to improve corporate governance of the remaining state-owned enterprises?

Reforming the SOE sector remains a priority to improve efficiency and mitigate fiscal risks. This entails establishing the objectives and functions of state property, as well as applying good governance principles according to the legal framework, by Parliamentary vote. The Law on Administration and Denationalisation of Public Property states the general objectives of public property administration as follows: i) harmonise the public property proportions and structure and the mode of administration, ii) attract investments in the public sector, iii) ensure efficient management, iv) develop competition. At the same time, the law does not state the objectives and functions of ownership or governance principles related to state-owned companies.

That being said, the PPA is currently developing a state property policy that will describe the rationale for state property and include objectives such as: creating value, providing public services or strategic objectives, focusing on research, development and innovation, as well as the development of human capital, so that they can ensure their competitiveness, profitability and long-term value generation. At the institutional level there is a strong need to restructure the PPA with a view to leverage the new organisation towards reducing corruption, enhancing the efficiency of state property management, and improving its relationship with other government institutions and bodies. Sustained efforts are underway to change the principles of governance of the SOEs in accordance with international recommendations (OECD, WB, IMF, etc.) and best practices, consisting of implementing a series of actions to ensure the sustainability of reforms with transparency of SOEs and the improvement of the perception of the general public. These actions include:

- Consider the existing regulatory requirements for transparency and disclosure of information, by reviewing both the elements that are subject to transparency and the mechanisms for implementing these requirements; assign the authority of the regulatory framework related to transparency and disclosure of information to economic entities with state capital.
- Align the existing legal requirements with OECD corporate governance recommendations and principles, and support state-owned economic entities in their efforts to apply good governance requirements. Thus, taking into account SOEs' low capacity, the PPA is developing ICT tools to improve management of public assets.
- Ensure active communication between authorities and managed economic entities in order to fully understand the reporting obligations and the reasons behind such disclosures. This communication could target both the economic entities concerned and the relevant authorities, as well as the general public and the media.

327. Enterprise restructuring: How many state-owned (or formerly state-owned) and socially owned enterprises have been restructured so far? How many enterprises are being restructured or envisaged to be restructured? Please identify the remaining sectors and state-owned enterprises in need of restructuring.

State-owned companies (SOEs) are an integral part of the economy of the Republic of Moldova. They continue to play an important role in the national economy as significant industry leaders, operators and employees in several strategic sectors. SOEs' assets account for 26.5% of GDP and 12% of the corporate sector's assets. State-owned companies employ 6.2% of the active national labour force, and the top ten state-owned enterprises generate 82% of the total sales of state-owned companies. They are involved in important sectors such as: (i) national infrastructure: gas import and distribution, electricity, telecommunications, railways, transport, transportation infrastructure and (ii) the food industry. In addition, many state-owned companies provide important public services (water and sanitation, healthcare, utilities).

By Government Decision No. 806/2018, amendments were made to Government Decision No. 902/2017 "On the organisation and functioning of the Public Property Agency", which transferred ownership of 207 state enterprises from line ministries and other public entities to the Public Property Agency (PPA). The same document stated the transfer mechanism of shareholder rights and administration of public property respectively, with PPA taking over the attributions of shareholders in 80 Joint Stock companies. Currently the Agency is the founder of 131 SOEs, out of which 64 are active, 32 are not active, 21 are under insolvency proceedings, and 11 are in the process of liquidation. Three SOEs are located abroad (Ukraine). The state holds shares in 78 Joint Stock companies, out of which 37 are active, 30 are under insolvency proceedings, and 11 do not have any economic activity. In three companies, the state holds less than 50% plus one share.

The Public Property Agency is in the process of:

- revising the state ownership policy
- performing the necessary triage of SOEs into relevant categories and determining their strategic direction (which companies to retain under state ownership, which ones to privatise and which ones to liquidate)
- creating an action plan in collaboration with direct and indirect stakeholders that will address efficiency, anti-corruption, and fiduciary responsibility.

The current plan is to restructure 54 SOEs. Of these, 21 SOEs from several sectors, i.e. culture and sport, communications, roads, water management and forestry sector, are already at a more advanced stage, i.e. in third-party consultation at the inter-ministerial level.

To enhance oversight capacity and fiscal risk monitoring, the PPA is currently undertaking a comprehensive assessment of the financial position of all SOEs operating at the central government level, with a view to identify corrupt practices and legacy contracts that contribute to SOEs fiscal costs. This will be facilitated by adjusting the relevant legal and regulatory framework, but most importantly, by the development and adoption of a state-ownership strategy—for all SOEs operating at the central government level—to identify and prioritise the public enterprises that are most appropriate to undergo reorganisation, privatisation or liquidation, as well as plans to strengthen their governance (end-September 2022).

328. Please provide information about annual aggregate profits/loss of state-owned enterprises in the period since 2016.

The sector suffers from weak performance associated with poor governance and oversight, non-commercial mandates, and weak capacity and independence of supervisory boards. Furthermore, in the absence of a State Ownership Policy, virtually all losses incurred from these assets constitute contingent liability of the public finances. Over the 2016-2020 period, state-owned enterprises and state-owned joint stock companies managed by the Public Property Agency obtained the following financial results:¹⁰³⁰

Aggregate data: State-owned enterprises		
Year	Number of SOEs	Aggregate Profits/Loss, (MDL thousands)
2016	362	77,071.95
2017	346	43,830.73
2018	287	623,166.21
2019	264	412,028.73
2020	214	-725,722.83

¹⁰³⁰ <https://app.gov.md/rapoarte-anuale-3-450>

II. The functioning of the financial market

A. Financial stability

329. Please indicate how interest rates are determined? Are any rates administratively set? If so, which ones?

To ensure and maintain price stability, the central bank - the National Bank of Moldova (NBM) implements the *direct inflation targeting regime*.

To achieve the targeted inflation, the monetary market conditions are guided by the NBM through the *base rate*, which is set by the NBM's Executive Board and is the main indicator for the interbank monetary market in the short run.

The base rate is approved as the reference rate for the main short-term monetary policy operations. The overnight deposit and lending facility is part of a symmetrical corridor of ± 2 percentage points to the base rate.

The NBM uses the open market operations as the main monetary policy instrument, the purpose of which is to balance the demand and supply in the monetary market and to allow the NBM to influence the level of the short-run interest rates on the interbank monetary market.

The Executive Board is responsible for the development and approval of the monetary policy, deciding on the base rate, the required reserves ratio, and the confidence band of the standing facilities.

The monetary policy decisions of the Executive Board are based on the following key elements: inflation and national economy projections based on quantitative models, the forecast of regulated prices and determinants of inflation, the international economic situation, and the analysis of the monetary conditions, including interest rates and monetary aggregates, the analysis of money market, foreign exchange market, credits, and deposits, as well as other elements that can influence the inflationary process.

The interest rates are determined by market-based mechanisms. The NBM sets the level of interest rates only for its own operations with its clients. According to the Law on the activity of banks¹⁰³¹ No. 202 /2017, Article 36 (3), banks shall have legal, operational, financial, and administrative independence from any person, including the NBM, the Government, and other public administration authorities, unless the law provides otherwise. No person can impede the independence of banks, influence management bodies in the exercise of their functions, or intervene in the activity of any bank, except for the fulfilment of specific obligations or powers stipulated by the legislation.

Commercial banks set their interest rates according to market principles. The NBM also publishes the interbank bid and offer reference rates (CHIBOR and CHIBID), which are calculated from quotations provided by the contributor banks. However, because the underlying interbank money market is generally inactive, these reference rates are not used by banks for pricing other financial instruments.

¹⁰³¹ Law on the activity of banks, available in English at: <https://www.bnm.md/en/content/law-banks-activity-no-202-06-october-2017>

330. Do quantitative ceilings exist on credit expansion? What instruments are available to prevent excessive credit growth and potential exchange rate volatility from eroding the quality of lenders' portfolios?

Currently, there are no quantitative limits in relation to credit activity. There are still certain prudential limitations with respect to banks' exposures.

In the banking sector, there is no direct ceiling on credit expansion. At the same time there are prudential requirements regarding the maximum amounts of loan exposures based on the financial position of the bank as follows:

- According to point 18 from the Regulation on Large Exposures¹⁰³² No 109/2019, "the amount of exposure, after considering the effect of the credit risk mitigation, under Chapters VI-IX, to a client or a group of connected clients shall not exceed 15% of the eligible capital of the bank".
- According to point 19 from the Regulation on Large Exposures No 109 o/2019, "the amount of the aggregate amount of exposures from credits to clients or a group of connected clients, which constitutes by size the first ten credit exposures, after considering the effect of credit risk mitigation, under Chapters VI-IX, shall not exceed 30% of the total amount of the bank's loan book, after deducting credit losses for loans and conditional commitments to ten clients or a group of connected clients that constitute, by size, the first credit exposures, following the reduction with provisions for the respective conditional commitments. Whether the one and the same debtor is included in more groups of connected clients, for the calculation of this indicator, the exposure to this person shall be included just once, within the group that registers the largest exposure to the bank."
- According to point 21 from the Regulation on Large Exposures No 109 /2019, "the aggregate sum of bank's exposure in Moldovan currency (MDL) attached to the foreign exchange for individuals, including those practicing entrepreneurship or other type of activity, after considering the effect of the credit risk mitigation under Chapter VI-IX, shall not exceed 30% of the eligible capital of the bank, out of which, the amount of exposures - others than the mortgaged ones - shall not exceed 10% of the eligible capital of the bank".
- According to point 14 of the Regulation on Banks' Transactions with Their Related Parties¹⁰³³ nr. HBN 240/2013, "the value of the exposure, after taking into account the effect of credit risk mitigation according to Chapters VI – IX of Regulation on large exposures, to a bank's related party and/or a group of parties related to the bank's related party shall not exceed 10 percent of the bank's eligible capital".
- According to point 15 of the Regulation on Banks' Transactions with Their Related Parties, "the aggregate amount of bank's total exposures to related parties and/or groups of parties related to the bank's related parties, after taking into account the effect of credit risk mitigation according to the provisions of

¹⁰³² Regulation on Large Exposures No. 109 of 05.04.2019, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=113968&lang=ro

¹⁰³³ Regulation on Banks' Transactions with Their Related Parties, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=114109&lang=ro

Chapters VI-IX of Regulation on large exposures shall not exceed 20 percent of the eligible capital of the bank”.

There are a few indirect measures in place that prevent lenders' exposure to indirect credit risk (induced by exchange rate volatility). One of the measures is restrictions on foreign currency lending. According to Article 22 of the Law on foreign exchange regulation¹⁰³⁴ No. 62/2008, only licensed banks and resident individuals can lend in foreign currency to residents. Foreign currency lending by domestic banks is restricted to the following entities (mainly to entities that likely have a natural foreign currency hedge) and purposes: to residents for the purpose of making payments and transfers with non-residents; repayment of other loans received from licensed banks for the purpose of making payments and transfers with non-residents; for purposes provided for in credit agreements, signed between the Government of the Republic of Moldova and non-residents, between licensed banks and international financial organisations; to resident legal entities exporting goods (including lease items) and services against financial means in foreign currency; to legal entities performing insurance and non-bank lending activity, as well as to licensed banks for the purpose of carrying out their financial activities. Resident individuals can lend in foreign currency only to other resident individuals.

Domestic banks' provision of loans in domestic currency indexed to foreign exchange is limited by their foreign currency position. In other words, these types of loans must be included by the bank in the calculation of its net open FX position.

From a macroprudential perspective, a framework related to cyclical systemic risk has been in place since July 2017. In this regard, NBM quarterly undertakes financial reviews to identify signs of excessive credit growth and, according to the Credit/GDP gap, adopts decisions regarding the level of the Countercyclical Capital Buffer (CCyB). As of the date of completing the questionnaire, the CCyB was not activated, standing at zero.

On the 8th of April 2022, the Parliament approved several amendments to the Law on banking activity¹⁰³⁵, the Law on non-bank credit organisations¹⁰³⁶ (NBCOs) and the Law on credit and savings associations¹⁰³⁷, which requires lenders to make the analysis of the debtors' (households) creditworthiness and to apply responsible lending requirements established by competent authorities – National Bank of Moldova and National Commission for Financial Markets.

Additionally, the National Bank of Moldova and the National Commission for Financial Markets have drafted regulations for prudential/responsible lending for banks and NBCOs, both published for public consultations in February 2022. The provisions of the regulations will introduce caps for borrower-based macroprudential instruments: loan-to-value, debt-service-to-income, and loan maturity applicable for the loans granted to households.

¹⁰³⁴ Law on foreign exchange regulation No. 62/2008, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121168&lang=ro

¹⁰³⁵ Law on banking activity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128663&lang=ro

¹⁰³⁶ Law on non-bank credit organisations, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123217&lang=ro

¹⁰³⁷ Law on credit and savings associations, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=123211&lang=ro

331. Provide an assessment of access to the international financial markets by the public sector and by the private sector. On what financial terms (commercial vs concessional)? Please provide examples.

The private external debt has increased constantly in recent years and at the end of 2021, represented 69.7% of the total external debt, by 4.6% more compared to the end of 2020. Within the private external debt by institutional sectors, the majority share of 58.0% went to non-financial corporations. Intercompany lending within direct investment accounted for 30.5%, deposit-taking corporations debt – 5.7%, and households – 1.0% of the total private external debt. In terms of maturity, 56.3% of private external debt is long-term, and 43.7% is short-term debt.

The structure of private-sector creditors is presented in the table below. The main creditors are other creditors, represented by parent companies and other economic entities. The share of the multilateral creditors has been increasing over the years, as well as the share of commercial banks and other financial corporations (OFC). However, it is still low and amounted to around 13% of the total as of the end of 2021.

PRIVATE NON-GUARANTEED DEBT (LOANS)

share in the total position at the end of period

Creditor Type	2017	2018	2019	2020	2021
Multilateral	6.02	5.37	3.86	6.27	7.56
European Investment Bank (EIB)	26.4	28.3	14.5	24.3	28.0
European Bank for Reconstruction and Development (EBRD)	40.2	43.1	59.3	60.1	58.3
Black Sea Trade and Development Bank (BSTDB)	4.3	8.8	12.1	4.8	4.0
Council of Europe Development Bank (CEB)	3.1	7.8	8.7	7.3	7.0
International Finance Corporation (IFC)	25.9	12.0	5.4	3.4	2.7
Commercial banks, other financial institutions	3.85	4.50	6.05	5.81	5.15
Other creditors	90.13	90.13	90.09	87.91	87.29

332. If relevant, what are the legal arrangements concerning central bank credit to the private sector? If so, please quantify.

The central bank can lend only to domestic banks, de facto via its standard monetary policy operations, such as Repurchase Agreements, for a tenor of 14 days, and overnight credit facility against high-quality collateral, mainly Government securities.

De jure, under article 18 of the Law on the National Bank of Moldova No. 548/1995¹⁰³⁸, the central bank may lend to banks under its terms established periodically and collateralized with Government securities, securities issued by the central bank, deposits, and other accounts held at the central bank or at any other bank accepted by the central bank, containing any assets that the central bank may buy, sell, or negotiate

¹⁰³⁸Law on the National Bank of Moldova No. 548/1995, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123192&lang=ro

or any other eligible financial assets established by the central bank. These loans may take the form of payments in advance, loans, purchases, and sales of financial instruments, either on a competitive or noncompetitive basis.

According to article 18¹ of the Law on the National Bank of Moldova No. 548/1995, for financial stability purposes, the central bank can provide emergency liquidity assistance (ELA), at its own discretion and conditions, to solvent and viable banks that are experiencing temporary liquidity problems. For this type of financing, the range of eligible collateral is wider, including credit claims classified in the safest risk category (standard). ELA can be provided for up to 3 months and can be extended, in exceptional circumstances, up to one year from the date of provision, under the conditions established by the Executive Board of the central bank. ELA is provided at an interest rate higher than the one applicable to the overnight credit facility of the central bank, currently 2 percentage points above it.

With respect to quantifying the amount of credit provided to the private sector, given the central bank is operating in an excess liquidity environment, its overall position against domestic banks is of a net debtor.

333. What are the main characteristics of the interbank clearing and settlement system? Please assess the functioning of these systems. Are there changes envisaged in the payments' system? Please indicate a tentative timeline and main features of envisaged changes.

In Moldova, there is only one national interbank payment system - the Automated Interbank Payments System (AIPS), operated by the National Bank of Moldova (NBM). The AIPS has two components: the Real Time Gross Settlement (RTGS) system for large-value and time-critical payments, and the Designated-time Net Settlement (DNS) system for low value (retail) payments (it settles two times a day multilateral net obligations of the participants in the RTGS system). Both components operate in domestic currency – the Moldovan Leu (MDL). In the last 5 years, the volume of payments settled annually in AIPS has been relatively stable, with around 13 million payments.

The RTGS system accounts for about 10% of the total volume and 90% of the total value of transactions in the AIPS. It allows participants to transfer funds between themselves, on their own account, or on behalf of clients, in real-time on a safe and secure basis. Transactions are settled through the accounts of the participants that are opened with the NBM.

Banks, the State Treasury within the Ministry of Finance (MOF), the Central Security Depository, the Deposit Guarantee Fund in the Banking System, the Tiraspol Settlement Centre, and non-bank payment service providers have access to AIPS (currently non-bank payment service providers have access only to DNS system).

Concerning the changes envisaged, in 2020, the NBM has approved the *Concept of the development of the payment field in the Republic of Moldova*, which encompasses:

- AIPS modernization project (the project is in the user acceptance testing (UAT) phase, to be put into operation in May 2022) aims the implementation and support of ISO 20022 MX messages, migration from MT (message type) to the MX (message XML) message formats used for the exchange of financial

information, the implementation of a liquidity management mechanism used by the participants at the AIPS level;

- Implementation of instant payments system (IPS), under EPC SEPA Inst standards, (ongoing project, to be put into operation in 2023) which will create the conditions for the efficient development of innovative payments in the Republic of Moldova, with immediate final settlement and credit of beneficiary's accounts.

B. Access to finance

The banking sector

334. Please describe the evolution of the banking sector (overall size in terms of assets, deposits (in % of GDP), share of value added and in total employment) in the past five years.

During the period 2017-2021, the banking sector of the Republic of Moldova registered a positive development trend.

Name of the indicator	Dec. 2017	Dec. 2018	Dec. 2019	Dec. 2020	Dec. 2021
Number of banks	11	11	11	11	11
Total assets / GDP (%)	44.5	43.2	43.1	50.5	52.1
Total deposits / GDP (%)	33.5	33	32.5	38.5	39.6
Total assets (mil. MDL)	79,464.8	83,215.0	90,678.2	103,773.6	118,534.2
Total deposits (mil. MDL), of which:	59,896.9	63,462.5	68,357.6	79,638.7	90,081.9
Individual deposits (mil.MDL)	39,623.1	41,676.8	45,598.9	50,769.5	55,918.4
Legal entities deposits (mil.MDL)	20,108.8	21,691.9	22,661.9	28,721.4	34,015.4
Banks' deposits (mil. MDL)	165.0	93.8	96.8	147.9	148.1
Total Loans (gross) (mil. MDL), of which:	33,473.3	35,452.8	40,375.5	45,643.2	56,359.2
Loans to individuals (mil. MDL)	7,622.5	9,986.2	14,004.6	16,252.3	22,850.3
Loans to legal entities (mil. MDL)	25,850.8	25,466.6	26,370.9	29,390.9	33,508.9
NPL ratio (%)	18.4	12.5	8.5	7.4	6.1
Total Regulatory Capital (mil. MDL)	10,586.3	10,750.8	11,368.0	13,626.0	15,158.4
Capital adequacy ratio (%)	31.3	26.0	24.8	27.3	25.9
Net income (mil. MDL)	1,528.1	1,451.6	2,259.9	1,501.2	2,306.3
Return on assets (%)	1.9	1.7	2.5	1.5	2.0
Return on capital (%)	11.4	10.3	14.6	8.7	12.4

The commercial banks are well-capitalised. The own funds rate stands at a high level - 25.9%, all banks complying with the indicator threshold (limit for each bank $\geq 10\%$). All banks also meet the capital adequacy ratio indicator taking into account capital buffers. Own funds amounted to MDL 15,158.4 million, increasing by MDL 4,572.1 million (43.2%), compared to 2017.

Total assets increased by MDL 39,069.3 mil. (49.2%) up to MDL 118,534.2 mil. compared to 2017.

Total loans increased by MDL 22,885.9 mil. (68.4%) up to MDL 56,359.2 mil., of which loans to individuals increased by MDL 15,227.8 mil. (199.8%) up to MDL 22,850.3 mil. and loans to legal entities increased by MDL 7,658.1 mil. (29.6%) to MDL 33,508.9 mil..

During 2017-2021, the quality of the loan portfolio improved. The share of non-performing loans in total loans decreased by 12.3 p.p., constituting 6.1% on 31.12.2021.

Deposits of individuals increased by MDL 16,295.2 mil. (41.2%), amounting to MDL 55,918.4 mil. and deposits of legal entities increased by MDL 13,906.3 mil. (69.1%) up to MDL 34,015.4 mil..

The profit for the year 2021 reached MDL 2,306.3 mil., by MDL 778.3 mil. higher (50.9%) compared to 2017. On December 31, 2021, the return on assets and return on capital amounted to 2.0% and 12.4%, respectively, increasing by 0.1 p.p. and 0.9 p.p. compared to 2017.

The share of total assets of the banking sector in GDP on 31.12.2021 was 52.0% increasing by 7.6 p.p. compared to the end of 2017.

The share of deposits in GDP on 31.12.2021 was 39.5%, by 6.1 p.p. higher compared to the end of 2017.

The share of the banking sector's assets in GDP went up from 44.5% in 2017 to 49.0% in 2021. The total deposits recorded an increase of 3.8 p.p since 2017, representing 37.2% of GDP as of the end-2021.

Indicator	2017	2018	2019	2020	2021
Total banks' assets (% of GDP)	44.5	43.2	43.1	52.0	49.0
Total loans (% of GDP)	18.7	18.4	19.2	22.9	23.3
Credit to private sector ¹⁰³⁹ (% of GDP)	18.0	17.7	18.4	22.0	22.3
Total deposits, excluding interbank (% of GDP)	33.4	32.9	32.4	39.9	37.2

The share of gross value added of „Financial and insurance activity” in the total value added was 4.1% as of end-2020, increasing by 0.8 p.p over the last 5 years.

The share of banks' employees in total employees in the economy represents 1.1 %. This share has remained at almost the same level for the last 5 years.

Indicator	2016	2017	2018	2019	2020 ¹⁰⁴⁰
The share of gross value added of „Financial and insurance activity ¹⁰⁴¹ ” (% in GDP)	3.3	3.2	3.1	3.6	4.1
The share of banks employees in total employees in the economy (%)	1.10	1.09	1.06	1.06	1.08
Total bank employees (pers.)	7,868	7,873	7,824	7,895	7,988

335. Please provide the following information about banks and other credit institutions in Moldova, if possible, by type of credit institution (banks, savings banks, mortgage credit institutions, other):

- a) **total number;**
- b) **domestic;**
- c) **non-domestic -EU, of which:**

¹⁰³⁹ The value of Credit to the private sector does not include loans issued to the public sector, interbank loans and loans issued to non-bank credit organisations.

¹⁰⁴⁰ Latest data of the value-added share and total employees in the economy is available as of 2020.

¹⁰⁴¹ Only aggregated data on „Financial and insurance activity” is available and includes banks, non-banking financial institutions and insurers.

- i) subsidiaries and
- ii) branches.
- d) non-domestic non-EU, of which:
 - iii) subsidiaries and
 - iv) branches.
- e) changes in (a) to (d) since 2016.

Type of banks	2016	2017	2018	2019	2020	2021*
Total number of banks	11	11	11	11	11	11
Domestic	4	4	4	3	3	3
Non-domestic -EU of which:	7	7	7	8	8	8
Non-domestic -EU (subsidiaries)	7	7	7	8	8	8

*starting with February 2022 one domestic bank changed ownership to an EU subsidiary.

**The Republic of Moldova does not have branches and non-EU owned banks.

Savings and credit associations (SCA) and non-bank credit organisations (NBCO)

	2016*		2017*		2018*		2019		2020		2021	
	SC A	NB CO	SC A	NB CO	SC A	NB CO	SC A	NB CO	SC A	NB CO	SC A	NB CO
Total number	283	N/A	279	N/A	268	N/A	237	166	228	154	226	143
Domestic	283	N/A	279	N/A	268	N/A	237	138	228	126	226	115
Non-domestic - EU	0	N/A	0	N/A	0	N/A	0	23	0	22	0	22
Non-domestic - non-EU	0	N/A	0	N/A	0	N/A	0	5	0	6	0	6

* Law on non-bank credit organisations¹⁰⁴² (NBCOs) authorising the activity of NBCOs entered into force on 1 January 2019.

336. Assets of the banking system (if possible, by type of credit institution - banks, savings banks, mortgage credit institutions, other):

- a) total assets of the banking system;
- b) assets owned by domestic credit institutions (in volume and share of total);
- c) assets owned by non-domestic EU credit institutions (in volume and share of total), of which:
 - i) by subsidiaries of non-domestic EU credit institutions (in volume and share of total);
 - ii) by branches of non-domestic EU credit institutions (in volume and share of total).
- d) total assets owned by non-domestic non-EU credit institutions (in volume and share of total), of which:
 - i) by subsidiaries of non-domestic non-EU credit institutions (in volume and share of total);
 - ii) by branches of non-domestic non-EU credit institutions (in volume and share of total).
- e) changes in (a) to (d) since 2016.

