

Public administration in the Republic of Moldova

Assessment against the Principles of Public Administration

October 2023



SIGMA Monitoring Reports

Public administration in the Republic of Moldova

SIGMA Monitoring Reports analyse the performance of public administrations through a set of standard indicators based on the Principles of Public Administration. They assess both the preconditions for a good public administration (good laws, policies, institutional capacity, and procedures) and how an administration performs in practice.

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Table of contents

List of abbreviations and acronyms	4
Executive summary	6
Introduction	12
Methodology	13
Strategic framework of public administration reform	15
Summary and recommendations	15
Analysis	17
Policy development and co-ordination	25
Summary and recommendations	25
Analysis	28
Public service and human resource management	52
Summary and recommendations	52
Analysis	54
Accountability	79
Summary and recommendations	79
Analysis	81
Service delivery	95
Summary and recommendations	95
Analysis	97
Public financial management	109
Summary and recommendations	109
Analysis	113
Budget management	113
Internal control and audit	125
Public procurement	133
External audit	150

List of abbreviations and acronyms

ANSA	National Agency for Food Safety
CAPCS	Centre for Centralised Public Procurement in Health
CHIF	Compulsory Health Insurance Fund
CHL	State Chancellery Centre for Harmonisation of Legislation
CIPS	Inter-Ministerial Committee for Strategic Planning
CoA	Court of Accounts
CoG	centre of government
DPSM	Directorate of Public Service Management
EGA	Electronic Governance Agency
EI	European integration
GAWP	Government Annual Work Plan
HRM	human resource management
HRMIS	human resource management information system
IA	internal audit
ICT	information and communications technology
INTOSAI	International Organisation of Supreme Audit Institutions
ISO	International Organization for Standardization
ISSAIs	International Standards of Supreme Audit Institutions
ITCSS	Information Technology and Cyber Security Service
LPF	Law on Public Function
MEDD	Ministry of Economic Development and Digitalisation
MFAEI	Ministry of Foreign Affairs and European Integration
MLSP	Ministry of Labour and Social Protection
MoF	Ministry of Finance
MoJ	Ministry of Justice
MP	member of Parliament
MTBF	medium-term budgetary framework
NACC	National Anti-Corruption Centre
NASC	National Agency for Solving Complaints
NIA	National Integrity Authority
NIAS	National Internal Audit Standards

NSIC	National Standards on Internal Control
NSIH	National Social Insurance House
OMF	Order of the Ministry of Finance
PAR	public administration reform
PDC	policy development and co-ordination
PEFA	Public Expenditure and Financial Accountability
PFBFR	Public Finances and Budgetary-Fiscal Responsibility
PFCC	Public Financial Control Committee
PFM	public financial management
PIFC	public internal financial control
PIPARS	Programme for Implementation of the PAR Strategy
PPA	Public Procurement Agency
PPL	Public Procurement Law
PPP	public-private partnership
PSA	Public Services Agency
PSHRM	public service and human resource management
RIA	regulatory impact assessment
RoESB	Report on Execution of the State Budget
SAA	Stabilisation and Association Agreement
SAI	supreme audit institution
SCJ	Supreme Court of Justice
SCM	Superior Council of Magistrates
SOE	state-owned enterprise
SSIB	State Social Insurance Budget
TNA	training needs analysis
TSA	Treasury Single Account
WCAG	Web Content Accessibility Guidelines

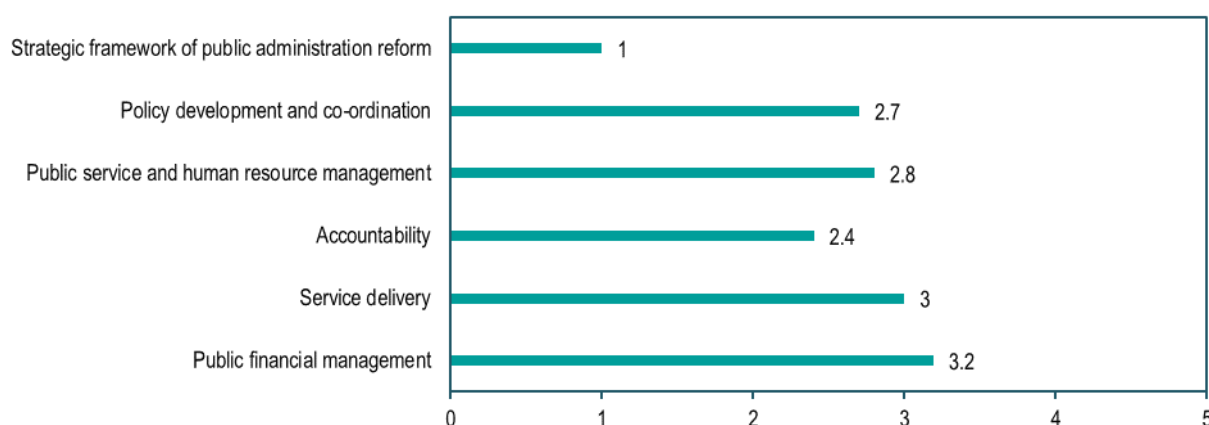
Executive summary

On 23 June 2022, the European Union (EU) granted the Republic of Moldova (hereafter, 'Moldova') candidate status under the commitment to structural reforms.¹ In line with the new EU enlargement methodology's focus on fundamentals, the EU decision emphasised the need for reforms in public administration and public financial management (PFM).² This report comprehensively reviews Moldova's performance in public administration reform (PAR) and PFM in 2023 according to the Principles of Public Administration.³

PAR in Moldova

Overall, Moldova's performance in the six public administration areas ranges from 1 to 3.2 on a six-point (0-5) scale (Figure 1).⁴

Figure 1. Moldova's performance in the Principles of Public Administration areas



Note: The figure presents area averages for each area. The arithmetic mean of the sub-indicators is used to calculate the area average.

As PAR is one of its priorities, Moldova's Government has enacted a new strategic framework for PAR but has not implemented it yet. During the first half of 2023, the Government finalised policy objectives for almost all PAR areas in two separate PAR and PFM strategies. While the PAR Strategy includes performance targets for 2026 and solid management and co-ordination mechanisms to implement

¹ European Council conclusions, <https://www.consilium.europa.eu/en/meetings/european-council/2022/06/23-24/>.

² Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Enlargement Strategy and Main Challenges 2014-15 (COM[2014] 700 final of 8 October 2014).

³ OECD (2017), *The Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>.

⁴ Table 1 at the end of the Executive Summary provides a comprehensive overview of indicator values.

reform actions, the PFM Strategy still requires improvement in these areas. Actual implementation of planned reforms and achievement of set objectives remain to be seen for both plans.

Co-ordination mechanisms for policy planning and development have been largely established in law, but their functioning needs to be improved and the capacities of responsible centre-of-government (CoG) bodies strengthened. Co-ordination among CoG bodies and between the CoG and line ministries could be enhanced. The recently renewed Inter-Ministerial Committee for Strategic Planning could be a positive development in this respect. Key elements of the policy planning process have been established in legislation, but the State Chancellery's overall quality control functions are weak. Furthermore, a lack of coherence between central policy planning documents and costing in key planning documents persists. The CoG should also play a stronger role in ensuring that impact assessment and consultation procedures are respected and that quality standards are upheld.

Moldova has not yet adopted a national European integration (EI) planning document giving insufficient clarity on the dynamics of adopting the EU *acquis*. However, following the establishment of co-ordination mechanisms for EI processes in December 2022, a more structured approach to planning EU accession-related commitments has been initiated and needs to be supported.

Legislative and policy frameworks provide a sufficient basis for professional civil service and human resource management in public administration, but attracting and retaining qualified staff is a serious challenge. The remuneration system fails to ensure internal and external fairness of salaries despite the 2018 reform and recent legislative amendments. At the same time, numerous exceptions to secondary employment rules designed to improve remuneration threaten neutrality and dedication to statutory civil service responsibilities.

Senior civil service is inadequately defined because the empowerment of secretaries general in human resource management (HRM) is insufficient; state secretaries who manage large policy areas are political appointees; and heads of administrative authorities are excluded from the scope of senior civil service. High instability in the senior civil service, particularly after changes in government, hampers the continuity of professional management in public administration.

While creation of a Directorate of Public Service Management in the State Chancellery in 2022 is an important step to improve central co-ordination of the public service and HRM practices, the lack of a functional human resource management information system (HRMIS) is an impediment. Nevertheless, centralised training of civil servants is well regulated and implemented by the Directorate, and public servants' perception of career opportunities based on merit in the public sector is positive.

While the legal framework for various aspects of accountability is mostly adequate, it is paired with flaws in implementation and enforcement. The central administration's organisation and accountability scheme allows a large number of public administration bodies to be exempted from general, merit-based employment, salary and financial management rules. Furthermore, results-oriented performance management and managerial accountability are also not yet common. While the legal framework for access to information and the proactive provision of information are commendable, compliance with the rules and promotion of transparent governance are not being steered centrally. And although oversight institutions are strengthened by reliable guarantees of independence and broad mandates, they suffer from low visibility and ineffectiveness in pursuing their recommendations.

Judicial reform to restore public trust in courts is at an early stage of implementation, with the potential short-term impact of certain reform measures raising some concern. The short- and medium-term impacts of the recently launched judicial reform and increased shortages of appointed judges, especially for first-instance courts, threaten the sound functioning of the legal framework for administrative justice. The performance of the administrative justice system is deteriorating, as demonstrated by the drop in the capacity of the judiciary to manage the influx of new cases as the average waiting time for rulings in administrative cases in first instance courts increased to more than 15 months. These concerning developments call for systemic management actions and a strategic approach to ensuring access to justice.

Additionally, the effective application of constitutional guarantees of public liability is being hindered by a flawed and vague legislative framework and the lack of reliable monitoring systems of administrative and judicial practices.

Progress has been made in modernising administrative service delivery and accessibility. A solid institutional setup to modernise service delivery has been established, and the 2019 Administrative Code and the 2021 Law on Public Services are crucial milestones in granting citizens and businesses the right to good administration. The Government has mapped 718 services for businesses and citizens, of which 276 are digitally available. With the creation of a network of 40 multifunctional centres in 31 districts and 17 community centres, access to administrative services has been a clear policy objective in recent years. Seventy percent of interviewed citizens and 50% of businesses claim to be completely or mostly satisfied with public services in general. On the downside, the legal and institutional framework to improve accessibility for people with special needs is in place but is poorly implemented in practice. While user engagement and feedback instruments are widely applied, no state-level quality management policy is in place.

The foundation for managing public finances and public procurement is solid, but weaknesses are apparent in budget planning, internal control and audit. Overall, Moldova has maintained fiscal discipline even though the country has faced significant budgetary pressures stemming from the COVID-19 pandemic, increased energy prices and regional instability from Russia's war of aggression against Ukraine. Conservative revenue estimates, adequate cash and debt management, strict commitment controls and a solid Treasury system have avoided the accrual of payment arrears.

Otherwise, however, budget planning is weak. While the legal framework incorporates many international good practices for preparing a medium-term budgetary framework, these practices are to a large extent not observed in actual implementation. Budget documentation is comprehensive and easily accessible, but transparency is low due to the non-disclosure of detailed allocations in the "general actions" budget line, which makes up more than half of the state budget.

Although regulatory and operational frameworks for internal control and internal audit are largely established, effective implementation has not kept pace with amendments to the legal framework. Internal audit implementation is impaired by significant resource issues in IA units, with most not staffed according to legal requirements. Meanwhile, the public procurement system rests on a solid legal and institutional framework and a well-functioning independent review mechanism, but the e-procurement portal MTender has various deficiencies and requires modernisation. Low-value contracts are not monitored, and the artificial splitting of contracts is a systemic problem. Nevertheless, the Court of Accounts (CoA) audits the annual Report on the Execution of the State Budget in a timely manner, and the Parliament is paying increasing attention to the audit. However, audits of state-owned enterprises and local governments are not happening frequently enough and they cannot ensure accountability on the use of public funds.

The way forward

Overall, Moldova's legislative framework is largely in place, but low civil service capacity at the central government level hampers compliance and effective implementation. In most areas, legislation rests on a firm legal basis aligned with SIGMA's Principles, but staff limitations in both quantity and quality at the central government do not ensure consistent implementation. Deficiencies exist in all areas, but prominent examples are staffing shortages in internal audit units, insufficient capital investment appraisals for projects, and the lack of regulatory impact assessments for new policies and strategies. Capacity shortfalls also mean that CoG institutions, including the State Chancellery and the Ministry of Finance, cannot sufficiently monitor and ensure public entity compliance with adopted policies.

Limitations in civil service capacity are partly linked to the country's fiscal space, with Moldova being ranked among the poorest countries in Europe and having restricted fiscal space. It is thus commendable that it has maintained fiscal discipline under the significant budgetary pressures stemming from the COVID-19 pandemic and regional instability since Russia's invasion of Ukraine.

However, this report also reveals fragmentation in government organisation and salary system inconsistencies. Addressing these weaknesses is not, in principle, conditional on the state's financial limitations. While the Government of Moldova has almost entirely completed a new strategic framework for PAR, **SIGMA's review of it shows that both documents will be of limited use to address key problems.** Neither strategy provides clear solutions and targets relating to the specific problems diagnosed. The PAR Strategy's salary reform aims to remediate uncompetitively low base rates, but it lacks a fiscal impact analysis and does not target other characteristics of a sound remuneration system

(fairness, transparency and predictability). A link with the necessary comprehensive rationalisation of central government organisation is missing.

Meanwhile, the PFM Strategy opts for a sectoral solution. It suggests raising remuneration for budget sector staff rather than recognising salary inconsistencies as a horizontal issue. Both documents envisage many reforms that will further increase human resource burdens, which seems unrealistic and unwelcome given that bottlenecks already exist. Updating the strategic framework to encompass the findings of this report would thus be beneficial, requiring close co-ordination between the State Chancellery and the Ministry of Finance.

Finally, if Moldova wants to advance its EI process, it must vigorously pursue recently introduced EI policy development and co-ordination initiatives, notably development of an EI Plan and the establishment of working groups.

Table 1. Overview of indicator values

Area	Principle	Indicator value	Average per area
1 Strategic framework of public administration reform	1.1 Quality of the strategic framework of public administration reform	3	1
	1.2 Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting	0	
	1.3 Financial sustainability of PAR	0	
	1.4 Accountability and co-ordination in PAR	1	
2. Policy development and co-ordination	2.1 Fulfilment of critical functions by the centre-of-government institutions	3	2.7
	2.2 Fulfilment of European integration functions by the centre-of-government institutions	2	
	2.3 Quality of policy planning	3	
	2.4 Quality of policy planning for EU integration	0	
	2.5 Quality of government monitoring and reporting	2	
	2.6 Transparency and legal compliance of government decision making	3	
	2.7 Parliamentary scrutiny of government policy making	2	
	2.8 Adequacy of organisation and procedures for supporting the development of implementable policies and legislation	3	
	2.9 Government capability for aligning national legislation with the European Union <i>acquis</i>	4	
	2.10 Evidence-based policy making	3	
	2.11.1 Public consultation on public policy	2	
	2.11.2. Inter-Ministerial consultation on public policy	4	
	2.12.1. Predictability and consistency of legislation	2	
	2.12.2. Accessibility of legislation	5	
3. Public service and human resource management	3.1 Adequacy of the scope of public service	4	2.8
	3.2 Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service	2	
	3.3.1 Meritocracy and effectiveness of recruitment of civil servants	3	
	3.3.2. Merit-based termination of employment and demotion of civil servants	3	
	3.4 Merit-based recruitment and dismissal of senior civil servants	2	
	3.5 Fairness and competitiveness of the remuneration system for civil servants	1	
	3.6 Professional development and training for civil servants	3	
	3.7.1. Quality of disciplinary procedures for civil servants	4	
	3.7.2. Integrity of public servants	3	
4. Accountability	4.1 Accountability and organisation of central government	2	2.4
	4.2 Accessibility of public information	4	
	4.3 Effectiveness of scrutiny of public authorities by independent oversight institutions	2	
	4.4 Fairness in handling of administrative judicial disputes	3	
	4.5 Functionality of public liability regime	1	
5. Service delivery	5.1 Citizen-orientation of service delivery	4	3
	5.2 Fairness and efficiency of administrative procedures	3	
	5.3 Existence of enablers for public service delivery	2	
	5.4 Accessibility of public services	3	
6. Public financial management	Budget management		3.2
	6.1 Quality of the medium-term budgetary framework	2	
	6.2 Quality of the annual budget process and budget credibility	2	
	6.3 Reliability of budget execution and accounting practices	5	
	6.4 Quality of public debt management	4	

6.5 Transparency and comprehensiveness of budget reporting and scrutiny	3	2.8
Public internal financial control		
6.6 Adequacy of the operational framework for internal control	4	
6.7 Functioning of internal control	1	
6.8 Adequacy of the operational framework for internal audit	4	
6.9 Functioning of internal audit	2	3.4
Public procurement		
6.10 Quality of legislative framework for public procurement and PPPs/concessions	4	
6.11 Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently	3	
6.12 Independence, timeliness and competence of the complaints handling system	4	
6.13 Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations	2	3.5
6.14 Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations	4	
External audit		
6.15 Independence of the supreme audit institution	3	
6.16 Effectiveness of the external audit system	4	

Introduction

The Principles of Public Administration and the European integration (EI) path – measuring the fundamentals

The Principles of Public Administration set out what good public governance entails in practice and outline the main requirements to be followed by countries during the EI process. Good public governance is key for achieving economic growth, competitiveness and better quality of life. Democratic governance and the rule of law require capable, accountable and effective public administrations. In its 2014 and 2018 Enlargement Strategies, the European Commission (EC) highlighted PAR as one of three “fundamentals first” areas of the EU enlargement process”.⁵

This monitoring report assesses the state of play of Moldova’s public administration against the Principles in 2023.

Structured to provide key insights and recommendations to decision makers and detailed performance data to practitioners

The structure of the report mirrors that of the Principles which are divided in six thematic areas:

1. Strategic framework of public administration reform
2. Policy development and co-ordination
3. Public service and human resource management
4. Accountability
5. Service delivery
6. Public financial management.

Each thematic area consists of one or more principles. Performance on these principles is measured by indicators. This report presents each thematic area in one chapter including a summary and key recommendations. For each principle, a section is dedicated to present and explain the performance on the associated indicators.

SIGMA wishes to thank the Government for its collaboration in providing the necessary administrative data and documentation, as well as for its active engagement during the two rounds of validation to improve the factual accuracy of all the information used. We also thank the experts from EU member countries who contributed to the report. Finally, the support of the EC is, as always, much appreciated.

⁵ European Commission (2018), *A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*, p. 4, https://www.eeas.europa.eu/sites/default/files/western_balkans_strategy_en_0.pdf.

Methodology

Overall methodological approach – focus on policy implementation and outcomes, analysing primary data sources against precise criteria and benchmarks for an objective assessment

The *Methodological Framework for the Principles of Public Administration*⁶ contains a set of standard indicators that SIGMA applies consistently to measure the preconditions and enablers of successful reforms (good laws, policies and procedures, institutional structures and human resources) and the actual implementation of reforms and subsequent outcomes (how the administration performs in practice).

The overall approach recognises that no single measurement method can fully capture the complex issues related to organisational and behavioural change. SIGMA uses information from administrative data, surveys, statistics, interviews, etc., which is cross-checked and triangulated.

Data sources and validation

The main quantitative and qualitative methods applied in the framework are:

- desk reviews of legislation, regulations, reports (most recent are analysed if adopted before September 2023)
- interviews (field mission conducted in May 2023 with 100+ interviewees, including representatives of civil society)
- review of cases and samples of government documentation (most recent are analysed)
- analysis of administrative data from public registries and national statistics (most recent)
- surveys of the population and businesses (conducted April 2023)
- surveys of 300 contracting authorities (conducted April 2023).

Data collection, assessment and validation was facilitated by SIGMA's online web-portal (PAR.IS). Through PAR.IS, more than 1 200 documents were received for analysis and around 40 government officials were provided direct access to SIGMA's detailed working sheets and given the opportunity to comment on the calculation of sub-indicator values and justifications for fulfilment of each of the criteria. In addition, the Moldovan administration has given feedback on the draft monitoring reports on 29 August.

This monitoring report only shows the overall indicator values. The detailed criteria-level analysis will be accessible through a public portal.⁷ Indicator values reflect the level of maturity and preparedness of administrations – from 0 to 5.

The indicator values provide an indication of the administrative capacity and overall performance of national public administrations. This provides an indication of the capability to effectively implement the EU *acquis* and participate in the policy-making processes of the EU.

The point allocation is constructed so that a country can only receive an overall value of 2 on the basis of the quality of its legislative and regulatory framework, and a value of 3 cannot be achieved without showing

⁶ OECD (2019), *The Methodological Framework of the Principles of Public Administration*, OECD, Paris, <http://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-May-2019.pdf>.

⁷ <https://par-portal.sigmaweb.org/>.

that implementation of key processes is happening in practice. In order to obtain a value of 4, a country needs to show a consistent achievement of relevant outcomes. The value of 5 is reserved for outstanding performance and full compliance with the Principles and the standards for good public governance.

Calculation of indicator values

Across the six thematic areas, the framework is composed of 48 Principles. Each Principle has one or two indicators. There are 52 indicators in total, with 340 sub-indicators and 1 000 individual criteria. Indicator values are presented at the top of the overview tables, on a scale from 0 (lowest) to 5 (highest). The indicator value is based on the total number of points received for the sub-indicators. The point conversion tables are accessible in the Methodological Framework. A three-digit reference number precedes the titles of the indicators: the first number refers to the area, the second to the Principle and the third shows whether this is the first or second indicator under that Principle.

If the required information to assess a sub-indicator is not available or is not provided by the administration, 0 points are awarded. All data requested is needed for a well-functioning public administration, and SIGMA does not estimate performance in the absence of credible evidence.

Strategic framework of public administration reform

Summary and recommendations

The strategic framework of public administration reform (SFPAR) area is measured by four indicators. Table 2 provides an overview of Moldova's performance on the SFPAR principles.