¹⁰⁴² Law on non-bank credit organisations No. 1/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123217&lang=ro

Type of bank	2016		2017		2018		2019		2020		2021	
	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)
Domestic banks	39,196.0	53.8	43,000.1	54.1	45,926.7	55.2	31,763.7	35.0	37,045.6	35.7	44,495.3	37.5
non-domestic - EU (subsidiaries)	33,634.4	46.2	36,464.7	45.9	37,288.3	44.8	58,914.5	65.0	66,728.0	64.3	74,038.9	62.5
Total assets	72,830.4	100.0	79,464.8	100.0	83,215.0	100.0	90,678.2	100.0	103,773.6	100.0	118,534.2	100.0

Savings and credit associations (SCA) and non-bank credit organisations (NBCO)

	2016		2017		2018	
	SCA	NBCO	SCA	NBCO	SCA	NBCO
Total assets	633,174,895	N/A	804,350,918	N/A	933,769,278	N/A
Domestic	633,174,895	N/A	804,350,918	N/A	933,769,278	N/A
Non-domestic - EU, of which:	0	N/A	0	N/A	0	N/A
Non-domestic - non-EU, of which:	0	N/A	0	N/A	0	N/A

	2019		2020		2021	
	SCA	NBCO	SCA	NBCO	SCA	NBCO
Total assets	1,067,488,241	10,737,093,008	1,115,327,978	10,578,971,562	1,235,235,428	12,269,976,605
Domestic	1,067,488,241	3,172,738,511	1,115,327,978	3,076,269,995	1,235,235,428	3,299,392,804
Non-domestic - EU, of which:	0	7,499,865,940	0	7,450,173,567	0	8,916,205,155
Non-domestic - non-EU, of which:	0	64,488,557	0	52,528,000	0	54,378,646

337. Total deposits (if possible, by type of credit institution - banks, savings banks, mortgage credit institutions, other):

- a) total deposits;
- b) deposits held by domestic credit institutions (in volume and share of total);
- c) deposits held by non-domestic EU credit institutions (in volume and share of total), of which:
 - i) by subsidiaries of such credit institutions (in volume and share of total);
 - ii) by branches of such credit institutions (in volume and share of total);
- d) total deposits held by non-domestic non-EU credit institutions (in volume and share of total), of which:
 - i) by subsidiaries of such credit institutions (in volume and share of total);
 - ii) by branches of such credit institutions (in volume and share of total).
- e) changes in (a) to (d) since 2016.

Type of banks	2016		2017		2018		2019		2020		2021	
	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)	Volume (mil. Lei)	Share of total (%)
domestic	30,437.1	55.5	33,716.9	56.3	35,958.2	56.7	24,507.0	35.9	28,815.3	36.2	33,963.8	37.7
non-domestic -EU (subsidiaries)	24,401.4	44.5	26,180.0	43.7	27,504.3	43.3	43,850.6	64.1	50,823.4	63.8	56,118.1	62.3
Total deposits	54,838.5	100.0	59,896.9	100.0	63,462.5	100.0	68,357.6	100.0	79,638.7	100.0	90,081.9	100.0

Savings and credit associations (SCA) and non-bank credit organisations (NBCO)

	2016		2017		2018		2019		2020		2021	
	SCA	NB CO	SCA	NB CO	SCA	NB CO	SCA	NB CO	SCA	NB CO	SCA	NB CO
Total deposits	302,353,627	N/A	416,285,443	N/A	514,458,041	N/A	598,436,578	0	640,382,190	0	704,763,565	0
Domestic	302,353,627	N/A	416,285,443	N/A	514,458,041	N/A	598,436,578	0	640,382,190	0	704,763,565	0
Non-domestic - EU, of which:	0	N/A	0	N/A	0	N/A	0	0	0	0	0	0
Subsidiaries	0	N/A	0	N/A	0	N/A	0	0	0	0	0	0
Branches	0	N/A	0	N/A	0	N/A	0	0	0	0	0	0
Non-domestic - non-EU, of which:	0	N/A	0	N/A	0	N/A	0	0	0	0	0	0
Subsidiaries	0	N/A	0	N/A	0	N/A	0	0	0	0	0	0
Branches	0	N/A	0	N/A	0	N/A	0	0	0	0	0	0

338. Concentration of the market (respectively as a share of total assets, of loans and of total deposits held by the five largest institutions), indicating whether they are:

- domestic;
- non-domestic EU;
- non-domestic non-EU.
- changes in (a) to (c) since 2016.

Type of banks	2016	2017	2018	2019	2020	2021
	Share of total, %					
The share of total assets of the five largest institutions, %	83.4	84.0	83.4	83.4	83.1	84.5
domestic	56.2	55.9	57.9	34.3	35.1	37.1
non-domestic -EU	43.8	44.1	42.1	65.7	64.9	62.9
The share of total loans of the five largest institutions, %	85.1	82.8	81.7	82.5	86.2	86.8
domestic	62.9	62.5	66.4	42.8	39.6	40.2
non-domestic -EU	37.1	37.5	33.6	57.2	60.4	59.8
The share of total deposits held by the five largest institutions, %	85.9	86.5	85.9	85.4	84.0	85.1
domestic	56.9	57.1	58.2	34.8	35.7	37.3
non-domestic -EU	43.1	42.9	41.8	65.2	64.3	62.7

The National Bank of Moldova identified 4 systemically important banks (O-SII). As of end-December 2021, these banks owned 80.1% of total banking system assets, 80.7% of loans granted by banks and 82.0% of total bank deposits.

Savings and credit associations (SCA) and non-bank credit organisations (NBCO)

	2016		2017		2018		2019		2020		2021	
	SCA	NBC O	SCA	NBC O	SCA	NBC O	SCA	NBC O	SCA	NBC O	SCA	NBC O
Concentration of the market, total:												
Assets	27,05	N/A	29,24	N/A	32,76	N/A	33,42	45,76	36,24	49,98	39,19	52,85
Loans	26,49	N/A	29,15	N/A	31,50	N/A	32,17	48,97	35,07	51,44	39,11	52,96
Deposits	39,28	N/A	40,38	N/A	43,13	N/A	43,73	0	44,73	0	46,68	0
Concentration of the market, domestic:												
Assets	27,05	N/A	29,24	N/A	32,76	N/A	33,42	14,55	36,24	12,38	39,19	11,30
Loans	26,49	N/A	29,15	N/A	31,50	N/A	32,17	9,42	35,07	10,23	39,11	9,97
Deposits	39,28	N/A	40,38	N/A	43,13	N/A	43,73	0	44,73	0	46,68	0
Concentration of the market, non-domestic - EU:												
Assets								45,76		49,98		52,85
Loans								48,97		51,44		52,96
Deposits								0		0		0
Concentration of the market, non-domestic - non-EU:												

Assets								0,60		0,50		0,43
Loans								0,57		0,73		0,83
Deposits								0		0		0

339. Importance of the public sector in the banking industry:

- Number of banks owned by public institutions and the amount of their assets and deposits (in volume and share of total);**
- Timetable, objectives and scope of the privatisation;**
- Do public banks benefit from special treatment? Do banks directed by public or political party officials benefit from special treatment and how? Do public utilities/companies keep their accounts with commercial banks?**
- Is there policy in place/envisaged to recapitalise them?**
- Indicate the percentage of bank capital held by public entities on a bank by bank basis.**
- Is the government considering or already engaged in any bank re-nationalisation? If yes, please explain the objectives and scope of such operation.**

In the Republic of Moldova, there are no banks owned by public institutions. Nevertheless, in two systemic banks (BC "MOLDOVA - AGROINDBANK" S.A. and BC "Moldindconbank" S.A.) a small percentage of capital is held by public entities (0.5% and 0.94%) such as Public Property Agency, local government authorities, etc.

340. Please evaluate the degree of competition in the banking system (price competition, new products, changes in market share, and other indicators). Are there any particular concerns about the market share of the largest banks?

There are 11 banks operating in the banking sector of the Republic of Moldova, of which 4 are considered systemic banks and hold 80.1% of total assets, and the largest bank in the sector holds 31.4 % of total assets.

Following the analysis of the concentration of the banking sector of the Republic of Moldova, the Herfindahl-Hirschman index (HHI) was calculated (the value of which does not exceed 10,000), based on the share of the bank's assets in total assets in the banking sector. This indicator is calculated as the sum of the squares of the market shares of all banks in the sector. In international practice the following division is used:

- HHI below 100 indicates a perfectly competitive market;
- HHI between 100 and 1 500 indicates a non-concentrated market;
- HHI between 1 500 and 2 500 indicates a moderate concentration;
- HHI above 2,500 indicates a high concentration.

Thus, following the calculations, the HHI = 1 870.6, indicating that the banking sector of the Republic of Moldova has a moderate concentration.

According to the Regulation on mergers and absorptions of banks in the Republic of Moldova, approved by the Decision of the NBM Council of Administration No. 143 of

2 June 2000¹⁰⁴³, to promote a strong and competitive financial sector, the banks shall observe the following limits:

Total assets of the successor bank in relation to total assets of the whole banking sector shall not exceed 35%;

The deposits of the successor bank from individuals in relation to total deposits from individuals of the whole banking sector shall not exceed 35%.

The limits of the dominant position in the banking market by the size of assets are respected. The highest share of a bank's total assets in relation to the total assets of the banking sector is 31.4%. The limits of the dominant position in the banking market according to the size of deposits of individuals are respected. The highest share of deposits of individuals in relation to deposits of total individuals in the banking sector is 34.1%.

Regarding the competition, recently the banking system of the Republic of Moldova has seen an increase in the variety of banking products, both in terms of attracting financial resources and in terms of lending to the economy. Due to this, there is a positive dynamic in terms of bank cardholders as well as the number of bank non-cash transactions simultaneously with the development of internet banking and mobile banking services.

Given the fact that most banks in the banking system of the Republic of Moldova are oriented toward all customer segments (retail, SME, corporate) the competition in the sector is appreciated as high enough to allow customers in each segment access to many products offered by most banks in the system.

At the same time, considering the high competitiveness in the sector in terms of prices for banking products, banks tend to diversify their products and facilitate customer access to them, by developing electronic services and digitising the processes of attracting resources and providing financial services.

In addition, the system does not show changes in the market share of banks which could be a cause for concern. However, the banking supervision function of the National Bank of Moldova aims to ensure the adequate functioning of the financial system of the Republic of Moldova based on a strong and competitive banking sector, oriented towards market relations and risk prevention. In this context, the National Bank of Moldova, according to the powers and rights conferred by legislation, is performing both off-site and on-site supervision of banks in order to ensure the early identification of risks and vulnerabilities in the bank's activity and prompt implementation of the necessary measures.

341. What is the average maturity of bank loans to the private sector over the past five years? What is the share of loans with maturity of up to one year?

The average maturity of new loans granted in national currency by the banks to the private sector (corporate and households) in March 2022 was 35.8 months, the share of loans up to one year in the total new loans granted in March 2022 was 8.3%. For new loans granted in foreign currency in March 2022, the average maturity was 34.5 months,

¹⁰⁴³ Decision of the NBM Council of Administration No. 143 of 2 June 2000, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=87115&lang=ro.

while the share of new short-term loans in total was 6.7%. During the last few years, this share registered a moderate increase. More details can be found in the charts below.

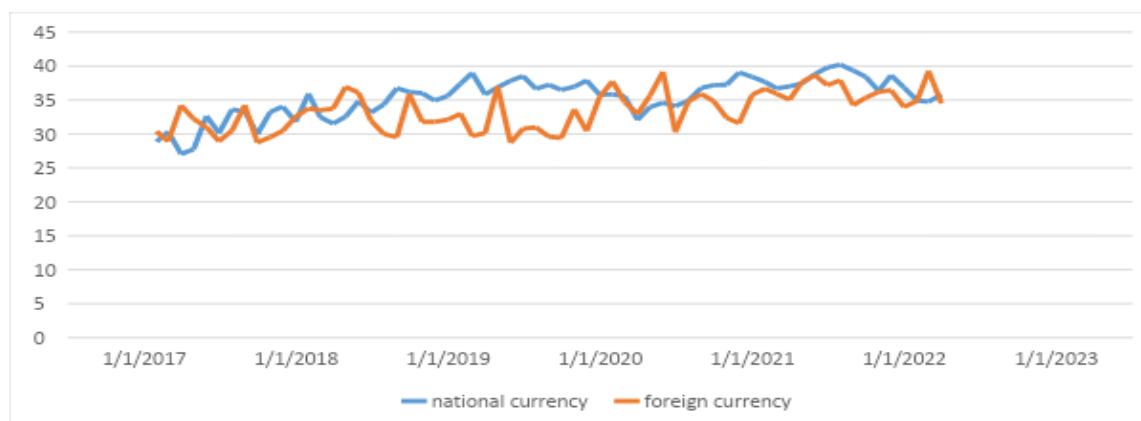


Figure 1. Average maturity of new loans, months

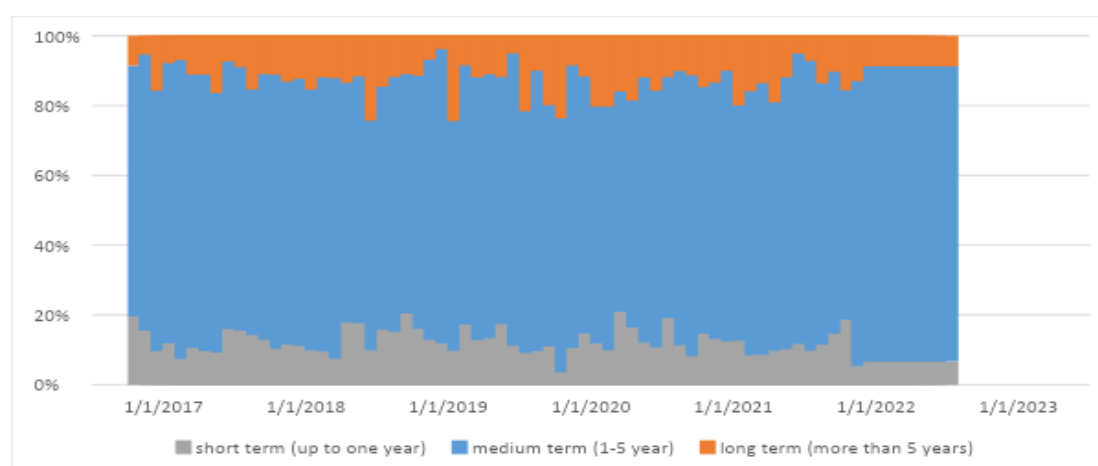


Figure 2. Share of new loans in foreign currency or attached to foreign currency, by terms

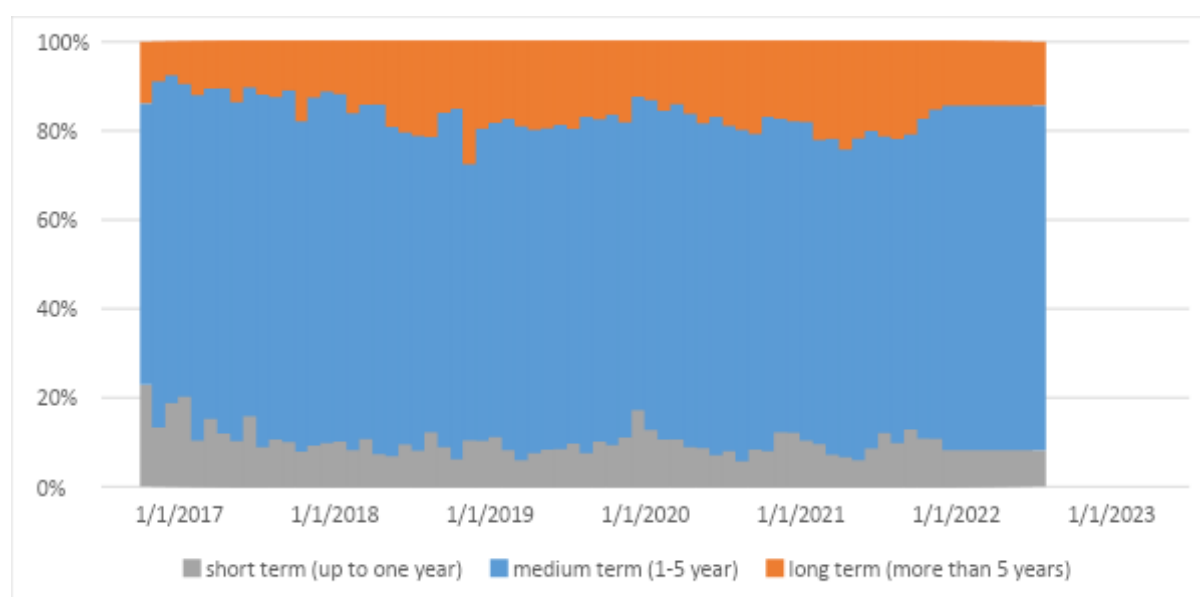


Figure 3. Share of new loans in national currency, by terms

Note: In order to determine the average maturity for new loans, the middle of the interval (in months) was used. For loans with a period of more than 5 years an average of 61 months was used.

342. Please provide data on foreign currency denominated and foreign currency indexed deposits and loans.

According to the situation in February 2022 (latest available data), around one third of total new deposits were held in foreign currency and one quarter of new loans were either denominated or indexed to local currency. Over time, both shares fluctuated around these figures, showing a long-term downturn trend, though moderate. It denotes the consolidating trust in the national currency, supported by a monetary policy that incentivises the use of Moldovan leu for lending and savings. The table below provides the data in this regard.

	LOANS				DEPOSITS	
	Foreign currency denominated		Foreign currency indexed		Foreign currency denominated	
	<i>Value. thousand MDL</i>	<i>Share in total loans. %</i>	<i>Value. thousand MDL</i>	<i>Share in total loans %</i>	<i>Value. thousand MDL</i>	<i>Share in total deposits. %</i>
Jan-19	622.1	1.9	40.5	29.3	996.1	38.5
Feb-19	685.0	1.1	27.9	27.3	790.3	38.1
Mar-19	912.6	0.8	22.6	31.9	904.0	38.2
Apr-19	886.6	2.4	70.0	30.0	934.9	40.2
May-19	793.2	1.2	33.4	29.2	985.4	37.8
Jun-19	733.2	0.7	19.0	25.9	880.0	40.3
Jul-19	743.7	1.2	33.4	26.1	872.9	36.5
Aug-19	742.2	2.4	63.9	28.4	1333.1	48.2
Sept-19	870.2	1.7	47.7	30.3	975.9	39.2
Oct-19	1396.1	2.2	72.3	41.8	923.3	36.1
Nov-19	1061.5	2.2	63.7	36.5	754.0	31.0
Dec-19	1021.9	4.6	149.8	31.2	843.1	27.0
Jan-20	667.6	1.8	39.5	29.8	1020.3	38.9
Feb-20	697.2	2.1	50.1	29.4	739.8	38.9
Mar-20	627.1	2.8	72.8	23.9	575.6	34.6
Apr-20	712.5	4.4	103.3	30.6	485.4	39.9
May-20	505.4	2.9	58.6	25.1	587.7	36.4

Jun-20	767.3	1.8	53.3	25.6	660.9	35.1
Jul-20	817.1	2.6	85.9	25.2	812.9	35.8
Aug-20	628.9	1.7	44.5	24.0	682.4	32.3
Sept-20	1053.9	3.5	115.5	32.0	884.4	32.9
Oct-20	1046.3	2.0	64.6	33.1	688.8	30.2
Nov-20	938.2	1.8	52.9	32.1	604.5	28.5
Dec-20	872.7	2.9	94.9	26.2	735.7	29.4
Jan-21	650.3	3.3	70.5	30.8	797.4	34.7
Feb-21	652.8	1.5	39.3	24.4	772.5	34.6
Mar-21	921.0	1.5	52.2	26.2	810.6	35.8
Apr-21	831.8	1.3	46.3	22.8	643.5	31.8
May-21	730.5	3.0	98.7	22.1	643.5	31.4
Jun-21	986.6	1.8	72.7	24.7	740.6	33.2
Jul-21	1118.6	1.3	59.5	25.3	1027.5	40.6
Aug-21	1199.0	0.7	27.7	29.8	1099.0	42.0
Sept-21	1169.7	0.9	41.4	26.1	1061.3	37.8
Oct-21	1130.3	1.0	44.3	26.4	820.3	32.9
Nov-21	1173.7	1.4	55.5	30.5	950.4	33.3
Dec-21	1148.9	2.0	95.0	24.4	934.5	31.2
Jan-22	637.9	0.8	21.7	22.6	1100.6	42.3
Feb-22	959.2	1.6	62.6	23.8	800.0	36.6

Balances of FX loans, including loans provided in MDL and indexed to the exchange rate of the foreign currency and FX deposits, per banking sector (data in MDL millions)

	31.12.2017	31.12.2018	31.12.2019	31.12.2020	31.12.2021
FX loans, including loans provided in MDL and indexed to the exchange rate of the foreign currency, of which in:*	14,902.8	14,691.1	14,803.7	15,576.7	16,492.1
EUR	10,300.5	10,211.1	11,177.0	12,690.1	12,709.3
USD	4,602.2	4,480.0	3,626.8	2,886.7	3,782.8
Other	-	0.0	0.0	0.0	0.0
FX loans share in total loans	43.2%	42.6%	38.2%	36.1%	31.0%

provided by domestic banks (in MDL at actual exchange rates)					
---	--	--	--	--	--

	31.12.2017	31.12.2018	31.12.2019	31.12.2020	31.12.2021
FX deposits, of which in:	25,537.2	26,053.7	27,923.5	33,169.9	38,251.7
EUR	17,094.8	18,192.8	20,065.2	24,081.6	28,504.6
USD	8,260.8	7,662.7	7,705.4	8,879.0	9,413.6
Other	181.7	198.2	152.9	209.3	333.5
FX deposits share in total deposits placed with domestic banks (in MDL at actual exchange rates)	41.5%	40.0%	40.0%	40.8%	41.7%

343. How do you assess the stability of the banking sector? What is the situation and trend concerning capitalisation, structure of capital, regulatory capital, risk weighted assets? How has the banking sector been influenced by the global financial crisis?

The overall stability of the banking sector was achieved as a result of the recent reforms, which was confirmed by the evolution of the capital adequacy ratio during the pandemic – a highly uncertain period. Banks are well capitalised, being above overall capital requirements – 10% Pillar 1 + Pillar 2 + Capital Buffers Requirements. Capital Buffers include a capital conservation buffer (2.5% of total exposures), a countercyclical buffer (at 0%), a systemic risk buffer (1% of risk exposure or 3% of risk exposure, depending on the shareholder's structure of the bank), and the buffer for systemically important institutions (O-SII buffer, varying by institution, ranging between 0.5% – 1.5% of total exposures).

On 30 July 2018, the new Basel III regulations came into force (based on the European CRD IV / CRR framework). In this context, starting on 30 July 2018, the banks submit their COREP reports in accordance with BASEL III requirements.

According to the IMF Financial Stability Review¹⁰⁴⁴, institutional arrangements for financial stability monitoring and policies in Moldova are broadly appropriate. The NBM serves as the main macroprudential authority, which is appropriate and in line with the European Systemic Risk Board's (ESRB) recommendation, but currently derives its function implicitly from its responsibility to regulate and supervise banks and to support general economic policies of the government. An explicit legal mandate is still lacking in the law. The NCFM is the next most important authority in the institutional setting due to its responsibility for supervising non-bank financial institutions. It collaborates with the NBM by sharing data and participating in regular bilateral discussions on financial sector risks. At the national level, financial stability is coordinated by the National Committee for Financial Stability (NCFS) which is composed of the high-level representatives of the NBM (as Chair), NCFM, DGF,

¹⁰⁴⁴ "Republic of Moldova: Technical Assistance Report – Financial Sector Stability Review", IMF, Country Report No. 2022/030, February 7, 2022: <https://www.imf.md/press/IMDAEA2022002.pdf>

Ministry of Finance, and Ministry of Economy and Infrastructure, with NBM providing administrative support. The Committee itself does not have the power to implement macroprudential policies but can issue recommendations to its member institutions to prevent or mitigate systemic risk by taking appropriate policy action.

During the last years, the national banking sector has had a continuous trend of own funds consolidation. Currently, the banks are well-capitalised and record a high level of capital adequacy ratio. As of 31.12.2021 Common Equity Tier 1 recorded a value of MDL 14,740.15 mil. and total own funds – a value of MDL 15,158.4 mil., thus the quality of capital is high. It is worth mentioning that the own funds level in the Republic of Moldova is adjusted with prudential provisioning and a such ratio is very prudent.

The capital adequacy ratio in the banking sector registered the value of 25.9%, ranging in banks between 18.9% and 46.9%. All banks complied with the capital adequacy ratio legal requirement ($\geq 10\%$) and with SREP add-on and capital buffers.

The total risk exposure has shown an increasing trend over the last years, as of 31.12.2021 registering a value of MDL 58,583.7 mil.. The key banking sector exposure is credit risk exposure, since it comprises 84,7% of total exposures to all risks.

Indicators	2017	2018	2019	2020	2021
Common Equity Tier 1 (mil. lei)	10,183.79	10,720.81	11,374.21	13,479.56	14,740.15
Total own funds (mil. lei)	10,586.29	10,826.23	11,500.49	13,618.08	15,158.4
Total amount of risk exposure (mil. lei)	33,798.60	41,332.2	45,775.2	49,966.6	58,583.7
- Credit risk exposure (mil. lei)	-	32,749.1	37,064.3	41,286.9	49,602.3
- Market risk exposure (mil. lei)	-	1,038.8	1,146.1	770.8	292.8
- Operational risk exposure (mil. lei)	-	7,544.3	7,564.7	7,909.0	8,667.4
Capital adequacy ratio (%)	31.3	26.55	25.3	27.3	25.9

The world financial crisis affected the Moldovan financial system in 2009, with a large impact on aggregate demand (both loans and deposits decreased) and a significant depreciation of the national currency. Based on these negative effects, the NPL doubled, reaching 16.4%, and banks' profitability became negative at the end of 2009. On average, banks were prudent and maintained high capital and liquidity levels. Only one medium-sized bank was significantly affected due to high exposure to the construction sector. Recovery of the economy and, as a result, of banks' indicators related to asset quality was observed already in 2010.