Table 2. Overall indicator values for strategic framework of public administration reform, 2023

	Principles	2023 overall indicator values
Principle 1	The government has developed and enacted an effective public administration reform agenda which addresses key challenges.	3
Principle 2	Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.	0
Principle 3	The financial sustainability of public administration reform is ensured.	0
Principle 4	Public administration reform has robust and functioning management and co-ordination structures at both the political and administrative levels to steer the reform design and implementation process.	1

The Government recently adopted an almost complete strategic PAR framework, made up of the Public Administration Reform Strategy (PAR Strategy) 2023-2030, the related Programme for Implementation of the PAR Strategy (PIPARS) for 2023-2026⁸ and the Public Financial Management Development Strategy (PFM Strategy) 2023-2030. At the end of the assessment period, the Ministry of Finance (MoF) was still preparing operational planning documents to implement the PFM Strategy 2023-2030 – three implementation programmes and an action plan. Planning documents forming the strategic framework for PAR are consistent with key horizontal planning documents, including the Government Programme and its Action Plan for 2023, and the National Development Strategy “Moldova 2030” and its National Development Plan 2023-2025.

Key PAR area planning documents – the PAR Strategy 2023-2030 and PIPARS 2023-2026 – are of a generally good quality with potential to further improve costing-related information, whereas the PFM Strategy 2023-2030 has several flaws. For instance, the **PFM Strategy 2023-2030** does not establish performance indicators to measure the achievement of either general or specific policy objectives, even though this is a regulatory requirement for national policy documents. The lack of operational-level planning documents for PFM Strategy 2023-2030 implementation means that SIGMA cannot assess the quality of actions for implementing set policy objectives or the quality of their costing, therefore negatively impacting several indicator values.

⁸ Official Gazette Nos. 240-245 of 14 July 2023.

No PAR Strategy has been in force since the end of 2020 when the PAR Strategy 2016-2020 expired, and PFM Strategy 2013-2020 implementation was extended to end-2022. As a complete strategic framework of PAR was not implemented in 2022, it is not possible to assess the actual degree of implementation of PAR-related reforms, functioning of the monitoring and reporting systems, or the financial sustainability of reforms. The recently adopted new strategic framework for PAR – the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 – envisage comprehensive monitoring and reporting systems, but their practical implementation remains to be seen, especially given that the performance measurement framework is not fully complete.

Institutional and managerial accountability have been established for both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030, with the State Chancellery and the MoF in charge of overall co-ordination, monitoring and reporting for planned reforms. Robust management and co-ordination mechanisms at both the political and administrative levels have been created for the PAR Strategy 2023-2030, but not for the PFM Strategy 2023-2030.

Short-term recommendations (1-2 years)

1. The MoF should finalise operational-level planning documents to implement the PFM Strategy 2023-2030, ensuring they are consistent with the priorities of key horizontal planning documents and coherent with PAR Strategy 2023-2030 and PIPARS 2023-2026 reforms.
2. The State Chancellery and the MoF should establish comprehensive performance measurement frameworks for both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030, including by developing detailed technical notes for each performance indicator, to ensure proper functioning of the monitoring and reporting systems.
3. When finalising PFM operational planning documents, the MoF should clarify the overall management and co-ordination mechanisms to be used at both the political and administrative levels, among other options, and consider using those already established for the PAR Strategy 2023-2030 by extending their mandate.

Medium-term recommendations (3-5 years)

4. The State Chancellery and the MoF should ensure detailed reporting on the implementation of reforms in the PAR and PFM areas, focusing on performance information and identifying decisions that political and administrative-level management bodies should take when policy changes are required.
5. During the planned mid-term assessment of both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 in 2026, the State Chancellery and the MoF should conduct a full-fledged policy evaluation using performance information gathered in the monitoring of reform implementation.

Analysis

Principle 1: The government has developed and enacted an effective public administration reform agenda which addresses key challenges.

Overall, the value of the indicator “Quality of the strategic framework of public administration reform” is 3. While the Government adopted key strategic planning documents for PAR and PFM in early 2023, thus establishing the overall scope and coverage of the reform agenda and confirming PAR as one of the government priorities, some operational planning documents in the PFM area – three programmes and an action plan – had not been finalised by the time of this assessment. This has lowered the overall indicator value.

Indicator 1.1.1. Quality of the strategic framework of public administration reform						
This indicator measures the quality of the strategy for public administration reform (PAR) and related planning documents (i.e. to what extent the information provided is comprehensive, consistent and complete), including the relevance of planned reforms.						
A separate indicator (1.1.3) measures financial sustainability and cost estimates in detail.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Coverage and scope of PAR planning documents						5/5
2. Prioritisation of PAR in key horizontal planning documents						1/2
3. Coherence of PAR planning documents						2/4
4. Presence of minimum content of PAR planning documents						3/7
5. Reform orientation of PAR planning documents (%)						0/3
6. Quality of consultations related to PAR planning documents						1/2
Total						12/23

After a period of vacuum⁹, the Government has recently adopted several planning documents establishing a strategic framework for PAR – the PAR Strategy 2023-2030¹⁰ and the PFM Strategy 2023-2030¹¹, as well as the Programme for Implementation of the PAR Strategy (PIPARS) for 2023-2026.¹² These strategic planning documents comprehensively cover all thematic PAR areas¹³ and are judged to be mutually coherent. The MoF is currently elaborating several operational-level planning documents to implement the PFM Strategy 2023-2030: a programme for the public procurement system; a programme to develop public internal financial control; a programme for state debt management; and an

⁹ The PAR Strategy 2016-2020 expired at the end of 2020, while the PFM Strategy 2013-2020 was formally extended until the end of 2022 by Government Decision No. 9/2023 of 20 January 2021.

¹⁰ Adopted by Government Decision No. 126/2023 of 15 March 2023.

¹¹ Adopted by Government Decision No. 71/2023 of 22 February 2023.

¹² Adopted by Government Decision No. 352/2023 of 7 June 2023.

¹³ Key areas are: policy development and co-ordination, public service and human resource management, accountability, service delivery and public financial management as defined in OECD (2017), *The Principles of Public Administration*, OECD, Paris, <https://sigmaweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf>

action plan to implement the PFM Strategy 2023-2030.¹⁴ Once the Government has finalised and adopted these documents, operational-level planning to implement the strategic framework for PAR will also be complete.

The Government has identified PAR as one of its key priorities. In fact, its “Moldova: Prosperous, Safe and European”¹⁵ programme sets out several PAR policy objectives and measures, while the Government Annual Action Plan for 2023 provides for implementation modalities linked with these objectives. These strategies are fully coherent with PIPARS 2023-2026 implementation plans.

The National Development Strategy “Moldova 2030”¹⁶ and National Development Plan 2023-2025¹⁷ also define PAR as a priority. Currently, the Ministry of Foreign Affairs and European Integration is working on a draft National Plan for 2023-2027 for Fulfilment of the Criteria for Accession of the Republic of Moldova to the European Union and for Implementation of the Republic of Moldova-European Union Association Agreement. As no valid European integration programme was in place at the time of assessment, the relevant sub-indicator measuring the prioritisation of PAR within key horizontal planning documents was not awarded maximum value.

Analysis of PAR planning documents reveals several weaknesses in terms of quality. While the PAR Strategy 2023-2030 and PIPARS 2023-2026 meet almost all criteria for minimum content, the PFM Strategy 2023-2030 has some important shortcomings. There is a discrepancy between the performance indicators used in the PAR Strategy 2023-2030 and PIPARS 2023-2026. Furthermore, many of the outcome-level indicators in PIPARS 2023-2026 (49.2%, or 30 out of 61) lack baseline values. At the same time, almost all (98%, or 60 out of 61) have clearly set target values to 2026. Only 62.1% of actions (82 out of 132) in PIPARS 2023-2026 have clearly identified cost estimates, while for the rest it is indicated that implementation will be carried out “within the limits of the approved budget”. However, all actions clearly indicate a planned funding source.

All these issues may complicate monitoring and reporting on certain aspects of planned reforms. Furthermore, the lack of technical information on performance indicators (the “indicator passports”), including on the methodology for collecting and analysing performance data, could impede monitoring and reporting on the achievement of policy objectives.

Many aspects of planning quality for implementation of the PFM Strategy 2023-2030 remain unknown due to a lack of operational-level planning documents, i.e. the three programmes and action plan envisaged by the PFM Strategy 2023-2030. Contrary to the PAR Strategy 2023-2030, the PFM Strategy 2023-2030 does not define outcome-level performance indicators or their target values, even though national regulations formally require their inclusion in strategies.¹⁸ Given the lack of operational planning documents for PFM Strategy 2023-2030 implementation, no action plans are available detailing responsible institutions, clear implementation deadlines for policy objectives, or estimates for resource needs with sources and costing information.

It is also impossible to assess the reform orientation of actions in the PFM area, while in PIPARS 2023-2026 more than 95% of actions are clearly reform-oriented. Finalisation and government approval of operational planning documents for the PFM area – the three programmes and the action plan – may lead to a more favourable overall assessment.

Non-state actors were consulted prior to approval of the PAR Strategy 2023-2030, PIPARS 2022-2026 and the PFM Strategy 2023-2030, but they were not involved in elaborating the PFM Strategy 2023-2030. In line with public consultation regulations for planning documents¹⁹, all PAR planning

¹⁴ PFM Strategy 2023-2030, p. 43.

¹⁵ Adopted by Parliament Decision No. 28 of 16 February 2023.

¹⁶ Adopted by Parliament Decision No. 315 of 17 November 2022.

¹⁷ Adopted by Government Decision No. 89/2023 of 28 February 2023.

¹⁸ Government Decision No. 386/2020 of 17 June 2020 on Planning, Development, Approval, Implementation, Monitoring and Evaluation of Public Policy Documents.

¹⁹ Ibid., 34.9.

documents were posted on the public consultation portal²⁰ for a minimum of two weeks, allowing all interested parties to submit suggestions for improvement. Furthermore, for the PAR Strategy 2023-2030 and PIPARS 2023-2026, non-state actors were actually involved in the drafting process as part of a working group.²¹ For the PFM Strategy, the MoF did not create a formal working group.

Conclusion

Although the Government has enacted a comprehensive strategic framework for PAR covering all substantive areas, operational-level plans for implementing the PFM Strategy 2023-2030 have not yet been finalised. The framework is coherent with Government programme priorities and key horizontal planning documents, and non-state actors were formally consulted concerning all PAR planning documents. However, both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 have quality issues related to the use of performance indicators that may negatively impact monitoring and reporting on implementation of reforms.

Principle 2: Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.

Overall, the value of the indicator “Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting” is 0. Both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 describe their approach to monitoring and reporting processes, including the allocation of institutional responsibilities. However, since the strategic PAR framework was just adopted earlier this the year, the actual implementation of planned measures and achievement of set policy objectives, as well as overall functioning of the reporting and monitoring systems, could not be gauged during our assessment.

Indicator 1.2.1. Effectiveness of PAR implementation and comprehensiveness of monitoring and reporting						
This indicator measures the track record of implementation of PAR and the degree to which the goals were reached. It also assesses the systems for monitoring and reporting of PAR.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Comprehensiveness of PAR reporting and monitoring systems						1/7
2. Implementation rate of PAR activities (%)						0/4
3. Fulfilment of PAR objectives (%)						0/4
Total						1/15

Both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 provide details on their monitoring and reporting structures. It has not yet been put into practice, however, as all relevant planning documents were adopted only recently. The monitoring and reporting systems envisage leading roles for both the State Chancellery and the MoF for two respective strategies and their implementing documents. Both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 call for non-state actors to help monitor the implementation of planned reforms, either by developing alternative monitoring reports²² or through close collaboration.²³

²⁰ <https://particip.gov.md/ro>.

²¹ General Secretary of Government Decision No. 63 of 3 November 2022, General Secretary of Government Decision No. 102 of 30 December 2022 and General Secretary of Government Decision No. 34 of 24 March 2023.

²² PAR Strategy 2023-2030, p. 130.

²³ PFM Strategy 2023-2030, p. 43.

The PAR Strategy 2023-2030 clearly identifies performance indicators for all policy objectives, and they are further detailed in PIPARS 2023-2026, which provides baseline and target values to measure achievement. However, target values are currently set for up to 2026 only, not to the end of the PAR Strategy 2023-2030 period, linked to the mid-term evaluation envisaged for 2026.

Of the 17 impact-level indicators identified, only 13 have both target and baseline values. Out of 61 outcome-level indicators, 60 have target values, however out of the same 61 indicators only 30 have baselines values. The lack of baseline values and the absence of detailed technical information (indicator passports) for each performance indicator may impair the practical functioning of the monitoring and reporting systems in implementing the PAR Strategy 2023-2030 and PIPARS 2023-2026, as well as in carrying out the envisaged mid-term evaluation in 2026.

The PFM Strategy 2023-2030 does not identify any performance indicators to measure the achievement of set policy objectives. Although this issue may be resolved during elaboration of the three implementation programmes and action plan prescribed by the PFM Strategy 2023-2030, it indicates non-observation of the general quality rules for planning documents set by national regulations.²⁴ Chapter V, “Impact and Evaluation Indicators”²⁵, which refers to measuring the results of PFM Strategy reforms, foresees the use of indicators included in the national framework for monitoring implementation of the Agenda of Sustainable Development 2030. At the same time, no precise performance indicators are provided to monitor achievement of the policy objectives. As such, this approach does not allow for the achievement of individual policy objectives to be measured.

Conclusion

Both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 lay out the basics of PAR monitoring and reporting systems, but their actual effectiveness remains to be seen. While a performance measurement framework has been established for the PAR Strategy 2023-2030 (although with some deficiencies), the PFM Strategy 2023-2030 completely lacks performance indicators. Given that operational-level planning documents for implementing the PFM Strategy 2023-2030 are still under development, this might change once they are finalised and approved. It is commendable that both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030 envisage a role for non-state actors in monitoring and reporting on planned reforms.

²⁴ Government Decision No. 386/2020 of 17 June 2020 on planning, development, approval, implementation, monitoring and evaluation of public policy documents.

²⁵ PFM Strategy 2023-2030, pp. 39-40.

Principle 3: The financial sustainability of public administration reform is ensured.

Overall, the value of the indicator “Financial sustainability of PAR” is 0. While the new strategic framework of PAR has been established and will be completed soon with adoption of the operational-level planning documents to implement the PFM Strategy 2023-2030, it was not possible to judge the financial sustainability of the full PAR agenda during this assessment.

Indicator 1.3.1. Financial sustainability of PAR						
This indicator measures to what extent financial sustainability has been ensured in PAR as a result of good financial planning.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Costed PAR activities (%)						0/3
2. Completeness of financial information in PAR planning documents						0/4
3. Actual funding of the PAR agenda						0/3
Total						0/10

The indicator value for financial sustainability of PAR cannot currently be established because key information about costing is not available for the envisaged reforms in the PFM area. While the PAR Strategy 2023-2030 does not discuss what financial resources are available and/or needed for its implementation, PIPARS 2023-2026 has a separate chapter²⁶ on costs and sources of financing. This chapter contains information on particular budget programmes that would provide resources to implement planned reforms, as well as estimated aggregate costs per specific policy objective. Meanwhile, the PIPARS 2023-2026 action plan provides sources and/or particular cost estimates per planned action – 82 of the 132 actions (62.1%) have information on the financial resources required for their implementation, while 50 (37.9% of the total) are to be covered through allocations from the state budget or with international donor support, without any specific cost estimates. There is no evidence that full costing has been carried out for the action plan, making it impossible to assess whether there is proper separation between temporary and recurrent costs for actions requiring additional financing.

While the PFM Strategy 2023-2030 has a chapter²⁷ on financing, it does not provide any cost estimates because the MoF is still elaborating the operational-level planning documents envisaged in the PFM Strategy 2023-2030. Lacking full information about necessary costs and funding to implement planned reforms, it is not possible to confirm the financial sustainability of the PFM Strategy 2023-2030, or subsequently that of the entire strategic framework for PAR.

Actual financing of the PAR agenda cannot be assessed because no information is available on exact budget appropriations for implementation in 2023, and a detailed action plan for the PFM area is lacking. However, the Moldova Support Platform (a donor co-ordination mechanism established in 2022 with the participation of 47 states, international organisations and financial institutions) has established a working group on PAR and PFM. The working group has met three times and the Government has provided detailed financing needs for the implementation of planned reforms, including the mapping of donors and their financial and in-kind resources currently available to the Government for these reforms.

²⁶ PIPARS 2023-2026, p. 31.

²⁷ PFM Strategy 2023-2030, p. 40.

Conclusion

There is insufficient information on financing needs for implementation of the PAR agenda. Therefore, the financial sustainability of reforms are questionable. PIPARS 2023-2026, which includes an action plan for implementing the PAR Strategy 2023-2030, provides estimates of financial needs for more than 60% of its planned reform measures. However, actual funding of the PAR agenda from either the national budget or donors cannot be established due to a lack of information.

Principle 4: Public administration reform has robust and functioning management and co-ordination structures at both the political and administrative levels to steer the reform design and implementation process.

Overall, the value of the indicator “Accountability and co-ordination of PAR” is 1. Institutional and managerial accountability for the PAR and PFM areas are clearly assigned to the State Chancellery and the MoF. Only for the PAR Strategy 2023-2030 is a robust management and co-ordination mechanism established and functioning.

Indicator 1.4.1. Accountability and co-ordination in PAR						
This indicator measures the extent to which leadership and accountability in PAR are established, the regularity and quality of co-ordination mechanisms at both the political and administrative level, and the performance of the leading institution.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Establishment of organisational and managerial accountability for PAR						4/6
2. Co-ordination mechanisms for PAR						0/10
Total						4/16

Institutional and managerial accountability are well established for both the PAR Strategy 2023-2030 and the PFM Strategy 2023-2030. According to the PAR Strategy 2023-2030, the State Chancellery is the key institution generally responsible for its implementation²⁸, while the PFM Strategy 2023-2030 assigns this role to the MoF.²⁹ Responsibility for institutional and managerial accountability within these institutions is further reiterated in respective statutes of the institutions, their structural units and even in job descriptions of staff working in these structural units.

According to the Statutes of the State Chancellery, it ensures the co-ordination and monitoring of central public administration reform activities, and it guarantees the promotion and implementation of state policy in the public service domain, especially human resource management.³⁰ The Directorate of Public Administration of the State Chancellery is the key structural unit responsible for co-ordination and monitoring of the reform and providing secretarial functions for management and co-ordination mechanisms, while the Directorate of Public Function Management and Human Resources is responsible for implementation of policy in the area of public service.

The Statutes of the MoF also clearly stipulate responsibility for overall PFM developments, with the Directorate for Policy Analysis, Monitoring and Evaluation being the key structural unit.³¹ At the same time,

²⁸ PAR Strategy 2023-2030, p.133.

²⁹ PFM Strategy 2023-2030, p. 43.

³⁰ Government Decision No. 657/2009 of 6 November 2009.

³¹ Government Decision No. 696/2017 of 30 August 2017.

responsibility for implementing individual measures or actions has not been formally established for either the PAR Strategy 2023-2030 or the PFM Strategy 2023-2030.

A robust management and co-ordination mechanism has been created to implement the PAR Strategy 2023-2030, but not the PFM Strategy 2023-2030. The PAR Strategy 2023-2030 envisages a three-level management and co-ordination mechanism covering both the political and administrative levels.³² Conversely, the PFM Strategy 2023-2030 mentions only the MoF as the institution responsible for co-ordinating implementation and reporting on results³³, and does not provide any other specific references to political or administrative-level management and co-ordination mechanisms. This has negatively impacted the value for this indicator.

The Inter-Ministerial Committee for Strategic Planning³⁴ (CIPS), chaired by the Prime Minister and made up of various ministers, is a functional political-level management and co-ordination structure for various government policies, including PAR.³⁵ Given the prominence attributed by the PAR Strategy 2023-2030 to local-level public administration reform, the Joint Commission for Decentralisation discussed at its meetings the concept for the PAR Strategy 2023-2030³⁶, the draft PAR Strategy 2023-2030³⁷ and the draft PIPARS 2023-2026³⁸, thus ensuring close co-operation with local government representatives. However, neither CIPS, nor the Joint Commission for Decentralisation reviewed the draft PFM Strategy 2023-2030.

The PAR Secretariat and the PAR Team are the administrative-level management and co-ordination structures for the PAR Strategy 2023-2030, although the PAR Secretariat³⁹ was established only recently as the top-level administrative co-ordination body and had not held its first meeting at the time of assessment. The PAR Secretariat will be chaired by the Secretary General of the Government and consists of secretaries general of all ministries involved in implementing the PAR Strategy 2023-2030 and PIPARS 2023-2026. It therefore has numerous functions, including supporting CIPS in managing PAR Strategy 2023-2030 implementation and co-ordination.

Meanwhile, the PAR Strategy Team⁴⁰ is an operational administrative-level management and co-ordination mechanism made up of expert-level civil servants and involving representatives of non-state actors (the Congress of Local Government of Moldova; the Institute of Urban Development; and the Institute of Public Administration). Its attention has so far focused primarily on elaborating the draft PAR Strategy 2023-2030 and draft PIPARS 2023-2026, but with government adoption of these planning documents it will turn to co-ordinating, monitoring and reporting on their implementation.

The State Chancellery, namely the Directorate of Public Administration, supports the functioning of both the PAR Secretariat and the PAR Strategy Team.

³² PAR Strategy 2023-2030, pp.130-133.

³³ PFM Strategy 2023-2030, p. 43.

³⁴ Government Decision No. 838/2008 of 9 July 2008.

³⁵ CIPS met eight times in 2022 and discussed PAR-related issues twice – on 8 July 2022 (concept of the PAR Strategy) and on 13 October 2022 (salary reform in public service). In the first half of 2023, CIPS met eight times and once discussed a PAR-related item (a concept for elaborating a Programme for Development of Civil Society for 2024-2027, explicitly requiring it to correlate with the PAR Strategy 2023-2030).

³⁶ Minutes of the Joint Commission for Decentralisation meeting of 17 November 2022.

³⁷ Minutes of the Joint Commission for Decentralisation meeting of 13 March 2023.

³⁸ Minutes of the Joint Commission for Decentralisation meeting of 4 May 2023.

³⁹ Prime Minister Decision No. 80 of 30 May 2023.

⁴⁰ General Secretary Decisions No. 63 of 3 November 2022; No.102 of 30 December 2022; and No. 34 of 24 March 2023 that established working groups on the elaboration of both the draft PAR Strategy 2023-2030 and the draft PIPARS 2023-2026.

Conclusion

Institutional and managerial-level responsibilities for PAR Strategy 2023-2030 and PFM Strategy 2023-2030 implementation have been clearly established for the State Chancellery and the MoF. While management and co-ordination mechanisms at both the political and administrative levels have been created, they have become functional mostly for the PAR Strategy 2023-2030 only, and no robust management and co-ordination mechanisms are envisaged in the PFM Strategy 2023-2030.

Policy development and co-ordination

Summary and recommendations

Twelve principles measure policy development and co-ordination (PDC). Table 3 provides an overview of Moldova's performance in the PDC area.

Table 3. Overall indicator values for policy development and co-ordination, 2023

Principles		2023 overall indicator values
Principle 1	Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.	3
Principle 2	Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.	2
Principle 3	Harmonised medium-term policy planning is in place, with clear whole-of-government objectives, and is aligned with the financial circumstances of the government; sector policies meet the government objectives and are consistent with the medium-term budgetary framework.	3
Principle 4	A harmonised medium-term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.	0
Principle 5	Regular monitoring of the government's performance enables public scrutiny and support the government in achieving its objectives.	2
Principle 6	Government decisions are prepared in a transparent manner and based on the administration's professional judgement; the legal conformity of the decisions is ensured.	3
Principle 7	The parliament scrutinises government policy making.	2
Principle 8	The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.	3
Principle 9	The European integration procedures and institutional set up form an integral part of the policy development process and ensure systematic and timely transposition of the European Union <i>acquis</i> .	4
Principle 10	The policy-making and legal-drafting process is evidence-based, and impact assessment is consistently used across ministries.	3
Principle 11	Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government	3
Principle 12	Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.	2

Note: Two separate indicators measure Principles 11 and 12. The indicator value shown is the average of the two.

Co-ordination mechanisms for policy planning and development, including to co-ordinate the European integration (EI) process, have been largely established, but their functioning needs to be improved and the capacities of responsible centre-of-government (CoG) bodies strengthened.

Although the key functions to ensure well-organised policymaking are assigned to CoG institutions by law, in practice they need improvement. The State Chancellery, as the main central policy co-ordination body, has established adequate internal structures but needs to be strengthened to accomplish assigned policy co-ordination tasks. Challenges remain in co-ordinating CoG bodies to ensure a comprehensive response to proposals from line ministries, especially between the State Chancellery and the Ministry of Finance (MoF).

Moreover, practical guidelines on how to prepare legal acts, ensure legal conformity and follow administrative procedures still need to be developed. The renewed, more intensive meeting schedule of CIPS is a positive development in terms of policy co-ordination, but it needs additional resources if it is to effectively improve coherence among the government's various central planning documents (the Medium-term Budget Framework and the National Development Plan).

Moldova still has no national EI planning document and no clarity on the dynamics of adopting the EU *acquis*. Nevertheless, the co-ordination mechanisms for EI processes have been largely established by legislation, and key structures started functioning during the first quarter of 2023. Institutional fragmentation of EI tasks is still a challenge, however, with the Ministry of Foreign Affairs and European Integration (MFAEI) dealing with policy development and political dimensions of EU accession, the Centre for Harmonisation of Legislation in the State Chancellery with legal adjustments to the EU *acquis* and the MoF with EU financial assistance, while the different co-ordination mechanisms (the National Commission for European Integration, the Government Commission for European Integration, the Inter-Ministerial Co-ordination Group and the Sectoral Working Groups) serve as inter-institutional co-ordination platforms, supported by the MFAEI. The lack of an overall EI planning document hinders co-ordination. Experts have developed a methodology for costing EI-related commitments, but it still needs to be applied.

Following the establishment of co-ordination mechanisms for EI processes in December 2022, a more structured approach to planning EU accession-related commitments has been initiated. **The capacities of co-ordination structures to manage the new, intensified dynamics of adopting the EU *acquis* need to be strengthened**, especially regarding linking EU *acquis*-related policy reforms and EU funding for those reforms with State budget allocations.

Key steps in the policy planning process have been established in legislation. The State Chancellery is responsible for ensuring overall co-ordination and quality control of policy planning, together with CIPS. However, **there is still a lack of coherence among central policy planning documents, and costing in key planning documents is inadequate.** Moreover, indications of additional expenditures for planned activities are still missing in most in sectoral strategies. In general, links between policy planning and budgeting are still weak, and co-ordination between the State Chancellery and the MoF is inadequate.

Requirements for monitoring and reporting on the Government's performance are generally well regulated. State budget execution reports, as well as the Government Annual Work Plan (GAWP) and sectoral strategy implementation reports, are regularly adopted and made publicly available. However, **the quality of reporting documents is still insufficient, due to the lack of measurable outcome-level indicators** in the GAWP and sectoral strategies. A system for monitoring and reporting on progress in fulfilling EI commitments is still being developed.

The State Chancellery is responsible for ensuring the compliance of draft acts submitted to government sessions, in line with the Government Rules of Procedure. While the legal conformity of policy proposals is regularly checked by the Ministry of Justice (MoJ), **the financial viability and budgetary impacts of draft acts are not consistently assessed and verified. The lack of clarity about deadlines for submitting material for government sessions** results in frequent last-minute submissions of acts that have not been adequately reviewed by CoG bodies, while co-ordination between the State Chancellery and the MoF could be improved. The transparency of decisions adopted by the Government and of government meetings is generally adequate.

The regulatory framework for EU *acquis* alignment has been established and the responsibilities of competent authorities defined. **The analysed sample showed consistent use of tables of concordance in the EU *acquis* alignment process for government-sponsored laws.** However, the ratio of EU *acquis*

alignment commitments carried forward to the following year is rather high, suggesting a problem in legislative planning in the EI area. The Centre for Harmonisation of Legislation in the State Chancellery has a dedicated team but probably needs more staff and a stronger mandate to respond to the new dynamics and faster pace of EU alignment.

Regulatory impact assessments (RIAs) required for draft laws are consistently being prepared, but there is a lack of clarity about the types of proposals subject to RIAs. Ministries prepare RIAs for draft legal acts in practice, and they largely meet expected quality standards. However, adequate budgetary impact assessments are not consistently done. As quality control of impact assessments is decentralised, it is carried out by several institutions. Furthermore, no one central body has been designated to co-ordinate and oversee the RIA process. While the Working Group of the State Commission for the Regulation of Entrepreneurial Activity consistently checks the quality of RIAs for proposals affecting businesses (which are made publicly available for all forthcoming sessions of the Working Group), there is **no evidence that the CoG consistently reviews financial, administrative, or other impact assessments.**

The regulatory frameworks for public consultations and for the inter-ministerial consultation process are well established. **However, there is no proper scrutiny of the quality of public consultations on draft acts adopted by the Government.** Also, there is a lack of reporting on the results of public consultations, and proper institutional response to submitted comments is missing. **Stakeholders do not generally use the main central government consultation portal, *Particip*⁴¹, so more proactive communication of consultations is needed.**

While CoG bodies and other affected institutions are regularly consulted and their opinions are addressed in the summary/synthesis tables of opinions, there is a **lack of clarity on minimum duration requirements for inter-ministerial consultations.** This can mean that ministries do not have enough time to properly review drafts, which could affect the overall quality of the policymaking process.

Although the level of legal certainty and the quality of legislative drafting are adequate, the ratio of laws amended within one year of their adoption is high (16%), and 44% of surveyed business representatives feel that government policymaking lacks clarity and predictability. While quality control procedures and institutional responsibilities for legislative drafting are in place, uniform guidelines on legal drafting are still absent.

Nevertheless, procedures and competencies to make legislation accessible to the public have been set, along with deadlines for publishing all types of legislation. **All primary and secondary legislation is available to the public through a central registry, together with consolidated versions of the legislation.**

Short-term recommendations (1-2 years)

1. The State Chancellery should increase coherence among central policy planning documents, and update and harmonise methodologies for costing and identifying additional expenditures for planned activities.
2. The Government should set clearer submission deadlines to ensure effective review of materials for final decision making.
3. The Government should include the National Plan for Adoption of the EU *acquis* on the list of key planning documents and clarify its status in relation to other planning documents.
4. The Government should review existing structures and procedures for co-ordinating the European integration process and ensure that a National Plan for Adoption of the EU *acquis* is developed, regularly updated, monitored and reported on.
5. The Government should strengthen central quality control for RIAs and public consultations, including by establishing institutional responsibility.

⁴¹ <https://particip.gov.md/ro>.

Medium-term recommendations (3-5 years)

6. The Government should enhance the role of CIPS to ensure better coherence among central policy planning documents and with strategic national priorities.
7. The Parliament and Government should improve their overall joint co-ordination of annual legislative planning and reduce the number of acts adopted in shortened/extraordinary procedures.

Analysis

Principle 1: Centre-of-government institutions fulfil all functions critical to a well-organised, consistent and competent policy-making system.

Overall, the value of the indicator “Fulfilment of critical functions by the centre-of-government institutions” is 3. Critical functions have been legislatively assigned to CoG institutions, but there is room to improve co-ordination among CoG bodies and between the CoG and line ministries.

Indicator 2.1.1. Fulfilment of critical functions by the centre-of-government institutions						
<p>This indicator measures to what extent the minimum requirements for functions critical to a well-organised, consistent and competent policy-making system are fulfilled by the centre-of-government (CoG) institutions.</p> <p>As this indicator is used to assess the fulfilment of the minimum requirements, it does not measure outcomes or include quantitative sub-indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.</p>						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Critical functions are assigned to CoG institutions by legislation						8/8
2. Availability of guidelines to line ministries and other government bodies						4/4
3. Institutionalisation of co-ordination arrangements between the CoG institutions						0/4
Total						12/16

The legislative framework has assigned mandates and key functions to CoG institutions. Key tasks of the State Chancellery are set in the Rules of Procedure of the Government; the Regulation on the Organisation, Functioning, Structure and Staff of the State Chancellery; and in Government Decision No. 386/2020 on Planning, Drafting, Approval, Implementation, Monitoring and Evaluation of Public Policy Documents. The State Chancellery is responsible for co-ordinating government sessions, including by preparing agendas; leading preparation and co-ordinating approval of the government’s strategic priorities and work programme; co-ordinating the policy content of proposals for government decision, including defining the policy preparation process and ensuring coherence with government priorities; and co-ordinating government communication activities to ensure the government’s message is coherent. It is also in charge of monitoring government performance to ensure that the government collectively performs effectively and keeps its promises to the public, and of managing relationships between the government and other parts of the state (i.e. the parliament and president).

Responsibility for co-ordinating activities to ensure legal conformity is shared by the State Chancellery’s Centre for Harmonisation of Legislation, which issues declarations of conformity with EU legislation, and the MoJ, which conducts legal compliance checks for all draft documents adopted by the Government.⁴²

⁴² The Centre for Harmonisation of Legislation was formerly in the MoJ but was moved to the State Chancellery (in 2017) to perform the specific function of central control of legal harmonisation with the EU *acquis*.

The MoF is responsible for assessing the impact of draft acts submitted to the Government for adoption on the State budget, based on estimates provided by the proposing ministry.

The State Chancellery Directorate for Strategic Planning ensures overall co-ordination of policy development. In addition, as set out in Government Order No. 838 (amended 8 June 2022)⁴³, the Inter-Ministerial Committee for Strategic Planning, supported by the State Chancellery Directorate for Strategic Planning, serves as a platform for inter-ministerial co-ordination in preparing strategic priorities and the GAWP. This body began to meet regularly again in 2022, which is a positive development, even if the Directorate for Strategic Planning lacks human resources dedicated to the broad scope of new tasks related to co-ordination of strategic planning.

With respect to methodological and procedural support from the CoG for policy development, Government Decision No. 386/2020⁴⁴ provides guidelines on how to prepare the annual work plan of the government, as well as how to monitor policy performance and prepare regular reports on policy implementation progress. Additionally, Law No. 100/2017 on Normative Acts contains methodological guidelines and norms for legal drafting.

Despite some progress in the institutionalisation of co-ordination arrangements among CoG institutions, there is room for improvement. It is not clear how the State Chancellery, MoF and MFAEI co-ordinate their final opinions on line ministries' proposals (for example, whether actions that do not fit into the budget framework according to the MoF opinion are eventually left out of the GAWP). It is also not clear how the internal process of co-ordinating and consolidating the opinions of relevant State Chancellery directorates on policy proposals submitted for government decision takes place.

While regular meetings of the secretaries general of ministries (supported by the State Chancellery) serve as an early warning mechanism regarding the quality of ministries' policy proposals, the lack of precise deadlines for submitting materials for government sessions and the lack of human resources reduce the State Chancellery's capacity to effectively perform its central policy co-ordination functions.

Conclusion

The legislative framework for CoG functions is in place but co-ordination within the State Chancellery and with other CoG bodies still needs improvement, especially with the MoF. The Inter-Ministerial Committee for Strategic Planning meets regularly, but additional effort is still needed to ensure greater coherence among the government's various central planning documents.

⁴³ Government Order No. 838 of 9 July 2008 (as amended 8 June 2022).

⁴⁴ Government Decision No. 386/2020 on Planning, Drafting, Approval, Implementation, Monitoring and Evaluation of Public Policy Documents.

Principle 2: Clear horizontal procedures for governing the national European integration process are established and enforced under the co-ordination of the responsible body.

Overall, the value of the indicator “Fulfilment of European integration functions by the centre-of-government institutions” is 2. While the legislative framework for co-ordinating EU affairs has largely been established, functions for planning the costing of EU *acquis*-related reforms and co-ordinating EU assistance have not been properly assigned. Ministries lack guidance for preparing and reporting on EI-related policies.

Indicator 2.2.1. Fulfilment of European integration functions by the centre-of-government institutions						
This indicator measures to what extent the minimum criteria for European integration (EI) functions are fulfilled by the CoG institutions.						
As this indicator is used to assess the fulfilment of the minimum criteria, it does not measure outcomes or include quantitative indicators. The outcomes of some of these critical functions are captured by other indicators on policy development and co-ordination.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Proportion of the EI functions that are assigned to the CoG institutions by law						3/6
2. Availability of guidelines to line ministries and other government bodies						2/4
3. Government's capacity for co-ordination of EI						2/8
Total						7/18

Daily co-ordination of EI affairs has been generally divided among three institutions: the MFAEI is responsible for policy co-ordination and the State Chancellery Centre for Harmonisation of Legislation for legal harmonisation with the EU *acquis*, while the MoF's responsibility to co-ordinate EU financial assistance has been defined rather broadly.

Government Decision No. 697minister or deputy of 30 August 2017 on the Organisation and Functioning of the MFAEI establishes the ministry's key functions and scope of work in co-ordinating EI tasks, while the Rules of Procedure of the Government make the MFAEI responsible for ensuring that policy proposals submitted for Government decisions comply with commitments included in the EI process. In addition, Government Decision No. 868 provides a general framework on how to manage and co-ordinate EI-related negotiations⁴⁵ and determines inter-institutional co-ordination processes according to the criteria for EU accession. However, no specific institution has been designated for the costing of EI commitments, and a methodology for costing planned EU *acquis*-related reforms has not yet been adopted.

The Centre for Harmonisation of Legislation, now located in the State Chancellery, is responsible for co-ordinating and supervising harmonisation with EU legislation and for providing the obligatory opinion for all draft acts submitted to the Government that involve legislative harmonisation with the EU.⁴⁶ Its role complements that of the MoJ with respect to overall legal compliance.

⁴⁵ Government Decision No. 868 of 14 December 2022 on the approval of the Coordination Mechanism of the European Integration Process of the Republic of Moldova, https://www.legis.md/cautare/getResults?doc_id=134494&lang=ro

⁴⁶ Regulation on the Organisation and Functioning of the Centre for Harmonisation of Legislation in the State Chancellery; Rules of Procedure of the Government.

Government Decision No. 377 designates the MoF as broadly responsible for co-ordinating and managing external assistance.⁴⁷ However, the specific tasks of co-ordinating the planning and overall monitoring of EU assistance are not clearly highlighted in this regulation but are rather implicit within the overall tasks. Furthermore, this regulation does not specifically provide line ministries with guidelines for planning and monitoring EU assistance.

In fact, methodological guidelines and instructions are lacking for managing numerous aspects of the European integration process, such as preparing EI planning documents and monitoring reports on Moldova's EU accession process, which could undermine the quality of EI planning processes and documents. Regarding translation of the EU *acquis*, the Romanian version is being used to plan and manage transposition.

The EI co-ordination mechanism involves several bodies: 1) the National Commission for European Integration, responsible for strategic co-ordination of the EI process at the higher political level; 2) the Government Commission for European Integration, responsible for adopting decisions at the Government level; 3) the Inter-institutional Co-ordination Group, responsible for the intermediate/co-ordination level made up of the leaders/heads of the 35 sectoral working groups; 3) sectoral working groups, responsible for operational-level activity co-ordination to fulfil the political and economic criteria as well as 33 negotiation chapters for accession to the EU, grouped into 6 clusters in accordance with EU accession methodology.

Since the EI co-ordination mechanisms were only established in December 2022 and the first meeting was held in the first quarter of 2023, it is not yet possible to confirm whether they are fully functional in practice. Moldova still does not have a National Plan for adopting the EU *acquis*, and it has not prepared a monitoring report on EI commitments for at least two consecutive years (the assessment year and the year prior to it). However, SIGMA's examination of five sample transposition cases showed that the Centre for Harmonisation of Legislation does consistently review EU transposition cases to provide its opinion.

Conclusion

While co-ordination mechanisms for the EI process have been formally established by legislation and key structures started functioning in the first quarter of 2023, Moldova still lacks a national EI planning document and clarity on the dynamics of adopting the EU *acquis*. It also needs guidelines on programming EU financial assistance, as well as on monitoring and reporting.

⁴⁷ Government Decision No. 377 on the Regulation of Institutional Frameworks and the Mechanism of Co-ordination and Management of External Assistance, <https://mf.gov.md/en/content/gd-regulation-institutional-framework-and-mechanism-coordination-and-management-external>.

Principle 3: Harmonised medium-term policy planning is in place, with clear whole-of-government objectives, and is aligned with the financial circumstances of the government; sector policies meet the government objectives and are consistent with the medium-term budgetary framework.

Overall, the value of the indicator “Quality of policy making” is 3. The legal and institutional framework for policy planning has been largely established, with the State Chancellery responsible for ensuring overall co-ordination of the policy planning process and quality control in the development of sector strategies. However, misalignment among central policy-planning documents persists and basic information about additional expenditure requirements for most planned activities in sectoral strategies is still missing.

Indicator 2.3.1. Quality of policy making						
This indicator measures the legislative, procedural and organisational set-up established for harmonised policy planning and the quality and alignment of planning documents. It also assesses the outcomes of the planning process (specifically the number of planned legislative commitments and sector strategies carried forward from one year to the next) and the extent to which the financial implications of sectoral strategies are adequately estimated.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the legal framework for policy planning						5/7
2. Availability of guidance to line ministries during the policy-planning process						3/4
3. Alignment between central policy-planning documents						1/6
4. Planned commitments carried forward in the legislative plan (%)						4/4
5. Planned sectoral strategies carried forward (%)						0/4
6. Presence of minimum content in sector strategies						6/6
7. Completeness of financial estimates in sector strategies						2/5
8. Alignment between planned costs in sector policy plans and medium-term budget						3/3
Total						24/39

The legislative framework for policy planning is generally adequate. A number of government regulations/decisions define the steps in the policy planning process, the status and hierarchy of key government planning documents (except the EI planning document), and the competencies of key institutions.⁴⁸ Government Regulation No. 386/2020 foresees six categories of long-, medium- and short-term planning documents: 1) a National Development Strategy; 2) a Government Activity Programme; 3) a National Development Plan; 4) a Medium-term Budgetary Framework (MTBF); 5) the Government's Annual Plan; and 6) the Annual Plan of the public authority.

The Parliament adopted the National Development Strategy “Moldova 2030” on 17 November 2022, and Parliamentary Decision No. 88 of 6 August 2021 approved the Government Activity Programme “Moldova of the Good Times”, setting out government priorities. More recently, the Government adopted the Medium-term Budgetary Framework 2023-2025 on 6 October 2022, and Government Decision No. 89/2023 approved the National Development Plan for 2023-2025. Also, Government Decision No. 90/2023 approved the Government Action Plan for 2023. The current regulatory framework established by

⁴⁸ The Regulation on Planning, Preparation, Approval, Implementation, Monitoring and Evaluation of Public Policy Documents approved by Government Decision No. 386/2020, as well as the Methodological Guide on the Integration of Provisions of the National Development Strategy in Planning Documents, Public Policy Documents and Normative Acts at the National Level, approved by Order of the Secretary General of the Government No. 65/2021, https://cancelaria.gov.md/sites/default/files/ghid_copertat_coral.pdf.

Government Decision No. 386/2020 does not include the EI planning document National Plan for Adoption of the EU *acquis*, and its position relative to other planning documents is unclear.

The Government Regulation on the Organisation, Functioning, Structure and Number of Staff of the State Chancellery stipulates its responsibility for ensuring co-ordination of public policy planning and the elaboration of policy documents, in accordance with the priorities of the government programme and development strategies. Law No. 181 of 25 July 2014 on Public Finances and Budgetary-Fiscal Responsibility (the PFBFR Law) established the general legal framework for developing and approving an MTBF, and MoF Order No. 209/2015 approved the methodology for preparing it. However, the MoF's provision of practical guidance for line ministries to offer input on the MTBF has not been confirmed, as no evidence was presented.