The pandemic confirmed the correctness of the reforms implemented in the banking sector together with the transition from Basel I to Basel III requirements. Banks were prepared to face shocks and their financial indicators registered in 2020 showed strong capitalization and high liquidity.

According to the IMF Financial Stability Review¹⁰⁴⁵, the financial sector has so far proven resilient against pressures emanating from the COVID-19 pandemic. The authorities took early action in response to pandemic risks. For example, the NBM discouraged dividend payments and share buybacks and allowed banks temporarily to make use of capital previously held to meet the capital conservation buffer requirement. Some requirements had been lifted at the time of the main FSSR mission, including the

¹⁰⁴⁵ "Republic of Moldova: Technical Assistance Report – Financial Sector Stability Review", IMF, Country Report No. 2022/030, February 7, 2022: <https://www.imf.md/press/IMDAEA2022002.pdf>

NBM's dividend restriction (although a limit of 25 percent of annual profits is still recommended). The impact of the pandemic on the financial sector has been mitigated by effective risk management and high levels of capital, for banks and NBCOs in particular. Having risen slightly early into the pandemic, the banking system's NPL ratio has resumed its declining trend (against growing loans), while insurers benefited in 2020 from reduced vehicle usage (motor insurance is the predominant business line). Financial institutions and customers appear to have adapted to increased reliance on the online business environment

344. Please provide an analysis and an estimate (as an absolute amount, as a % of total loans) of non-performing loans (NPLs) in banks.

During the analysed period, the quality of the loan portfolio of the banking sector improved, so the share of non-performing loans in total loans decreased from 18.4% in 2017 to 6.1% in 2021, as a result of a decrease in NPL by MDL 2,691.0 mil. (43.7%) and increase the loan portfolio by 22,885.9 MDL mil. (68.4%). Moreover, having in mind that the NPL coverage ratio with prudential loan loss provision is 62.5% at the end of 2021, we consider that the risks are minimal and well covered.

Indicators	2017	2018	2019	2020	2021
NPL (mil. lei)	6,151.5	4,445.4	3,428.3	3,369.6	3,460.5
NPL (%), of which:	18.4	10.9	8.0	7.4	6.1
NPL of individuals (%)	5.1	4.1	3.7	5.1	4.2
NPL of legal entities (%)	22.3	15.8	11.1	8.6	7.5
NPL coverage ratio with prudential loan loss provision (%)	67.9	67.4	64.9	65.5	62.5

Regarding the NPLs, should be mentioned that banks have to classify the loans and create loan loss allowances according to the local legislation, which has 5 categories (standard – 2%, supervised – 5%, substandard – 30%, doubtful – 60% and compromised (losses) – 100%).

Compared to EU requirements on determining the NPLs, the local requirements are much tighter, and namely, a loan is classified as nonperforming, even if there aren't any past due payments, but persist such criteria as 1) the bank has not received sufficient updated information on the counterparty's financial situation of the counterparty (at least quarterly), 2) the asset is used for other purposes than those specified in the contract, 3) the pledged item is missing, 4) the loan was renegotiated more than once, etc.

345. Have there been changes to the banking legislation? Are any (further) adjustments envisaged? Please comment on the practice as well as the legal framework, and how this legislation may help maintaining financial market stability.

Starting from 2014, banking legislation had undergone significant reforms, prompted by the commitments undertaken in the Moldova-EU Association Agreement, on the one hand, and by the commitments undertaken in a memorandum concluded with the IMF, on the other hand. Changes were mostly aimed at:

- Consolidating central bank independence in line with Core Principles for Effective Supervision¹⁰⁴⁶ and international best practices;
- Implementing Basel III framework¹⁰⁴⁷;
- Implementing a bank recovery and resolution framework in line with the Key Attributes of Effective Resolution Regimes¹⁰⁴⁸.

Major changes are outlined below.

1. Central bank

Law No. 548/1995 on the National Bank of Moldova¹⁰⁴⁹ had been amended during recent years aiming at revamping the NBM governance framework, strengthening legal protection of NBM and NBM staff, fostering an appropriate degree of accountability and transparency. Changes were also made to the Law on the National Bank of Moldova by Law no. 178/2020¹⁰⁵⁰, to transfer regulatory and supervisory responsibilities for the non-banking financial sector from the National Commission for Financial Markets to the National Bank of Moldova. Law no. 178/2020¹⁰⁵¹ will enter into force on the 1st of July, 2023.

Envisaged amendments:

In consultation with the IMF, amendments to The Law on the National Bank of Moldova (as well as other legal acts related thereto) are drafted with a view to implementing Moldova's financial sector policy commitments provided in the Memorandum of Economic and Financial Policies¹⁰⁵². The draft includes, inter alia, amendments aimed at:

- strengthening the institutional autonomy and governance of the National Bank of Moldova;
- strengthening the macroprudential framework, including by (i) amending the National Bank of Moldova Law to provide an explicit legal mandate for financial stability, and (ii) consolidating NBM's macroprudential toolkit to introduce caps on loan-to-value (LTV) and debt-service-to-income (DSTI) ratios for financial institutions.
- ensuring that the NBM is able to conduct its supervisory work without being curtailed by inappropriate deadlines or other procedural impediments to proper financial sector supervision which was introduced by the 2019 Administrative Code

¹⁰⁴⁶ Core Principles for Effective Supervision, available at: https://www.bis.org/basel_framework/standard/BCP.htm

¹⁰⁴⁷ Basel III framework, available at: https://www.bis.org/basel_framework/index.htm?m=2697

¹⁰⁴⁸ Key Attributes of Effective Resolution Regimes, available at: <https://www.fsb.org/2014/10/key-attributes-of-effective-resolution-regimes-for-financial-institutions-2/>.

¹⁰⁴⁹ Law No. 548/1995 on the National Bank of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123192&lang=ro.

¹⁰⁵⁰ Law on the National Bank of Moldova by Law no. 178/2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123148&lang=ro.

¹⁰⁵¹ Law no. 178 of 11.09.2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123148&lang=ro.

¹⁰⁵² Memorandum of Economic and Financial Policies, available at: https://imf.md/press/Moldova_LOI_MEFP_TMU_Nov2021.pdf.

2. Bank regulation and supervision

With reference to the Association Agreement between the Republic of Moldova and the European Union, the National Bank of Moldova (NBM) has the commitment to transpose and implement the EU Capital Requirements Directive (CRD IV package) that is equivalent to Basel III international requirements. In the period 2015-2017, the NBM benefited from an EU-financed Twinning project to strengthen its capacity in the field of banking regulation and supervision in the context of EU requirements. Within the project, conducted by foreign experts from the central banks of Romania and the Netherlands, have been drafted the primary legislation (a new Law on banking activity) and the secondary legislation framework (about 30 regulations) that align the national normative framework to the EU – CRDIV/CRR package (Directive 2013/36/EU and Regulation (EU) No 575/2013) and the European Banking Authority (EBA) guidelines/EU delegated regulations from the field.

The new Law No. 202/2017 on the activity of banks¹⁰⁵³ (in force since 1 January 2018) transposes the provisions on capital requirements and prudential treatment of various risks, improves the provisions related to licensing process, banking regulation and supervision, and extends the attributions of the authority in the supervisory review and evaluation process.

In November 2018, the European Banking Authority (EBA) added the NBM to the list of non-EU country supervisory authorities, whose confidentiality regimes can be regarded as equivalent to those included in the EU CRDIV¹⁰⁵⁴.

The secondary regulatory framework¹⁰⁵⁵ has been adopted gradually from 2018 to 2022 and provides regulation on own funds and capital requirements, capital buffers, credit/ market/ operational/ settlement risks, counterparty credit risk, credit valuation adjustment (CVA), large exposures, management framework, requirements for members of the bank's management body and key function holders, supervision on a consolidated basis, disclosure requirements, liquidity coverage ratio (LCR), outsourcing, leverage, external audit, licensing, common reporting framework (COREP).

According to the NBM commitments to transpose the Directive 2002/87/EC has been approved the Law No. 250/2017¹⁰⁵⁶ on supplementary supervision of banks, insurers/reinsurers, and investment firms in a financial conglomerate, creating the regulatory framework for supplementary supervision at the group level in order to prevent potential contamination risk, to avoid negative repercussions to the financial sector, to protect the interests of depositors, insurers and investors in the event of financial instability at the conglomerate level.

Envisaged amendments:

It is planned to transpose into the national regulatory framework the provisions of the EU directives and regulations related to Net Stable Funding Ratio (NSFR) and Internal Rating Based Approach (IRB) for credit and market risk.

¹⁰⁵³ Law No. 202/2017 on the activity of banks, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128663&lang=ro.

¹⁰⁵⁴ EU CRDIV, available at: <https://www.eba.europa.eu/eba-updates-recommendation-on-the-equivalence-of-third-country-confidentiality-regim-1>.

¹⁰⁵⁵ <https://www.bnm.md/en/content/regulations-list>

¹⁰⁵⁶ Law No. 250/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=105629&lang=ro.

At the same time, it is planned to adjust the national prudential framework to the new amendments of Regulation (EU) No 575/2013 and Directive 2013/36/EU (CRDV).

3. Bank recovery and resolution

On 04.10.2016, the Law No. 232/2016¹⁰⁵⁷ on the recovery and resolution of banks entered into force. It mostly transposes the provisions of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU, and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, to create an effective crisis management framework for banks. The resolution tools provided by law protect the public interest in defending financial stability and can be applied when the bank cannot be liquidated in accordance with the forced liquidation procedure provided in Law No. 550/1995 on the liquidation of banks¹⁰⁵⁸, because this could destabilize the financial system.

To implement the provisions of Law No. 232/2016 on the recovery and resolution of banks¹⁰⁵⁹, the NBM carries on an ongoing process of developing the related secondary legal framework. In this regard, up to the current stage, the following regulation has been approved:

- Regulation on the method of calculation and payment of contributions to the bank resolution fund, approved by the Decision of the Executive Board of the National Bank of Moldova No.74/2020¹⁰⁶⁰. As a result, starting with 2020, the bank resolution fund, provided by Law No. 232/2016 on the recovery and resolution of banks, became operational, and is financed by the annual contributions of banks from the Moldovan banking system.
- At the same time, the following regulations arising from Law No. 232/2016 on the recovery and resolution of banks are in the process of elaboration:
 - Regulation on the minimum requirement for own funds and eligible liabilities.
 - Regulation on the operationalization of the writedown and conversion powers.

Envisaged amendments

In 2022, a process to revise Law No. 232/2016 on the recovery and resolution of banks, as well as Law No. 550/1995 regarding the liquidation of banks was initiated, so that it takes into account the updates of the European directive in the field and, at the same time, the evolution/particularities of the banking system in Moldova. Likewise, during the years 2022-2023, the initiation of other draft secondary regulations arising from the Law No. 232/2016 on the recovery and resolution of banks is expected.

¹⁰⁵⁷ Law No. 232/2016, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128662&lang=ro.

¹⁰⁵⁸ Law No. 550/1995 on the liquidation of banks, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121164&lang=ro.

¹⁰⁵⁹ Law No. 232/2016 on the recovery and resolution of banks, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128662&lang=ro.

¹⁰⁶⁰ Decision of the Executive Board of the National Bank of Moldova No.74 of 20.03.2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121323&lang=ro.

4. Financial stability arrangements

To ensure efficient cooperation between the main actors in the crisis management and to introduce the macroprudential mandate, the National Committee for Financial Stability, established in 2010 and mandated with the crisis management role, was upgraded. The Law No. 202/2017¹⁰⁶¹ was approved, which created an inter-institutional cooperation structure, acting as a national macroprudential authority with the triple mandate: (i) coordination of the macroprudential policy, (ii) prevention and reduction or elimination of the risks affecting financial stability and (iii) crisis management.

In order to prevent and mitigate the macro-prudential or systemic risk and maintain the financial stability, the NBM has approved the Regulation No.110/2018 on the capital buffers of banks¹⁰⁶² (transposed from CRDIV/CRR package), in force since July 30, 2018, which establishes the requirements regarding the own funds that banks must hold to set up capital buffers. In this regard, the NBM applies and regularly reviews the requirements for banks' capital buffers: conservation capital buffer, countercyclical capital buffer, O-SII buffer, and systemic risk buffer.

Envisaged amendments:

Draft amendments referred to above, aiming at consolidating the NBM macroprudential mandate.

5. Anti-money laundering and countering the financing of terrorism

During 2020, several legal achievements were registered in the area of compliance with Articles 58-62 of the Directive (EU) 2015/849 and Recommendation 35 FATF.

On 21 May 2020, the Law No. 75/2020¹⁰⁶³ on the procedure for establishing the violations of the anti-money laundering and terrorist financing requirements and the application of sanctions was adopted. This law sets out how violations of the AML/CFT Law No. 308/2017 could be identified during the control of the reporting entities and their representatives, as well as how sanctions are applied for noncompliance. Thus, the provisions of the mentioned law apply to deeds, actions, and inactions committed on the territory of the Republic of Moldova, which have as object the violation of the legislation on preventing and combating money laundering and terrorist financing.

Also, the National Bank of Moldova approved amendments to the regulations on the AML/CFT requirements for the supervised entities: commercial banks (Regulation No. 200/2018¹⁰⁶⁴), non-bank payment service providers (Regulation No. 202/2018¹⁰⁶⁵) and foreign exchange offices and hotels (Regulation No. 201/2018). The amendments were published in the Moldovan Official Gazette on 2 April 2021. The main amendments are:

- Customer due diligence (CDD) requirements – clarification that the verification of the beneficial owner information shall be made using reliable source of

¹⁰⁶¹ Law No. 202/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128663&lang=ro

¹⁰⁶² Regulation No.110/2018 on the capital buffers of banks, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=111551&lang=ro

¹⁰⁶³ Law No. 75/2020, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121717&lang=ro

¹⁰⁶⁴ Regulation No. 200/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=112760&lang=ro

¹⁰⁶⁵ Regulation No. 202/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125964&lang=ro

information; the obligation to obtain the information on the identity of the persons having a senior management position shall be applied in all cases, not only in high risk situations; the CDD obligations related to trusts and similar legal arrangements will cover the situations when the person managing the trust is an individual, acting as a trustee; more clear requirements for the situations when the business relationship is established prior to verification; factors which may impose an update of the CDD measures; the obligation not to perform/suspend the transaction/interrupt business relationship will cover the situation when it will be impossible to fulfil the monitoring requirements; obligation to apply enhanced due diligence (EDD) measures and risk-mitigating countermeasures in relation to high risk countries;

- Record keeping requirements – the entities shall keep the record on any undertaken analysis (not only regarding the complex and unusual transactions); the obligation to keep the records of the wire transfers information;
- Reliance on third parties to perform the CDD measures – clarify the criteria for third party reliance;
- foreign branches and subsidiaries – additional requirements for the group-wide programs against money laundering/financing of terrorism (ML/FT).
- Likewise, the NBM approved in December 2021 the Guidelines for identification and assessing of ML/FT risks in the supervised sectors and implementation of risk-based supervision. The Guidelines establish in detail the mechanism for assessing the ML/FT risks in supervised sectors, as well as for determining the potential higher risk sectors/entities that need enhanced supervisory measures.

6. Payment services

1) Given the expansionary trends of modern payment instruments, as well as the concern to promote their security, and last but not least, the need to harmonise the national legislation with the legislation of the European Union, in particular with EU Directives: 2007/64/EC on payment services in the internal market and 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions, the Law No. 114/2012¹⁰⁶⁶ on payment services and electronic money was approved. This law created a legal framework for carrying out the activity of payment services provision and issuing electronic money (rendered by banks and non-bank payment services providers), as well as ensuring the protection of payment services consumers. According to this Law, prudential supervision in the field of payment services is provided by the National Bank of Moldova (NBM) and the Ministry of Finance. The NBM oversees and regulates the activity of payment institutions, electronic money institutions, postal services providers as payment services providers, banks as payment services providers, and electronic money issuers, and the Ministry of Finance is responsible for the supervision and regulation of the State Treasury as a payment services provider.

¹⁰⁶⁶ Law No. 114/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110338&lang=ro.

2) Law No. 208/2018¹⁰⁶⁷ for the amendment and completion of some legislative acts (Law No. 548/1995¹⁰⁶⁸ on the National Bank of Moldova, Contravention Code of the Republic of Moldova No. 218/2008¹⁰⁶⁹, Law No. 114/2012¹⁰⁷⁰ on payment services and electronic money) was an exercise of continuing the harmonisation of the national legislation in the field of payment services and issuance of electronic money, in the sense of amending the Law No. 114/2012 on payment services and electronic money by transposing additional provisions of the Directive 2007/64/EC and Directive 2009/110/EC which were not implemented in the initial transposition exercise of these EU acts.

3) In order to transpose the Directive (EU) 2015/2366 on payment services in the internal market (PSD2) into the national legislation, a draft Law amending certain legislative acts (Law No. 114/2012 on payment services and electronic money, Contravention Code No. 218/2008, Law No. 308/2017 on preventing and combating money laundering and terrorism financing¹⁰⁷¹, Law on the National Bank of Moldova No. 548/1995) was developed. The draft law was approved in the first reading by the Parliament on March 31, 2022 and is to be approved in the second reading as well.

The amendments included in this draft law also ensure that the NBM has the right to regulate important issues related to the monitoring of financial market infrastructures and to licence such structures, as well as give it the opportunity to fulfil its role of supervisory and regulatory authority, including in the context of Law No. 114/2012.

346. How is the prudential supervision of banks organized?

Taking into account the Republic of Moldova's commitments assumed under the Association Agreement with the European Union, in recent years, the NBM has strengthened its capabilities in the field of banking regulation and supervision in the context of Capital Requirement Directive (CRD) IV transposition. This was achieved with the help of EU-supported TWINNING, TAIEX and High-Level Advisors missions.

According to Law No. 202/2017 on the activity of banks¹⁰⁷², for the purposes of protecting the depositors' interests and of ensuring stability and viability of the entire banking system, the National Bank of Moldova (NBM) ensures prudential supervision of the banks that are Moldovan legal entities, including their branches established in other states, aiming at complying with the requirements stipulated by legislation and the applicable normative acts, both on individual and consolidated bases, and if applicable, in order to prevent and limit the specific risks of the banking activity. The

¹⁰⁶⁷ Law No. 208/2018, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=109734&lang=ro

¹⁰⁶⁸ Law No. 548/1995, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=66550&lang=ro

¹⁰⁶⁹ Contravention Code of the Republic of Moldova No. 218/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130832&lang=ro

¹⁰⁷⁰ Law No. 114/2012, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125243&lang=ro

¹⁰⁷¹ Law No. 308/2017 on preventing and combating money laundering and terrorist financing, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125309&lang=ro

¹⁰⁷² Law No. 202/2017 on the activity of banks, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110372&lang=ro

NBM reviews the arrangements, strategies, processes, and mechanisms implemented by each bank and carries out its own evaluation of the following risks:

- risks to which the banks are or might be exposed;
- risks that a bank poses to the financial system taking into account the identification and measurement of systemic risk by the NBM;
- risks revealed by stress testing taking into account the nature, scale, and complexity of a bank's activities.

Within the NBM, the Banking Supervision Department is responsible for performing the banking supervisory function. This department consists of 2 divisions: The Continuous supervision division (off-site) and the Risk control and assessment division (on-site).

Since 2019, the NBM carries out the Supervisory Review and Evaluation Process (SREP) on an annual basis, based on the European Banking Authority (EBA) Guidelines on Common Procedures and Methodologies for the supervisory review and evaluation process, that were transposed in the methodology of the SREP process.

The NBM monitors banks' compliance with the prudential requirements and other requirements provided by the law mentioned above and the applicable normative acts based on the reports submitted by banks during off-site supervision and by on-site verifications at the head offices of the banks.

The NBM, annually, adopts a supervisory examination program for the banks it supervises. Such a program describes the supervisory review and evaluation process. It contains the following:

- an indication of how the NBM intends to carry out its tasks and allocate resources;
- an identification of banks that are intended to be subject to enhanced supervision and the measures taken for such supervision;
- a plan for onsite inspections at the premises used by a bank, including its branches and subsidiaries.

Moreover, the NBM has signed cooperation agreements with other countries' supervisory authorities and is involved in one supervisory college.

347. Is there any protection for the depositors in case of failure of their bank?

The Deposit Guarantee Fund in the Banking System (DGF) protects depositors and contributes to the financial stability of the country by ensuring the timely payment of guaranteed deposits and the accumulation of resources necessary for the resolution of banks - Law No.575/2003 on deposits guarantee in banking system¹⁰⁷³ (Official Gazette of Republic of Moldova No.30-34 art.169 of 20.02.2004)

¹⁰⁷³ Law No.575/2003 on deposits guarantee in banking system, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110287&lang=ro

The DGF guarantees the deposits of natural and legal persons of private law, residents and non-residents, constituted in national currency and in foreign currency in the licensed banks of the Republic of Moldova. If a bank's deposits become unavailable, the DGF guarantees that they will be paid to each depositor within the limit of the guarantee ceiling which currently amounts to MDL 50 000 (2 500 EUR). FX deposits are reimbursed in MDL based on the MDL equivalent at the date of unavailability of the deposits.

All banks licensed by the National Bank of Moldova are admitted and obliged to participate in the accumulation of the DGF's funds.

Currently, a new draft law is defined by DGF with the support of the World Bank. The new law will reform the guarantee scheme in the Republic of Moldova by expanding the participating institutions (Credit and Savings Associations' depositors will be covered) and strengthening the governance of the Fund.

Both in the application of resolution powers and tools in accordance with the Law No. 232/2016 on the recovery and resolution of banks¹⁰⁷⁴, and in the forced liquidation procedure in accordance with the Law No. 550/1995 on the liquidation of banks¹⁰⁷⁵, the protection of depositors is ensured as provided in Law No. 575/2003 on guaranteeing deposits in the banking system¹⁰⁷⁶.

348. Are there specific rules in case a bank is threatened with bankruptcy?

If a bank is failing or is likely to fail and it meets the resolution conditions, resolution measures and tools shall be applied to the respective bank in accordance with Law No. 232/2016 on the recovery and resolution of banks¹⁰⁷⁷.

The bank liquidation procedure is regulated by Law No. 550/1995 on the liquidation of banks¹⁰⁷⁸, which provides for separate procedures for voluntary liquidation and forced liquidation.

According to the IMF Financial Stability Review¹⁰⁷⁹, noteworthy efforts have been made by the NBM to render the legal framework operational, including through banks' recovery plans and its own resolution planning. Most secondary legislation (issued by the NBM) has been approved. Banks have submitted recovery plans in recent years, and the NBM has assessed those plans and engaged with banks on the credibility of recovery measures. The World Bank has provided an assessment of the plans, which the NBM is using to update its guidance on effective recovery plans as well as internal guidance. Resolution plans have also been prepared for all banks. According to a

¹⁰⁷⁴ Law No. 232/2016 on the recovery and resolution of banks, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=128662&lang=ro

¹⁰⁷⁵ Law No. 550/1995 on the liquidation of banks, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121164&lang=ro

¹⁰⁷⁶ Law No. 575/2003 on guaranteeing deposits in the banking system, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=110287&lang=ro

¹⁰⁷⁷ Law No. 232/2016 on the recovery and resolution of banks, available in English at:

https://www.bnm.md/files/Law%20on%20Banks%20Recovery%20and%20Resolution%20no%20232_2016.pdf

¹⁰⁷⁸ Law No. 550/1995 on the liquidation of banks, available in Romanian at:

https://www.legis.md/cautare/getResults?doc_id=121164&lang=ro

¹⁰⁷⁹ "Republic of Moldova: Technical Assistance Report – Financial Sector Stability Review", IMF, Country Report No. 2022/030, February 7, 2022: <https://www.imf.md/press/1MDAEA2022002.pdf>

thorough assessment provided by the World Bank, even though a considerable effort was put by the NBM's Banking Resolution Department (BRD) in the drafting of initial resolution plans, there is still room for improvement, especially in elements regarding the identification of critical functions, internal and external interconnectedness and in the separability assessment.

According to the above-mentioned review, non-systemic banks whose orderly resolution is considered not in the public interest may enter forced liquidation. This is an administrative procedure whereby the NBM triggers liquidation by withdrawing the banking licence, choosing and appointing a liquidator and overseeing the procedure. It is under this framework that the authorities have been dealing with the failure of three banks since 2014 under continuing liquidation procedures. Also, assisted transactions within the forced liquidation procedure are possible under the current law. This option, which complies with the Financial Stability Board Key Attributes, provides flexibility to the authorities, allowing for a tool that is usually adequate for smaller banks. The liquidator has the power, under the NBM's direction, to execute a sale of assets and liabilities of a bank subject to a forced liquidation procedure. In accordance with a recent change to the law, the Deposits Guarantee Fund may now finance the shortfall of assets up to the amount of the bank's covered deposits.

The Capital market

349. What is the structure of the capital market? Is the stock exchange operational? How many companies are listed on the stock exchange? Please describe the evolution of the turnover on the stock exchange in the past five years. What percentage of transactions is carried outside the stock exchange? What are plans for the future? In practice, does the capital market provide an alternative source of finance for enterprises? Please quantify

The Moldovan capital market has an incipient level of sophistication, with a small number of issuers and low liquidity on the equities side, and with only government issued bonds on the fixed income side. The vital elements of the capital market infrastructure are in place albeit in need of adjustment to allow for setting the right incentives and building business confidence.

From the regulatory perspective, the local capital market is governed by the following legislation:

Law No. 171/2012 on capital market (regulates: financial instruments, investment firms' activity, collective investment undertakings' activity and the activity of the Investors Compensation Fund, public offers, takeover bids, infrastructure of capital market, including regulated market, defines abuse in the capital market and establishes disclosure requirements);

Law No. 1134/1997 on joint-stock companies (defines the manner of creation and legal standing of joint-stock companies, the rights and duties of shareholders, and ensures protection of rights and legitimate interests of shareholders and creditors of companies);

Law no 234/2016 on the Single Central Securities Depository (regulates the activity of the CSD as the post-trading financial market infrastructure, including the authorization and supervision of the CSD as a capital market infrastructure).

The current market infrastructure

The Moldova Stock Exchange (MSE) was established in 1995 and is the country's only stock exchange. The MSE operates a regulated market with shares from 13 listed joint-stock companies, an alternative trading system with 19 listed joint-stock companies, and 3 issuances of bonds made by three local public authorities.

Apart from the MSE, other participants in the local capital market are:

- The Single **Central Securities Depository** (CSD); it was established in 2018 with modern clearing and settlement systems.
- 14 **investment firms** (broker-dealers), including 7 banks and 7 non-banks.
- **Issuers**: 32 PIEs (Public Interest Entities) and 770 non-PIEs
- **Registrars** of shareholders book-entry systems -7.

In the past years the turnover of the Moldovan Stock Exchange has gradually decreased because of internal and external factors, including a slower pace of the privatisation process; the general slowdown of the market and investment activity due to uncertainties brought by COVID-19; and economic crisis and regional instability. The MSE turnover in 2017 was 102.7 mln. MDL (approx. 5 mln. EUR - both regulated and alternative markets), while in 2021 it amounted to 34 mln. MDL (approx 1.5 mln. EUR). There were 407 transactions carried out in 2017 and 170 transactions in 2021.

The biggest share of transactions is carried out outside the Stock Exchange, registering a decrease in absolute numbers in the last five years. While in 2017 the OTC (Over the Counter) turnover was 461.19 mln. MDL (20,286 transactions), in 2021 the turnover was 2,027 mln. MDL (7,614 transactions).

In 2021 the OTC market constituted 98,35% of the total.

The turnover in the stock exchange and OTC in the past five years (secondary market)

PERIOD	2017	%	2018	%	2019	%	2020	%	2021	%
MSE (regulated market)										
No of transactions, unit.	300		287		202		199		86	
Volume, mln. MDL	97,96	17,37	1.930,30	41,13	3.273,95	62,36	69,52	4,16	22,47	1,09
MSE (alternative market – MTF)										
No transactions, unit.	107		92		46		94		84	
Volume, mln. MDL	4,76	0,84	47,22	1,01	5,76	0,11	33,64	2,01	11,57	0,56
OTC										
No of transactions, unit.	20.386		7.016		5.523		4.522		7.614	

Volume, mln.MDL	461,19	81,78	2.715,55	57,86	1.970,72	37,53	1.566,71	93,82	2.027,00	98,35
--------------------	--------	-------	----------	-------	----------	-------	----------	-------	----------	-------

Considering its incipient stage of development, for the time being the Moldovan capital market provides alternative sources of funding to a small number of companies only. However, with the planned adjustments to the institutional and regulatory environment, the market is expected to get more sophisticated and thus to evolve into a reliable alternative for investors and source of funding for enterprises.

Future plans

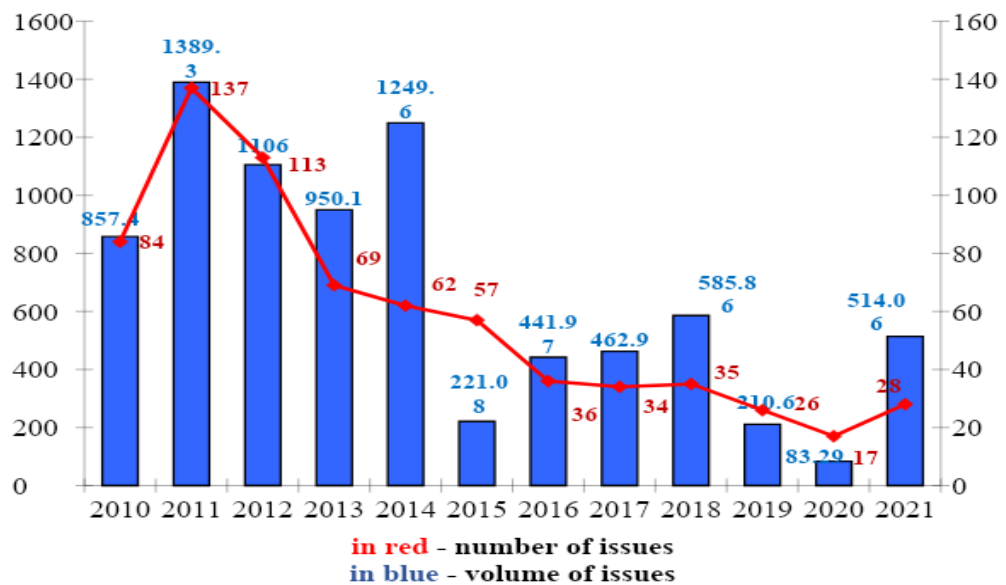
- Elaborate an exhaustive **capital market strategy** to drive the capital market reform in Moldova;
- Set in place the right incentives in the **monetary and fiscal policy** in order to encourage investments in the capital market, making them attractive for individual and institutional investors;
- Develop a **secondary market for government securities**. Currently, there is an ongoing program to list government securities in the secondary MSE regulated market with a maturity of <1 year. Legislation will be amended to develop the primary market for government securities (more than 1-year maturity) in the Moldovan Stock Exchange;
- Promote municipal bonds - an opportunity for the local public authorities to raise funds from individual and institutional investors through capital markets;
- Consolidate the capital market infrastructure and supervision by transferring the supervisory competencies of the Central Securities Depository (CSD) from the National Bank of Moldova (NBM) to the National Commission for Financial Markets (NCFM).
- Deepen the cooperation between the Moldovan and Bucharest Stock Exchanges for a faster integration of valuable Moldovan companies into European capital markets;
- Establish the fundamentals for a semi-private pension fund that would channel both residents and migrants' savings into government and corporate securities;
- Prepare the environment for a hard-currency-denominated corporate bond issuance, which eventually would develop the MDL-denominated corporate bond market.

350. How developed is the equity market? Does it provide, in practice, an alternative source of finance for enterprises? How much was raised on the market in recent years?

The capital market in Moldova is not yet well developed, with equity instruments being the predominant financial instrument .

The issuance of new shares is rather sporadic, being often triggered by administrative requirements, such as changes in the minimum capital requirements in regulated sectors, as well as by changes in ownership in some PIEs that may often require new share issuances.

The turnover of the primary market



In red (right-hand side Y-axis): number of issues.

In blue (left-hand side Y-axis): volume of issues.

351. How developed is the bond market? Who are the main participants in the market and which are main financial instruments used? Are there private issues? Is there a secondary market? Please supply detailed information on the size, activity and structure of the bond market, including average maturity of the most important securities.

Municipal bond market. In 2021-2022 three local public authorities pioneered issuing bonds with a maturity varying from 2 to 7 years, through an IPO on a volume of 72,5 mln. MDL. Two of them listed their bonds on the MSE. Only one transaction was made during this period on the secondary market.

Up till now the **government bonds** were not traded on the secondary market. In March 2022 the authorities approved regulations to enable trade with government bonds on the secondary market.

The corporate bond market does not exist. There is little interest from domestic companies in issuing bonds because of the following constraints:

- companies cannot issue bonds in foreign currency;
- limited number of institutional investors;
- high costs compared to bank loans;
- limited knowledge and awareness in the private sector.

The Money market

352. How developed is the market for short-term financial instruments? Who are the main participants in the market and which are the main financial instruments used? Is there a secondary market? Please supply detailed information on the size, activity and structure of the money market.

The domestic money market is rather small but has a large yet unexplored potential. Treasury bills and bonds, as well as National Bank certificates, are the most common short-term instruments traded on the primary market. Given there are few institutional investors, the market's primary participants are domestic banks. In comparison to the primary market, the secondary market for government securities is much smaller.

In 2021, the Government, with the support of development partners, developed an electronic platform that facilitates the access of the population to treasury bills and bonds, which set the ground for the development of this market. Also, in 2021, for the first time in the history of Moldova two LPAs, with the support of development partners and a local think-tank, issued municipal bonds and in 2022 the capital city was the third issuer of municipal bonds with a full subscription. These developments augur well for the further development of the money market, revealing its large potential.

Because the local banking system has historically had a large structural liquidity surplus, the interbank money market is essentially inactive.

Open market operations of the NBM are conducted at the central bank's initiative and play a role in managing liquidity conditions in the money market and steering short-term interbank interest rates. Money market operations may be carried out via auctions or bilateral transactions.

According to the regulations in force, the main categories of open market operations available to the NBM are

- REPO operations – liquidity - providing/absorbing reverse transactions whereby the NBM buys/sells from/to banks state securities upon banks/NBM commitment to repurchase the state securities at the date and the price agreed on the date the transaction was concluded;
- issuance of NBM's certificates - liquidity-absorbing transaction whereby the NBM sells certificates of deposits to credit institutions;
- deposit-taking operations - liquidity-absorbing transactions with pre-specified maturity whereby the NBM takes deposits from banks;
- outright sales/purchases of state securities - liquidity-absorbing/providing transactions whereby the NBM sells/buys state securities whose ownership is transferred from seller to buyer on a "delivery versus payment" basis.

Given the persistence of structural liquidity surplus in the banking system of the Republic of Moldova, NBM sells weekly NBM's Certificates with a circulation term of 14 days to drain excess liquidity.

At the same time, in order to improve the credit conditions provided by banks to the national economy, the central bank announces liquidity provision operations, which are carried out through fixed-rate REPO operations with a term of 14 days.

Also, NBM offers to licensed banks 2 types of standing facilities: overnight deposit facility and overnight credit facility. Standing facilities are granted by the NBM to

banks for the purpose of absorbing and providing short-term liquidity (with overnight maturity) and narrowing the short-term interest rates fluctuations in the interbank money market through the corridor set by the NBM on interest rates related to deposits and credit facilities.

The licensed banks may resort, upon their own initiative, to standing facilities offered by the NBM:

- Deposit facility - allows banks to place an overnight deposit with the NBM (with overnight maturity), at a pre-established interest rate (deposit facility rate usually represents a floor of overnight interest rate on the interbank monetary market);
- Credit facility - allows banks to get an overnight credit with the NBM (with overnight maturity), for the purpose of covering the overdraft at the end of the operational day, as well as for filling the liquidity gap, guaranteed with securities pledged with the NBM, at a pre-established interest rate (this interest rate usually represents a ceiling of overnight interest rate on the interbank money market).

The Central Securities Depository (CSD) is responsible for the registration, bookkeeping, and settlement of securities issued by legal entities of the Republic of Moldova. CSD began its operation on 31 July 2018.

The establishment of the Central Securities Depository is one of the key reforms of the Moldovan financial market, which was implemented under the IMF's program with the support of the United States Agency for International Development (USAID). The new mechanism of securities bookkeeping and settlement, provided by CSD, will ensure a high level of transparency, security, and efficiency in securities transactions. The CSD's business operation model is based on international standards and practices applicable in the settlement systems field, whereas the national legislation governing the activity of the CSD transposes relevant EU regulations.

For the data on the size, activity, and structure of the money market, please see the files below.

Commercial banks activity on the money market

		Secondary market of T-Bonds (purchase and sale transactions) / NBM Certificates (purchase and sale transactions)			REPO's with GS / NBM Certificates			Interbank credits/deposits		
		Weighted average term (days)	Nominal average interest rate (%)	Volume (mil. lei)	Weighted average term (days)	Nominal average interest rate (%)	Volume (mil. lei)	Weighted average term (days)	Nominal average interest rate (%)	Volume (mil. lei)
2017	January	217/-	5.63/-	1.0/-	-/-	-/-	-/-	-	-	-
	February	342/-	6.21/-	2.7/-	-/-	-/-	-/-	-	-	-
	March	291/-	6.58/-	1.4/-	-/-	-/-	-/-	1	9.00	25.0
	April	174/-	7.33/-	1.2/-	-/-	-/-	-/-	1	9.00	35.0
	May	278/-	8.09/-	3.2/-	-/-	-/-	-/-	-	-	-

	June	88/-	7.57/-	1.3/-	-/-	-/-	-/-	-	-	-
	July	154/-	7.53/-	7.2/-	-/-	-/-	-/-	-	-	-
	August	101/-	7.00/-	8.7/-	-/-	-/-	-/-	-	-	-
	September	111/-	5.90/-	11.2/-	-/-	-/-	-/-	-	-	-
	October	144/-	6.27/-	3.1/-	-/-	-/-	-/-	-	-	-
	November	149/-	6.11/-	1.7/-	-/-	-/-	-/-	-	-	-
	December	118/-	5.65/-	0.5/-	-/-	-/-	-/-	-	-	-
	TOTAL 2017	156/-	6.71/-	43.3/-	-/-	-/-	-/-	1	9.00	60.0
2018	January	212/-	5.29/-	1.0/-	-/-	-/-	-/-	-	-	-
	February	162/-	4.62/-	0.7/-	-/-	-/-	-/-	-	-	-
	March	195/-	4.29/-	1.5/-	-/-	-/-	-/-	-	-	-
	April	161/-	4.22/-	3.9/-	-/-	-/-	-/-	1	6.47	185.0
	May	159/-	4.29/-	4.9/-	-/-	-/-	-/-	1	5.00	55.0
	June	14/-	4.14/-	15.6/-	-/-	-/-	-/-	-	-	-
	July	128/-	4.10/-	3.9/-	-/-	-/-	-/-	-	-	-
	August	-/-	-/-	-/-	-/-	-/-	-/-	-	-	-
	September	120/-	4.11/-	3.1/-	-/-	-/-	-/-	-	-	-
	October	74/-	4.19/-	27.2/-	-/-	-/-	-/-	1	6.50	147.0
	November	116/-	4.31/-	1.1/-	-/-	-/-	-/-	1	6.75	15.0
	December	319/-	6.47/-	52.7/-	-/-	-/-	-/-	-	-	-
	TOTAL 2018	191/-	5.24/-	115.6/-	-/-	-/-	-/-	1	6.29	402.0
2019	January	278/-	6.31/-	123.1/-	-/-	-/-	-/-	-	-	-
	February	140/-	5.31/-	18.9/-	-/-	-/-	-/-	1	6.50	86.0
	March	171/-	5.73/-	0.7/-	-/-	-/-	-/-	-	-	-
	April	201/-	5.99/-	74.9/-	-/-	-/-	-/-	1	7.23	359.0
	May	228/-	6.12/-	36.3/-	-/-	-/-	-/-	1	6.50	20.0
	June	261/-	6.15/-	65.9/-	-/-	-/-	-/-	1	7.00	90.0
	July	267/-	6.15/-	49.0/-	-/-	-/-	-/-	-	-	-
	August	187/-	5.71/-	31.4/-	-/-	-/-	-/-	1	8.25	34.0
	September	264/-	6.35/-	29.1/-	-/-	-/-	-/-	-	-	-
	October	172/-	5.95/-	22.6/-	-/-	-/-	-/-	1	8.00	5.0
	November	310/-	6.77/-	33.4/-	-/-	-/-	-/-	-	-	-
	December	252/-	6.36/-	68.1/-	-/-	-/-	-/-	-	-	-
	TOTAL 2019	245/-	6.17/-	553.4/-	-/-	-/-	-/-	1	7.13	594.0

2020	January	289/-	5.91/-	121.5/-	-/-	-/-	-/-	-	-	-
	February	292/-	5.31/-	69.3/-	-/-	-/-	-/-	-	-	-
	March	166/-	5.31/-	52.9/-	-/-	-/-	-/-	1	4.50	15.0
	April	164/-	4.50/-	47.5/-	-/-	-/-	-/-	-	-	-
	May	276/-	5.30/-	52.2/-	-/-	-/-	-/-	-	-	-
	June	204/-	4.88/-	79.9/-	-/-	-/-	-/-	-	-	-
	July	247/-	5.12/-	108.0/-	-/-	-/-	-/-	-	-	-
	August	242/-	5.00/-	70.5/-	-/-	-/-	-/-	-	-	-
	September	226/-	4.81/-	52.5/-	-/-	-/-	-/-	-	-	-
	October	247/-	5.09/-	46.1/-	-/-	-/-	-/-	-	-	-
	November	236/-	5.10/-	83.3/-	-/-	-/-	-/-	-	-	-
	December	231/-	4.75/-	157.6/-	-/-	-/-	-/-	1	2.65	40.0
	TOTAL 2020	240/-	5.11/-	941.3/-	-/-	-/-	-/-	1	3.15	55.0
2021	January	290/-	5.13/-	35.8/-	-/-	-/-	-/-	1	2.80	185.0
	February	187/-	4.51/-	82.7/-	-/-	-/-	-/-	1	3.50	80.0
	March	200/-	4.61/-	74.6/-	-/-	-/-	-/-	-	-	-
	April	188/-	4.43/-	102.3/-	-/-	-/-	-/-	1	4.00	97.0
	May	257/-	4.87/-	75.1/-	-/-	-/-	-/-	-	-	-
	June	222/-	4.70/-	118.4/-	-/-	-/-	-/-	-	-	-
	July	207/-	4.56/-	166.7/-	-/-	-/-	-/-	-	-	-
	August	281/-	5.25/-	63.2/-	-/-	-/-	-/-	-	-	-
	September	204/-	5.16/-	179.9/-	-/-	-/-	-/-	-	-	-
	October	178/-	4.87/-	54.3/-	-/-	-/-	-/-	1	6.25	140.0
	November	162/-	7.37/-	102.6/-	-/-	-/-	-/-	1	6.75	60.0
	December	181/-	8.65/-	175.0/-	-/-	-/-	-/-	1	7.60	100.0
	TOTAL 2021	205/-	5.55/-	1,230.6/-	-/-	-/-	-/-	1	4.87	662.0

NBM Money Market Operations

		Repo			Sales of NBM Certificates		
		Average interest rate (% p.a.)	Average maturity (days)	Value (MDL mill.)	Average nominal interest rate (% p.a.)	Average maturity (days)	Average daily stock (MDL mill.)
2017	January	-	-	-	9.00	14	6,358.3

	February	-	-	-	9.00	14	6,794.0
	March	-	-	-	9.00	14	6,992.4
	April	-	-	-	9.00	14	5,781.8
	May	-	-	-	9.00	14	5,099.0
	June	-	-	-	8.86	14	5,792.6
	July	-	-	-	8.00	14	6,081.8
	August	-	-	-	8.00	14	6,300.2
	September	-	-	-	7.50	14	6,286.6
	October	-	-	-	7.38	14	6,172.3
	November	-	-	-	7.00	14	6,945.8
	December	-	-	-	6.58	14	7,713.9
2018	January	-	-	-	6.50	14	8,842.0
	February	-	-	-	6.50	14	9,043.2
	March	-	-	-	6.50	14	9,076.5
	April	-	-	-	6.50	14	7,916.9
	May	-	-	-	6.50	14	8,364.1
	June	-	-	-	6.50	14	8,533.3
	July	-	-	-	6.50	14	8,898.0
	August	-	-	-	6.50	14	8,947.3
	September	-	-	-	6.50	14	8,384.3
	October	-	-	-	6.50	14	7,646.8
	November	-	-	-	6.50	14	7,276.2
	December	-	-	-	6.50	14	7,920.2
2019	January	-	-	-	6.50	14	6,698.4
	February	-	-	-	6.50	14	5,560.2
	March	-	-	-	6.50	14	6,482.4
	April	-	-	-	6.50	14	4,758.0
	May	-	-	-	6.50	14	5,380.2
	June	-	-	-	6.73	14	4,809.3
	July	-	-	-	7.00	14	5,147.9
	August	-	-	-	7.50	14	4,965.5

	September	7.75	14	250.0	7.50	14	5,308.8
	October	-	-	-	7.50	14	5,273.8
	November	-	-	-	7.50	14	5,842.2
	December	7.75	14	100.0	6.14	14	5,739.3
2020	January	-	-	-	5.50	14	6,802.0
	February	-	-	-	5.50	14	6,519.8
	March	-	-	-	4.36	14	6,096.0
	April	3.50	14	180.0	3.25	14	4,387.4
	May	-	-	-	3.25	14	6,483.8
	June	-	-	-	3.25	14	6,284.5
	July	-	-	-	3.25	14	5,284.8
	August	-	-	-	3.07	14	5,406.8
	September	-	-	-	2.81	14	5,556.5
	October	3.00	14	1.0	2.75	14	5,978.4
	November	-	-	-	2.68	14	5,907.8
	December	-	-	-	2.65	14	6,333.9
2021	January	-	-	-	2.65	14	6,636.5
	February	-	-	-	2.65	14	5,752.4
	March	-	-	-	2.65	14	5,983.6
	April	2.90	14	26.0	2.65	14	5,224.5
	May	-	-	-	2.65	14	5,403.0
	June	-	-	-	2.65	14	5,061.0
	July	2.90	14	950.0	2.65	14	4,104.4
	August	3.90	-	-	3.65	14	3,796.7
	September	4.90	14	1.0	4.41	14	3,250.2
	October	4.90	14	150.0	5.40	14	3,640.1
	November	5.75	-	-	5.50	14	2,914.6
	December	6.13	14	260.0	6.40	14	2,605.1

Standing Facilities

Period	Overnight Credits		Overnight Deposits	
	Average daily stock (mil. lei)	Rate (%)	Average daily stock (mil. lei)	Rate (%)
January 2017	-	12.00	1,146.0	6.00
February	-	12.00	1,022.8	6.00
March	-	12.00	1,053.1	6.00
April	8.2	12.00	1,105.7	6.00
May	-	12.00	1,126.5	6.00
June	-	12.00/11.00	1,092.1	6.00/5.00
July	-	11.00	1,127.6	5.00
August	-	11.00/10.50	1,095.2	5.00/4.50
September	-	10.50	1,086.9	4.50
October	-	10.50/10.00	1,071.9	4.50/4.00
November	-	10.00	1,075.4	4.00
December	3.6	10.00/9.50	693.1	4.00/3.50
January 2018	-	9.50	733.3	3.50
February	-	9.50	633.6	3.50
March	11.0	9.50	898.8	3.50
April	-	9.50	832.0	3.50
May	-	9.50	806.5	3.50
June	-	9.50	840.4	3.50
July	-	9.50	484.9	3.50
August	-	9.50	270.0	3.50
September	-	9.50	412.0	3.50
October	6.8	9.50	238.2	3.50
November	-	9.50	370.0	3.50
December	-	9.50	421.7	3.50
January 2019	-	9.50	359.2	3.50
February	-	9.50	356.0	3.50
March	-	9.50	628.1	3.50

April	-	9.50	245.1	3.50
May	3.9	9.50	416.5	3.50
June	3.8	9.50/10.00	201.4	3.50/4.00
July	-	10.00/10.50	193.0	4.00/4.50
August	19.4	10.50	103.3	4.50
September	3.7	10.50	204.7	4.50
October	18.2	10.50	123.6	4.50
November	-	10.50	257.5	4.50
December	-	10.50/8.50	374.6	4.50/2.50
January 2020	-	8.50	418.3	2.50
February	-	8.50	365.2	2.50
March	4.4	8.50/7.50/6.25	213.1	2.50/1.50/0.25
April	-	6.25	350.8	0.25
May	7.7	6.25	451.1	0.25
June	-	6.25	215.4	0.25
July	-	6.25	129.3	0.25
August	6.5	6.25/5.50	170.1	0.25/0.50
September	-	5.50/5.25	282.3	0.50/0.25
October	-	5.25	289.8	0.25
November	-	5.25/5.15	103.8	0.25/0.15
December	-	5.15	165.4	0.15
January 2021	-	5.15	347.8	0.15
February	-	5.15	201.0	0.15
March	-	5.15	175.2	0.15
April	15.7	5.15	233.6	0.15
May	-	5.15	169.5	0.15
June	11.7	5.15	178.0	0.15
July	40.0	5.15/6.15	93.9	0.15/1.15
August	-	6.15	112.3	1.15
September	-	6.15/7.15	288.6	1.15/2.15
October	4.8	7.15/7.50	300.3	2.15/3.50

November	-	7.50	283.3	3.50
December	3.9	7.50/8.50	247.4	3.50/4.50

353. What changes are considered necessary in order to improve market organisation and efficiency?

Market efficiency can be enhanced by improving households' access to financial instruments. A concept in this respect has been approved by the Government in September 2021 via Decision No. 192/2021¹⁰⁸⁰, which envisages the direct sale of state securities to households. The project implementing this concept is in its final phase and a transaction platform is about to be launched.

With respect to other issues that prevent the development of the money market, it is necessary to carry out an evaluation of the money market in the Republic of Moldova by assessing the preconditions necessary for the establishment of a money market and the basic elements required for its development (legal framework, money market participants, etc.), which would establish the level of development of the local money market, as well as opportunities for its further development.

With EBRD support, the NBM has recently launched a Money Market Diagnostic to assess the level of development of the local money and interbank markets and identify opportunities for improvement. The NBM may receive additional technical help after the diagnostic is completed to improve the policy and legal framework aimed at money market development.

Non-bank financial institutions

354. What is the number of insurance institutions operating in Moldova?

- a) **total number;**
- b) **domestic;**
- c) **non-domestic EU, of which:**
 - i) **subsidiaries and**
 - ii) **branches**
- d) **non-domestic non-EU, of which:**
 - i) **subsidiaries and**
 - ii) **branches.**
- e) **changes in (a) to (d) since 2016.**

a) total number

On 31 December 2021 in Moldova there were 119 insurance institutions, of which:

¹⁰⁸⁰ Decision No. 192/2021, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130028&lang=ro.

- Insurance and Reinsurance Companies – 10 (licensed) + 1 (in bankruptcy proceedings)
- Insurance and Reinsurance Brokers – 44 (licensed)
- Insurance and Bancassurance Agents – 64 (registered)

b) domestic

On 31 December 2021 in Moldova were operating 114 domestic insurance institutions, of which:

- Insurance and Reinsurance Companies – 8 (licensed) + 1 (in bankruptcy proceeding)
- Insurance and Reinsurance Brokers – 42 (licensed)
- Insurance and Bancassurance Agents – 63 (registered)

c) non-domestic EU, of which:

i) subsidiaries and

On 31 December 2021 in Moldova there were 5 EU insurance institutions operating via subsidiaries, of which:

- Insurance and Reinsurance Companies – 2 (1 non-life company + 1 composite company)
- Insurance and Reinsurance Brokers – 2 (licensed)
- Insurance and Bancassurance Agents – 1 (registered)

ii) Branches

None of the EU insurance institutions had a branch in Moldova in 2021.

d) non-domestic non-EU, of which:

i) subsidiaries and

None of the non-EU insurance institutions had subsidiaries in Moldova in 2021.

ii) branches.