The Inter-Ministerial Committee for Strategic Planning began to meet regularly in 2023, chaired by the Prime Minister, with expert and administrative support from the State Chancellery Directorate for Strategic Planning as the Secretariat of the Committee. However, the State Chancellery has not yet made full use of this co-ordination platform to ensure coherence among the different national strategic policy planning processes, and the level of alignment of central policy-planning documents remains low. For example, it is not possible to confirm alignment of the GAWP 2023 with the MTBF. There are several non-matching priorities in both documents, and the costs for different priorities are not comparable. Plus, the GAWP contains only output indicators and not outcome indicators, whereas the MTBF has both.

The general structure and content of sector strategies are in line with the regulations' basic requirements and provide adequate analysis of key aspects, as required in good sector-planning documents. Most strategies in the analysed sample contain a situational analysis (including identification of existing problems), policy objectives, outcome-level indicators for all policy objectives of the strategy, target values for at least 90% of the outcome-level indicators, institutional responsibilities and deadlines for completion of activities, in addition to monitoring, reporting and evaluation requirements and competencies. Nevertheless, these samples do not include basic information about the additional expenditures required for most planned activities.

Importantly, a high percentage of sectoral strategies planned in the GAWP for 2022 have been carried forward to the GAWP 2023, indicating a low capacity for implementing agreed commitments. In terms of planned legislative initiatives, 70% of sector strategies are aligned with the GAWP. Four out of thirteen laws planned for implementation in sectoral plans during 2023 were not included in the government legislative plan for the same year, and around 20% of the items were carried forward from 2022 to the 2023 GAWP. A new e-monitoring system is being developed to combine both planning and budgeting of the main strategic priorities and commitments, which could reduce problems caused by backlogs and misalignment in policy planning.

Conclusion

Key steps in the policy planning process have been established in legislation, but there is a lack of coherence among central policy-planning documents, as indicated by relatively high backlogs and misalignment, and the costing of key planning documents is inadequate.

Principle 4: A harmonised medium-term planning system is in place for all processes relevant to European integration and is integrated into domestic policy planning.

Overall, the value of the indicator “Quality of policy planning for European integration” is 0. The capacity of EI co-ordination mechanisms to harmonise medium-term planning of EI processes still needs to be demonstrated. Furthermore, a National Plan for adopting the EU *acquis* is still to be developed, and the costing of EU *acquis*-related reforms needs to be improved.

Indicator 2.4.1. Quality of policy planning for European integration						
This indicator analyses the legislative set-up established for policy planning of the European integration (EI) process and the quality and alignment of planning documents for EI. It also assesses the outcomes of the planning process (specifically the number of planned legislative EI-related commitments carried forward from one year to the next) and the implementation rate of planned EI-related commitments.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the legislative framework for harmonised planning of EI						0/2
2. Quality of planning documents for EI						0/6
3. EI-related commitments carried forward (%)						0/4
4. Implementation rate of the government's plans for EI-related legislative commitments (%)						0/4
Total						0/16

The status of the EI planning document has not been established in legislation: Government Regulation No. 386/2020 does not mention it among the categories of planning documents developed by the Government, and no regulatory requirement to adopt an EI planning document has been introduced with a comprehensive list of commitments. In the past year, no specific National Plan for EI commitments has been adopted. As pointed out in the government's response, the Governmental Commission for European Integration has yet to adopt the structure of the plan and guidelines for its development.

Government Decision No. 868 sets out responsibilities for the planning of EI processes, and Government Decision No. 679/2009 details the composition of working groups.⁴⁹ The Governmental Commission for European Integration, as the key government-level co-ordination structure, is responsible for ensuring co-ordination of the implementation of commitments deriving from documents and agreements between the EU and Moldova.⁵⁰

The Inter-institutional Co-ordination Group is an intermediate-level co-ordination body consisting of the heads of the sectoral working groups and the co-ordinators of each cluster, chaired by the State Secretary of the MFAEI. This group has the authority to co-ordinate the drawing up and implementing of the planning

⁴⁹ Government Decision No. 868 of 14 December 2022 on Co-ordination of the Process of European Integration of the Republic of Moldova: Mechanism of Co-ordination of the Process of European Integration of the Republic of Moldova, and the amendment of Government Decision No. 679/2009 on Approval of the Nominal Composition of the Government Commission for European Integration of the Republic of Moldova (Official Gazette No. 401, Art. 970, 15 December 2022).

⁵⁰ The Commission has the competency to: 1) monitor and co-ordinate implementation of the Action Plan to implement measures proposed by the European Commission in its Opinion regarding the request for accession of the Republic of Moldova to the European Union; 2) approve the elaboration criteria and final contribution of Moldova to the Annual EU Enlargement Package; 3) monitor the drawing up and creating of the necessary planning documents for preparation of the accession process, and for implementation of the SAA; 4) resolve competence conflicts arising among authorities within the sectoral working groups and the clusters responsible for EU accession negotiation chapters; 5) approve Moldova's position for high-level political meetings with the EU.

document to achieve the criteria to join the EU (political and economic criteria, transposition and implementation of the EU *acquis*, and Stabilisation and Association Agreement [SAA] commitments). The MFAEI is responsible for elaborating methodological instructions to facilitate preparation of the planning document and accomplishment of other tasks, as mandated by Government Decision No. 868. The sectoral working groups, as the operational-level co-ordination structures, are responsible for elaborating and monitoring implementation of the EI plan.

A harmonised medium-term planning system is not yet in place for all EI-relevant processes and still needs to be integrated into domestic policy planning, especially for assessing the costs of EI-plan commitments, ensuring the coherence of EU and State budget fund investments, and conducting relevant public consultations on the main EU *acquis* reforms. Also, it is still proving challenging to shift the focus of responsible co-ordination structures from the predominantly political negotiations and SAA commitments to the new dynamics of legal harmonisation and adoption of the EU *acquis* in all accession negotiation chapters.

Alignment of the EI plan and the GAWP is not possible to assess because of the lack of a valid national plan for European integration with a comprehensive list of commitments for Moldova as a candidate country for EU accession.

Conclusion

Following establishment of the co-ordination mechanisms for EI processes in December 2022, a more structured approach to plan fulfilment of the EU accession-related commitments has been initiated. However, a central national EI medium-term planning document for 2023 has yet to be developed, and a methodology for costing EU *acquis*-related reforms applied.

Principle 5: Regular monitoring of the government's performance enables public scrutiny and supports the government in achieving its objectives.

Overall, the value of the indicator "Quality of government monitoring and reporting" is 2. Rules on monitoring and reporting on the Government's performance have been established in the legislative framework. Plus, progress reports on implementation of the State budget, the GAWP and sectoral strategic documents are regularly prepared and made publicly available. However, the quality of reporting documents is inadequate, as outcome-level indicators are lacking in the GAWP and in sectoral strategies. Moreover, no requirements are in place for monitoring the implementation of European integration plans.

Indicator 2.5.1. Quality of government monitoring and reporting						
This indicator measures the strength of the legal framework regulating reporting requirements, the quality of government reporting documents and the level of public availability of government reports.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the legislative framework for monitoring and reporting						4/8
2. Quality of reporting documents						4/12
3. Public availability of government reports						3/5
Total						11/25

The legislative framework for monitoring and reporting is generally in place, except for monitoring and reporting on EI commitments. Based on provisions of the PFBFR Law of 25 July 2014, reports on implementation of the national public budget and its components are elaborated and published monthly, semi-annually and annually. The Regulation on Planning, Elaboration, Approval, Implementation, Monitoring and Evaluation of Public Policy Documents approved by Government Decision No. 386/2020 (points 54-56) assigns the State Chancellery to carry out GAWP monitoring based on the quarterly progress reports of the ministries and other central administrative authorities subordinate to the

Government, according to the requirements drawn up by the State Chancellery. The same regulation defines the obligation of regularly monitoring and reporting on the implementation of sector strategies.

Progress reports on the implementation of strategies and programmes are drawn up annually by the relevant bodies. To optimise monitoring and avoid repeatedly reporting on the same actions provided for in public policy documents, the State Chancellery administers the electronic reporting platform PlanPro, consolidated on the basis of the GAWP, the National Development Plan and other planning documents. Responsibility for the monitoring process through this electronic platform is assigned to the policy analysis, monitoring and evaluation subdivisions of the relevant ministries and authorities. Quarterly progress reports generated by the government's electronic platform for monitoring planning documents are made public on the reporting authority's official website. However, a new e-monitoring system is being developed to replace PlanPro, with the aim of combining both planning and budgeting of the main strategic priorities and commitments.

There is no specific legislative requirement for monitoring and reporting on implementation of the EI plan. In the absence of an EI planning document, no monitoring reports on EI processes have been available in the past two years.

Reporting documents would benefit from measurable outcome-level indicators, both in the GAWP and in the analysed sample of sector strategies. A lack of indicators makes it impossible to monitor achievement of the planning documents' main objectives.

Reports on implementation of the main government planning documents are publicly available, apart from the still-absent EI planning document with a comprehensive list of EI commitments. Annual reports on implementation of the State budget are made publicly available on the MoF website.⁵¹ Government work plan implementation reports are also published⁵², as are annual implementation reports for sector strategies.⁵³

Conclusion

Requirements for monitoring and reporting on government performance have generally been well regulated. State budget execution reports, as well as GAWP and sectoral strategy implementation reports, are regularly adopted and made publicly available. However, the quality of reporting documents is insufficient due to a lack of measurable outcome-level indicators in the GAWP and in sectoral strategies. The regulatory framework and procedures for ensuring regular monitoring and reporting on progress in fulfilling EI commitments are still being developed.

⁵¹ <https://mf.gov.md/ro/trezorerie/rapoarte-privind-executarea-bugetului/rapoarte-anuale>

⁵² <https://gov.md/ro/advanced-page-type/rapoarte>

⁵³ Examples of publicly available sector strategy implementation reports adopted in the last full calendar year are: Ex post Evaluation of the Public Financial Management Development Strategy 2013-2022 of the Republic of Moldova (<https://www.mf.gov.md/sites/default/files/documente%20relevante/Raport%20de%20evaluare%20ex-post%20a%20Strategie%20de%20dezvoltare%20a%20managementului%20finan%C8%9Belor%20publice%202013-2022.pdf>); Implementation Report 2 Final Evaluation Report of the National Youth Sector Development Strategy 2020 (https://mecc.gov.md/sites/default/files/raport_de_evaluare_finala_a_strategiei_nationale_de_dezvoltare_a_sectorului_de_tineret_2020.pdf); Implementation Report 3 Intermediate Evaluation of the National Programme for the Deinstitutionalisation of People with Intellectual and Psychosocial Disabilities for the Years 2018-2021 (https://social.gov.md/wp-content/uploads/2022/05/Raport_Evaluare_intermediara_Program_Deinstitutionalizare.pdf); Implementation Report 4 Mid-term Evaluation of the National Strategy Diaspora-2025, Republic of Moldova (https://brd.gov.md/sites/default/files/document/attachments/raport-strategia-nationala_eng.pdf); Implementation Report 5 Evaluation of the National Prevention Strategy Against Trafficking of Human Beings in the Republic of Moldova for the Years 2018-2023 (http://www.antitrafic.gov.md/public/files/RO_Raport_de_evaluare_Strategie.pdf).

Principle 6: Government decisions are prepared in a transparent manner and based on the administration's professional judgement; legal conformity of the decisions is ensured.

Overall, the value of the indicator “Transparency and legal compliance of government decision making” is 3. The Government Rules of Procedure set general requirements for the process of preparing government decisions, and basic rules on openness and publication of decisions adopted at government sessions are followed. For the submission of materials for government sessions, however, a lack of clarity on predictable deadlines and timeliness makes it difficult to consistently check for compliance with established rules, especially regarding budgetary impact assessments.

Indicator 2.6.1. Transparency and legal compliance of government decision making						
This indicator measures the legal framework established for ensuring legally compliant decision making, the consistency of the government in implementation of the established legal framework, the transparency of government decision making, and businesses' perception of the clarity and stability of government policy making.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the legislative framework for government session procedures						3/5
2. Consistency of the CoG in setting and enforcing the procedures						1/4
3. Timeliness of ministries' submission of regular agenda items to the government session (%)						0/3
4. Openness of the government decision-making process						4/4
5. Perceived clarity and stability of government policy making by businesses (%)						3/4
Total						11/20

The Government Rules of Procedure set general requirements and responsibilities for preparing, following up and communicating on government sessions. The State Chancellery is responsible for ensuring that policy proposals submitted to government sessions are coherent with government priorities and follow the Rules of Procedure. Based on the Regulation on Planning, Elaboration, Approval, Implementation, Monitoring and Evaluation of Public Policy Documents approved by Government Decision No. 386/2020, the State Chancellery prepares evaluation reports for policy proposals (strategies) submitted to the Government to ensure their compliance with established standards and other government priorities.

In line with the Government Rules of Procedure (point 229), the State Chancellery needs to ensure that the ministry responsible for the draft act has submitted the required opinions from relevant bodies and recommendations gathered through public consultation, along with a summary of comments/proposals and reasons for their acceptance/rejection. If the State Chancellery finds that a policy proposal and its accompanying files do not comply with formal requirements, the proposal is not registered and, together with the materials attached to it, is returned to the ministry.

Due to the lack of clarity in provisions of the Rules of Procedure, the relevant statistic on the timeliness of ministry submissions of regular agenda items to government sessions cannot be assessed.⁵⁴ Interviews suggest that items are often submitted at the last minute for government approval, making it difficult for CoG bodies to provide reviews and interested ministries and agencies to offer comments.

Also, the consistency of CoG bodies (particularly the State Chancellery) in enforcing established standards and procedures is still inadequate. It is not clear from the Rules of Procedure whether proposals are returned when they are inconsistent with government priorities. While the MoJ regularly reviews legal drafts to ensure legal conformity, SIGMA's analysis of a sample of submitted drafts indicates a lack of required documentation. For example, fiscal impact analyses are missing and the MoF is not consistently checking

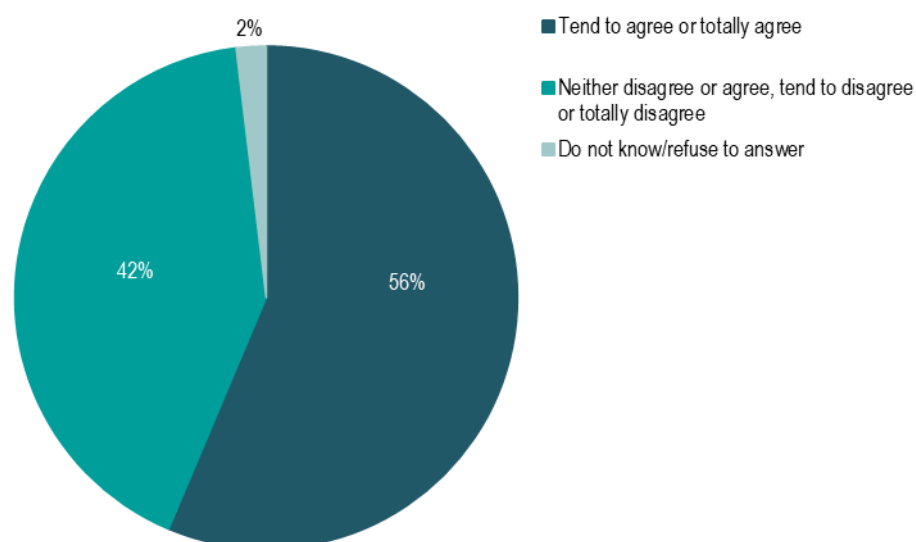
⁵⁴ The Government also confirmed this data gap, stating that it was not possible to assess the timeliness of ministry submissions of regular agenda items to government sessions.

the financial viability of proposed acts. Similarly, there was no evidence that the State Chancellery had reviewed the samples to check their compliance and coherence with government priorities and previously announced policies. Last-minute submissions of new items to the government agenda happen frequently, limiting possibilities for adequate preparation and for final quality checks to be carried out on packages submitted for final approval, including on the quality of budgetary impact assessments.

The openness of government decision-making is good. According to the Government Rules of Procedure, agendas of government meetings are to be published at least two days before the government meets. This rule is followed in practice, with agendas usually published 2-5 days beforehand. Government decisions are made publicly available online, along with minutes from the meetings.⁵⁵ Also, the Government web page contains a link to live broadcasts of government meetings, links to video recordings of past meetings, and links to meeting minutes. The responsible directorate in the State Chancellery communicates with the public regularly on key decisions adopted at government sessions.

In practice, businesses perceive the clarity and stability of policymaking as mixed. While most businesses (56%) indicated they find Moldova's laws and regulations clearly written, not contradictory and stable, many of the others disagreed with this statement (Figure 2).

Figure 2. Perceived clarity and stability of government policymaking



Note: Respondents were asked, "To what extent do you agree with the following statement? - Laws and regulations affecting my company are clearly written, not contradictory and do not change too frequently". Response options were scaled from 1 (totally disagree) to 5 (totally agree). In this figure, answer categories 1-3 have been combined, as have 4-5.

Source: SIGMA business survey, 2023.

Conclusion

The State Chancellery is responsible for ensuring that draft acts submitted to government sessions comply with established standards and procedures. The transparency of decisions adopted by the Government and the publication of government meetings are well established. While the MoJ regularly checks legal conformity, the financial viability and budgetary impacts of draft acts are not consistently verified. Furthermore, the lack of clarity on deadlines for submitting materials for government sessions makes it

⁵⁵ <https://gov.md/ro/advanced-page-type/sedinte-de-guvern>.

even more difficult for CoG bodies to carry out final checks on proposals before they are submitted to the Government for final approval.

Principle 7: The parliament scrutinises government policy making.

Overall, the value of the indicator “Parliamentary scrutiny of government policymaking” is 2. Parliament conducts basic scrutiny of policy implementation, but there is a lack of co-ordination of governmental and parliamentary legislative planning and decision-making processes. Extraordinary procedures for the adoption of government-sponsored draft laws are used frequently.

Indicator 2.7.1. Parliamentary scrutiny of government policymaking						
This indicator measures the extent to which the parliament is able to scrutinise government policy making. The legal framework is assessed first, followed by an analysis of the functioning of important parliamentary practices and outcomes.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Strength of regulatory and procedural framework for parliamentary scrutiny of government policy making						5/5
2. Completeness of supporting documentation for draft laws submitted to the parliament						2/3
3. Co-ordination of governmental and parliamentary decision-making processes						0/2
4. Systematic review of parliamentary bills by government						0/1
5. Alignment between draft laws planned and submitted by the government (%)						0/2
6. Timeliness of parliamentary processing of draft laws from the government (%)						1/2
7. Use of extraordinary proceedings for the adoption of government-sponsored draft laws (%)						0/5
8. Government participation in parliamentary discussions of draft laws						0/2
9. Basic parliamentary scrutiny of the implementation of policies						2/2
Total						10/24

The regulatory and procedural framework for parliamentary scrutiny of government policymaking is established in Law No. LP797/1996 on Regulation of the Parliament (latest amendments in force since 20 February 2022), which foresees the use of various mechanisms of parliamentary surveillance over the government, such as written and oral questions from members of Parliament (MPs) to ministers, motions for confidence and interpellation. According to the Government Rules of Procedure (point 275), Government members are obligated to answer the questions and interpellations of deputies in the Parliament, in accordance with provisions of the Regulations of the Parliament. Also, both the Parliament and Government follow the same requirements for legislative practices and drafting, as prescribed in Law No. 100 on Normative Acts (adopted in December 2017 and amended 29 December 2022).

According to the Law on Regulation of the Parliament, Article 47, draft legislative proposals submitted to the Parliament need to be followed by an explanatory note (stating the act's objectives, purpose and concept), RIA reports, opinions/expertise collected during preparation of the proposal, and public consultation results. SIGMA examined the last five draft laws submitted by the Government to the Parliament in the last full calendar year (with all supporting materials submitted by the Government). They were accompanied by explanatory memorandums (informative/explanatory notes) and other impact analyses, but reports on public consultation outcomes were missing in some cases.

The Law on Regulation of the Parliament obligates the Government to provide its opinion on MP-sponsored legislative proposals within 30 days. Analysis of the last three draft laws initiated by individual MPs in the latest full calendar year (with Government opinions) shows that the Government opinions were consistently provided in line with the regulation.

However, co-ordination of governmental and parliamentary legislative planning and decision-making processes is lacking. There are no regular meetings between the Parliament and Government to discuss

and agree on legislative priorities and plans, and the Government does not share its official annual legislative plan with the Parliament to help the legislature plan and organise its scrutiny activities. Furthermore, communication mechanisms between the Secretaries General of both institutions have not yet been established, preventing timely exchanges between the Government and Parliament regarding the annual legislative plan and the list of draft normative acts to be promoted by the Government in the Parliament.

Weak co-ordination on legislative planning between the Government and Parliament is also reflected in poor alignment of planned acts and draft acts submitted by the Government. Overall, in 2022, only 31% of all government-sponsored and -approved laws were originally included in the government's legislative plan.

Parliament conducts basic scrutiny of policy implementation based on Article 111 of the Rules of Procedure of the Parliament, while the standing committee in the field is responsible for executing the law and determining the effectiveness of its actions. To execute the norm, the Standing Bureau of the Parliament approved the methodology of ex post evaluation on the implementation of normative acts by Decision No. 2/2018.⁵⁶ Indeed, SIGMA's review of submitted samples revealed sufficient evidence that ex post impact assessment reports for laws were discussed in the sessions of relevant parliamentary standing committees in 2022.⁵⁷

However, extraordinary proceedings are used frequently to adopt government-sponsored draft laws. Of 114 laws sponsored by the Government and adopted by the Parliament in 2022, 50 were adopted through extraordinary (urgent or priority) procedures (43.9%).

Furthermore, most laws adopted by the Parliament are proposed by MPs (164 out of 287 laws adopted in 2022, or 57%), meaning that many laws bypass regular impact assessment procedures and proper public consultation. Finally, the shortage of human resources in the Parliament's Directorate for Legal Affairs reduces its capacity to check the quality of draft legal acts.