None of the non-EU insurance institutions had a branch in Moldova in 2021.

e) changes in (a) to (d) since 2016.

Number of insurance institutions operating in the Republic of Moldova

Description			2016	2017	2018	2019	2020	2021
a)	Total number	Companies	16	17	17	14	11	11
		Brokers	70	73	71	47	41	44
		Agents	66*	111*	114*	27	61	64
b)	domestic	Companies	14	15	15	12	9	9

		Brokers	67	70	68	44	39	42
		Agents	66*	111*	114*	27	60	63
c)	non-domestic EU, of which:		5	5	5	5	5	5
i)	subsidiaries	Companies	2	2	2	2	2	2
		Brokers	3	3	3	3	2	2
		Agents	-	-	-	-	1	1
ii)	branches	Companies	-	-	-	-	-	-
		Brokers	-	-	-	-	-	-
		Agents	-	-	-	-	-	-
d)	non-domestic non-EU, of which:		-	-	-	-	-	-
i)	subsidiaries	Companies	-	-	-	-	-	-
		Brokers	-	-	-	-	-	-
		Agents	-	-	-	-	-	-
ii)	branches	Companies	-	-	-	-	-	-
		Brokers	-	-	-	-	-	-
		Agents	-	-	-	-	-	-

355. Concentration of respectively the life and non-life markets (in terms of gross premiums held by the largest undertakings), indicating whether they are

- a) domestic;
- b) non-domestic EU;
- c) non-domestic non-EU.
- d) changes in (a) to (c) since 2016.

The volume of insurance gross written premium (GWR) follows a constant upward trend. Non-life types of insurance dominate the structure of insurance premiums, being represented primarily by domestic MTPL, MTPL of the GREEN CARD system and CASCO insurance, which traditionally amount to nearly 70% of total premiums. Life insurance is underdeveloped and represents about 5-6% of all collected GWP. This structure remained stable over time.

From the perspective of market structure through the ownership of capital, the market is also stable, $\frac{3}{4}$ of gross written premiums being accounted to domestic insurance companies and $\frac{1}{4}$ to non-domestic EU.

The following table presents GWP both non-life and life data for the period 2016-2021 per types of insurance and ownership structure of insurance companies.

Year	Type of insurance	GWP in MDL	% of GWP share	Ownership structure	GWP per ownership structure in MDL	% of GWP share
2016	Non-life	1.290.947.577	93,54%	domestic	989.985.544	76,69%
				non-domestic EU	300.962.033	23,31%
				non-domestic non-EU	0	0,00%
				total	1.290.947.577	100,00%
	Life	89.178.627	6,46%	domestic	3.959.387	4,44%
				non-domestic EU	85.219.241	95,56%
				non-domestic non-EU	0	0,00%
				total	89.178.627	100,00%
	Total	1.380.126.204	100,00%	domestic	993.944.931	72,02%
				non-domestic EU	386.181.273	27,98%
				non-domestic non-EU	0	0,00%
				total	1.380.126.204	100,00%
2017	Non-life	1.346.954.065	93,42%	domestic	1.027.533.358	76,29%
				non-domestic EU	319.420.707	23,71%
				non-domestic non-EU	0	0,00%
				total	1.346.954.065	100,00%
	Life	94.945.215	6,58%	domestic	2.829.016	2,98%
				non-domestic EU	92.116.199	97,02%
				non-domestic non-EU	0	0,00%
				total	94.945.215	100,00%
	Total	1.441.899.281	100,00%	domestic	1.030.362.375	71,46%
				non-domestic EU	411.536.906	28,54%
				non-domestic non-EU	0	0,00%
				total	1.441.899.281	100,00%
2018	Non-life	1.418.119.117	93,41%	domestic	1.107.325.905	78,08%
				non-domestic EU	310.793.213	21,92%
				non-domestic non-EU	0	0,00%
				total	1.418.119.117	100,00%
	Life	100.016.849	6,59%	domestic	1.132.105	1,13%
				non-domestic EU	98.884.744	98,87%
				non-domestic non-EU	0	0,00%
				total	100.016.849	100,00%
	Total	1.518.135.966	100,00%	domestic	1.108.458.009	73,01%

				non-domestic EU	409.677.957	26,99%
				non-domestic non-EU	0	0,00%
				total	1.518.135.966	100,00%
2019	Non-life	1.523.670.131	93,78%	domestic	1.160.316.566	76,15%
				non-domestic EU	363.353.565	23,85%
				non-domestic non-EU	0	0,00%
				total	1.523.670.131	100,00%
	Life	100.987.878	6,22%	domestic	0	0,00%
				non-domestic EU	100.987.878	100,00%
				non-domestic non-EU	0	0,00%
				total	100.987.878	100,00%
	Total	1.624.658.008	100,00%	domestic	1.160.316.566	71,42%
				non-domestic EU	464.341.443	28,58%
				non-domestic non-EU	0	0,00%
				total	1.624.658.008	100,00%
2020	Non-life	1.351.957.818	93,05%	domestic	1.027.421.805	76,00%
				non-domestic EU	324.536.013	24,00%
				non-domestic non-EU	0	0,00%
				total	1.351.957.818	100,00%
	Life	100.950.862	6,95%	domestic	0	0,00%
				non-domestic EU	100.950.862	100,00%
				non-domestic non-EU	0	0,00%
				total	100.950.862	100,00%
	Total	1.452.908.680	100,00%	domestic	1.027.421.805	70,71%
				non-domestic EU	425.486.875	29,29%
				non-domestic non-EU	0	0,00%
				total	1.452.908.680	100,00%
2021	Non-life	1.825.766.397	94,78%	domestic	1.390.173.086	76,14%
				non-domestic EU	435.593.310	23,86%
				non-domestic non-EU	0	0,00%
				total	1.825.766.397	100,00%
	Life	100.584.518	5,22%	domestic	0	0,00%
				non-domestic EU	100.584.518	100,00%
				non-domestic non-EU	0	0,00%
				total	100.584.518	100,00%

				domestic	1.390.173.086	72,17%
				non-domestic EU	536.177.829	27,83%
				non-domestic non-EU	0	0,00%
	Total	1.926.350.915	100,00%	total	1.926.350.915	100,00%

356. What is the situation regarding new financial markets and instruments, for example venture capital companies, factoring, leasing, etc.? Is the legal framework in place for such operations? Please provide relevant legal acts and summarise the main features. Please provide any available information on market developments.

As regards the collective investments schemes, in the Republic of Moldova there are no authorised mutual funds/alternative investment funds. The Republic of Moldova has adopted the regulatory framework for UCITS (undertakings for the collective investment in transferable securities) as a part of Law on capital market (No.171/2012) based on Directive 2009/65/CE. Also, Moldova has in place the regulatory framework for AIFMD - Law on alternative collective investment undertakings (No.2/2020) based on Directive 2011/61/EU, Regulation (EU) nr.345/2013, Regulation (EU) 694/2014, Regulation (EU) nr.2015/760.

The NCFM has not yet received any requests to register investment funds. There were several investment funds in the past that were established as a result of the privatisation process: part of them were reorganised into Joint Stock Companies, while the part entered into liquidation.

As regards the financial leasing, this activity can be performed by non-bank credit organisations (NBCOs) in accordance with the Law nr. 1/2018 on a professional basis. The National Commission for Financial Markets (NCFM) is the institution that authorises the activity of these entities. As of the end of 2021, the financial leasing activity performed by NBCOs represents 1.5 billion MDL, which constitutes 2.1% of the entire credit market.

According to the Law 202/2017 on banking activities, the domestic banks are allowed to conduct financial leasing activities. Factoring, as a financial instrument, is governed by the Moldovan Civil Code, any domestic company may conduct factoring activity. Leasing as a financial instrument is governed by the Moldovan Civil Code. Only banks and non-bank credit organisations are allowed to conduct leasing activities.

357. Please provide information on the establishment of a capitalised pension system. What are the main challenges for its development? What are the planned steps?

There are no active private pension funds in Moldova. In 2020, the Parliament adopted the Pillar III pension schemes, the Law on voluntary pension fund (VPL) (No.198/2020) based on the IORP Directive (2016/2341/CE). The VPL aims to reform the existing legislation, accelerate the development of voluntary pension funds as institutional investors, and stimulate and regulate the accumulation and payouts of voluntary pensions as an important element of the social protection system. Main areas

aimed to be improved by VPL include occupational pension funds, payout of voluntary pension benefits, and investment of voluntary pension funds. The VPL are based on a hybrid model, meaning that Defined Contribution (DC) funds are allowed to develop only pension plans that include the possibility for fund managers (in case included in the pension plan) to provide cover against biometric risks (longevity, disability, death), those with a guaranteed minimum return or those that promise a set return offer guarantees on payoff returns. Thus, regular Defined Benefit (DB) funds are prohibited.

III. The functioning of the labour market

358. Please provide and briefly comment on the following labour market indicators for the period 2016-2021: economic activity rates, employment rates and unemployment rates, long-term unemployment rate and training, by education, gender, age, nationality and in terms of regional divergences.

The labour market indicators are calculated by the National Bureau of Statistics based on the International Labour Office's methodology using data from the Labour Force Survey. The resident working-age population living in private households is used as the base for the calculation of employment indicators. In recent years, several methodological changes have been made in the calculation of occupational indicators, which makes indicators incomparable with the pre-2019 series. Main changes are related to adjustment of the estimation of occupational indicators to the results of the 2014 Census as well as to definitional changes. The table below contains labour market indicators aggregated by education, gender, age, and region for the period 2019-2021.

Economic activity rates in Moldova have been slightly declining during the past two years, because of the COVID-19 pandemic. The long-term unemployment rate was around 0.8% in 2021.

	2019	2020	2021
Economic activity rate, 15 years and over (%)	42,3	40,3	41,1
<i>of which by:</i>			
Education:			
Higher	63,4	61,8	61,5
Secondary professional	45,6	42,8	44,5
Secondary vocational	47,6	44,7	45,5
High school, secondary general	39,1	37,1	36,2
Gymnasium (lower secondary)	29,3	27,7	29,9
Sex:			
Men	47,0	45,1	46,5
Women	38,2	36,1	36,4
Age group:			
15-24 years	21,2	18,3	18,1
25-34 years	55,2	52,1	53,5
35-44 years	61,2	59,9	61,4
45-54 years	62,2	60,0	61,2
55-64 years	42,2	41,7	43,7
65+ years	7,6	6,6	5,3
Regions:			
Chisinau (municipality)	55,1	51,2	50,9
North	44,4	43,0	45,0
Centre	35,9	34,8	35,9

South	33,2	31,4	31,5
Employment rate, 15 years and over (%)	40,1	38,8	39,8
<i>of which by:</i>			
Education:			
Higher	61,6	60,4	60,4
Secondary professional	43,8	41,4	43,0
Secondary vocational	44,9	42,7	43,8
High school, secondary general	37,0	35,7	35,0
Gymnasium (lower secondary)	26,8	26,1	28,7
Sex:			
Men	44,2	43,1	44,7
Women	36,5	35,0	35,4
Age group:			
15-24 years	19,0	16,3	16,4
25-34 years	52,1	50,2	52,0
35-44 years	58,0	57,6	59,5
45-54 years	59,7	58,0	59,4
55-64 years	40,5	40,5	42,6
65+ years	7,6	6,5	5,3
Regions:			
Chisinau (municipality)	52,6	48,8	49,2
North	42,5	41,3	43,3
Centre	33,6	33,8	35,0
South	31,3	30,3	30,5
Unemployment rate, 15 years and over (%)	5,1	3,8	3,2
<i>of which by:</i>			
Education:			
Higher	2,8	2,3	1,8
Secondary professional	3,8	3,4	3,5
Secondary vocational	5,8	4,4	3,8
High school, secondary general	5,5	3,9	3,5
Gymnasium (lower secondary)	8,3	5,6	4,1
Sex:			
Men	5,8	4,3	3,8
Women	4,4	3,2	2,5
Age Group:			
15-24 years	10,4	10,9	9,2
25-34 years	5,8	3,7	2,9
35-44 years	5,3	3,8	3,1
45-54 years	4,1	3,4	3,0
55-64 years	3,9	2,9	2,7
65+ years	0,1	0,4	0

Regions:			
Chisinau (municipality)	4,6	4,6	3,3
North	4,3	4,0	3,8
Centre	6,3	2,9	2,6
South	5,8	3,5	3,0
Long-term unemployment rate, 15 years and over (%)	1,0	0,7	0,8

Source: National Bureau of Statistics, Labour Force Survey

359. Unemployment: How has unemployment developed since 2006 and per sector? What are the main causes of unemployment? What are the main categories concerned? What is the percentage of long term unemployment as a share of total unemployment? Please provide gender disaggregated data if available.

In 2019, the statistical calculation of the unemployment rate has changed, due to a different definition of the denominator – the population figures have been revised, based on the estimated number of the usual resident population. This makes impossible comparisons with the pre-2019 period. However, the evolution of the unemployment rate in the period 2019-2021 qualitatively resembles previous evolution, with the indicator going from 5.1% in 2019 to 3.2% by 2021.

The unemployment rate in the Republic of Moldova has been steadily declining in the period 2006-2021. In 2006, the unemployment rate was 7.4% with a higher rate for men (8.9%) compared to women (5.7%). By 2018, the unemployment rate had levelled at 2.9 percent of the labour force (3.4% for men and 2.4% for women).

Individual educational attainment negatively correlates with unemployment risk, with the unemployment rate decreasing from 4.1% for those with lower secondary education to 1.8% for those with higher education in 2021. Age is also an important predictor of unemployment, with the 15-24 youth unemployment rate three times above the national average.

In 2021, the highest unemployment rate was found in urban areas (6.0%) and the lowest in rural areas, including due to high reliance on subsistence agriculture (2.6%).

The long-term unemployment rate (over 12 months) for the population above 15 years old is rather low, at only around 1%. The latest available data show that the long-term unemployed represent more than a quarter (25.7%) of all unemployed, with women (29.4%) being more likely than men to be long-term unemployed (23.2%). Young people are mostly short-term unemployed, as over 70% of young people were unemployed for less than six months.

360. Participation rates: What are the main determining factors influencing labour market participation rates? Please provide a breakdown by sector/population group, including gender disaggregated data if available.

In 2021, the labour force participation rate of the population aged 15-64 was 49.1%, with a lower rate for women (44.9%) compared to men (53.5%). Low participation rates are due to decreasing activity rates among women and among young people of 15-24

years of age. For individuals in the age group 55-64 the activity rates are on a growing trend, gaining 2.1 percentage points in 2019-2021.

For young people, low activity rates are mostly due to participation in education. Nearly six out of ten young persons in the age group 15-24 are students. Another factor that influences the low participation rate of young people is related to the unattractive level of wages.

For adult women (aged 25-64) low participation rates are due to 2 main factors: (1) household and care responsibilities, with 35.9% of all inactive women engaged in care duties, and (2) pension retirement related to disability and to the fact that retirement age for women is lower than for men - 35.6% of all inactive women aged 25-64 were economically inactive for these reasons in 2020 (26.7% for men). A higher share of women taking on care responsibilities in 2020 has been affected by COVID-19. During the pandemic many jobs were lost in sectors that employed predominantly women, such as daycares, kindergartens, because schools commuted to online teaching and women had to stay home and take care of children.

Labour force participation is positively related to educational attainment. Individuals with tertiary educational attainment have participation rates of 63.4%, compared to 41.4% for those who have achieved lower secondary education. This trend is even more prominent for women – those with tertiary education are 2.5 times more active than those with secondary education – and for young people (aged 15-24), with 48.4% of tertiary educated youth participating in the labour market compared to only 15.8% of young people with secondary education.

361. Employment: How is the division of employment between the public, the privatised and the private sector? What have been the main sectors of job creation since 2006? How do you assess the relationship between economic growth and employment? Please provide gender disaggregated data if available.

There were nearly 602,000 wage-earning employed persons in Moldova in 2020. In 2019, one year prior to COVID-19 restrictions, there were 625,000 people employed. Considering that during 2020 tens of thousands of jobs were lost in sectors like services and leisure and hospitality industries, the division of employment among sectors for 2019 is more informative.

Three out of four people who received salaries worked in the private (real economy) sector in 2019. Nearly 471,000 Moldovans worked in the private sector and 154,000 worked in the public (budgetary) sector in 2019. As a comparison with 2006, there were nearly 649,000 Moldovans employed with more than half working in the public sector (339,543) and the rest in the private sector or in mixed establishments that are owned both by the public and private sector.

The employment distribution among sectors changed over the years transitioning from agriculture and public administration to commerce. In 2019, the industries with the highest number of workers include trade (104,356 workers), education (95,500), manufacturing (90,889), health and social assistance (60,374), public administration and defence (41,119), and agriculture (36,439).

In 2006, the industries with the highest employment included education (124,305), manufacturing (104,162), agriculture (100,037), health and social assistance (62,267),

public administration (58,089), transportation and communications (48,372), and commerce (43,235).

Looking at workers' demographics, young workers (15-24) are mostly employed in the trade, hotel and restaurant sector (29.6% of total), industry (18.4%) and agriculture (17.5%). Women (15+) are twice more likely than men to be working in the public administration, education and social work sector (34.2% of total women's employment compared to 13% for men), while men are more likely than women to be engaged in agriculture (25.4% and 16.3%, respectively). The shares of men and women workers engaged in industry in 2020 were nearly equal (14.7 % and 14.4 %, respectively).

In 2020 the medium-skilled occupations (category 4 to 8 of the International Standard Classification of Occupations, ISCO 2008) comprised just over two-thirds of total employment (60.4%), while elementary occupations represented 12.4%.

Young workers (15-24 years old) are predominantly found in medium-skilled (68.2% of total youth employment) and high skilled occupations (15.6%), mostly in line with raising educational attainment for the younger cohort. Skills polarisation is more pronounced among women, since employment is concentrated in high-skilled (35.1% of total female employment) and low skilled occupations (11.4%), while over 66% of men's employment is in medium-skilled occupations.

Whereas the occupational distribution is broadly in line with the educational attainment of the employed population (aged 15+), vertical skills mismatches amounted to 34.6% in 2020. Over-qualification (12.2%) is mostly accounted for by upper-secondary graduates working in elementary occupations, and tertiary graduates working as service workers. In both these categories, women are more represented than men. Under-qualification represents 22.4% of overall employment and mostly comprises low-skilled individuals working as craft persons, technicians and machine operators.

The employment structure in Moldova has changed over time. The share of wage employees in total employment has decreased in the period 2014-2018, from 63.7% to 59.6%, while the share of own account workers has progressively increased (to over 35% in 2018). The figures of 2021 show that wage employees accounted for 78.2%, while the share of own-account workers levelled at 16.9%, with no major changes compared to 2020. The share of vulnerable employment in 2021 (i.e., the sum of own account workers and contributing family members over all workers) was 21.4 %. Women are more likely than men to be wage employees (84.2% and 72.5%, respectively), while men are three times more likely than women to be own account workers. Young people (15-24) and women contributing family members still constitute a non-negligible share of workers (11.6% and 6.6%, respectively).

362. Please describe the policy concerning the labour market. What are the key challenges? What are the main steps taken/to be taken to improve the unemployment situation and/or the mismatch between labour supply and demand?

Education and training have a positive impact on participation, employment and unemployment for adults, but it does not protect against skills mismatches and does not shield young people from unemployment. Higher education achievements for the population aged 15+ are positively related to labour market outcomes, as individuals with lower secondary education are more likely to be unemployed than individuals with

upper secondary and tertiary education. The fact that the unemployment rate of tertiary educated youth is higher than for young people with secondary education reflects a misalignment of higher educational outcomes with the demand of the economic system. The small enterprises that have an important role in the economy mainly need persons with secondary education and have low capacity to absorb increasing cohorts of young high-skilled individuals. Addressing and reducing mismatches is an important objective of the labour market policy in Moldova.

Whereas the occupational distribution is broadly in line with the educational attainment of the employed population (aged 15+), vertical skills mismatches amounted to 34.6% in 2020. Over-qualification (12.2%) is mostly accounted for by upper-secondary graduates working in elementary occupations, and tertiary graduates working as service workers. In both these categories, women are more represented than men. Under-qualification represents 22.4% of overall employment and mostly comprises low-skilled individuals working as craft persons, technicians and machine operators. To reduce the mismatch between labour supply and demand, the Ministry of Education of Moldova is focusing on building partnerships with the private sector, by implementing dual education and increasing the involvement of the private sector in education. The demand for the labour market related to the skills of the labour force is transmitted by the Ministry of Labour and Social Protection to the Ministry of Education by approving Occupational Standards (OS). OS are considered in the development of curricula. There are 69 OS approved.

In the period 2017-2021, the employment policy of Moldova has been guided by the principles set by the National Employment Strategy (NES 2017-2021), which was centred on:

- increasing formal and productive employment;
- enhancing the relevance and effectiveness of the education and training system;
- strengthening the labour market governance system; and
- exploiting the potential of migration for sustainable development.

In 2018 the new legislation introduced new programmes such as traineeship, job subsidies, self-employment support, local project initiatives, mobility grants.

Currently, Moldova invests 0.03% of Gross Domestic Product in employment services and active labour market programmes. The employment policy is implemented by the National Employment Agency. The main objective of the National Employment Agency (NEA) of Moldova is to ease the matching of unemployed individuals with job vacancies in enterprises. It provides labour market information, employment counselling and career guidance, and administers active and passive labour market schemes, in line with the principles of the 1948 ILO Employment Service Convention (C88) ratified by Moldova in 1996.

The NEA's organisational and geographical structure ensures the availability of basic employment services, vocational training and access to statutory entitlements (unemployment benefit and reintegration allowance) throughout the country. Services for employers include job mediation – carried out electronically by matching the key features of the vacancy with the characteristics of registered unemployed – short-listing of potential job candidates, arranging job interviews either in their own premises or at the employers' place of the business.

The portfolio of employment services includes:

- delivery of labour market information;
- employment counselling, including profiling, job search assistance, and individual employment planning;
- career guidance services; and
- job mediation (matching between unemployed and enterprises offering job vacancies).

The unemployment benefit amounts to 50% of the person's average salary in the last 12 months of employment – but not higher than the national average wage of the previous year - if job loss is due to the liquidation/closure of the enterprise and 40% in other circumstances (article 45 of Law No. 105/2018). The benefit depends on job tenure and ranges from five months payment (for tenure up to five months) up to nine months for workers with tenure of 15 years and over.

THE CAPACITY TO COPE WITH COMPETITIVE PRESSURE AND MARKET FORCES WITHIN THE UNION

I. Education and innovation

363. What is the overall investment in education and R&D (% of GDP, % of public spending)? How many researchers are there per 1000 labour force? Are there sector strategies on education and research? How many patents are issued per year? (see also chapter 26 - Education and culture).

The overall public investments on education and R&D in the Republic of Moldova represent approximately 5.5-6% of GDP. Detailed figures are shown in the table below.

Share of the investments in education and R&D in GDP

Year	Education and R&D	Only Education	Only R&D (TOTAL)	Fundamental R&D	Applied R&D
2019	5,58%	5,33%	0,25%	0,10%	0,15%
2020	6,29%	6,01%	0,28%	0,07%	0,21%
2021	5,45%	5,22%	0,23%	0,05%	0,18%
2022	5,56%	5,34%	0,22%	0,05%	0,17%

Investment in education and R&D represents approximately 21-25% of public spending. Detailed figures are shown below.

Share of the investments in education and R&D in public spendings

Year	Education and R&D	Only Education	Only R&D (TOTAL)	Fundamental R&D	Applied R&D
2019	25,32%	24,19%	1,13%	0,47%	0,66%
2020	24,27%	23,19%	1,08%	0,27%	0,81%
2021	23,78%	22,79%	0,99%	0,20%	0,79%
2022	21,80%	20,94%	0,86%	0,19%	0,67%

Investments in R&D are mostly directed to applied research with about 78% of all investments in R&D being directed to applied research. In terms of the field of research, most of the resources are directed to applied research in the field of economic sciences (42.8%) and applied research in the field of environmental sciences (17.8%).

Moldova has 4,058 people involved in R&D. Of these, about 2,767 are researchers. With a labour force of approximately 843,300, there are 3.28 researchers per 1,000 employees.

A full breakdown of researchers by research field is shown below.

Number of researchers per 1000 employed by research field

Field of Research	Total	Natural Sciences	Engineering	Social	Agricultural	Medical	Humanitarian
Researchers	2767	1018	403	393	352	339	262
Per 1000 employed	3.28	1.2	0.48	0.47	0.42	0.4	0.31

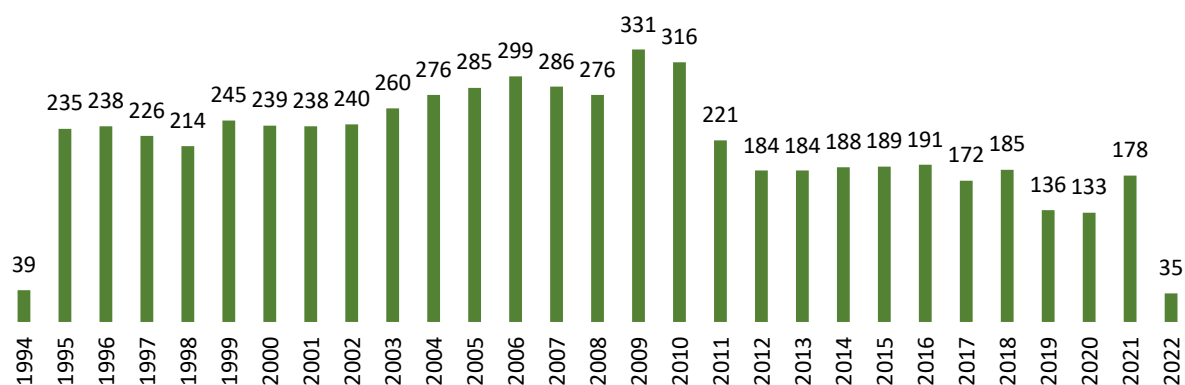
The Republic of Moldova is at the beginning of the new strategic planning period (2021 – 2030). *Strategic priorities and activities under the current plan are still being finalised.*

The prior National Development Strategy of Education for 2014 -2020 – “Education 2020”¹⁰⁸¹ was adopted in 2014 and covered the 2014 – 2020 period.

The most recent R&D strategic plan was also adopted in 2014 and covered the 2014-2020 period.¹⁰⁸² The National Program in the fields of research and innovation for the years 2020 – 2023¹⁰⁸³ was adopted in 2019 and includes five main priorities: i) health; ii) sustainable agriculture, food safety and security; iii) environment and climate changes; iv) social challenges; and v) economic competitiveness and innovative technologies.

The total number of patents issued in Moldova since 1994 is 6,239. The evolution in the number of new patents per year since 1994 is shown in the figure below.

Evolution of the number of new patents issued in Republic of Moldova



Source: National Agency for Protection of Intellectual Property (AGEPI)

The number of new patents per year decreased after 2010 due to low financing of the R&D sector and emigration of the high potential professionals.

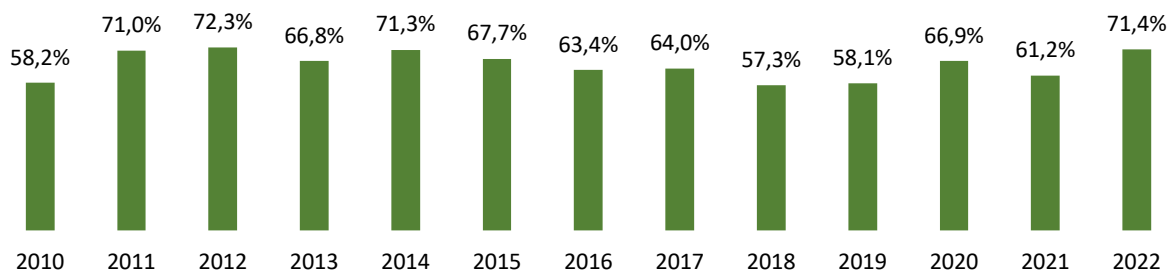
Nevertheless, the share of short-term patents increased after 2010 suggesting a shift towards smaller and more dynamic innovations.

¹⁰⁸¹ https://www.legis.md/cautare/getResults?doc_id=55069&lang=ro

¹⁰⁸² https://www.legis.md/cautare/getResults?doc_id=115801&lang=ro#

¹⁰⁸³ https://www.legis.md/cautare/getResults?doc_id=124073&lang=ro#

Share of short-term patents in the total amount of patents issued in Republic of Moldova, %



364. Are vocational training and other requalification schemes available? What are the enrolment rates in such schemes? What is the private sector's contribution to professional training and research funding?

The legal framework governing vocational training consists of the Education Code¹⁰⁸⁴ and specific Secondary normative acts such as Governmental Decisions, Ministry orders and instructions.

Vocational training is organised as part of the national education system at three different levels.

- Secondary level – professional schools and vocational schools
- Post-secondary non-tertiary level – college and centres of excellences
- Lifelong education courses

Moldova currently has 42 professional schools¹⁰⁸⁵, 36 colleges¹⁰⁸⁶ and 13 centres of excellence¹⁰⁸⁷ offering 68 qualifications at the secondary level (professional schools)¹⁰⁸⁸, and 104¹⁰⁸⁹ qualifications at post-secondary non tertiary level.

In addition to secondary and post-secondary institutions, 60 universities, NGOs, and private companies are accredited by the Ministry of Education to provide lifelong learning and requalification programs. The list of lifelong learning and requalification programs includes about 200 professions and qualifications¹⁰⁹⁰.

Enrolment rates in vocational training are quite stable over the last five years at approximately 56-57%, of which about 27-28% represent the enrolment in professional schools and 28-30% in postsecondary technical education.

¹⁰⁸⁴ https://www.legis.md/cautare/getResults?doc_id=130514&lang=ro#

¹⁰⁸⁵ https://mecc.gov.md/sites/default/files/scoli_profesionale_2.pdf

¹⁰⁸⁶ https://mecc.gov.md/sites/default/files/colatii_5.pdf

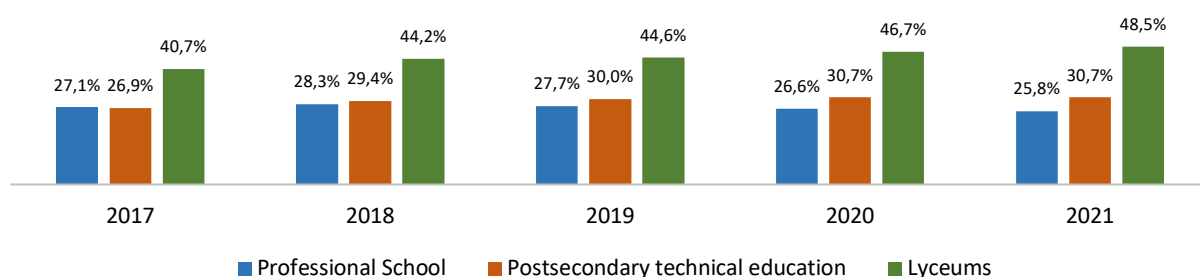
¹⁰⁸⁷ https://mecc.gov.md/sites/default/files/centre_de_excelenta_6.pdf

¹⁰⁸⁸ <https://mecc.gov.md/ro/content/curriculum-invatamintul-profesional-tehnic-secundar>

¹⁰⁸⁹ <https://mecc.gov.md/ro/content/curriculum-invatamintul-profesional-tehnic-postsecundar>

¹⁰⁹⁰ <https://mecc.gov.md/ro/content/baza-de-date-programelor-acreditate-de-ministerul-educatiei-culturii-si-cercetarii>

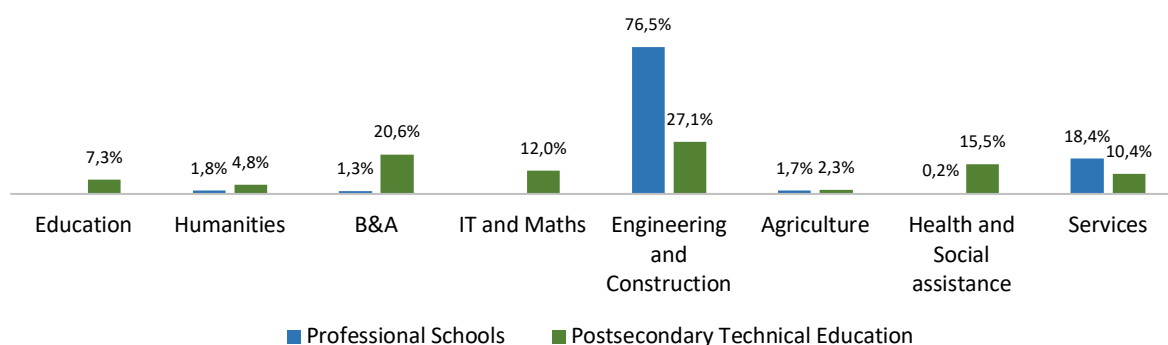
Structure of vocational training enrolment rates, age of 16



Approximately 75% of all enrolments in professional schools are oriented towards the fields of engineering and construction, with 18% to services, and 7% to other fields.

In postsecondary technical education, engineering and construction represent about 27% of all enrolments, followed by business and administration with a 20% share and health and social assistance with 15%.

Enrolment structure by field of qualification, 2021



The private sector contributes to professional training through two main ways: i) development and promoting on the market of the lifelong learning and requalification programs; and ii) work practice on site for students from secondary professional and postsecondary technical institutions.

Moreover, dual education as a new form of cooperation between private and education entities is starting to be implemented. At the moment, about 50 companies from 11 cities across the country are involved in the dual education programs and cover 21 qualifications from 9 different sectors of the economy. Currently more than 1500 students participate in dual education programs and its number increases yearly with about 10%.

II. Physical capital and quality of infrastructure

365. Infrastructure: Please describe how the level (in % of GDP), structure (type per economic sector) and sources (public/private) of gross fixed capital formation has developed in the last five years. Please indicate the share related to infrastructure investment including changes in roads, rail and telephony lines. Please provide a synthetic assessment on the quality of major infrastructures (transport, telecommunication, energy), indicating areas where investment needs are important.

1. Road infrastructure. The area of transport infrastructure is managed by the Ministry of Infrastructure and Regional Development (MIDR), according to Governmental Decision No. 690/2017¹⁰⁹¹, which ensures the management of national roads through the State Owned Enterprise „State Road Administration”. The management of local roads is ensured by the authorities of the local public administration of the first and second level.

Road classification: a) European roads; b) national roads; c) local roads – of national interest, communal and streets.

Length of public roads – 10 680 km, including: a) national roads – 5 902 km (which are expressways – 602 km, Republican roads – 1996 km and regional roads – 3 304 km);

b) local roads of district interest – 3 708 km; c) public roads on the left bank of the Dniester – 1 070 km.

Local public roads of communal interest and streets – about 30 000 km.

Roads of strategic importance – Trans-European Transport Network (TEN-T). On 24 November 2017 the High-Level Agreement on the expansion in Moldova of the Trans-European Transport Network in the Republic of Moldova was signed¹⁰⁹².

2. Investments in national road infrastructure:

2.1. From the state budget through the Road Fund

Year	2017	2018	2019	2020	2021	2022
Allocations from the Road Fund for Central public authorities and Local public authorities of level II (mln. MDL)	1457	1329	1400	2237	2095	2031
Allocations from the State Budget for Local public authorities of level I (mln. MDL)	385	386	390	390	395	868

2.2. From external sources: i) **EIB** – 375 mln. EUR for the rehabilitation and supervision of 400 km of national roads and project implementation assistance; ii) **EBRD** – 230.3 mln. EUR for the rehabilitation and supervision of 211 km of national

¹⁰⁹¹ Government Decision No.690/2017, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=127649&lang=ro

¹⁰⁹² <https://www.consilium.europa.eu/en/press/press-releases/2017/11/24/eastern-partnership-summit-joint-declaration/>

roads and project implementation assistance; iii) **WB** – 80 mln. USD for the improvement and modernization of approximately 140 km of road.

3. Railway infrastructure – the total length of the railways is 1157 km, of which 84.1% are single-track railway and 15.9% are double-track railway. 1143 km (98.7%) are wide track gauge – 1520 mm, and 14 km (1.3%) are narrow track gauge (European) 1435 mm.

The railway is not electrified and is divided into 3 railway nodes: i) *North area* – Valcinet – Ocnita – Balti (Glodeni-Ribnita-Colbasna) – Ungheni; ii) *Centre area* – Ungheni – Chisinau(Revaca-Cainari) – Tighina; iii) *South area*: Giurgiulesti – Etulia – Basarabasca (Cahul) – Causeni – Tighina.

There following limitations are present on the railway: i) *North area* – maximum permissible mass 3000 T, average speed – 25 km/h; ii) *Centre area* – 3000 T, average speed – 37 km/h; iii) *South area* – average speed - 27 km/h

On the territory of the Republic of Moldova there are 3 railway transport corridors of the Organisation for Co-operation between Railways (OSJD): i) *Corridor 5* – the length on the territory of the Republic of Moldova is 209.2 km; ii) *Corridor 12* – with a length of 216 km on the territory of the Republic of Moldova; iii) OSJD *Corridor 10* of OSJD – it was included the Giurgiulesti International Free Port, connected to the Giurgiulesti railway station, part of the East – West E 560 line of the international railway network, according to the European Agreement on Main International Railway Lines (EAIMRL).

In the last 5 years, there have been no investments in railway infrastructure, except for 40 024 399 EUR for the purchase of 12 locomotives, purchased from the EBRD, EIB and EU loan, in the total amount of 156.7 mln. EUR, the rest being intended for the rehabilitation of railway infrastructure and technical assistance.

Investments are needed for the rehabilitation of the railway infrastructure: i) *North* – 151 mln. EUR; ii) *Centre* – 98 mln. EUR; iii) *South* – 72 mln. EUR.

4. Inland waterways (naval) – in the Republic of Moldova there are 2 inland waterways (Dniester River and Prut River), with access of 430 m to the Danube River, rivers that can be used in both internal and external navigation¹⁰⁹³.

On the indicated sector of the Danube River and a portion of the Prut River, the Giurgiulesti Port Complex operates – the only port through which the import/export is carried out and provides access to the sea. The complex consists of a private port – Giurgiulesti Free International Port, managed by the Foreign Owned Company Danube Logistics and Giurgiulesti Passenger and Freight Port – managed by Ungheni River Port S.E. The port has the capacity to receive river and sea vessels, with a water depth of up to 7 metres. The port complex is connected to the European TEN-T corridor.

Giurgiulesti Port Complex consists of 7 terminals (passenger terminal, petroleum products, cereals, vegetable oil, bulk cargo, containers, general cargo and mixed railway terminal). In 2021, in the Giurgiulesti Port Complex, a total of 1 819 170 800 T of goods (1 148 547 185 T for import and 670 623 615 T for export) were handled, with a total of 1 645 entries of ships and inland vessels in the ports it owns.

5. Aviation infrastructure - there are currently 2 certified international airports in the Republic of Moldova:

¹⁰⁹³ https://treaties.un.org/doc/Treaties/1996/01/19960119%2009-07%20AM/Ch_XI_D_5.pdf

Chisinau International Airport is currently leased to a private company, the concession is for a period of 49 years, the royalty at 1% of the revenue generated by the concessionaire and the making of investments amounting to 244.2 mln. EUR.

Marculesti International Airport, managed by the State authorities, operates at a limited capacity (currently used as a cargo airport, parking and aircraft maintenance works). In order to develop the passenger infrastructure and to modernise the runway, investments valued at about 10-30 mln. EUR is needed, depending on the complexity of the works.

6. Communications infrastructure – at national level, in the Republic of Moldova there are 4 main fibre optic networks (schematic representation is available on the interactive map of the International Telecommunication Union¹⁰⁹⁴). These main networks¹⁰⁹⁵ have ensured the increase of the capacity of the access channels to the global Internet network from 356.4 Gbps in 2017 to 755.9 Gbps in 2020. The points of presence of fibre optic networks exist in 1143 localities out of the total number of 1532 localities.

Depending on the access technology, 78.4% of the number of subscribers to fixed broadband Internet access services are connected to the network via FTTx, 14.9% - via xDSL, 6.4% - via coaxial cable (DOCSIS) and 0.3%¹⁰⁹⁶.

In the Republic of Moldova there are 3 mobile communications networks of 4th generation (4G), 3 mobile communications networks of 3rd generation (3G) and 3 mobile communications networks of 2nd generation (2 in GSM standard and one – standard CDMA-450).

According to the National Bureau of Statistics, the share of the communications sector is 3.8% of GDP.

In the Republic of Moldova operates the network with national terrestrial digital television coverage in DVB-T2 standard, which provides coverage of 97% of the territory and 96% of the country's population, currently offering free access to 8 TV stations, with a maximum capacity of 18 Standard Definition TV (SD).

Investments in the electronic communications sector

Network type	Investment volume per year, mln. MDL			
	2017	2018	2019	2020
Mobile networks	678	662	578	386
Fixed networks	294	423	455	392
Audio-visual networks	125	109	112	165
Total:	1096	1194	1144	942

7. Energy infrastructure

7.1. Electricity transportation. The electricity transportation system operator (TSO) Moldelectrica S.E. manages the electricity transport network, with a total length of overhead lines (OHL) of **about 4 725 km**, with a degree of wear of about 50%, out of

¹⁰⁹⁴ <https://www.itu.int/itu-d/tnd-map-public/>

¹⁰⁹⁵ https://anrceti.md/files/filefield/Anuar%20statistic_2020.pdf

¹⁰⁹⁶ https://anrceti.md/files/filefield/Raport_CE_III_2021.pdf

which – 274 km of OHL have a service life of 5 – 15 years, 376 km have a service life between 15 – 30 years, and the remaining 4075 km of OPL, or about **86.24%** have a service life longer than 30 years.

7.2. Electricity distribution. *Distribution system operator Foreign Owned Company Premier Energy Distribution J.S.C.* owns **35 643 km** of power lines, with a degree of wear of about 54%, out of which about **75.24%** or 29 820 km have a service life longer than 20 years, 3 898 km – from 10 to 20 years, and 4 924 km have a service life of up to 10 years. 9519 power transformers with a total installed capacity of 3 663 171 kVA are involved in the distribution activity, most of them (**about 63%**) having a service life of over 20 years.

Distribution system operator JSC RED Nord manages 21 464 km of power lines, out of which about 14 281 km have a service life longer than 20 years, 2732 km – from 10 to 20 years, 4 448 km – up to 10 years. 5718 power transformers with a total power of 1 011 148 kVA are involved in the distribution activity, with a degree of wear of about 61%, out of which over **71%** are operated for more than 20 years.

In order to recover by tariff the investments made by the licensees during the years 2017-2021, ANRE (National Agency for Energy Regulation) approved total investments of 3588.1 mln. MDL for system operators and electricity suppliers, out of which 911.6 mln. MDL are the investments planned and approved for 2021.

Investments made by system operators and electricity suppliers and approved for tariff purposes

Investments made	2017		2018		2019		2020		2021*		Total 5 years	
	mln. MDL	mln.€	mln. MDL	mln.€	mln. MDL	mln.€	mln. MDL	mln.€	mln. MDL	mln.€	mln. MDL	mln. €
Supply	1.6	0.1	1.6	0.1	0.7	0.0	3.5	0.2	1.8	0.1	9.2	0.5
Transportation	66.3	3.2	39.3	2.0	380.4	19.3	136.9	6.9	302.3	14.4	925.2	45.9
Distribution	435.1	20.9	538.2	27.1	514.9	26.2	558.0	28.3	607.5	29.0	2 653.7	131.5
Total	503.0	24	579.1	29	896.0	46	698.4	35	911.6	44	3 588.1	177.8

7.3. Natural gas transportation. The natural gas transportation is carried out by 2 licensees – transmission system operators (TSO) LLC Moldovatrangaz, which has in operation 1560 km of transmission networks, the degree of depreciation of which exceeds 40% and LLC Vestmoldtrangaz, which has in operation 122.6 km. The „Moldovatrangaz” belongs to the JSC Moldovagaz (a Russian-Moldovan joint stock company in which Moldova holds a little bit more than 1/3 of shares and the rest is controlled by Russian company „Gazprom”). There is access to the transportation networks for all districts of the Republic of Moldova. In 2020, the construction of Ungheni-Chisinau gas pipeline was finalised, having a length of 112.2 km and a capacity of 1.5 bcma. The LLC Vestmoldtrangaz holds the Ungheni-Chisinau gas pipeline.

7.4. Natural gas distribution. The distribution of natural gas is carried out by 23 licensees for the natural gas distribution service (DSO), including 12 companies affiliated to JSC Moldovagaz . The distribution system consists of 25 362.2 km of natural gas distribution networks, out of which 8260 km (33%) belong to DSOs affiliated with JSC Moldovagaz, 7091.6 km (28%) to individuals, 6214 km (24.5%) belong to the central and local public administration authorities, 2023 km belonging to economic agents and 644 km (2.5%) belonging to DSOs outside the Moldovagaz

system. At the end of 2021 in the Republic of Moldova (without the administrative-territorial units on the left bank of the Dniester) 951 localities, or 62%, out of 1533 localities, have access to natural gas distribution networks. Natural gas distribution networks are depreciated in a proportion of about 50%. The Republic of Moldova implements the Third Energy Package and aims to effectively unbundle gas transportation and distribution networks.

Investments made in the natural gas sector in the period 2017-2021

Investments made	2017		2018		2019		2020		2021*		Total 5 years	
	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €
Supply	8.3	0.4	17.4	0.9	0.4	0.0	2.2	0.1	2.9	0.1	31.2	1.5
Transmission	236.8	11.4	42.7	2.2	272.7	13.9	1118.7	56.7	580.0	27.7	2 250.8	111.8
Distribution	106.4	5.1	97.7	4.9	60.5	3.1	97.7	4.9	174.2	8.3	536.6	26.4
Total	351.5	17	157.9	8	333.6	17	1218.6	62	757.1	36	2 818.6	139.7

7.5. Production and distribution of thermal energy

Thermal plant/ CET	Putting into service	Installed electric power, MW	Available electric power, MW
Thermal power plant CET Source 1	1976	240	210
Thermal power plant CET Source 2	1951	66	24
Thermal power plant CET-Nord	1957	37,4	37,4

Centralised system for thermal energy supply systems operates currently in Chisinau and Balti municipalities. In Chisinau, Termoelectrica manages 743 km of thermal networks, out of which about 254 km have a service life longer than 40 years, 170 km – from 30–40 years, 319 km – up to 30 years. In Balti, CET Nord manages 87.2 km of thermal networks, out of which about 47.9 km have service life longer than 40 years, 22.8 km – from 30–40 years, 16.5 km – up to 30 years.

Investments made in the thermal energy sector in the period 2017-2021

Investments made	2017		2018		2019		2020*		2021*		Total 5 years	
	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €	mln. MDL	mln. €
	393.83	19.01	450.64	22.99	553.94	28.10	818.36	41.25	356.97	17.00	2573.74	128.36

8. Regional technical and urban infrastructure

In the period 2017-2021, projects were implemented in the 4 development regions North, Centre, South and ATU Gagauzia, aimed at developing and improving the technical and urban infrastructure financed from the National Fund for Regional Development (restructured in 2022 in the National Fund for Regional and Local Development). The projects focused primarily on 3 major areas of intervention: Regional road infrastructure; Water supply and sanitation and Energy efficiency in public buildings, and the sources allocated for this period amounted to about 593 587.42 thousand MDL.

(thousand MDL)

Areas of intervention	Y-2017		Y-2018		Y-2019		Y-2020		Y-2021		Total for the period	
	Allocated	Used	Allocated	Used	Allocated	Used	Allocated	Used	Allocated	Used	Allocated	Used
Regional and local road infrastructure (RLR)	51 539.63	51 539.63	51 020.86	51 020.86	49 761.94	46 357.94	61 383.60	52 581.10	57 017.29	38 614.83	270 723.32	240 114.36
Water supply and sanitation (WSS)	73 417.91	73 417.91	71 216.70	71 216.70	68 879.73	26 340.22	64 896.61	57 873.56	54 459.76	51 631.22	332 870.71	280 479.60
Energy efficiency in public buildings (EE)	25 111.62	25 111.62	31 806.82	31 806.82	11 591.95	9 176.25	6 898.77	3 830.12	3 068.65	3 068.65	78 477.81	72 993.45
Summary by areas	150 069.15	150 069.15	154 044.38	154 044.38	130 233.62	81 874.41	133 178.99	114 284.77	114 545.71	93 314.70	682 071.84	593 587.42

Results achieved in regional development projects:

Areas of intervention	Product indicators	Result indicators
Regional and local road infrastructure (RLR)	- 33 km of road infrastructure – built (rehabilitated); - 119 bridges and footbridges – built (rehabilitation);	- 19 beneficiary localities with access to improved roads; - 44 788 population with access to improved road;
Water supply and sanitation (WSS)	- 3 main aqueducts with a length of 70 585 km – built; - 189.04 km of internal aqueduct networks in localities – built; - 3 capture stations – built/rehabilitated; - 2 water treatment plants – modernised; - 49.857 km of sewerage networks – built; - 2 wastewater treatment plants – built/rehabilitated;	- 31 localities with access to water supply services; - 34 110 population with access to water supply services; - 6 localities with access to sewerage systems; - 30 285 population with access to sewerage systems;
Energy efficiency in public buildings (EE)	- 49 256.62 m2 thermally insulated surfaces; - 5 272.08 m2 of windows and doors – replaced; - 1 thermal power plant – renovated; - 1 internal heating system – repaired; - 1 internal water and sewerage system – repaired; - 2 solar domestic hot water systems; installed; - 1 street lighting system – replaced;	- 8 public buildings became more energy efficient; - 600 workplaces with improved conditions; - 386 children have improved working conditions; - 5 456 people have improved street lighting conditions;

366. What is the level of digitisation of the economy? What is the level of ICT skills of the general population? What is the usage rate of internet by the public? To what extent is Digital Technology used by businesses? By public services (e-Government)?

Level of digitisation of the economy

The Digital Economy and Society Index (DESI) indicators are not collected in the Republic of Moldova and therefore the data which summarises the national level of digital performance and the evolution in terms of digital competitiveness can only be extracted from different studies, reports and surveys. Currently, the DESI indicators are being piloted in the country and are planned to be collected by the National Bureau of Statistics starting from 2023.

In 2020 the IT industry revenue was 7.38 billion lei (365 million Euros), reaching a share of 3.6% in the total GDP of the country, with a number of about 16,000 employees across about 1,200 companies. At the same time, the broader ICT sector's contribution to GDP was over 7% (compared to an EU average of 4%).

The volume of investments in IT services has doubled compared with previous years reaching 2.6 billion MDL (130 million EUR) in 2020, which underlines the fact that more and more is being invested in streamlining processes and digital innovation in various economic sectors leading to higher levels of digitisation across the economy.

According to the data provided by the National Regulatory Agency for Electronic Communications and Information Technology (ANRCETI) Report "Evolution of the electronic communications market in the third quarter - 2021"¹⁰⁹⁷, fixed-line telephony penetration rate per 100 inhabitants at the end of the 3rd quarter of 2021 constituted 38.7% and the mobile penetration rate per 100 inhabitants constituted 147.5%. Whereas the internet penetration rate of the fixed access services in relation to the number of households was about 78.15% and the penetration rate of mobile broadband Internet access services accounted for 107.4%.