Conclusion

Governmental and parliamentary co-ordination on legislative planning and decision-making processes is lacking, as is communication on the dynamics of executing the government's annual work plan. This contributes to poor alignment of planned laws with those actually submitted to the Parliament, hindering legislative planning and monitoring. Plus, a large share of Parliament-initiated laws are being adopted through extraordinary or shortened procedures, making democratic control and public consultation challenging.

⁵⁶ Standing Bureau Decision No. 4/2022 approved the Ex-post Evaluation Plan for 2022, and it was published on the official Parliament website, <https://www.parlament.md/LinkClick.aspx?fileticket=7G2bKBMTtZk%3d&tabid=266&language=ro-RO>.

⁵⁷ For example, information on discussion of the ex post impact assessment report developed in 2022, for Law No. 66/2008 on Protection of Geographical Indications, is available at: <https://www.parlament.md/LinkClick.aspx?fileticket=7G2bKBMTtZk%3d&tabid=266&language=ro-RO>.

Principle 8: The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet government objectives.

Overall, the value of the indicator “Adequacy of organisation and procedures for supporting the development of implementable policies” is 3. The legislative framework establishes the ministries’ responsibilities for developing policies and drafting legislation, but the roles and responsibilities of different departments and units within ministries during policy development are unclear, and procedures for inter-departmental consultations have not been prescribed.

Indicator 2.8.1. Adequacy of organisation and procedures for supporting the development of implementable policies

This indicator measures the adequacy of the regulatory framework to promote effective policy making, and whether staffing levels and the basic policy-making process work adequately at the level of ministries.

2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the regulatory framework for effective policy making						
2. Staffing of policy-development departments (%)						
3. Adequacy of policy-making processes at ministry level in practice						
Total						

The Law on Government designates the general responsibilities of the Government and of ministries for policy development and drafting of legislation. Government decrees regarding the organisation and functioning of ministries prescribe their areas of competence, in which they develop policies and draft regulations in detail.

Meanwhile, internal ministerial decrees stipulate the responsibilities of the different departments directly subordinate to the minister or State Secretary in charge of a policy area. The division of functions between legal departments and departments dealing with policy development in their particular sector is clearly defined.

However, internal policy development and legislative drafting procedures have not been prescribed for all ministries. Of the four ministries analysed in detail, only the Ministry of Economy (currently Ministry of Economic Development and Digitalization) has adopted internal regulations detailing the steps of the policy development process; the Ministry of Agriculture and Food Industry, the State Chancellery, the Ministry of Labour and Social Protection and the Ministry of Environment do not have such internal rules. Also, no information is available on the hierarchical levels assigned to lead policy development within ministries.

For the staffing of policy development departments within ministries, the ratio of staff in departments involved in policymaking activities in all ministries is satisfactory – 76% in the Ministry of Agriculture, 86% in the Ministry of Economy, 78% in the Ministry of Environment and 85% in the Ministry of Social Affairs.

SIGMA’s review of the full packages of the three most recent policy proposals shows that ministries submit draft regulations and policies to the Government and, as a rule, policy development and regulatory drafting tasks are not transferred to other bodies subordinate to ministries.

Nevertheless, evidence of internal department consultations during policy development is not being recorded and stored, and it is not possible to clearly establish and assess the roles and responsibilities of different departments and units within a ministry during policy development. In other words, it is not clear whether and how all relevant internal ministerial departments and units are being consulted before the draft package is sent for inter-ministerial consultation or submitted to the Government for final approval.

Conclusion

The Law on Government and relevant decrees on the mandates of each ministry clearly detail the role of ministries in policy development. Ministries are the sole institutions responsible for initiating policies for their respective areas. While overall staffing of policy development departments within ministries is

adequate, the lack of internal rules and procedures for drafting policy and legislative initiatives can make it difficult to conduct full internal consultations and involve relevant ministry units during policy development.

Principle 9: The European integration procedures and institutional set up form an integral part of the policy development process and ensure systematic and timely transposition of the European Union *acquis*.

Overall, the value of the indicator “Government capability for aligning national legislation with the European Union *acquis*” is 4. The legal framework for transposing the EU *acquis* is established, and the competencies of relevant government institutions have been defined. However, a National Plan for adopting the EU *acquis* has still not been formulated, and the institutional arrangement for ensuring effective alignment with the EU *acquis* needs to be strengthened.

Indicator 2.9.1. Government capability for aligning national legislation with the European Union <i>acquis</i>						
This indicator measures the adequacy of the legal framework for the <i>acquis</i> alignment process, the government’s consistency in using tables of concordance in the <i>acquis</i> alignment process and the availability of the <i>acquis</i> in the national language. It also assesses the results of the <i>acquis</i> alignment process, focusing on the planned <i>acquis</i> alignment commitments carried forward from one year to the next and how the government is able to achieve its <i>acquis</i> alignment objectives.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the regulatory framework for the <i>acquis</i> alignment process						5/5
2. Use of tables of concordance in the <i>acquis</i> alignment process (%)						2/2
3. Translation of the <i>acquis</i> into the national language						2/2
4. <i>Acquis</i> alignment commitments carried forward (%)						3/4
5. Implementation rate of legislative commitments for <i>acquis</i> alignment (%)						1/4
Total						13/17

Law No. 100/2017 on Normative Acts and Government Decision No. 1171/2018 on the Process of Approximation of the Republic of Moldova’s Legislation to EU Legislation establish the regulatory framework for EU *acquis* alignment. According to the Rules of Procedure of the Government, proposals dealing with alignment of the *acquis* are subject to the same financial and institutional impact analyses as domestic policy proposals.

All policy proposals that aim to transpose EU law into domestic legislation are marked with a special “EU flag”, although there are no major differences in terms of standards and procedures for preparing EU-flagged measures. The only difference for EU-related proposals is the additional requirement to submit a concordance table issued by the State Chancellery Centre for Harmonisation of Legislation, as well as an MFAEI opinion on compatibility with EU accession policy priorities. Fragmentation of the institutional competences for EI commitments is a matter of concern, however, and should be dealt with during preparation and implementation of the forthcoming National Plan for Adoption of the EU *Acquis*.

Government Decision No. 868 of 14 December 2022 on Approval of the Mechanism of Co-ordination of the Process of European Integration of the Republic of Moldova contains specific provisions on the Government Commission for European Integration’s responsibility to resolve competence conflicts among authorities within the sectoral working groups and the clusters responsible for EU accession negotiation chapters. Proposals for conflict resolution are expected to come from the Inter-Institutional Co-ordination Group (consisting of the heads of the sectoral working groups and the co-ordinators of each cluster, the state secretary of the MFAEI responsible for EI, and the representatives appointed by the State Chancellery, the MoF and the Prime Minister’s Office). This formal conflict resolution competence still needs to be tested and integrated into standard policymaking procedures.

Regulations require the preparation and use of tables of concordance in the EU *acquis* alignment process and, based on SIGMA's review of a sample of five transposition cases, this requirement is being implemented consistently. Analysis of the sample of five *acquis* alignment cases (laws and by-laws) approved by the Government at the end of 2022 shows that submitted materials did include tables of concordance.⁵⁸

A high percentage (39%) of EU *acquis* alignment commitments are being carried forward to the following year. For instance, while the 2021-2022 GAWP had 38 commitments (draft laws and by-laws related to the transposition of EU Directives), the 2023 GAWP had 97. Fifteen alignment commitments were thus carried forward from 2021-2022 to 2023.

The absence of a National Plan for adoption of the EU *Acquis* also indicates the challenges of fragmented institutional competencies for managing EU affairs and the lack of a strategic, proactive approach to planning transposition of the EU *acquis*. The State Chancellery's Centre for Harmonisation of Legislation has a dedicated team of competent professionals, but it should be further strengthened to respond to the new dynamics and faster pace of EU alignment.

Planning and organising translation of the EU *acquis* for ensuring evidence-based transposition is not necessary for Moldova, as the country is able to use Romanian translations of EU laws.

Conclusion

The regulatory framework for aligning the EU *acquis* with national legislation has been established and the responsibilities of competent authorities defined. EU transposition cases undergo the same level of scrutiny as domestic proposals, and additional tools such as a table of concordance and opinions of competent authorities are used when preparing draft legislation to check that it complies with the EU *acquis*. However, while tables of concordance are used consistently in the EU *acquis* alignment process for government-sponsored bills, the ratio of EU *acquis* alignment commitments carried forward to the next year is rather high. The EU *acquis* alignment capacities of central government institutions need to be further strengthened to ensure the timely adoption and implementation of the National Plan for Adoption of the EU *Acquis*.

⁵⁸ According to interview feedback, there are still some concerns about the consistent use of tables of concordance for MP-sponsored laws, especially since most laws adopted by the Parliament are being proposed by MPs.

Principle 10: The policy-making and legal-drafting process is evidence based, and impact assessment is consistently used across ministries.

Overall, the value of the indicator “Evidence-based policy making” is 3. While the legal basis for conducting RIAs exists, and line ministries have been provided with methodological guidelines and templates, RIA quality still needs to be improved. Specifically, ministries have not been conducting budgetary impact assessments, and the bodies responsible for checking the quality of RIA submissions lack the necessary resources.

Indicator 2.10.1. Evidence-based policy making						
This indicator measures the functioning of evidence-based policy making. It assesses the legal requirements and practice regarding the use of basic consultative processes, budgetary impact assessment and impact assessment. Moreover, it assesses the availability of training and guidance documents for impact assessment, the establishment of the quality control function, and the quality of analysis supporting the approval of draft laws.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Regulation and use of basic analytical tools and techniques to assess the potential impact of new draft laws						2/2
2. Regulation and use of budgetary impact assessment prior to approval of policies						1/3
3. Regulation and use of broad Regulatory Impact Assessments						3/3
4. Availability of guidance documents on impact assessments						1/2
5. Quality control of RIAs						2/3
6. Quality of analysis in impact assessments						9/15
Total						18/28

Based on Law No. 100/2017 on Normative Acts as well as Government Decision No. 23/2019 on the Approval of Impact Analysis Methodology⁵⁹, RIAs are mandatory in three cases: 1) for draft documents (both primary and secondary legislation) that contain rules regulating the activity of a business (to be checked by the Working Group of the State Commission for the Regulation of Entrepreneurial Activity);

2) for drafts that provide for the reorganisation and structural or institutional reforms of authorities or public institutions (to be checked by the State Chancellery); and 3) for drafts that contain regulations that affect the national public budget or some of its components (to be checked by the MoF). The RIA methodology approved by the Government in 2019 requires the analysis of a broader range of impacts (economic, social and environmental).

In line with the Government Rules of Procedure (point 229), in all three above-mentioned cases an RIA is an obligatory part of draft legislative proposals submitted for Government adoption. The State Chancellery verifies submitted proposals and prepares an opinion for the Secretaries General meeting.

SIGMA analysis of the last five draft laws approved in 2022 shows that all five drafts have the standard RIA form completed in accordance with the Impact Analysis Methodology provided in the Annex of Government Decision No. 23/2019.⁶⁰

⁵⁹ https://www.legis.md/cautare/getResults?doc_id=112068&lang=ro.

⁶⁰ The sample of draft laws submitted by the government included: 1) the Law for Preventing and Combating Doping in Sports; 2) the Law on Fluorinated Greenhouse Gases; 3) the Law on Basic Requirements in Radiological Security; 4) the Law on Organic Production and Labelling of Organic Products; and 5) the Law on Preventing Food Loss and Waste. The validity of the sample is still to be confirmed to ensure these were the last five draft laws adopted by the Government in 2022, as required by the methodology.

The RIA system envisages a decentralised model of quality control (the Working Group for impact on entrepreneurship, the MoF for fiscal impacts and the State Chancellery for impacts on administration/resources in state bodies). In four cases, the Working Group of the State Commission for the Regulation of Entrepreneurial Activity checked the RIAs, and RIA forms were made publicly available for all sessions of the Working Group. In one case (for the Law on Basic Requirements in Radiological Security), the Working Group of the State Commission for Regulation of Entrepreneurial Activity warned that no cost assessment had been done to comply with Government Decision No. 307 of 21 March 2016 on Approval of the Methodology for Estimating Administrative Costs by Applying the Standard Cost Model (SCM)⁶¹ – although it was clear that costs would be involved.

Quality control on other types of impacts, such as fiscal ones, are not being carried out consistently. All five proposals indicate that no additional State budget funds will be needed, but there is no evidence that the assessments were checked by the MoF, as no opinions were provided, and there are no indications that other responsible bodies conducted consistent quality scrutiny of assessments of financial, administrative or other impacts. This lack of consistency indicates that a more comprehensive approach to RIA quality checking is needed.

According to Government Decision No. 307, the ministry responsible for drafting an act needs to submit a budgetary impact analysis of the proposed act to the MoF for a quality check and opinion, before sending the proposal to the Government for adoption. However, the Rules of Procedure also foresee a simplified approval procedure to be applied to draft Government acts that have no impact on the national budget, that do not involve additional expenses or administrative burdens for society or private groups, that do not concern the public administration system or any subjects related to human rights, and that are developed for the implementation of international treaties.

Interviews have revealed, however, that this simplified procedure is sometimes being misused by ministries to avoid proper cost analyses and quality checks by the MoF. Also, the quality-check opinions adopted by members of the Working Group of the State Commission for the Regulation of Entrepreneurial Activity are very basic and do not refer to a budgetary impact assessment. The informative notes attached to all five draft laws analysed do not contain any analysis of financial costs and generally indicate that no additional financial outlay will be required.

A more detailed assessment of the actual RIA reports prepared for the five draft laws shows that all five provided adequate evidence and analysis of key aspects: definition of the problem; policy objectives and justification for government intervention through a new policy or legislative change; alternative option(s) aside from the status quo; implementation and enforcement issues; and descriptions of mechanisms to be used for monitoring and evaluating progress. However, none of the cases provided cost and benefit assessments of the preferred option, so it is difficult to draw an informed conclusion about whether the proposal's overall net impact will be beneficial for society.

Concerning public access to RIAs and the RIA methodology, a dedicated page on the State Chancellery's website ensures their availability. Materials for sessions of the Working Group of the State Commission for the Regulation of Entrepreneurial Activity are publicly accessible, with all RIAs, informative notes and other documents published on the State Chancellery's website before Working Group meetings⁶². However, a more detailed methodology and guidance on cost-benefit assessments for drafts would make it easier for line ministries to prepare more comprehensive impact assessments, especially for budgetary impacts.

Conclusion

The regulatory requirement for RIAs is being implemented in practice, but it is unclear which types of draft regulatory proposals require RIAs. Furthermore, RIA quality control is decentralised, and some institutions do not perform it consistently. Our review of a sampling of laws indicates that ministries prepare RIAs for draft legal acts largely in line with established minimum requirements, apart from neglecting cost and benefit estimates. A more comprehensive approach to RIA quality checks should therefore be established.

⁶¹ <https://mded.gov.md/en/domains/business-environment/standard-cost-model/>.

⁶² For more information, see: <https://cancelaria.gov.md/ro/apc/activitatea-grupului-de-lucru-al-comisiei-de-stat-pentru-reglementarea-activitatii-de>.

Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government.

Overall, the value of the indicator “Public consultation on public policy” is 2. While a regulatory framework for public consultations is in place, scrutiny of the quality of public consultations on draft acts adopted by the Government is inadequate. Reporting on the results of public consultations is also insufficient, and proper institutional responses to submitted comments are missing. Stakeholders are generally not using the main central government consultation portal (Particip), so more proactive publicisation of open consultations is needed.

Indicator 2.11.1. Public consultation on public policy						
This indicator measures the implementation of public consultation processes in developing policies and legislation. It assesses the regulatory framework, the establishment of the quality control function on public consultation and the consistency in publishing draft laws for written public consultation online, and tests whether minimum standards for public consultations were upheld for approved draft laws.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the regulatory framework for an effective public consultation process						10/10
2. Quality assurance of the public consultation process						1/3
3. Consistency in publishing draft laws for written public consultation						4/4
4. Test of public consultation practices						3/24
Total						18/41

Public consultation procedures are established by law.⁶³ In addition, Government Decision No. 967/2016 provides a mechanism for consulting civil society in the decision-making process. According to Article 3 of Law No. 239/2008⁶⁴, public consultation is required for all draft normative and administrative acts that may have a social, economic or environmental impact on peoples’ way of life and human rights; on culture; on health and social protection; on local communities; or on public services.

Government Decision No. 967/2016 states that information about the organising of public consultations for draft decisions must be presented as an announcement, accompanied by the draft decision and related materials (comprehensive informational notes, analytical studies, ex-ante analyses, tables of consistency with community legislation, other materials used to elaborate the draft decision, etc.). It stipulates that public consultations be announced and related materials be made public at least 15 working days before finalisation of the draft decision.

Meanwhile, another government decision stipulates that comments on draft decisions be presented at least 10 working days from the date of publication of the announcement.⁶⁵ The same act also obligates the lead ministry to draw up a synthesis of received comments, with their acceptance or non-acceptance.

According to Article 32 of Law No. 100/2017, after completion of a public consultation, the lead ministry responsible for the draft needs to prepare a summary of the public authorities’ objections and proposals,

⁶³ Law No. 239/2008 on Transparency in the Decision-Making Process, and Law No. 100/2017 on Normative Acts.

⁶⁴ Law No. 239/2008 on Transparency in the Decision-Making Process, Article 3.

⁶⁵ Law No. 239/2008 on Transparency in the Decision-Making Process, Article 12, and Government Decision 967/2016, Section II (point 26).

as well as a synthesis of civil society representatives' comments, indicating the acceptance of submitted objections, proposals and recommendations – or arguments for their non-acceptance.⁶⁶

The quality of line ministries' scrutiny of public consultations is inconsistent. A government decision on the State Chancellery's organisation, functioning, structure and number of staff requires that the State Chancellery provide advisory and informational support to public administration authorities to help them comply with rules for substantiating and presenting policy documents and normative acts, including on procedures for conducting public consultations with citizens and obtaining civil society opinions in the decision-making process. However, the State Chancellery does not perform any quality checks of conducted public consultations. Based on the Rules of Procedure, only Anti-Corruption Centre opinions include a section on the general compliance of proposed drafts with established public consultation standards, but without detailed analysis of the application of established rules.

Our review of four sample ministries' practices in conducting public consultations on draft laws shows that for all draft laws, except one in the ministry responsible for social affairs, written consultations were conducted as required by regulations. Consultations were carried out via ministry websites and the central government portal for public consultations, Particip.⁶⁷ However, aside from online consultations, there is no information on the use of other forms of stakeholder engagement and public consultation (e.g. meetings, informal discussions, working groups, etc.). Also, RIAs and other materials are not regularly included among the documents made available for public consultations. Stakeholder interest in taking part in public consultations is generally low, with a very limited number of comments being received. In addition, reports on the outcome of public consultations are not consistently published as stand-alone documents.

Overall, the value of the indicator "Interministerial consultation on public policy" is 4. The regulatory framework for the inter-ministerial consultation process has been established, and CoG bodies and other affected institutions are regularly consulted and their opinions are addressed in summary/synthesis tables of opinions. However, the legal framework does not clearly establish minimum-duration requirements for inter-ministerial consultations.

Indicator 2.11.2. Interministerial consultation on public policy						
This indicator measures the adequacy of the regulatory framework for the interministerial consultation process and tests the system in practice for five draft laws.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the regulatory framework for an effective interministerial consultation process						9/9
2. Test of interministerial consultation practices						6/12
Total						15/21

The Government Rules of Procedure (points 190-211) establish the procedure for the inter-ministerial consultation process. The deadline for providing opinions/expertise on a draft proposal in the simplified procedure is five working days, but another five working days are allowed if the public authority/institution notifies the lead ministry it cannot present its opinion/expertise by the initial deadline.

The Rules of Procedure (point 194) also identify which bodies should be consulted⁶⁸ and (in point 229) additionally stipulate that, after the approval, expertise and public consultation procedures for the proposal

⁶⁶ Law No. 100/2017 on Normative Acts, Article 32, as well as the Rules of Procedure of the Government (point 229),

⁶⁷ <https://particip.gov.md>.

⁶⁸ The Rules of Procedure (point 194) require that draft acts submitted to the government be followed by official opinions/approval by: 1) the ministries whose fields of competence are related to the legal actions that are the

are completed, the lead ministry must submit the obligatory opinions as well as the summary of the responsible public authorities' objections and proposals to the State Chancellery. Points 204-221 establish the mechanisms for inter-ministerial co-ordination and conflict resolution in the decision-making process at the top administrative level – in the form of inter-ministerial meetings and meetings of general secretaries.

Rules relating to inter-ministerial consultation need to be clarified. The Government Rules of Procedure stipulate only the maximum duration (five days) for consultation but not minimum duration requirements (i.e. the minimum amount of time ministries should be given to prepare their comments), which could lead to unreasonable deadlines that undermine the consultation process. Additionally, dates are not recorded for the submission of supporting materials, making it impossible to gauge the level of compliance with deadlines and procedures for inter-ministerial consultations. Otherwise, all CoG bodies and other affected bodies are generally consulted during inter-ministerial consultations, and received comments are addressed in the accompanying document (i.e. the synthesis table of opinions and responses).

Conclusion

The regulatory framework for public consultations and for the inter-ministerial consultation process is well established, but the quality of public consultations on draft acts adopted by the Government is not properly scrutinised. Reporting on the results of public consultations is also lacking, and proper institutional responses to submitted comments are missing. Stakeholders generally do not use the main central government consultation portal (Particip), so a more proactive approach to publicising open consultations is needed.

While CoG bodies and other affected institutions are regularly consulted and their opinions are addressed in summary/synthesis tables of opinions, there is a lack of clarity about minimum-duration requirements for inter-ministerial consultations. This can reduce the effective participation of key affected institutions.

regulatory focus of the proposed act; 2) the MoF – for draft documents that have an impact on the State budget; 3) the State Chancellery – for draft policy documents and acts that affect the public administration system, public functions and public services, as well as the Centre for Harmonisation of Legislation – for draft acts aimed at legislative harmonisation (marked with the "EU" logo); 4) that MFAEI – for projects involving international treaties, external state loan contracts and projects of normative acts with relevance for commitments assumed in the EI process; 5) the MoJ – which applies its legal expertise to all draft documents; 6) the National Anticorruption Centre – which carries out anticorruption investigations on the categories of acts provided for in legislation; and 7) the public authorities/institutions designated in the normative framework that regulates the procedure for promoting draft documents.