According to the *Europe E-Commerce Report 2021*, Moldova registered the second-highest rate of B2C e-Commerce growth rate in Europe in 2020, only behind Greece. This shows the high potential and interest in e-commerce among the population and a growth in the use of digital sales channels by businesses. E-commerce and related sales, which have grown particularly strongly during the pandemic, were estimated to represent 1.1% of GDP in 2021. The growth rates are still off a low base and whilst e-commerce in Moldova remains limited compared to all other economies in the region, with an estimated 34% of Moldovan residents participating in electronic commerce, the high growth rates are expected to continue as local businesses continue to adopt digital sales channels offering consumers local alternatives to some of the global e-commerce platforms where purchases are currently primarily being made.

According to data collected by the National Bank of Moldova (NBM), the total value of payments made on e-commerce platforms amounted to 4.8 billion MDL (240 million EUR) across approximately 11 million transactions, representing approximately 16% of all cashless transactions made with cards issued in the Republic of Moldova and 22% of total card payments in value terms. Out all e-commerce transactions, about one quarter (2.7 million operations) were made on domestic e-commerce platforms amounting to 1.2 billion MDL (60 million EUR and an increase of 50% compared to 2019) and 8.3 million

¹⁰⁹⁷ https://anrceti.md/fil.es/filefield/Raport_CE_III_2021.pdf

operations amounting to 3.6 billion MDL (180 million EUR) in purchases were performed on foreign e-commerce platforms (decreasing by 7.6 % compared to 2019). Also, the number of e-commerce platforms in the Republic of Moldova reached 525 at the end of 2020, an increase by 28.7% from 408 in 2019.

According to the *Market Analysis on Geo-blocking in the CEFTA Region* performed by the Macedonian E-Commerce Association, cross-border e-commerce has also been hampered by geo-blocking. In the case of Moldova the geo-blocking practices during online shopping occur in proportion of about 85%.

ICT skills

According to data from the 2019 National Annual Survey, 64.7% of households have a computer at home. Internet penetration registers an upward dynamic of 79.9%. The presence of computers in households and internet access vary depending on age, place of residence, level of education, household income.

The level of digital literacy and the skills of operating with electronic devices for browsing the internet strongly determine the preferences in the use of electronic services. At the moment, 37.7% of citizens can be declared independent users in the event of accessing electronic services, stating that they would prefer to access them independently, without the others' support. Another 37.5% prefer to access by themselves and admit that they would need support from other people: potential assisted users. Moreover, only 22.0% of respondents can be defined as "delegators" or users with high needs for support, preferring to fully delegate to another person accessing and obtaining the service.

Use of digital technology by businesses

In 2020, a new digital strategy was adopted, – ‘Moldova digitala 2020’ – which focuses on 3 pillars: i) improving internet access; ii) increasing digital content; iii) increasing digital training and SME involvement.

Concerning the extent to which digital technology is used by businesses, it should be noted that in the implementing process of the government's SME Digitalization Support Tool, a self-assessment questionnaire was distributed by ODIMM (Organisation for Small and Medium Enterprises Sector Development) during 2020 and completed by about 800 SMEs, in order to evaluate their digital skills levels in five sectors, such as: Online Presence, E-commerce planning, Transport and logistics, Customer service (after sales) and Digitization of processes.

According to the data provided by the questionnaire, only 30% of the companies were using Device Data Transfer (IoT), 18% had an automated human resources analysis system, 19% had automated the hiring process, 17% were managing the supply chain automatically, and 39% had an automated reporting system. About 12% of respondents have implemented e-commerce solutions and about 45% have implemented digital solutions for customer service.

Digital technology use in public services (e-government)

The central indicator of the 2019 National Annual Survey study is the rate of access to electronic public services. The 2019 study reconfirms the steady and considerable growth of this indicator. Every third (37.4%) respondent who has used any public service in the last 12 months, states that at least one of the services has been accessed electronically. The rate of access to electronic public services is higher among young people, urban inhabitants, with higher education and high-income levels.

The spectrum of services accessed is fairly extensive, with the top 5 including: electronic tax services - 36.9%; electronic land registry services - 25.1%; e-CNAS (national insurance services) – 17.6%; criminal record application – 17.6%; request for identification services – 14.7%.

To simplify access to public services, including electronic services provided by public service providers, the Public Institution "e-Government Agency", developed and launched the Public Services Portal¹⁰⁹⁸ back in 2012, where users can find all the necessary information related to the description of public services, list of required documents, opening hours, costs and duration of issuance, contact details and examples of application forms. The functionality of the portal was upgraded in 2021 to provide faster access and a new user interface for accessing public services.

The following products (electronic solutions) for citizens and businesses are currently active:

- Government platform 'MCloud';
- Government electronic payment service 'MPay';
- Government Digital Signature Service 'MSign';
- Government Service for Authentication and Access Control 'MPass';
- Government Data Exchange Platform 'MConnect';
- 'date.gov.md' Portal;
- Government Register and Permit Platform;
- Government Citizen Portal
- Government Electronic Notification Service 'MNotify';
- Government Service 'MPower';
- One-Stop Shop for Public Services; and
- Semantic Catalogue.

Since the launch of the MPay service until the end of 2020, over 19.28 million transactions have been successfully processed with the number of users and transactions constantly growing each year. Currently, 10% of the population are utilising the electronic signature service, with about 1.86 million signatures processed monthly through the MSign service. With regards to the MPass service, 3.5 million authentications were performed in 2020. As for MConnect, over 48 million queries were

¹⁰⁹⁸ www.servicii.gov.md

made in 2020, which represents an average of over 140 thousand queries per day. Also, for the One-Stop Shop for Public Services, 177 e-services are available for access.

III. The sectoral structure of the economy and enterprise policy

367. Please indicate what are the main priorities of structural/microeconomic reform agenda.

The national agenda envisages several structural and microeconomic reform priorities:

- **Improving the state inspection system.** The purpose is reducing the private and public costs and risks related to unwarranted and unchecked business inspections.
- **Reforming the sanctions system.** This priority is related to the previous one and aims to ensure that applied sanctions are clear, justified, proportionate, implemented through reasonable administrative procedures, and non-overlapping. The reform also envisages introduction of performance indicators established for enforcement bodies to monitor efficiency and impact on business activity.
- **Implementing the SMEs Test.** The reform will bring the national regulatory process in line with international best practices, including the “Small Business Act” for Europe (COM(2008) 394). The Test is going to be used in scrutinising the proposed and existing legislation, to suggest more efficient and enabling provisions for SMEs development.
- **Implementation of the Digital Economy and eCommerce Roadmap.** The Roadmap focuses on four general objectives: remote interaction and digital services for business; development of the eCommerce infrastructure; customs rules and procedures for online export /postal & courier services; development of national e-Commerce platforms and attraction of regional and international e-commerce players to the country. Additionally, the eNotary and eCommerce legislative packages are currently being developed. The Roadmap follows the currently implemented Digital Legislative Package 1.0 which targets G2B remote interaction; unilateral recognition of the EU electronic signatures in Moldova; mandatory use of electronic documents (digital by default principle); introduction of electronic power of attorney in relations with public authorities; remote registration and participation in e-Procurements.
- **Developing the National Program on "Promoting Entrepreneurship and Increasing Competitiveness for 2022-2026" (PEIC).** The key areas of the Program will include: improving the regulatory framework for SMEs, developing the entrepreneurial and innovation ecosystem, improving entrepreneurial culture and skills, increasing business access to financial resources, developing business support infrastructure. The PEIC Programme will also address a number of cross-cutting issues including: creating new jobs in rural areas; supporting young people, women, and migrants to setup and develop SMEs; improving the capacity of business support providers in regions.
- **Setting up a new Sustainable Economic Development and Acceleration Fund.** In order to ensure the access of the businesses to affordable financing, the Ministry of Economy is working on a new financing mechanism that will be implemented through the Sustainable Economic Development and Acceleration Fund. The fund is expected to attract financial resources from the state budget and donors and to channel them to entrepreneurs through commercial banks and eligible non-bank lending organisations.

- **Promoting SMEs technological modernization and energy efficiency.** This new program is being designed to support the SMEs adoption of new technologies and improve production processes. Priority will be given to SMEs from rural areas committed to replace inefficient equipment and thus to reduce gas and energy consumption. Financial support will also be granted for automation of production process, robotization, modernization of existing technological lines, IT solutions for production line management, logistics and supply management, including warehouse management, and energy efficiency.
- **Fostering SMEs Growth and Internationalisation.** One of Moldova's strategic priorities is transitioning from consumption-based growth to an economic model based on investment, innovations and exports. The Program for SMEs Growth and Internationalisation was approved by Government Decision No. 439/2020. Investments to increase competitiveness and productivity will allow SMEs harness opportunities provided by Free Trade Agreements that Republic of Moldova is part of, including EU-Moldova AA/DCFTA, CIS FTA, CEFTA, Moldova-Turkey FTA.
- **Export readiness Program for MSMEs.** The Program aims to strengthen the capacity of Moldovan small producers, especially from rural areas, and to increase their production capacity and export readiness by implementing new production techniques and technologies. The Program will provide financial and non-financial support to micro-enterprises, including mentoring their integration into value chains, and this will have a lasting impact on the development of the local economy and employment.
- **Launching a new Supplier Development Program.** The Program will provide an integrated approach to support the development of the capabilities of Moldovan enterprises to integrate into regional and international value chains as suppliers for multinational companies. The Program will provide its beneficiaries training and coaching, financial grants, and support for developing partnerships with multinational companies.
- **Economic Resilience Action Plan.** The Plan responds to new challenges posed by war in Ukraine. It envisages measures to support reorientation of exports and imports, retention of investments, streamlining state aid and access to finance for the most vulnerable and affected economic sectors.
- **Reforming the Organization for Small and Medium Enterprises Sector Development.** The reform pursues a twofold purpose: 1) to simplify the SMEs' access to the institution's support tools; and 2) to establish an effective governance system, including appropriate risk and quality management, external and internal audits and a mechanism for preventing conflicts of interest.

Other regulatory interventions planned to develop the business environment include the following:

- Prohibition of unfair trade practices by amending Law No 231/2010 on internal trade and thus by transposing the provisions of Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain;

- Development of the draft law on amending the Labour Code of the Republic of Moldova to create a separate chapter for micro and small enterprises and thus to simplify labour relations and reporting mechanisms;
- Elaboration of the draft law establishing a separate Tax Code chapter to streamline taxation and reporting mechanisms for micro and small enterprises.
- Approval of the draft law on the prevention of food loss and waste in order to ensure the transition to the circular economy by keeping, within the legal limits, food in the consumption circuit and avoiding food waste;
- Approval of the draft law on crowdfunding, with the purpose of diversifying financing resources and alleviating the constraints of access to traditional sources of capital.

368. How has the sectoral economic structure changed since 2016 (in terms of value added to GDP and employment)? What sectors have been the most dynamic in terms of growth and/or job creation?

With the exception of 2020, the economy generally followed an upward trend in 2016-2021. Cumulative real GDP growth during that period was approximately 25%. Despite the growth in GDP, the number of jobs in the formal sector has lagged very much behind, with an approximate growth rate of about 5%.

The economy underwent a number of structural shifts. Following the growth in investment, the share of constructions in GDP increased from 6.9% in 2016 to 9.8% in 2021. Over these five years, the sector recorded a cumulative growth of 15.5%. The intensification of investment activity was mainly driven by growth in public investments. Also, the financing provided by foreign partners sustained the expansion of the construction. The “First Home” State Program, launched in 2018, also has some positive effects on the construction sector. At the same time, other factors disrupted economic activity in this sector, including the financial-banking crisis of 2015-2016 and the budgetary constraints caused by the pandemic crisis during 2020-2021. The growth led to an increase in the number of people employed in the construction sector: from 48.3 thousand people in 2016 to 65.1 thousand people in 2021 (or from 5.8% to 7.7% in total).

The ICT sector had a remarkable performance in 2016-2021, generating a cumulative increase of about 46% in gross value-added. As a result, the share of the sector in GDP grew from 4.9% in 2016 to 5.5% in 2021. The main factors behind this strong performance were the growing external demand for IT and computer services and the special tax regime applied to the "Moldova IT Park". The year 2021 has been particularly noteworthy, with the sector generating an exceptional growth of 24% in real terms, as a result of wider use of communication services and information technologies during the pandemic. Exports of IT also grew by a remarkable 2.6 times between 2016 and 2021, which underlines the strong competitiveness of the sector.

The overall performance of the manufacturing sector was weak. The sector grew rather modestly (+16.2% in 2016-2021), with its share in GDP decreasing from 15.4% in 2016 to 12.4% in 2021, albeit the number of jobs created in the manufacturing sector grew stronger than on average per economy (about 10%). The sector was driven by some

export-oriented sectors like automotive and textile. The industrial sector was particularly affected by the financial sector crisis in 2015-2016, the drought of 2020, and especially by the pandemic which slowed down the external demand.

The agricultural sector remains vulnerable to climate shocks. Although the gross value added produced in agriculture recorded a cumulative increase of about 25.2% during 2016-2021, its share in GDP decreased from 11.4% to 10.4%. The poor resilience to climate shocks remains the main constraint. For example, the draught of 2020 reduced agricultural production by about 27%. The continuous decrease of livestock, mainly concentrated in the households' sector, also negatively influenced the performance of the crops-production sector and of the food industry. The population employed in agriculture declined, which, *inter alia*, is explained by the increased mechanisation and migration out of rural areas. In general, during 2017-2020 investments in this sector recorded a cumulative growth of 22.2%; however, in the most recent two years their volume decreased, mainly because of the impact of the COVID-19 pandemic.

369. Please provide information on the main country trading partners (for both merchandise imports and exports) and the overall structure of trade by sector (NACE 2-digit level and SITC 2-digit level).

Exports by main trading partners

In 2021 the value of merchandise export amounted to USD 3,144.4 million. With a share of 61% in total exports, the European Union is the main partner of the Republic of Moldova. Among the EU Member States, a number of countries stand out as particularly important destinations for Moldovan exports: Romania (833.5 million USD; 26.5% of total exports), Germany (245.4 million USD; 7.8%), Italy (240.0 million USD; 7.6%), Poland (108.5 million USD; 3.5%), Czech Republic (79.0 million USD; 2.5%) and Bulgaria (77.8 million USD; 2.5%).

Exports of goods to CIS countries represent a share of 14.8% of total exports. The main export-trading partners in the region are the Russian Federation (276.1 million USD; 8.8% of total exports), Ukraine (92.8 million USD; 3.0%) and Belarus (67.8 million USD; 2.2%).

Other important destinations for Moldovan exports are Turkey (314.0 million USD; 10.0% of total exports), Switzerland (118.9 million USD; 3.8%) and the United Kingdom of Great Britain and Northern Ireland (65.4 million USD; 2.1%).

An overview of merchandise exports to the key trading partners is presented in the Table 1.

**Table 1. Republic of Moldova merchandise exports by trading partners
in the period 2017–2021, USD thousand**

	2017	2018	2019	2020	2021	Share % 2021
TOTAL	2,424,972	2,706,173	2,779,164	2,467,106	3,144,446	100
EU Member states	1,596,840	1,861,864	1,830,548	1,640,368	1,919,448	61.04
Romania	600,608	792,137	765,415	706,674	833,463	26.51
Germany	166,125	219,903	245,960	225,601	245,446	7.81
Italy	236,026	309,607	267,052	213,726	240,059	7.63

Poland	102,923	98,056	113,040	109,764	108,508	3.45
Czech Republic	29,881	42,723	64,818	80,461	79,001	2.51
Bulgaria	78,128	48,413	62,958	58,158	77,766	2.47
Spain	27,939	25,558	38,145	34,663	62,798	2.00
Greece	29,492	37,443	39,276	27,040	44,502	1.42
Hungary	9,928	8,233	11,133	27,270	41,801	1.33
Netherlands	27,855	37,496	37,886	35,958	35,830	1.14
France	50,833	48,359	36,010	29,629	32,404	1.03
CIS countries	462,820	415,922	434,950	376,963	466,207	14.83
Russian Federation	254,535	218,571	249,859	216,834	276,067	8.78
Ukraine	65,524	80,276	80,160	69,481	92,767	2.95
Belarus	109,994	87,234	80,423	65,882	67,811	2.16
Other	176,876	197,241	296,391	328,801	571,726	18.18
Turkey	104,063	107,125	175,543	171,687	313,960	9.98
Switzerland	44,055	60,115	85,379	61,398	118,855	3.78
United Kingdom of Great Britain and Northern Ireland	136,149	78,819	49,936	42,765	65,378	2.08
United States of America	18,829	21,769	24,336	25,682	31,732	1.01

Imports by main trading partners

The total value of merchandise imports in 2021 amounted to USD 7,176.6 million. The European Union is the main source of imports for the Republic of Moldova. Total value of imports from the EU was USD 3149.1 million, with a corresponding share of 43.9 % in total imports. Among the EU Member States, the following partners are the most important: Romania (830.0 million USD; 11.57% of total imports), Germany (546.7 million USD; 7.62%), Italy (444.5 million USD; 6.19%), Poland (261.6 million USD; 3.65%), France (170.7 million USD; 2.38%), Hungary (121.6 million USD; 1.69%) and the Czech Republic (115.0 million USD; 1.6%).

Imports of goods from the CIS countries in 2021 amounted to USD 1905.3 million, which represents a share of 26.5% of total imports. Main import-trading partners from the region are: the Russian Federation (1053.6 million USD; 14.68% of total imports), Ukraine (667.2 million USD; 9.3%) and Belarus (145.3 million USD; 2.02%).

Among other countries, the most important trading partners for Moldovan imports are China (836.5 million USD; 11.66% of total imports), Turkey (543.7 million USD; 7.58% of total imports) and the United States of America (107.4 million USD; 1.5%)

An overview of imports from the most significant import-trading partners is presented in the Table 2

Table 2. Republic of Moldova merchandise imports by main trading partners in the period 2017–2021, USD thousand

	2017	2018	2019	2020	2021	Share % 2021
TOTAL	4,831,335	5,760,057	5,842,484	5,415,988	7,176,591	100.00
EU Member states	2,389,160	2,850,800	2,889,981	2,470,745	3,149,117	43.88
Romania	694,523	838,185	841,188	631,932	829,983	11.57
Germany	390,600	483,124	484,115	452,203	546,705	7.62

Italy	331,266	389,488	406,431	346,826	444,464	6.19
Poland	165,714	202,725	201,625	217,169	261,615	3.65
France	112,677	132,375	147,014	121,337	170,655	2.38
Hungary	99,638	110,730	108,890	100,470	121,598	1.69
Czech Republic	68,215	86,955	112,931	96,101	114,939	1.60
Spain	60,741	75,866	80,966	78,278	100,689	1.40
Austria	80,298	103,639	92,149	62,744	97,723	1.36
Bulgaria	74,125	64,568	56,213	62,710	77,215	1.08
Netherlands	47,757	60,668	57,120	59,683	76,816	1.07
CIS countries	1,206,052	1,449,079	1,417,225	1,317,722	1,905,267	26.55
Russian Federation	571,704	720,657	692,514	603,524	1,053,570	14.68
Ukraine	511,096	577,086	568,941	527,418	667,220	9.30
Belarus	114,591	128,170	130,980	113,783	145,289	2.02
Other	1,236,124	1,460,178	1,535,279	1,627,521	2,122,208	29.57
China	505,380	600,284	602,293	645,830	836,516	11.66
Turkey	304,347	340,401	400,549	388,185	543,664	7.58
United States of America	70,222	72,863	74,330	68,442	107,399	1.50

Imports and exports of the Republic of Moldova by SITC sections and divisions

According to the 2021 trade data, 90.8% of the value of Moldovan exports was held by six sections of goods from the Standard International Trade Classification (CSCI): food and live animals (25.8%); machinery and equipment for transport (20.2%); miscellaneous manufactured articles (18.8%); inedible raw materials (11.6%); manufactured goods (7.7%); beverages and tobacco (6.7%).

For imports, six sections from the Standard International Trade Classification (CSCI) represented 95.4% of total imports: transport machinery and equipment (25.4%); manufactured goods (18.3%); mineral fuels (15.0%); chemicals (14.4%); miscellaneous manufactured articles (11.6%); food and live animals (10.7%).

A detailed overview of exports and imports by SITC sections is presented in the Table 3.

Table 3. Imports and exports of the Republic of Moldova by SITC sections and divisions for the period 2019 – 2021, USD thousand

		Exports			Imports		
		2019	2020	2021	2019	2020	2021
	Total	2,779,164	2,467,106	3,144,446	5,842,484	5,415,988	7,176,591
0	Food and live animals	636,765	525,904	810,915	610,574	658,489	769,357
0	Live Animals	10,015	9,948	7,186	5,550	6,247	5,622
1	Meat and meat preparations	8,728	6,097	8,123	45,965	41,456	64,560
2	Dairy products and birds' eggs	14,389	11,945	12,314	67,634	79,344	95,741

3	Fish and crustaceans, molluscs and other aquatic invertebrates.	23	15	40	58,540	60,429	77,051
4	Cereals and the preparations	250,060	131,870	388,689	81,528	96,920	102,452
5	Vegetables and fruits	293,358	303,420	314,885	164,072	170,536	174,561
6	Sugars, sugar preparations and honey	21,720	18,678	32,712	18,029	20,096	19,100
7	Coffee, tea, cocoa, spices	10,276	8,315	10,800	57,071	59,856	70,267
8	Feeding stuff for animals (not including unmilled cereals)	25,508	31,850	30,561	31,861	38,569	48,540
9	Miscellaneous edible products and preparations	2,688	3,768	5,604	80,325	85,036	111,464
1	Beverages and tobacco	218,271	187,055	209,510	127,854	105,963	131,803
11	Beverages	195,899	178,468	196,798	62,548	53,996	77,592
12	Tobacco and tobacco manufactures	22,372	8,587	12,712	65,306	51,968	54,211
2	Crude materials, inedible, except fuels	296,070	267,189	364,785	139,510	137,600	185,852
21	Hide, skins and furskins, raw	1,673	1,232	1,167	58	26	15
22	Oil-seeds and oleaginous fruits	260,749	222,417	256,288	32,102	34,551	47,780
23	Crude rubble	1	0	1	1,542	1,390	2,888
24	Cord and wood	1,221	1,555	2,379	38,553	39,482	57,050
25	Pulp and waste paper	2,638	2,058	5,279	452	486	579
26	Textile fibres and their wastes	348	194	320	8,317	8,229	10,569
27	Crude fertilisers and crude materials	9,361	8,174	7,483	23,932	17,887	19,495
28	Metalliferous ores and metal scrap	15,862	26,982	87,298	1,528	1,788	1,483
29	Crude animal and vegetables materials, n.e.s	4,216	4,578	4,570	33,026	33,761	45,993

3	Mineral fuels and lubricants	10,414	14,486	15,650	922,116	590,134	1,071,975
32	Coal, coke and briquettes	4	117	390	18,702	15,396	17,941
33	Petroleum and petroleum products	10,365	13,836	15,254	587,927	378,933	628,956
34	Gas and industrial products obtained from gas	38	525	-	275,633	186,244	417,337
35	Electricity	8	7	6	39,854	9,561	7,741
4	Animal or vegetable fats and oils	69,975	103,448	121,091	11,290	12,095	14,622
41	Animal oils and fats	-	6	11	1,839	1,804	2,214
42	Fixed vegetable fats and oils	69,944	103,399	121,077	6,916	8,543	10,109
43	Animal or vegetable fats and oils, processed	31	43	4	2,535	1,748	2,298
5	Chemical products and related products	145,442	127,666	152,663	841,837	820,177	1,033,894
51	Organic chemicals	23,889	49,322	36,524	22,836	12,919	15,531
52	Inorganic chemicals	1,353	1,623	1,484	16,969	15,831	16,663
53	Dying, tanning and colouring materials	917	942	2,953	39,403	43,007	51,104
54	Medicinal and pharmaceutical products	97,283	56,568	86,373	268,942	258,022	336,486
55	Essential oils and resinous and perfume materials; toilet polishing and cleansing preparations	15,104	11,515	13,169	116,176	114,099	140,733
56	Fertilisers	46	37	176	84,632	72,626	88,123
57	Plastic in primary forms	2,069	1,999	3,056	53,012	47,326	73,140
58	Plastic in non-primary forms	2,435	2,600	3,656	115,234	123,214	157,958
59	Chemical materials and products, n.e.s	2,347	3,060	5,271	124,633	133,133	154,156
6	Manufactured goods classified by material	172,349	173,505	243,392	1,132,644	1,065,792	1,314,643

61	Leather; leather manufactures, n.e.s., and dressed furskins	597	837	1,045	55,122	48,160	55,154
62	Rubber manufactures, n.e.s	2,423	2,256	1,333	67,888	60,628	76,234
63	Cork and wood manufactures	20,215	19,349	25,549	91,688	90,824	115,728
64	Paper, paperboard and articles of paper pulp	10,525	8,987	11,579	105,614	93,605	113,895
65	Textile yarn, fabrics, made-up articles, n.e.s., and related products	61,831	62,288	80,695	271,171	261,362	321,638
66	Non-metallic mineral manufactures, n.e.s.	47,971	50,074	66,811	130,890	139,176	164,550
67	Iron and steel	3,364	1,467	12,822	145,317	133,032	176,874
68	Non-ferrous metal	1,652	2,168	1,984	91,454	65,444	73,484
69	Manufactures of metals, n.e.s	23,770	26,079	41,573	173,500	173,561	217,086
7	Machinery and transport equipment	648,447	548,857	635,227	1,425,714	1,419,915	1,823,302
71	Power generating machinery and equipment	4,208	1,935	2,304	21,396	20,407	27,053
72	Machinery specialised for particular industries	14,299	14,830	13,573	190,941	165,936	248,348
73	Metalworking machinery	2,553	2,986	4,182	11,249	14,603	17,537
74	General industrial machinery	24,032	20,157	25,208	190,363	203,431	251,385
75	Office machines and ADP machines	1,370	2,148	1,939	50,156	62,812	78,484
76	Telecommunications equipment	4,349	2,512	2,700	170,557	175,528	195,501
77	Electrical machinery, apparatus and appliances	571,172	474,667	522,086	446,736	426,930	538,525
78	Road vehicles	23,387	29,055	61,989	335,359	297,732	461,115
79	Other transport equipment	3,077	567	1,247	8,957	52,535	5,354
8	Miscellaneous manufactured articles	580,552	518,383	590,343	630,111	604,986	830,195

81	Prefabricated buildings; sanitary fixtures and fittings	9,286	11,739	15,235	52,981	56,118	76,782
82	Furniture and parts thereof	145,211	139,382	157,215	58,541	57,427	79,135
83	Travel goods	14,616	11,987	14,456	9,491	9,208	12,546
84	Articles of apparel and clothing accessories	277,483	240,691	275,926	141,169	138,523	200,369
85	Shoes	34,526	33,394	37,130	45,679	39,514	51,447
87	Scientific and controlling instruments	28,671	24,401	22,955	64,922	62,467	90,537
88	Photographic apparatus and watches and clocks	4,572	2,878	3,933	12,163	11,174	17,059
89	Miscellaneous manufactured articles, n.e.s.	66,186	53,911	63,493	245,167	230,555	302,320
9	Commodities and transactions not classified elsewhere in the SITC	879	613	870	834	838	947
96	Non-monetary gold	0	0	0	0	130	83
97	Special transactions and commodities	879	613	870	3	2	208
99	Unidentified operations (humanitarian aid)	0	0	0	831	707	655

Imports and exports of the Republic of Moldova by NACE sections and divisions

Around 71% of the Republic of Moldova exports are represented by section C “Manufacturing”, namely food products, electrical equipment, manufacture of clothing, furniture and beverages. The division A01 “Crop and animal production, hunting and related service activities” follows with a share of 24% in total. For imports, the biggest share of 90.47% belongs to the section C “Manufacturing”, including beverages, chemicals, vehicles and other goods. Table 4 provides a detailed representation of exports and imports by NACE sections.