Principle 12: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

Overall, the value of the indicator “Predictability and consistency of legislation” is 2. There are no uniform guidelines on legal drafting. Although the MoJ acts as a quality control body to ensure the quality of legislative drafting, legal certainty and the quality of legislative drafting are still considered low. A significant share of new government-initiated laws (14%) are being amended within one year of their adoption.

Indicator 2.12.1. Predictability and consistency of legislation						
This indicator measures the predictability and consistency of legislation. It assesses the availability of training and guidance along with the establishment of the quality control function. The consistency of laws is assessed based on the ratio of laws amended one year after adoption, and predictability is assessed through the perceived consistency of interpretation of business regulations.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Availability of guidance documents on legal drafting						0/2
2. Quality assurance on legal drafting						3/3
3. Laws amended one year after adoption (%)						0/3
4. Perceived clarity and stability of government policy making by businesses (%)						1/2
5. Timeliness of adoption of mandatory bylaws (%)						1/3
Total						5/13

There are no uniform rules on methodology and legislative technique for drafting legal acts to ensure legal conformity. The Government Rules of Procedure and Law No.100/2017 on Normative Acts provide a basic framework for drafting policy documents adopted by the Government, but their guidelines cannot be considered adequate for line ministries to use when drafting legal acts and for ensuring overall legal conformity and coherence.

The MoJ is formally assigned to conduct quality checks on legal drafting, and it performs this function consistently in practice. MoJ opinions have been provided for each of the five cases analysed (the last five laws adopted by the Government in 2022). The MoJ’s internal regulations provide clear obligations for checking the quality of legal drafts.

However, legal certainty and the quality of legislative drafting are low, as 14% of laws are being amended within one year of their adoption. This may be because a high percentage of laws are being adopted through extraordinary procedures in the Parliament. The overall quality of legislative drafting is also compromised by the previously mentioned lack of co-ordination in legislative planning between the Government and the Parliament, as well as by the predominance of MP-sponsored laws that often evade strict scrutiny and impact assessments.

Surveys show that 56% of business representatives agree that laws and regulations affecting their company are clearly written, not contradictory and do not change too frequently. At the same time, a relatively high percentage of businesses (44%) indicated they find regulations affecting them to be unclear and contradictory.⁶⁹

In our analysis of how many mandatory bylaws were adopted when the law mandating their adoption had taken full effect, we found that for the three most recently adopted laws that took full effect at the start of 2022, 12 acts of secondary legislation (bylaws) were prescribed, with 8 (66%) being adopted in time.

⁶⁹ SIGMA business survey, 2023.

Overall, the value of the indicator “Accessibility of legislation” is 5. Procedures for making legislation accessible to the public are in place and the competent bodies for publishing it (including consolidated versions of legal texts) have been designated, along with publishing deadlines and the types of legislation to be published. All primary and secondary legislation are available to the public free of charge through a central registry, together with consolidated versions of the legislation.

Indicator 2.12.2. Accessibility of legislation						
This indicator measures both the regulatory framework for making legislation publicly available and the accessibility of legislation in practice, based on the review of the availability of legislation through the central registry and as perceived by businesses.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the regulatory framework for public accessibility of legislation						6/6
2. Accessibility of primary and secondary legislation in practice						8/8
3. Perceived availability of laws and regulations affecting businesses (%)						1/2
Total						15/16

The regulatory framework for accessibility of legislation is based on Law No. 173-XIII of 6 July 1991 on the Way Public Acts are Published and Enter into Force; Law No. 92 of 1 April 2004 on the Procedures of Publication and Republication of Normative Acts and of Rectifications Made to Them; and Law No. 100 of 22 December 2017 on Normative Acts. According to the provisions of Law No.100/2017 on Normative Acts, paragraph 56, normative acts are published in the State Register of Legal Acts, as well as in the Official Monitor of the Republic of Moldova or, as the case may be, in the official monitors of districts, municipalities and autonomous territorial units with special legal status or in the Register of Local Acts. Normative acts can be published on public authorities' official web pages or be displayed in authorised places. The State Register of Legal Acts is part of the State Register of Legal Entities, has a public character and represents a systematised set of data on all categories of normative acts. Online access to data from the State Register of Legal Documents is free, although the release of information from this body in electronic format for reuse or in paper form is not free of charge.

The Rules of Procedure (point 245) stipulate that a legal act adopted by the Government be transmitted by the State Chancellery within 10 days of signing by the Prime Minister, for publication in the Official Gazette and in the State Register of Legal Acts, in accordance with Law No. 173-XIII of 6 July 1994 on the Publication and Entry into Force of Official Acts. According to the Government Decision on the Organisation, Functioning, Structure and Number of Staff of the State Chancellery, it is responsible for publishing government-approved documents in the Official Gazette, except those containing state secrets.

Also, according to Article 58 of the Law on Normative Acts, the MoJ administers the State Register of Legal Acts in electronic format. Finally, Government Decision No. 884 of 2022 on the Methodology of Calculating Tariffs for Services Provided by the Public Institution Moldpres State News Agency and Government Decision No. 1208 of 5 December 2018 on the Organisation and Work of the Public Institution Moldpres State News Agency establish Moldpres's responsibility to edit and print the Official Gazette.

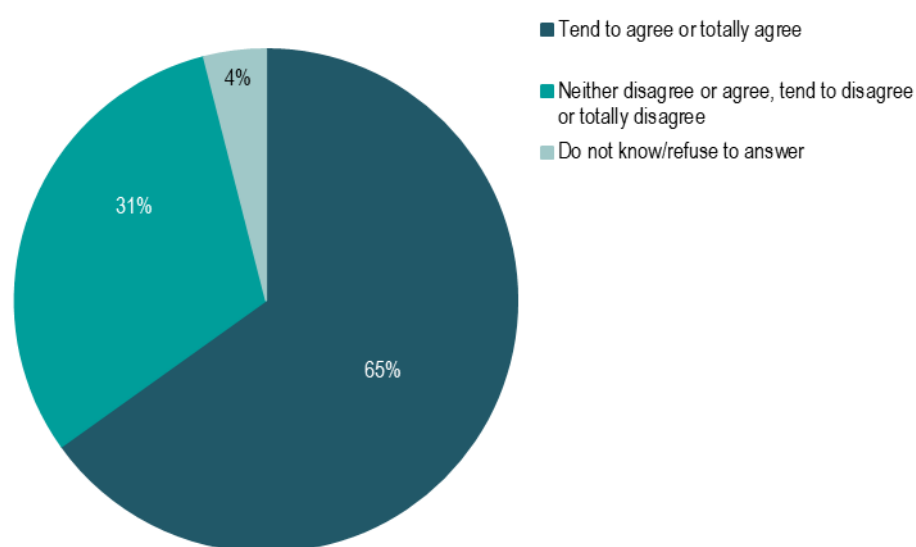
Based on Article 58 of the Law on Normative Acts, publication of the consolidated electronic text of normative acts in the State Register of Legal Acts is to be carried out within three working days of publication of the last act amending the official text of the normative act, subject to modification. The State Register of Legal Acts keeps references to the accompanying files of projects of normative acts in its Information System.

All primary and secondary legislation is available to the public through a central registry. According to provisions of Article 5 of Law No. 173 of 6 July 1994 on the Way Official Acts are Published and Enter into Force, the Official Journal appears periodically, but at least once per week, and is made up of three parts: Part I – laws, decisions of parliament, decrees by Moldova's president, acts of the Constitutional Court and of the CoA, international acts and reports of the Office of the Ombudsperson; Part II – normative decisions

and instructions by the Government; and Part III – normative acts of central bodies of the public administration and of the National Bank of Moldova.

Businesses agree that information on laws and regulations affecting their company is easy to obtain from the authorities (Figure 3).

Figure 3. Accessibility of information on laws and regulations for businesses



Note: Respondents were asked, "To what extent do you agree with the following statement? - Information on the laws and regulations affecting my company is easy to obtain from the authorities". Response options were scaled from 1 (totally disagree) to 5 (totally agree). In this figure, answer categories 1-3 have been combined, as have 4-5.

Source: SIGMA business survey, 2023.

Conclusion

While procedures and institutional responsibilities for checking legislative drafting have been established, the quality of drafts is still inadequate, as a high ratio of government-sponsored laws are amended within one year of their adoption.

A positive development in public accessibility to legislation is that procedures and competencies for making legislation available to the public have been established, along with deadlines for publishing all types of legislation. All primary and secondary legislation are publicly accessible free of charge through a central registry, together with consolidated versions of the legislation.

Public service and human resource management

Summary and recommendations

Seven principles measure public service and human resource management (PSHRM). Table 4 provides an overview of Moldova's performance in the PSHRM area.

Table 4. Overall indicator values for public service and human resource management, 2023

	Principles	2023 overall indicator values
Principle 1	The scope of public service is adequate, clearly defined and applied in practice.	4
Principle 2	The policy and legal frameworks for a professional and coherent public service are established and applied in practice; the institutional set up enables consistent and effective human resource management practices across the public service.	2
Principle 3	The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit	3
Principle 4	Direct or indirect political influence on senior managerial positions in the public service is prevented.	2
Principle 5	The remuneration system of public servants is based on job classifications; it is fair and transparent.	1
Principle 6	The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.	3
Principle 7	Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place.	3.5

Note: Two separate indicators measure Principles 3 and 7. The indicator value shown is an average of the two.

The scope of the civil service in Moldova's legislation has broadened since 2015 to include the administration of Parliament and some regulatory agencies. However, the staff of some regulators and other public administration bodies remain subject to the Labour Law only, which does not sufficiently ensure professional and merit-based human resource management (HRM). Special legislation applying to some groups of civil servants, such as the Customs Administration, establishes additional disputable grounds for dismissal.

Since March 2023, a strategic framework for public service policy and HRM has been in place as a pillar of the public administration reform (PAR) Strategy 2023-2030. Nevertheless, **political accountability in this area is blurred because responsibility is only broadly allocated to the Government**, and only in secondary legislation are specific competences granted to the State Chancellery for co-ordinating public service policy and HRM. The **Directorate of Public Service Management (DPSM)** within the State

Chancellery still **has limited capabilities, including due to the lack of a functional human resource management information system (HRMIS).**

Attracting and retaining competent civil service professionals is a major challenge. Legislation provides objective eligibility criteria and selection methods for non-senior civil service positions, but **selection panels are highly vulnerable to political influence.** In 2022, only two applicants per vacancy were announced on average, and no data were available on eligible candidates. This creates serious doubts about the quality of recruits, with 57% of vacancies offered in competitions being filled despite this low ratio. Although legislation on the dismissal of civil servants is open to some risk of subjective decision-making, it is not pursued in practice since the number of involuntary terminations is very low, while voluntary turnover is significant (12%).

The **scope of the senior civil service in the central government administration is insufficient and the role of the secretary general in ministries is flawed due to essential HRM decisions made by ministers.** This increases the risk of political influence in civil service management. Top officials responsible for sectoral policies (secretaries of state) were excluded from the senior civil service in 2019 and became political appointees. This is also the case with heads of public administration bodies reporting to ministries.

Attracting and retaining qualified staff in civil service positions is challenging. Competitions are not compulsory to fill senior civil service positions, and when they are organised, their effectiveness is very low due to the small number of applicants. This is also an issue in other civil service positions. High instability in the senior civil service, particularly but not only after government changes (turnover was 38% in 2021 when the previous government was formed, and 23% in 2022), endangers the continuity of professional management in public administration.

Despite the salary reform adopted in 2018 through a new Law on Salaries of a wide scope, **the salary system of civil servants fails to ensure the competitiveness of salaries, internal fairness, and transparency of remuneration.** The legislation establishes a sound job evaluation and classification system, but several exceptions benefit certain professional groups and public bodies to counterbalance low base salaries and retain staff. Significant salary supplements for various functions associated with external funds have the same aim, but this practice has created numerous exceptions to integrity rules for secondary employment and poses a challenge to the commitment of civil servants to their core statutory responsibilities.

The **centralised training of civil servants is well regulated and organised in practice.** However, information and data allowing for a complete view of the functioning of the training system in the central government administration, including decentralised training, are not available. Individual performance appraisals are largely being implemented, but appraisal cycles that may lead to dismissal decisions are too short, and an **excessive share (71%) of performance appraisals are being awarded the highest results.** Although this does not provide an adequate basis for objective promotion decisions, public servants' **perception of career opportunities based on merit in the public sector is positive.**

While legislation on public service integrity covers all relevant elements, **the implementation of integrity provisions is not ensured in all areas, such as restrictions to secondary employment, due to the lack of effective control and monitoring systems.** The National Integrity and Anti-Corruption Strategy covers the entire public service sector, but it fails to define concrete, measurable actions and their respective costs. Disciplinary procedures are well regulated, with the exception that time limits for starting and completing them are too short. Furthermore, centralised data to monitor implementation of the disciplinary regime do not exist.

Short-term recommendations (1-2 years)

1. The Government should further strengthen the position of the State Chancellery's central management unit (the DPSM) by defining its responsibilities in legislation and by building its human resource capacities.
2. The Government should strengthen professional human resource management in all central government bodies.

3. The State Chancellery should systematically collect and analyse data on participation in open competitions to fill civil service vacancies, and design and implement measures to make the civil service more attractive for candidates.

Medium-term recommendations (3-5 years)

4. The Government should implement civil servant salary reforms to increase salary competitiveness and fairness, making the system simpler and more consistent.
5. The Government should revise and improve the scope of the senior civil service and enlarge secretary generals' HRM competences while limiting ministers' decision-making power to ensure competitive, merit-based appointments to senior positions, and to increase stability in these positions.
6. The State Chancellery, in co-operation with the MoF and other relevant public bodies, should develop an integrated HRMIS that is interoperable with other relevant IT systems, including the MoF's payroll management and reporting system.

Analysis

Principle 1: The scope of public service is adequate, clearly defined and applied in practice.

Overall, the value of the indicator "Adequacy of the scope of public service" is 4. The scope of civil service is well established in legislation. However, the staff of some regulatory agencies and public bodies performing public administration functions are subject to the Labour Law only, which fails to sufficiently ensure professional HRM.

Indicator 3.1.1. Adequacy of the scope of public service						
This indicator measures the extent to which there is a legal framework establishing an adequate horizontal, vertical and material scope for the public service ⁷⁰ , and whether it is consistently applied across the public sector.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Clarity in the legislative framework of the scope of the civil service						1/2
2. Adequacy of the horizontal scope of the public service						5/6
3. Comprehensiveness of the material scope of civil service legislation						2/2
4. Exclusion of politically appointed positions from the scope of the civil service						2/2
5. Clarity of the lower division line of the civil service						1/1
Total						11/13

⁷⁰ In OECD (2017), *The Principles of Public Administration*, OECD, Paris, p. 40, sigmaweb.org/publications/Principles-of-Public-Administration-2017-edition-ENG.pdf, SIGMA clarifies that it applies a narrow scope of public service, covering: 1) ministries and administrative bodies reporting directly to the government, prime minister or ministers (i.e. the civil service, strictly speaking), administrations of the parliament, the president and the prime minister; 2) other administrative bodies at the level of the central administration, if they are responsible for safeguarding the general interests of the state or other public bodies; and 3) independent constitutional bodies reporting directly to the parliament. The scope of public service thus does not cover institutions at the level of sub-national administration and special types of public service, elected and politically appointed officials, or support and ancillary personnel in the administrative bodies.

The Law on Public Function (LPF) clearly defines a broad horizontal scope of civil service, covering not only central government administration bodies but also the administrations of the Parliament and the President, the State Audit Institution, the Ombudsperson, the secretariats of courts, and local public administration authorities.⁷¹ The employment of certain groups of civil servants in the central government administration, such as the diplomatic service, the customs service, the state tax service, and public security and anti-corruption bodies, is regulated by special legislation and the LPF in a subsidiary manner.⁷² Overall, the special regulations ensure merit-based HRM, but for the Customs Administration it establishes additional disputable grounds for dismissal.⁷³

In a significant improvement since 2015⁷⁴, the scope of the civil service includes several regulatory agencies (e.g. the State Agency on Intellectual Property, the Agency on Medicaments and Medical Equipment, the Naval Agency, the Transport Agency and the Civil Aviation Authority). Nevertheless, some are still subject to the Labour Law and special legislation, which do not ensure merit-based HRM.⁷⁵ The Public Service Agency, established in 2017⁷⁶, performs public authority functions related to issuing national identity cards, passports, driving licences and land registry titles; it also employs staff based solely on the Labour Law.

The material scope of civil service legislation is comprehensive and covers all main HRM areas. Salaries and integrity are partly regulated by the LPF and partly by special legislation, including in the Law on Salaries and the Law on Integrity.⁷⁷

Politically appointed persons (public dignitary functions) are clearly excluded from application of the LPF, with separate pieces of legislation regulating their employment.⁷⁸ The lower division line of the civil service is clearly defined. The LPF and secondary legislation⁷⁹ clearly identify groups of positions that fall outside the scope of the civil service, including auxiliary, protocol, administrative and IT services.⁸⁰ Support positions are limited to a maximum of 30% in individual central government institutions.

The LPF contains provisions on the possibility of employing staff on a fixed-term basis financed from additional revenues or other sources.⁸¹ This category of employment is based on the Labour Law and, in principle, staff are used only for temporary support in technical tasks (e.g. archiving).⁸² While the Labour

⁷¹ Law No. 158 of 4 July 2008, with amendments, Annex 1.

⁷² LPF, Article 4, paragraph 2.

⁷³ Law No. 302/2007 on the Customs Service provides additional grounds for termination of service (Article 41, paragraph 4), including a situation of incompatibility or failure to submit a declaration of assets, but it does not offer alternatives to resolve these situations without terminating employment.

⁷⁴ OECD (2015), *Baseline Measurement Report: The Principles of Public Administration, Moldova*, OECD, Paris, p. 45, <https://www.sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf>.

⁷⁵ SIGMA has analysed the Civil Aviation Authority, the National Agency for Regulation in Electronic Communications and Information Technology and the National Agency for Energy Regulation in more detail and found that only the first applies the LPF. The other two apply the Labour Law and special regulations, which do not sufficiently ensure merit.

⁷⁶ Government Decision No. HG314/2017 of 22 May 2017 on Establishment of the Public Service Agency.

⁷⁷ Law No. 270/2018 of 23 November 2018 on Salaries, with amendments, and Law No. LP 82/2017 of 25 May 2017 on Integrity, with amendments.

⁷⁸ Law No. LP199/2010 16 July 2010 on Persons Holding Positions of Public Dignity, with amendments; Law No. LP80/2010 7 May 2010 on Political Advisors, with amendments.

⁷⁹ Government Decision No. 201 of 11 March 2009 on Implementation of Provisions of the LPF (GD 201/2009).

⁸⁰ LPF, Article 4, paragraph 3; Government Decision No. 201 of 11 March 2009 on Implementation of Provisions of the LPF, with amendments.

⁸¹ LPF, Article 4c.

⁸² According to interviews with the State Chancellery and HR staff from five public bodies.

Law regulates certain time limits and contains other safeguards against abuse of fixed-term employment, it does not clearly define which positions these contracts can be applied to, and the State Chancellery does not monitor the employment of fixed-term employees.

Conclusion

The scope of civil service is well regulated, but parts of the LPF need clarification concerning fixed-term employees. While the horizontal scope was improved with inclusion of the administration of the Parliament and some regulatory agencies, staff of some regulatory and other public administration bodies are subject to the Labour Law only, which does not sufficiently ensure the public service principles of merit and professionalism.

Principle 2: The policy and legal frameworks for a professional and coherent public service are established and applied in practice; the institutional set-up enables consistent and effective human resource management practices across the public service.

Overall, the value of the indicator “Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service” is 2. This value reflects the absence of a public service policy in 2021-2022, weak capacities for central co-ordination of the civil service, the lack of a functional HRMIS and unavailability of data on the civil service.

Indicator 3.2.1. Adequacy of the policy, legal framework and institutional set-up for professional human resource management in public service						
This indicator measures the extent to which the policy, legal framework and institutional capacities are in place and enable consistent human resource management (HRM) practices across the public service, and assesses whether policies and laws are implemented to ensure proper management of the civil service, for example a functioning civil service database, availability and use of data, etc.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Establishment of political responsibility for the civil service						1/2
2. Quality of public service policy documents						3.5/4
3. Implementation and monitoring of public service policy						0/4*
4. Right balance between primary and secondary legislation						0/2
5. Existence of a central, capable co-ordination body						2.5/4
6. Professionalism of HRM units in civil service bodies						2/2
7. Existence of a functional HR database with data on the civil service						0/4
8. Availability and use of data on the civil service						2/5
Total						11/27

Note: *Data not available or not provided.

The PAR Strategy for 2023-2030, adopted by the Government in March 2023, includes a pillar on civil service reform. This document is evidence-informed and, with some exceptions, its clear objectives and targets address most crucial PSHRM system issues.⁸³ The Government approved the corresponding

⁸³ The PAR Strategy’s objectives aim to strengthen the role and capacities of the State Chancellery and HRM functions in public bodies; develop a functional HRMIS; increase public service attractiveness and job retention by improving

Action Plan on 7 June 2023. The previous PAR Strategy also had a civil service pillar, but it covered 2016-2020 only. Moldova thus had no policy on civil service and HRM development in 2021-2022.