Table 4. Imports and exports of the Republic of Moldova by NACE sections and divisions for the period 2019 – 2021, USD thousand

		Exports			Imports		
		2019	2020	2021	2019	2020	2021
	Total	2,779,164	2,467,106	3,144,446	5,842,484	5,415,988	7,176,591
A	AGRICULTURE, FORESTRY AND FISHING	731,411	506,457	819,260	228,030	238,998	244,975

A01	Crop and animal production, hunting and related service activities	731,327	506,323	819,145	222,281	233,962	238,407
A02	Forestry and logging	53	79	115	406	321	476
A03	Fishing and aquaculture	31	55	0	5,343	4,716	6,092
B	MINING AND QUARRYING	4,648	3,426	4,419	278,549	191,794	410,048
B05	Mining of coal and lignite	0	50	294	17,480	13,898	16,200
B06	Extraction of crude petroleum and natural gas	179	833	1,477	247,156	162,029	376,587
B07	Mining of metal ores	0	0	0	376	510	408
B08	Other mining and quarrying	4,469	2,543	2,649	13,537	15,357	16,853
C	MANUFACTURING	2,020,452	1,923,994	2,221,464	5,276,707	4,957,726	6,492,491
C10	Manufacture of food products	238,761	346,940	369,366	458,609	498,329	631,048
C11	Manufacture of beverages	200,687	183,388	203,050	68,232	59,563	84,296
C12	Manufacture of tobacco products	21,088	8,138	12,508	63,468	51,399	53,502
C13	Manufacture of textiles	55,500	58,507	77,210	249,219	236,716	293,277
C14	Manufacture of wearing apparel	277,436	240,587	275,733	142,688	135,377	194,712
C15	Manufacture of leather and related products	45,570	40,230	44,928	107,550	94,562	116,494
C16	Manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	24,073	18,769	27,042	129,322	129,717	171,873
C17	Manufacture of paper and paper products	12,996	11,774	14,454	112,497	107,945	129,821
C18	Printing and reproduction of recorded media	4	10	4	314	338	429
C19	Manufacture of coke and refined petroleum products	10,191	13,472	13,660	614,889	400,837	668,315
C20	Manufacture of chemicals and chemical products	53,627	73,533	67,770	465,654	447,588	550,858
C21	Manufacture of basic pharmaceutical products and pharmaceutical preparations	97,064	56,330	85,760	275,961	256,837	334,204
C22	Manufacture of rubber and plastic products	46,816	37,972	43,818	310,769	315,559	391,312
C23	Manufacture of other non-metallic mineral products	53,470	56,790	73,291	149,071	154,749	184,224
C24	Manufacture of basic metals	6,261	4,613	15,896	254,215	215,815	270,127
C25	Manufacture of fabricated metal products, except machinery and equipment	25,329	30,122	44,571	187,205	191,803	244,676
C26	Manufacture of computer, electronic and optical products	37,698	30,510	30,890	286,902	301,067	367,476
C27	Manufacture of electrical equipment	388,955	291,719	317,636	423,984	398,849	504,203
C28	Manufacture of machinery and equipment n.e.c.	40,335	36,178	41,601	403,046	394,227	538,715

C29	Manufacture of motor vehicles, trailers and semi-trailers	207,180	212,772	266,215	364,351	323,108	488,740
C30	Manufacture of other transport equipment	6,589	3,892	5,112	25,968	67,929	22,227
C31	Manufacture of furniture	143,095	137,645	154,873	55,393	54,405	74,424
C32	Other manufacturing	27,725	30,104	36,078	127,401	121,007	177,537
D35	Electricity, gas, steam and air conditioning supply	8	7	6	39,854	9,561	7,741
E	WATER SUPPLY; SEWERAGE; WASTE MANAGEMENT AND REMEDIATION ACTIVITIES	21,024	31,700	97,494	2,022	2,153	3,351
E37	Sewerage	0	0	0	-	0	-
J	Information and communication	1,593	1,418	1,782	16,458	14,937	17,268
J58	Publishing activities	1,161	1,223	1,642	15,695	13,941	16,376
J59	Motion picture, video and television programme production, sound recording and music publishing activities	431	194	140	763	995	892
M	PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES	21	0	0	8	9	8
M71	Architectural and engineering activities testing and technical analysis activities	21	0	0	7	9	8
R	ARTS, ENTERTAINMENT AND RECREATION	0	80	6	28	104	54
R90	Creative arts and entertainment activities	0	79	-	25	14	19
R91	Libraries, archives, museums and other cultural activities	0	0	6	3	90	34
S	OTHER SERVICES ACTIVITIES	7	24	15	0	0	0
S96	Other personal services activities	7	24	15	0	0	0
Z	ACTIVITIES OF EXTRATERRITORIAL ORGANISATIONS AND BODIES	0	0	0	831	707	655
Z99	Activities of extraterritorial organisations and bodies	0	0	0	831	707	655

Appendix Q 135 Moldovan
Criminal Code – War Crimes,
Crimes against Humanity and
Genocide



Republic of Moldova

PARLIAMENT

CODE No. 985
as of 18.04.2002

CRIMINAL CODE
of the Republic of Moldova*

Published: 14.04.2009 in the Official Gazette No. 72-74 art. no: 195

[...]

SPECIAL PART

Chapter I

OFFENCES AGAINST PEACE AND SECURITY OF MANKIND, WAR CRIMES

Article 135. Genocide

The commission, with the intention to destroy, in whole or in part, a national, ethnic, racial or religious group, of one of the following acts:

- a) killing the group members;
 - b) harm to bodily integrity or health of the group members;
 - c) subjecting the group to conditions of existence that may lead to its total or partial physical destruction;
 - d) imposing measures to the purpose of preventing births within the group;
 - e) forced transfer of children from a group to another group,
- is punishable by imprisonment from 15 to 20 years or by life imprisonment.

[Art.135 in the edition of the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 135¹. OFFENCES AGAINST HUMANITY

(1) The commission, in a generalized or systematic attack launched against a civil population aware of such attack, of one of the following acts:

- a) subjecting to slavery or human trafficking;
- b) forced deportation or transfer, in violation of the general rules of international law, of persons that are lawfully on the territory where the attack was launched;

c) arrest or other form of deprivation of physical freedom in violation of the general rules of international law;

d) torture of a person under the guard of the perpetrator or over whom the latter exercises control in any other way, causing serious injury to bodily integrity or health, pain or psychological suffering, that exceed the consequences of the sanctions permitted by international law;

(e) rape, sexual exploitation, coercion to prostitution, illegal detention of a woman impregnated in a forced way, for the purpose of altering the ethnic composition of a population, forced sterilization or any other form of sexual violence;

f) persecution of a group or a determined community, by depriving them of fundamental human rights or by restricting the exercise of such rights, on political, racial, national, ethnic, cultural, religious, sexual grounds or according to other criteria recognized as inadmissible by the international law;

g) causing the forced disappearance of a person, in order to escape from the protection of the law, by kidnapping, arrest or detention, based on the order of a state or political organization or by their authorization, support or permission, followed by the refusal to admit that such person is deprived of freedom or to provide real information on the fate reserved to it or the place where it is, as soon as such information was requested;

h) the application of apartheid practices;

i) other inhuman acts of a similar nature that intentionally cause serious physical or mental suffering or serious injury to bodily integrity or health of the person, shall be punished by imprisonment from 10 to 20 years.

(2) The commission, under the conditions indicated at par. (1), of one of the following acts:

a) killing one or more persons;

b) subjecting a population or parts of it, to the purpose of destroying it wholly or partially, to living conditions destined to determine its physical destruction

is punishable by imprisonment from 15 to 20 years or by life imprisonment.

[Art.135¹ introduced by the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 136. ECOCIDE

The intentional mass destruction of the flora or fauna, the intoxication of the atmosphere or water resources, as well as the commission of other actions that may cause or that have caused an ecological disaster,

shall be punished by imprisonment from 10 to 15 years.

ARTICLE 137. WAR CRIMES AGAINST INDIVIDUALS

(1) The commission of one of the following acts in an international armed conflict:

a) coercion, by violence or threat, of one or more persons provided at art. 127¹ lett. a) to enlist in the enemy armed forces;

b) to force the enemy's citizens to take part in military operations directed against their country, even if they were enlisted in the armed forces of this enemy before the armed conflict began;

c) the unlawful keeping in detention or the unjustified delay of the repatriation of one or more persons provided at art. 127¹ lett. a);

d) the direct or indirect transfer, by an agent of the occupying party, of a part of the civil population to which it belongs, in the occupied territory, the deportation or transfer by it, inside or outside the occupied territory, of the entire civil population of that territory or of a part thereof, shall be punished by imprisonment from 3 to 10 years.

(2) Exposing, in an armed conflict with or without international nature, a person protected

by the humanitarian international law to the danger of death or serious injury to health by:

a) performing any kind of experiments that are not determined by a medical, therapeutical, hospital treatment to which the person did not voluntarily, expressly and priorly consent and which are not performed in its interests;

b) the collection of tissues or organs for transplant, except for blood or skin sampling for therapeutic purposes in compliance with the generally accepted medical principles and with the voluntary, express and prior consent of the person;

c) subjection to unrecognized medical treatment methods, without being necessary for the health of the person and without its voluntary, express and prior consent,

is punishable by imprisonment from 8 to 12 years with the deprivation of the right to hold certain positions or exercise a specific activity for a period of 3 to 5 years.

(3) The commission, in an armed conflict with or without international nature, against one or more persons protected by the humanitarian international law, of one of the following acts:

a) the intentional infliction of serious physical or psychological suffering or serious injury to bodily integrity or health;

b) the application of torture or the subjection to inhuman or degrading treatment, as well as mutilation;

c) rape, sexual exploitation, coercion to prostitution, illegal detention of a woman impregnated in a forced way, to the purpose of altering the ethnic composition of a population, forced sterilization or any other violent sexual act;

d) taking hostages;

e) deportation or forced transfer, in violation of the general rules of international law, of persons who are legally on the territory where the armed conflict takes place;

f) the recruitment and incorporation of children who have not reached the age of 18 in the national armed forces and their determination by any means to actively participate in military operations;

g) the deprivation of the right to be tried by a lawfully constituted and impartial court, the ruling of the punishment or execution of the punishment without complying with legal and impartial proceedings, which should provide the guarantees imposed by the international law, shall be punished by imprisonment from 10 to 20 years.

(4) The commission, in an armed conflict with or without international nature, of the murder of one or more persons protected by the humanitarian international law shall be punished by imprisonment from 15 to 20 years or by life imprisonment.

[Art.137 in the edition of the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 137¹. WAR CRIMES AGAINST PROPERTY AND OTHER RIGHTS

(1) The commission, in an armed conflict with or without international nature, of one of the following acts:

a) the destruction, appropriation or confiscation of goods of the enemy side, in violation of the international law and without being justified by military necessities;

b) plundering of a locality, including the assaulted one, is punishable by imprisonment from 3 to 10 years.

(2) The declaration, in an international armed conflict, as being extinguished, suspended or inadmissible in court, the rights and actions of one or more citizens of the enemy side shall be punished by imprisonment from 5 to 10 years.

(3) Plundering on the battlefield of the dead or wounded committed in an armed conflict with or without international nature is punishable by imprisonment from 8 to 15 years.

[Art.137¹ introduced by the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 137². USE OF FORBIDDEN MEANS OF WARFARE

The use, in an armed conflict with or without international nature, of:

- a) poisoning or poisonous weapons;
 - b) asphyxiating, toxic or similar gases, as well as any similar liquids, materials or processes;
 - c) weapons, missiles, materials likely to cause unnecessary physical suffering;
 - d) bullets which expand or easily flatten in the human body, such as bullets whose hard shell does not completely cover its middle or are perforated by cuts,
- is punishable by imprisonment from 7 to 15 years.

[Art.137² introduced by the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 137³. USE OF PROHIBITED METHODS OF WARFARE

(1) The injury to a person provided at art. 127¹ lett. c) or the injury, by resorting to perfidy, of a member of the enemy armed forces or a combatant of the enemy forces, committed in an armed conflict with or without international nature, shall be punished by imprisonment from 5 to 8 years.

(2) The declaration, in an armed conflict with or without international nature, that there will be no mercy for the defeated shall be punished by imprisonment from 7 to 12 years.

(3) The triggering, in an armed conflict with or without international nature, of an attack:

- a) against the civil population or civilians that do not directly participate in hostilities;
 - b) against civil assets protected by the humanitarian international law, especially buildings intended for religious cult, education, art, science or charity, against historical monuments, hospitals and places where the sick or wounded are gathered, as well as against settlements, dwellings or constructions that are not defended and are not used as military objectives;
 - c) against the personnel of the humanitarian aid or peacekeeping mission, against facilities, material, units or vehicles used under the Charter of the United Nations, provided that they be entitled to the protection guaranteed by the humanitarian international law to civilians and civil goods;
 - d) against buildings, material, units and sanitary means of transportation and the personnel using the distinctive signs provided by the Geneva Conventions of 12 August 1949;
 - e) knowing that it shall cause civilian casualties among the civil population, civilian injuries, damage to civil assets or extensive, lasting and serious damage to the environment, which would be manifestly disproportionate to the actual and directly anticipated military advantage,
- shall be punished by imprisonment from 8 to 15 years.

(4) The use, in an armed conflict with or without international nature, of:

- a) fighting methods capable of causing unnecessary physical suffering;
 - b) intentional starvation of civilians by depriving them of the goods indispensable for survival or intentional prevention thereof from receiving aid, contrary to the humanitarian international law;
 - c) a person protected by the international humanitarian law to the purpose of preventing certain military points, areas or forces from becoming the target of the military operations of the enemy side;
- is punishable by imprisonment from 8 to 15 years.

(5) The murder of one or more persons provided at art. 127¹ lett. c), committed by resorting to perfidy in an armed conflict with or without international nature is punishable by

imprisonment from 15 to 20 years or by life imprisonment.

[Art.137³ introduced by the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 137⁴. THE UNLAWFUL USE OF DISTINCTIVE SIGNS OF INTERNATIONAL HUMANITARIAN LAW

The unlawful use of the distinctive signs provided by the Geneva Conventions of 12 August 1949, the parliamentary flag, the flag, the military badges or enemy uniform or of the United Nations Organization, as a means of protection in an armed conflict with or without international nature, if it caused: a) serious injury to the bodily integrity or health of one or more persons, b) the death of one or more persons,

is punishable by imprisonment from 7 to 15 years.

[Art.137⁴ introduced by the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 138. GIVING OR EXECUTING A MANIFESTLY ILLEGAL ORDER. FAILURE TO EXERCISE OR INAPPROPRIATE EXERCISE OF DUE CONTROL

(1) Execution of a manifestly illegal order aimed at committing the offences provided at art. 135–137⁴

is punishable by imprisonment from 5 to 10 years.

(2) The giving, by the hierarchical superior or by the person holding the command of the armed forces, within an armed conflict with or without international nature, of a manifestly illegal order aimed at committing the offences provided at art. 135–137⁴

is punishable by imprisonment from 8 to 15 years.

(3) The failure to exercise or the inappropriate exercise of the control due by a military chief or by the person holding the command of the armed forces, that led to the commission of the offences provided at art. 135–137⁴

is punishable by imprisonment from 6 to 12 years.

[Art.138 in the edition of the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art.359]

ARTICLE 139. PLANNING, PREPARING, LAUNCHING OR CONDUCTING THE WAR

(1) The planning, preparation or launching of the war is punishable by imprisonment from 8 to 15 years.

(2) Conducting the war

is punishable by imprisonment from 10 to 20 years or by life imprisonment.

ARTICLE 140. PROPAGANDA OF WAR

(1) The propaganda of war, the dissemination of tendentious or invented information, instigating war or any other actions aimed at the outbreak of a war, verbally committed, in writing, by radio, television, cinema or other means,

are punishable by a fine of up to 1500 conventional units or by imprisonment for up to 6 years, in both cases with the deprivation of the right to hold certain positions or exercise a specific activity for up to 5 years.

[Art.140 par.(1), sanction amended by the Criminal Law 207 as of 29.07.16, Official Gazette 369-378/28.10.16 art.751; in force 07.11.16]

(2) The Commission of the actions provided at par.(1) by a person with public dignity position(ut4} *[Art.140 par. (2) amended by the Criminal Law 245 of 02.12.11, Official*

Gazette 25-28 / 03.02.12 art.77]

is punishable by a fine from 1500 to 2000 conventional units or by imprisonment from 3 to 7 years, in both cases with the deprivation of the right to hold certain positions or exercise a specific activity for up to 5 years.

[Art.140 par.(2), sanction amended by the Criminal Law 207 as of 29.07.16, Official Gazette 369-378/28.10.16 art.751; in force 07.11.16]

ARTICLE 140¹. USE, DEVELOPMENT, PRODUCTION, OTHERWISE ACQUIRING, PROCESSING, HOLDING, STORING OR PRESERVING, DIRECTLY OR INDIRECTLY TRANSFERRING, STORING, TRANSPORTING OF WEAPONS OF MASS DESTRUCTION

(1) Use, development, production, otherwise obtaining, processing, holding, keeping or preserving, directly or indirectly transferring, storing, transporting of chemical weapons, biological weapons, nuclear weapons, nuclear explosive devices or other weapons of mass destruction in violation of the provisions of national legislation or international treaties to which the Republic of Moldova is a party

are punishable by a fine from 3000 to 5000 conventional units or by imprisonment from 8 to 12 years, in both cases with (or without) the deprivation of the right to hold certain positions or exercise a specific activity for 2 to 5 years, and the legal entity is punishable by a fine from 5000 to 8000 conventional units with the deprivation of the right to exercise a specific activity for 2 to 5 years or by its liquidation.

(2) The same actions:

a) - EXCLUDED

b) committed by two or more persons;

c) committed by an organized criminal group or by a criminal organization;

d) resulting in causing particularly large damage;

e) resulting in the death of the person

are punishable by imprisonment from 16 to 20 years, and the legal entity is punishable by a fine from 8000 to 10000 conventional units or by its liquidation.

(3) Design, production, otherwise acquiring, holding, storing, transferring or transporting the equipment, material, software or related technology that essentially contributes to the design, production or delivery of weapons of mass destruction knowing that such equipment, material, software or technology is intended for this purpose

is punishable by a fine from 1000 to 3000 conventional units or by imprisonment for up to 5 years, in both cases with (or without) the deprivation of the right to hold certain positions or exercise a specific activity for a term of up to 5 years, by a fine imposed on the legal entity from 3000 to 5000 conventional units with the deprivation of the right to exercise a specific activity for up to 5 years or by the liquidation of the legal entity.

(4) Designing, producing, otherwise acquiring, holding, storing, transferring or transporting the raw material, special fissile material, equipment or material designed or prepared for the processing, use or manufacture of special fissile material, knowing that this raw material, material or equipment is destined for use in the nuclear explosion activity or in another nuclear activity that contravenes the international treaties to which the Republic of Moldova is a party

is punishable by imprisonment for up to 5 years with (or without) the deprivation of the right to hold certain positions or exercise a specific activity for a period of 2 to 5 years, by a fine imposed on the legal entity from 4000 to 7000 conventional units with the deprivation of the right to exercise a specific activity for a period of 2 to 5 years or by the liquidation of the legal entity.

ARTICLE 141. ACTIVITY OF MERCENARIES

(1) The participation of the mercenary in an armed conflict, military actions or other violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of the state

is punishable by imprisonment from 3 to 7 years.

(2) Employment, training, financing or other insurance of mercenaries, as well as their use in armed conflict, military actions or other violent actions aimed at overthrowing or undermining the constitutional order or violating the territorial integrity of the state are punishable by imprisonment from 5 to 10 years.

ARTICLE 142. ATTACK ON THE PERSON BENEFITTING FROM INTERNATIONAL PROTECTION

(1) Committing an act of violence against the office, home or means of transportation of the person benefiting from international protection, if such an act could endanger the life, health or freedom of the person concerned,

is punishable by imprisonment from 5 to 10 years.

(2) The kidnapping or commission of another attack on the person benefiting from international protection or its freedom

is punishable by imprisonment from 7 to 15 years.

(3) The murder of the person benefiting from international protection

is punishable by imprisonment from 16 to 20 years or by life imprisonment.

(4) The actions provided at par. (1) or (2), committed for the purpose of causing the war or international conflict,

are punishable by imprisonment from 8 to 15 years or by life imprisonment.

(5) The threat of committing an action provided at par. (1), (2), (3) or (4), if there was a danger of accomplishing such threat,

is punishable by imprisonment from 3 to 7 years.

[Art. 143 repealed by the Criminal Law 64 as of 04.04.13, Official Gazette 115/21.05.13 art. 359]

ARTICLE 144. CLONING

Creating human beings by cloning

is punishable by imprisonment from 7 to 15 years.

[...].

Annex for Q 119

The budget allocated to the judiciary and prosecution service during the years 2017-2021

	2017			2018			2019			2020			2021		
Institution	allocated, thousand MDL/EUR	% of the state budget	budget related to the number of inhabitants, MDL/EUR	allocated, thousand MDL/EUR	% of the state budget	budget related to the number of inhabitants, MDL/EUR	allocated, thousand MDL/EUR	% of the state budget	budget related to the number of inhabitants, MDL/EUR	allocated, thousand MDL/EUR	% of the state budget	budget related to the number of inhabitants, MDL/EUR	allocated, thousand MDL/EUR	% of the state budget	budget related to the number of inhabitants, MDL/EUR
Total:	749,206.9/ 35,970.8	2.0%	269.50/ 12.94	723,523.9/ 36,460.2	1.7%	264.99/ 13.35	748,575.9/ 38,048.8	1.6%	278.69/ 14.17	782,777.3/ 39,647.2	1.5%	296.07/ 15.00	822,381.2/ 39,300.4	1.4%	316.65/ 15.13
Courts	415,202.0/ 19,934.6	1.1%	149.36/ 7.17	377,642.9/ 19,030.4	0.9%	138.31/ 6.97	399,456.6/ 20,303.7	0.9%	148.71/ 7.56	419,710.5/ 21,258.1	0.8%	158.75/ 8.04	433,385.7/ 20,710.9	0.8%	166.87/ 7.97
Prosecution Service	334,004.9/ 16,036.2	0.9%	120.15/ 5.77	345,881.0/ 17,429.8	0.8%	126.68/ 6.38	349,119.3/ 17,745.1	0.8%	129.97/ 6.61	363,066.8/ 18,389.1	0.7%	137.32/ 6.96	388,995.5/ 18,589.5	0.7%	149.78/ 7.16
The state budget, total, MDL/EUR	37,796,940.7/ 1,814,700.3			41,984,505.0/ 2,115,706.6			46,336,817.6/ 2,355,219.2			53,200,900.0/ 2,694,589.6			57,654,344.0/ 2,755,219.4		
Number of inhabitants	2,779,952			2,730,364			2,686,064			2,643,883			2,597,107		
official average exchange rate/ 1 EUR	20.8242			19.8442			19.6741			19.7436			20.9255		

Notes:

- The amounts above are the amounts allocated as adjusted throughout the year.
- The amounts on Courts **do not** include budget allocated for: Superior Council of Magistracy (SCM), legal aid, IT infrastructure development and maintenance; building new courthouses. Legal aid is typically a significant additional amount, for example in 2021, it amounted to appx. 1 million euro.
- The amounts on prosecution Service **do not** include budget allocated for: Superior Council of Prosecutors (SCP).
- The number of inhabitants is calculated based on the average per years, as provided by the National Bureau of Statistics (<https://statbank.statistica.md/pxweb/pxweb/ro/20%20Populatia%20si%20procese%20demografice/?rxid=b2ff27d7-0b96-43c9-934b-42e1a2a9a774>)