Political leadership for civil service policy is defined only broadly in the LPF, which grants the Government political authority in this area.⁸⁴ The Ministry of Finance (MoF) is responsible for elaborating and implementing salary policies for employees in the state budgetary sector, and the State Chancellery assists the Government in developing, co-ordinating and evaluating public service policy and HRM procedures for the civil service, among other tasks.⁸⁵ The State Chancellery is headed by the Secretary General of the Government, who participates in but is not a member of the Council of Ministers. Primary legislation insufficiently regulates central management of the civil service and the roles of HRM units in public bodies, leaving secondary legislation and internal State Chancellery regulations to define the institution's concrete competencies in civil service management.⁸⁶

In 2019, a new department was set up in the State Chancellery specifically for the civil service and HRM, but it combined the responsibilities of the general civil service with internal HRM of the State Chancellery. To deal separately with these competences, in 2022 this department was split into two different units, one being the DPSM, responsible for central co-ordination of the civil service and HRM. Most DPSM staff are new, so institutional memory in this area is limited.⁸⁷ Only 60% (or 5 of 8) of the planned DPSM staff positions have been filled.⁸⁸

The DPSM's limited capabilities have resulted in some HRM guidebooks becoming obsolete, and in non-fulfilment of certain responsibilities, such as conducting controls and monitoring LPF application in public administration authorities.⁸⁹ However, the department resumed regular meetings with human resource (HR) staff in 2022. Although HR staff in most of the selected institutions⁹⁰ deal mostly with the administration of files and lack strategic focus, they prepare comprehensive annual action plans and have access to relevant training courses.

Most of the public bodies analysed do not use the central HRMIS due to its limited functionality and user-friendliness, or they use it in parallel with their own systems. Some institutions lack their own HRMIS,

various aspects of the salary, recruitment and selection systems, and by enhancing career opportunities and predictability; and improve the training system. Nevertheless, among other issues, it makes no reference to the need to better define and enhance the Secretary General role in ministries (except for a general reference under Pillar II, Action 1.2) or to broaden the horizontal scope of the public service.

⁸⁴ LPF, Article 11.

⁸⁵ LPF, Article 11; Law No. LP98/2012 of 4 May 2012 on Specialised Public Administration, Article 16, paragraph 3e, with amendments; Law No. LP136/2017 of 7 July 2017 on Government, Article 31, paragraph 2, with amendments.

⁸⁶ Government Decision No. HG 657/2009 on the Regulation of the Organisation of the State Chancellery, Articles 7f-g, 16 and 16f, with amendments; Regulation of 14 February 2023 on Organisation and Operation of the Directorate of Public Service Management within the State Chancellery.

⁸⁷ Only the acting Head of the DPSM has worked previously in the State Chancellery in related areas.

⁸⁸ The DPSM employs five people, including the director and deputy director. Three positions are vacant.

⁸⁹ According to the Regulation of 14 February 2023 on Organisation and Operation of the Directorate of Public Service Management within the State Chancellery, the DPSM is responsible for controlling and monitoring application of the LPF in public administration bodies, including for competitions, probation, performance appraisals, the registry of civil servants, etc.

⁹⁰ SIGMA undertook a more thorough analysis of five institutions: the Ministry of Economic Development and Digitalisation (MEDD); the Ministry of Labour and Social Protection (MLSP); the Tax Administration; the National Social Insurance House (NSIH), and the National Agency for Food Safety (ANSA).

however, and still manage paper-based files.⁹¹ The MoF has decided to establish a new mandatory register of employees for the purpose of salary reporting, but it is not interoperable with the central HRMIS managed by the State Chancellery due to technical issues. This situation hampers effective monitoring and management of the civil service as a whole and makes it difficult to manage HR in individual institutions.

An appropriate balance between primary and secondary legislation is not always ensured, so certain topics relating to basic principles are left to secondary legislation. This concerns, for example, the under-regulation of responsibilities for central management of the civil service in primary legislation, non-regulation of the principle of appointing the highest-ranked candidate in competitions to fill civil service vacancies in primary legislation, and the introduction only in secondary regulations of the possibility to appoint within six months a candidate who did not win a competition to fill a similar position but successfully passed the selection and was shortlisted.⁹²

Conclusion

After two years without a public service policy framework, the Government adopted the PAR Strategy for 2023-2030 and the Action Plan 2023-2026, including a pillar with relevant objectives for crucial PSHRM issues. However, primary legislation defines political authority and responsibility for public service policy only broadly. The civil service central co-ordination unit's low capacity and non-functioning of the HRMIS hamper effective monitoring and management of the civil service and HRM in both central and individual institutions.

⁹¹ According to information provided by public bodies included in this assessment, MEDD, NSIH, ANSA and the Tax Administration do not use the central HRMIS. The MLSP reported using the central HRMIS, but also its own database (in Excel) at the same time. While some of these bodies have developed their own systems (e.g. MEDD and ANSA), the NSIH declared that its HR-related files are paper-based.

⁹² GD 201/2009, Annex 1, point 45¹.

Principle 3: The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.

The value of the indicator “Meritocracy and effectiveness of recruitment of civil servants” is 3. Apart from the important shortcoming of political influence in selection panels, legislation and selection practices are aligned with the Principles. Numerous challenges hinder implementation, however, including the very small number of applicants to vacancies, leading to low effectiveness in recruitment.

Indicator 3.3.1. Meritocracy and effectiveness of recruitment of civil servants					
This indicator measures the extent to which the legal framework and the organisation of civil service recruitment support merit-based and effective selection of candidates wishing to join the civil service and whether this ensures the desired results in terms of competitive, fair and non-discretionary appointments that enhance the attractiveness for job-seekers and performance of the public sector.					
This indicator measures only external recruitment. The indicator on merit-based recruitment and dismissal of senior civil servants covers recruitment and promotion to senior managerial positions, and the indicator on professional development covers promotions to other positions.					
2023 indicator value	0	1	2	3	4 5
					Points 2023
Legal framework and organisation of recruitment					
1. Adequacy of the legislative framework for merit-based recruitment for civil service positions					11/18
2. Application in practice of recruitment procedures for civil service positions					12/18
Performance of recruitment practices					
3. Time required to hire a civil servant					1/2
4. Average number of eligible candidates per vacancy					0/4*
5. Effectiveness of recruitment for civil service positions (%)					1/4
6. Retention rate of newly hired civil servants (%)					4/4
Total					29/50

Note: *Data not available or not provided.

A legal framework for recruitment that meets most of the requirements of the Principles is in place. Nevertheless, as with other essential HRM decisions, designating members of selection committees to fill non-senior civil service vacancies and appointing winning candidates to these positions is in the hands of politically appointed heads of public bodies. According to legislation⁹³, in ministries ministers appoint members of selection panels, and state secretaries (also political appointees) can sit on selection committees as full members, heightening the risk of politically influenced recruitment.⁹⁴

The most important challenge is the attractiveness of the civil service. In competitions open to external candidates to fill non-senior civil service vacancies, the average number of applicants per position is two⁹⁵, down from 2.7 in 2014⁹⁶. Data on eligible candidates (i.e. those that meet the position's requirements and

⁹³ GD 201/2009, Annex 1, Section V, point 54.3.

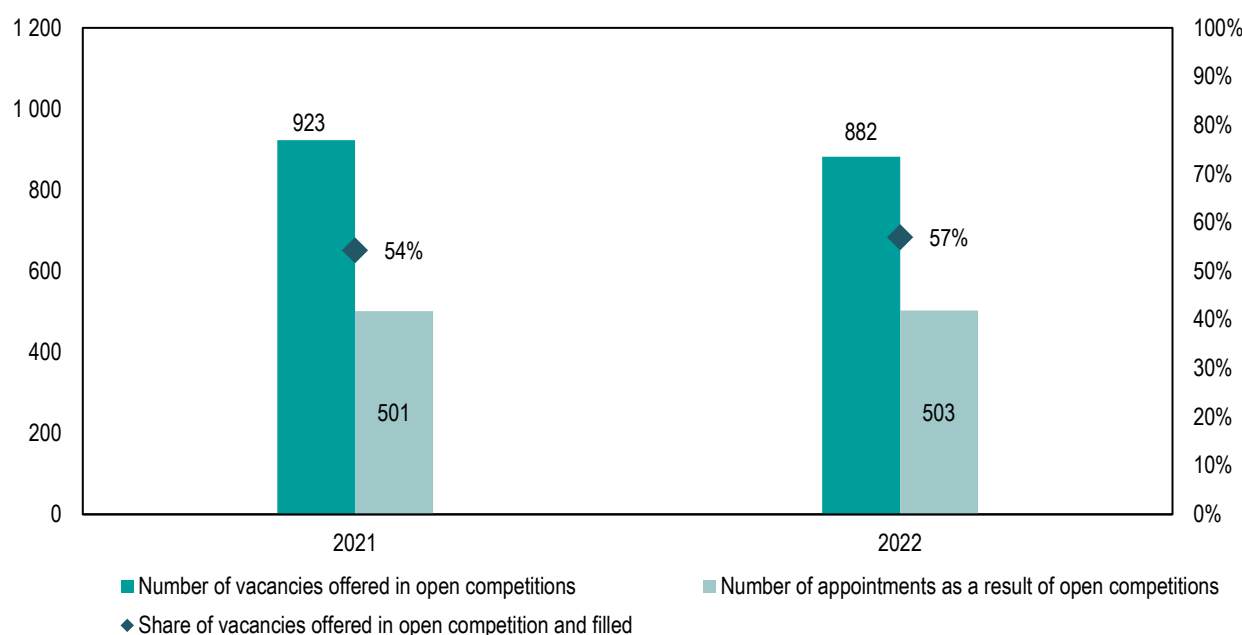
⁹⁴ This was the case in the two ministries for which SIGMA analysed recruitment files (MEDD and the MLSP).

⁹⁵ In 2022, there were 1 881 applicants for 882 announced vacancies for non-senior civil service positions in the central government administration, which translates to 2.1 applicants per vacancy.

⁹⁶ OECD (2015). *Baseline Measurement Report: The Principles of Public Administration, Moldova, OECD, Paris*, p. 53, <https://www.sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf>

can participate in the competition) are unavailable, but their number is obviously even smaller. Although the percentage of vacancies offered for competition and successfully filled is only slightly more than half (57% in 2022; Figure 4), it appears relatively high considering the low ratio of applicants. This raises concerns about the quality of recruits. Furthermore, problems with attracting staff lead institutions to inflate the level of a position in an attempt to offer more appealing working conditions. This causes a mismatch between a position's requirements, which can involve considerable professional experience, and applicant profiles (usually recent university graduates with limited, if any, professional background).

Figure 4. The effectiveness of recruitment to the civil service is low



Note: Data refers to the central government administration. Senior civil service positions are excluded.

Source: The State Chancellery.

In addition to issues regarding the attractiveness and effectiveness of recruitment, public service job vacancy rates are high. For example, vacancies are at 50% in the Investment Agency; 39% in the Office of the President; and over 25% in MEDD and in the Ministry of Infrastructure and Regional Development.⁹⁷ The lack of monitoring of recruitment⁹⁸ and the absence of full-fledged workforce strategies and plans⁹⁹

⁹⁷ According to MoF data (pertaining to wider public service, not just the civil service). In addition, the Government has issued a moratorium limiting the number of vacancies that can be filled in 2023 to 8 178 in public authorities and the NSIH (Government Decision No. 962/2022 of 28 December 2022 on Establishing a Temporary Moratorium on the Employment of Staff from the Budgetary Sector in Vacant Positions). This moratorium also covers employment statuses other than civil service. However, it only has the force of a recommendation for the NSIH, and employment in other authorities is still possible provided that they justify that the position is strictly necessary to the MoF.

⁹⁸ The lack of data on eligible candidates participating in competitions is an example.

⁹⁹ The LPF mentions HR planning in its definition of administration of the public function and civil servants (Article 2), but it does not include more detailed provisions in this regard. Although staff planning is mentioned as one of the responsibilities of HR units in point 9.1a of Annex 9 to GD201/2009 on HR units, SIGMA was not provided with any evidence that staffing plans based on staffing needs are prepared by public bodies and co-ordinated by the State Chancellery. The State Chancellery has some co-ordination functions in the preparation of staffing lists and has

hamper public administration bodies and the State Chancellery from anticipating and addressing these challenges proactively.

The length of recruitment procedures varies widely among the public bodies included in this assessment, but in most cases it was less than 90 days.¹⁰⁰ Some public bodies argue that requiring applicants to obtain integrity certificates causes delays because the process is lengthy¹⁰¹, but no evidence was available.

The assessment of the implementation of recruitment in five public bodies confirms the selection methods established in legislation: a written part consisting of a knowledge test and practical assignments, and a structured interview.¹⁰² Nevertheless, practices proactively supporting professional recruitment (e.g. systematic training of selection panel members) are still limited and not implemented in all public bodies.¹⁰³ In addition, legal provisions allowing selection committees to invite external experts are not used in practice.¹⁰⁴ These factors, together with the vulnerability of panels to undue political influence, do not ensure objective and professional selection.

Finally, consistent with the LPF, competitions are not the dominant procedure to fill civil service vacancies (Figure 5).¹⁰⁵ Most appointments result from promotions, transfers, secondments, and interim appointments.

developed methodological recommendations in this area and approves draft staffing lists sent by public authorities. However, the staffing lists systematise jobs (list them by category and describe them) but they are not HR plans. On the other hand, HR units in the public bodies included in the assessment prepare annual activity plans, which are also different from HR plans, although they include diverse measures related to HRM procedures.

¹⁰⁰ This applies only to recruitments organised in 2022. In three of the five public bodies analysed, the average length of recruitment procedures was less than 90 days (40 days in the MLSP; 39 in the Tax Administration; and 45 in the NSIH). In MEDD, the average length was slightly higher (102.5 days). Data provided by ANSA did not allow for calculation of the indicator. For the NSIH, several recruitment procedures starting in 2021 and ending in 2022 that were excluded from the calculation for the sake of consistency show a substantially higher length.

¹⁰¹ Integrity Law, Article 31¹. According to GD 201, Annex 1, point 18, three integrity certificates are required – one from the National Integrity Authority, another from the National Anti-Corruption Centre and a third from the Intelligence and Security Service.

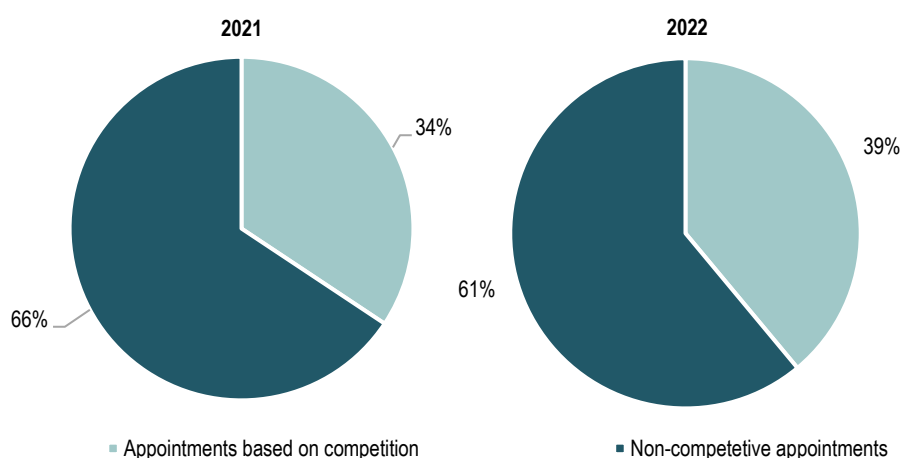
¹⁰² GD 201, Annex 1, points 18, 20 and 35.

¹⁰³ SIGMA analysis of recruitment practices in five public bodies showed that in MEDD, only examples of questions for interviews were shared with committee members. In the MLSP a model written test was provided together with the evaluation grid, and sample interview questions along with the evaluation grid. In the Tax Administration, the ANSA and the NSIH, no supporting materials were provided beyond regulations on recruitment. No specific documents were provided by ANSA, and only two of the five public bodies provided relevant training to panel members.

¹⁰⁴ GD 201/2009, Annex 1, point 51.c, establishes this option. Information on lack of use of this provision comes from interviews with HR staff of five public bodies.

¹⁰⁵ LPF, Article 28, prescribes the organisation of competitions to fill vacancies in the civil service only after promotions and transfers have been applied.

Figure 5. Most civil service vacancies are filled without competition



Notes: Data refers to the central government administration. Senior civil service positions are excluded. In 2021, there were 501 appointments based on competition and 958 non-competitive ones. In 2022, there were 788 vacancies filled through competition and 503 without competition. Source: The State Chancellery.

Overall, the value of the indicator “Merit-based termination of employment and demotion of civil servants” is 3. While the right to appeal is ensured, and termination decisions are rarely contested in court, shortcomings in legislation related to dismissals and demotions reduce the indicator value.

Indicator 3.3.2. Merit-based termination of employment and demotion of civil servants						
This indicator measures the extent to which the legal framework and the HRM practices support fair termination of employment in the civil service and fair demotion of civil servants wherever it is envisioned in the legislation. The indicator does not deal with the termination of employment and demotion of senior civil servants.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of dismissals and demotions						
1. Objectivity of criteria for termination of employment in civil service legislation						2/6
2. Objectivity of criteria for demotion of civil servants in the legislative framework						0/2
3. Right to appeal dismissal and demotion decisions to the courts						2/2
Fairness and results of dismissal practices						
4. Dismissal decisions confirmed by the courts (%)						4/4
5. Implementation of court decisions favourable to dismissed civil servants (%)						4/4
Total						12/18

Despite certain shortcomings in the legislation, the practice of dismissals and demotions is not problematic. Although the LPF does not lay down concrete and objective criteria on which to base individual dismissal

decisions in cases of downsizing, reorganisation or liquidation of a public body¹⁰⁶, the Labour Law regulates these situations.¹⁰⁷ While the provision allowing civil servants to be dismissed or demoted after a single negative performance appraisal¹⁰⁸ is not well aligned with the Principles¹⁰⁹ and creates a risk of unfair dismissal, provisions are not being abused, as only three civil servants were appraised as unsatisfactory in 2022.

The legislative framework also does not sufficiently protect the rights of civil servants during secondments, transfers and other circumstances that may lead to dismissal.¹¹⁰ Nevertheless, involuntary termination of civil servants accounted for only 25% of all cases of termination of employment in 2022¹¹¹, and court proceedings relating to dismissed civil servants were rare.

Retaining civil servants is more challenging than protecting their rights during dismissals. In 2022, the voluntary turnover rate was 12% (Figure 6), which is rather high, and it may mask significant differences across public bodies and professional groups.

¹⁰⁶ The LPF contains only scarce provisions in Article 63.1a-c and Article 42.6.

¹⁰⁷ Article 183 of the Labour Code lists categories of employees who should have additional protection in lay-off proceedings due to reorganisation, according to objective criteria. The list of criteria is long and encompasses, for example, seniority, family obligations, qualification level and level of work productivity. According to interviews conducted for the assessment in five public bodies, labour legislation criteria are applied in similar situations in public administration.

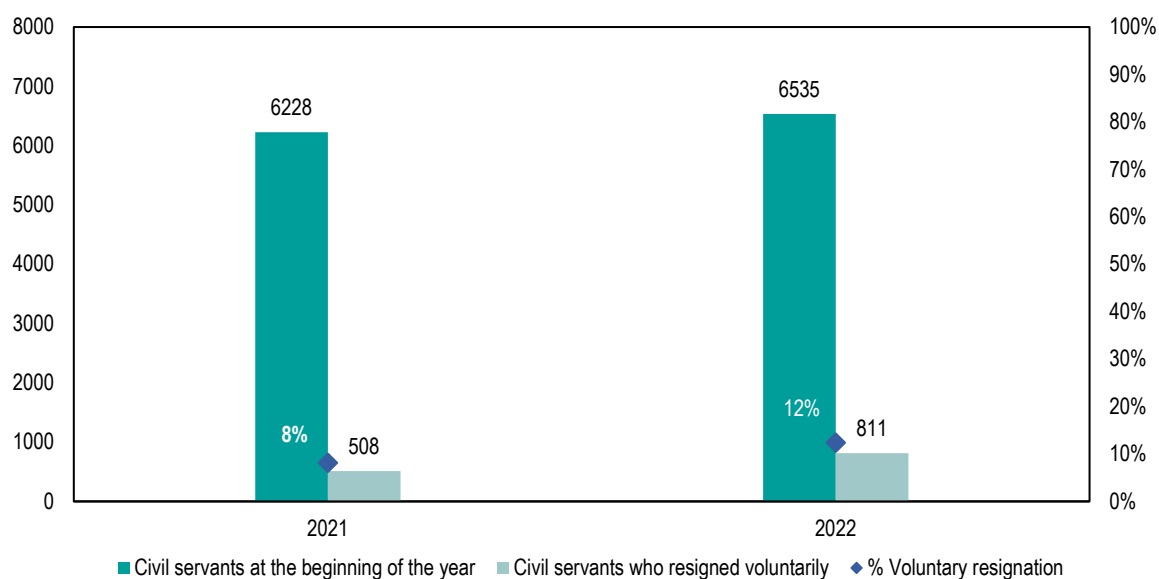
¹⁰⁸ According to the LPF, Article 34, paragraph 2, the length of an assessment cycle that may lead to a dismissal decision is only six months.

¹⁰⁹ OECD (2019), *Methodological Framework for the Principles of Public Administration*, p. 84, <https://www.sigmaweb.org/publications/Methodological-Framework-for-the-Principles-of-Public-Administration-May-2019.pdf>.

¹¹⁰ For example, protection of the rights of senior civil servants in mandatory transfers is insufficient: these transfers do not require the incumbent's consent, and provisions state only that unfounded refusal leads to release from the public function without clarifying what qualifies as a good reason for refusal (LPF, Art. 50.5). Furthermore, the provisions are unclear about which person should be dismissed when there is direct subordination between relatives (the superior or the subordinate person?). It also seems excessive to dismiss civil servants due to unmotivated absence from work for four consecutive hours during a working day (LPF, Art. 64.1.f), and another questionable situation is the possibility of dismissing a civil servant when a second disciplinary sanction is applied before the first one expires, regardless of the seriousness of the sanctions (LPF, Art. 64.1.a).

¹¹¹ In the central government administration in 2022, 104 civil servant jobs were terminated in circumstances independent of the will of the parties (LPF, Art. 62); 172 civil servants (including one senior civil servant) were dismissed based on LPF Articles 63 and 64; and 816 (including five senior civil servants) resigned voluntarily.

Figure 6. Voluntary turnover was moderate to high in 2021-2022



Note: Data refers to the central government administration. Senior civil service positions are excluded.

Source: The State Chancellery.

Conclusion

Attracting, recruiting and retaining competent civil service staff is a major challenge. It is reflected in the very low number of applicants per position, low effectiveness of recruitment, a significant proportion of unfilled vacancies, and a high voluntary turnover rate. Although provisions related to dismissals and demotions could be improved, involuntary terminations are rare.

Principle 4: Merit-based recruitment and dismissal of senior civil servants.

The value of the indicator “Merit-based recruitment and dismissal of senior civil servants” is 2. This evaluation reflects the insufficient HRM responsibilities of secretaries general, shortcomings in the legislation, and practical problems with the attractiveness and stability of these positions. On the positive side, there is a high share of women employed in senior civil service positions.

Indicator 3.4.1. Merit-based recruitment and dismissal of senior civil servants						
This indicator measures the extent to which the legal framework and the organisation of recruitment and tenure conditions of the senior civil service support a professional senior management, free from undue political influence in access or termination of employment in senior civil service positions. This indicator relates to all competitions for senior positions, both external and internal.						
Recruitment and dismissal in senior positions is treated under a separate indicator due to the importance of the role of this group of civil servants and the increased risk of politicisation and favouritism. High priority accorded to merit and competitiveness in the recruitment process reduces the possibility of political influence in appointments to such positions.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of recruitment and dismissal of senior civil servants						
1. Appropriateness of the scope for the senior civil service in legislation						1/3
2. Adequacy of the legislative framework for merit-based recruitment for senior civil service positions						9/15
3. Objectivity of criteria for the termination of employment of senior civil servants in the legislative framework						0/4
4. Legislative protection of the rights of senior civil servants during demotion						1/2
Merit-based recruitment and termination of employment in senior						
5. Application in practice of recruitment procedures for the senior civil service						4/9
6. Ratio of eligible candidates per senior-level vacancy						0/4*
7. Effectiveness of recruitment for senior civil service positions (%)						0/4
8. Women in senior civil service positions (%)						4/4
9. Stability in senior civil service positions (%)						1/4
10. Dismissal decisions confirmed by the courts (%)						4/4
11. Implementation of final court decisions favourable to dismissed senior civil servants (%)						4/4
Total						28/57

Note: *Data not available or not provided.

The senior civil service in the central government administration encompasses secretaries general, their deputies, and deputy heads of administrative authorities.¹¹² The position of deputy secretary general was introduced in 2022, with the main task of dealing with European integration affairs in ministries.¹¹³

Secretaries general are responsible for co-ordinating and leading the work of the ministry apparatus, including policy development. This aligns with EU practices in countries where this position exists.

¹¹² LPF, Article 8, paragraph 2. Administrative authorities are regulated in Law No. LP98/2012 of 4 May 2012 on Specialised Central Public Administration. They may be subordinated to the ministries (Art. 14) or the Government (Art. 17) for the implementation of state policies. The same law also mentions administrative authorities autonomous from the government (Art. 2.1) regulated by special legislation.

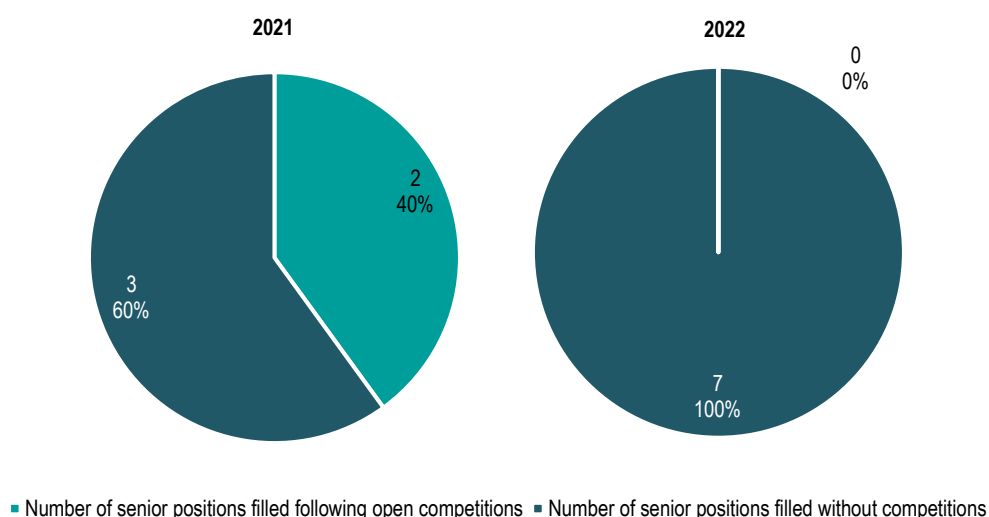
¹¹³ Law No. LP 98/2012 on Specialised Central Public Administration, Article 13¹.

Nevertheless, the role of the secretary general in Moldova is atypical because, in policy development, they co-ordinate the work of state secretaries, who are political appointees.¹¹⁴ On the other hand, the legislation does not empower secretaries general to make essential HR-related decisions, for example on recruitment, appointment and dismissal of non-senior civil servants. As already mentioned, these competences are left in the hands of the politically appointed heads of public bodies.

The scope of the senior civil service is thus inadequate because secretaries general lack HRM empowerment; state secretaries, who manage large policy areas, are political appointees; and heads of administrative authorities, who are also political appointees, are excluded. State secretaries and heads of administrative authorities should be senior civil servants with all the legal consequences. The top layer of Moldova's civil service is thus missing.

While competitions to fill senior civil service vacancies are regulated differently from those for other civil servants, the crucial issue is that most appointments to senior civil service positions are made without competition. In 2021, 43% of vacancies in this category were filled through competition, while in 2022 none of the seven appointments to these positions resulted from competition¹¹⁵ (Figure 7).

Figure 7. Most senior civil service vacancies were filled without competition in 2021-2022



Note: Data refers to the central government administration.

Source: The State Chancellery.

For vacancies offered for competition, selections are conducted by a central competition commission in the case of government bodies, and by competition commissions established in independent bodies.¹¹⁶ While selection legislation and practices are flawed by the lack of a mandatory written test and a competency model to provide an objective and harmonised basis for assessment, interviews are well adjusted to the specificity of senior positions and they relate, for example, to the vision of ministry

¹¹⁴ Law No. LP98/2012 of 4 May 2012 on Specialised Central Public Administration, Article 13. State secretaries were part of the senior civil service between 2017 and 2019, but with legislative amendments in 2019 they are now politically appointed.

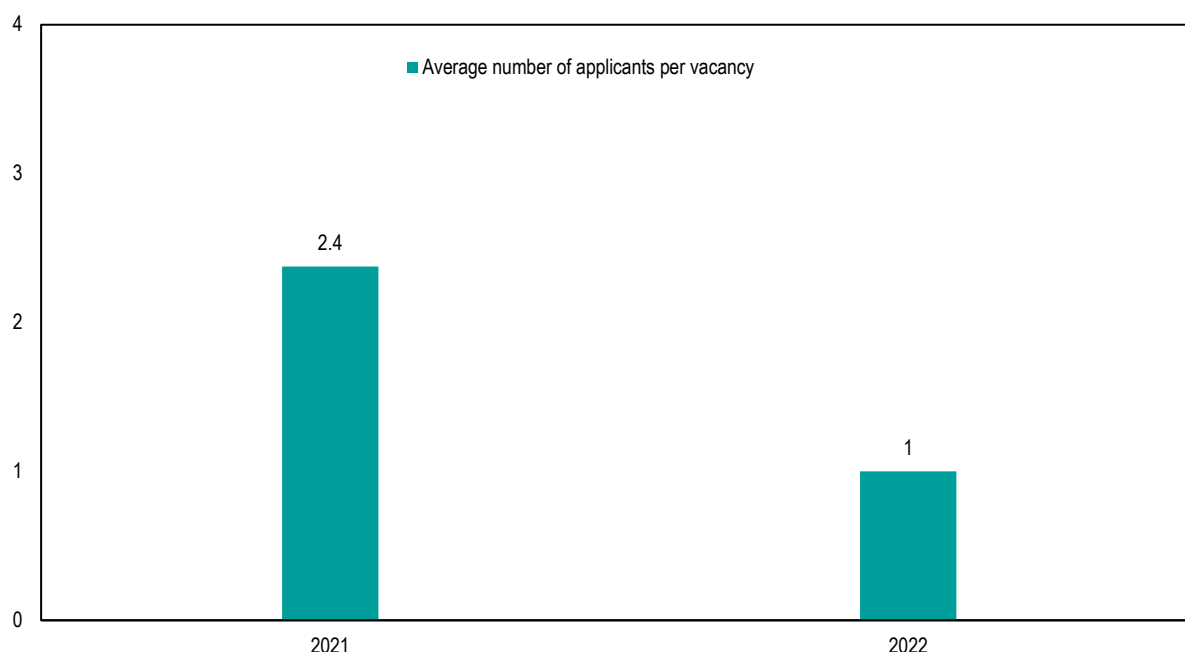
¹¹⁵ Two competitions were organised to fill senior civil service vacancies in 2022, but no candidates were appointed.

¹¹⁶ LPF, Article 29, paragraph 2a.

development, managerial competencies, professional qualities of a candidate, and behaviour in different situations.¹¹⁷

As is the case for the non-senior civil service, the real challenge is not so much legislation but attracting candidates to these positions. Low and decreasing numbers of applicants per vacancy illustrates this problem (Figure 8).

Figure 8. Attraction and recruitment to senior civil service positions become more problematic, 2021 and 2022



Note: Data refers to the central government administration. In 2021, there were 8 vacancies announced for competition and 19 applicants in total. In 2022, there were two vacancies announced for competition and two applicants in total.

Source: The State Chancellery.

Rules related to dismissal and demotion of senior positions are the same as for other civil service positions. As noted in the analysis of Principle 3, the legislative framework includes some deficiencies in protecting the rights of civil servants in these procedures. Furthermore, regulations for senior civil servant performance appraisals, which can lead to dismissal, permit undue political influence.¹¹⁸ The high turnover in senior civil service positions (about 38% in 2021, when the previous government was formed) suggests that senior civil servant positions are vulnerable to political changes.¹¹⁹

¹¹⁷ Based on SIGMA analysis of recruitment files.

¹¹⁸ The LPF, Article 35, and GD 201/2009, Annex 8, Section 4, regulate senior civil servant performance appraisals. A special commission intervenes in the process, as explained in the Principle 6 analysis. Legislation does not specify the commission's composition or the procedure to select members, who are appointed directly by the Prime Minister.

¹¹⁹ Turnover since the 16 February 2023 change of government is impossible to calculate because it is too recent. According to State Chancellery data for 2021, however, there were 26 senior civil servants at the beginning of the year, and 10 (38%) terminated their employment during the year. Furthermore, acts of dismissal and secretary general appointments published in the Official Journal indicate that five of the nine secretaries general in the previous government were replaced shortly after formation of the new government on 6 August 2021.

Turnover in these positions decreased in 2022 but remained remarkably high (23%).¹²⁰ This points to retention as a major challenge in senior civil service positions, regardless of the reason, as is the case for non-senior positions.

Nevertheless, there is a good gender balance in senior civil service positions in the central government administration, with 51.5% of positions filled by women in 2022 (50% in 2021). This proportion was only 37% in 2014.¹²¹

Conclusion

Key leadership positions in ministries and administrative authorities, which should be defined as civil service positions, are filled by political appointees. Their insufficient empowerment in HRM increases the risk of political influence on civil service management. Competitions are not compulsory to fill these positions, and when they are organised, their effectiveness is very low. High instability in the senior civil service, particularly after government changes, does not ensure the continuity of professional management in public administration.

¹²⁰ In the central government administration, 26 senior civil servants were employed at the beginning of 2022, and 6 left their positions due to termination of service that same year. Five of the six civil servants whose employment terminated in 2022 resigned voluntarily.

¹²¹ OECD (2015), *Baseline Measurement Report: The Principles of Public Administration, Moldova*, December 2015, p. 49, sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf.

Principle 5: The remuneration system of public servants is based on job classifications; it is fair and transparent.

Overall, the value of the indicator “Fairness and competitiveness of the remuneration system for civil servants” is 1. This low value shows that, despite the adoption of a new Law on Salaries in 2018, the civil service salary system is the most problematic area in terms of the design of the system and its contribution to the competitiveness and attractiveness of work conditions in the civil service.

Indicator 3.5.1. Fairness and competitiveness of the remuneration system for civil servants						
This indicator measures the extent to which the legal framework and the organisation of the civil service salary system support fair and transparent remuneration of civil servants, in terms of both the legislative and organisational preconditions and the performance and fairness of the system in practice.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of the remuneration system						
1. Legal obligation to base salaries on job classifications						2/2
2. Comprehensiveness, clarity and transparency in legal definitions of salary, criteria and procedures for allocation						0/2
3. Availability of salary information						1/3
Performance and fairness of the remuneration system in practice						
4. Fairness in the allocation of base salaries in the job classification system						0/4*
5. Base salary compression ratio						2/2
6. Managerial discretion in the allocation of bonuses						0/4
7. Motivational character of bonuses (%)						0/2*
8. Competitiveness of civil service salaries (%)						0/3*
Total						5/22

Note: *Data not available or not provided.

The Salary Law introduced a unified salary system in 2018. As it covers a broad scope of public institutions and is based on detailed job evaluation and classification methods¹²², internal fairness should be ensured. Nevertheless, this is far from the case. The complexity and lack of transparency in the salary structure, caused by the inclusion of numerous benefits and allowances, raises doubts about the system's fairness. The absence of clear criteria for distributing all salary components, some of which can constitute a significant share of the base salary, adds to concerns.¹²³

¹²² Salary Law Articles 3.1.c, 3.2.a, 3.2.c and 6 make it obligatory to base salaries on the job classification. Appendix 9 of Regulation No. HG. 1231/2018, which develops the Salary Law, regulates detailed procedures and criteria.

¹²³ Part of the fixed portion of the salary, besides the basic pay, is a fixed monthly increment (a lump sum introduced recently through Article 12 of the Salary Law as a temporary measure to increase salaries for the lowest positions), monthly increments for professional degrees and scientific titles, and monthly increments for honorary titles. Variable pay encompasses performance bonuses and other increases with a special character. There is also a wider range of different elements of pay, including compensation for work in unfavourable conditions, increments for overtime work, increments for participating in projects financed from external sources and for implementing requirements for EU accession, compensation for increased health risk, unique prizes and annual awards. The raise for work performed in conditions of increased health risk (Art. 18¹) can reach up to 100% of the basic salary, and establishment of the

The salary system's ad hoc, heterogeneous methods of compensating for low base salaries jeopardise its internal fairness. In some cases, certain professional groups benefit, as with allowances for executing tasks related to EU enlargement or assigning higher grades to civil servants working in policy development.¹²⁴ In others, certain public bodies benefit more than others without clear criteria.¹²⁵

Low salaries are also offset through allowances for civil servant participation in projects financed from external sources¹²⁶, without clear regulations on whether this work should be performed within or outside of working hours. Civil servants can also be delegated to sit on the management boards of state-owned enterprises (SOEs), which involves extra pay.¹²⁷ There are over 250 such companies¹²⁸, and one or two places on the management boards of these SOEs are reserved for public officials.¹²⁹ Consistent with Salary Law provisions, the LPF contains a long list of exceptions from the general interdiction on having a secondary job, which allows civil servants to find sources of additional income.¹³⁰

On 22 June 2023, the Parliament adopted amendments to the Salary Law that significantly increase the reference value (used to calculate base salaries) for significant groups of public servants, including secretaries general, deputy secretaries general, staff from ministries' central apparatuses, and the State Chancellery.¹³¹ This effort is commendable, but it is just another partial, incomplete solution to the main salary system issues identified. While the amendments involve a 58% increase to the reference value used to calculate the basic salary for the central apparatuses of ministries¹³², salaries in subordinated agencies (for which coefficient values are lower than for ministry staff) remain unchanged.

individual-specific amount is left to the heads of public authorities. There is no clarity regarding significant allowances related to participation in projects financed from external sources (Art. 20), which makes increases of up to 75% of the basic salary possible. In addition, the latest Salary Law amendments (Law No. 168 of 22 June 2023 on the Amendment of Some Normative Acts) introduced a new provision whereby projects fully financed from non-reimbursable external sources are not subject to the cap of 75%, and the heads of public bodies, who are political appointees, decide the amount.

¹²⁴ Law No. 270/2018 on Salaries, Annex 3, Table 2 (notes); Law No. 168 of 22 June 2023 on the Amendment of Certain Normative Acts; and the Salary Law, derogated Article 17, paragraph d1, which establishes a bonus of up to 20% of the base salary for staff from the authority responsible for establishing, co-ordinating and monitoring the implementation of Government policies and priorities. However, the special classification of positions dealing with policy development is still in force.

¹²⁵ Law No. 270/2018 on Salaries, Annex 3, Table 2 (notes), regarding staff of the Audio-Visual Council, the Central Electoral Commission, the NSIH, ANSA, the State Labour Inspectorate, etc.

¹²⁶ Law No. 270/2018 on Salaries, Article 20. This provision has been modified in some respects by Law No. 168/2023, which states that projects fully financed from non-reimbursable external sources are no longer subject to the supplement limitation (75%). The level of increase is left to the heads of public bodies, who are political appointees.

¹²⁷ Law No. 847 of 14 February 2002, on Wages, amended by Law No. 219 of 21 July 2022, sets monthly allowances in the amount of up to a minimum salary for members of the boards of directors of state enterprises, municipal companies and joint-stock companies with full or majority state capital (Article 24).

¹²⁸ According to interview data collected during the fact-finding mission, in 2022 there were 126 SOEs for which the State Chancellery is the founder, 52 SOEs for which the founders are ministries, and 79 companies for which the state is a majority stakeholder.

¹²⁹ Law No 246 of 22 November 2017 on the State enterprise and municipal enterprise establishes a limitation for simultaneous participation in boards of directors of up to three state enterprises and up to three municipal enterprises (Article 8).

¹³⁰ LPF, Article 25.

¹³¹ Law No. 168/2023.

¹³² Rising from MDL1 900 to MDL 3 000.

The salary structure also includes performance-related bonuses and annual awards, based on the results of performance appraisals.¹³³ However, an excessive share of appraisals are on the high end of the scale¹³⁴, which is not a good basis.

The lack of transparency in the salary system due to its complexity is aggravated by the very limited amount of information on salaries available publicly in job announcements, which usually refer only to a position's lower salary limit. General information on salary scales, or on average total salary by civil service category, is not easily accessible to the public.

It is not possible to draw evidence-based conclusions on the competitiveness of salaries in the civil service, as comparative data and analyses are not available. Nonetheless, the small number of candidates per position in competitions to fill civil service vacancies, the low effectiveness of external recruitment, and the high voluntary turnover of staff indicate that civil service salaries are uncompetitive. The lack of other benefits in the civil service compensation package also makes civil service work unattractive.¹³⁵

Conclusion

The salary system for civil servants is complex and dysfunctional, lacking competitiveness and internal fairness. Base salaries follow job classifications, with exceptions favouring specific professional groups and public bodies. Salary supplements linked to external funding aim to retain civil servants but involve exceptions to the integrity rules on secondary employment and hinder civil servant dedication and effectiveness in public administration.

¹³³ Regulation No. HG 1231/2018 on the Implementation of Provisions of Law No. 270/2018 of 12 December 2018 on the Unitary Payroll System in the Budget Sector, Annexes 3 and 10, with amendments.

¹³⁴ The Principle 6 analysis includes more details on this.

¹³⁵ Legislation on special retirement schemes for public servants was abrogated in 2017. The special pension scheme was much more favourable: early retirement at 52 for women and at 57 for men (in the general retirement regime, the age is currently 60 years and 6 months for women, but it is increasing gradually by 6 months per year to reach 63 in 2028; the current age for men is 63). The special contribution period was 15 years in civil service (only the general contribution period currently applies to civil servants: 33 years and 6 months in 2023, but 34 years as of 2024). The pension amount is 75% of the average salary for the last 60 months (currently being calculated according to the general, less favourable formula).

Principle 6: The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.

Overall, the value of the indicator “Professional development and training for civil servants” is 3. Bringing down this indicator’s value are a lack of data on decentralised training programmes; promotions that are not merit-based in practice; and flawed performance appraisal implementation. On the positive side, central training is well organised and implemented, and public servants have a positive perception of meritocracy in the civil service.

Indicator 3.6.1. Professional development and training for civil servants						
This indicator measures the extent to which the legal framework and the organisation of training, performance appraisal, mobility and promotion support fair professional development in the civil service. .						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of professional development						
1. Recognition of training as a right and a duty of civil servants						2/2
2. Co-ordination of the civil service training policy						3/3
3. Development, implementation and monitoring of training plans						2/3
4. Evaluation of training courses						2/2
5. Professionalism of performance assessments						1/4
6. Linkage between performance appraisals and measures designed to enhance professional achievement						4/4
7. Clarity of criteria for and encouragement of mobility						1/2
8. Adequacy of legislative framework for merit-based vertical promotion						0/2
9. Absence of political interference in vertical promotions						0/2
10. Right of civil servants to appeal against performance appraisal decisions						2/2
11. Right of civil servants to appeal mobility decisions						2/2
Performance of professional development practices						
12. Training expenditures in proportion to the annual salary budget (%)						0/4
13. Participation of civil servants in training (%)						1/5
14. Perceived level of meritocracy in the public sector (%)						4/5
Total						24/42

The State Chancellery plays an important role in co-ordinating civil service training activities (centralised training). It develops annual central training plans with the State University of Moldova, and the university implements them. Central training programmes are evaluated, and conclusions are communicated in annual reports.

Nevertheless, it is impossible to have a complete view of civil servant training in the central government administration because comprehensive information on training activities organised by individual bodies

(decentralised training) does not exist.¹³⁶ The information provided is insufficient to indicate whether these training programmes are based on sound training needs analyses (TNAs).¹³⁷

The regulations set ambitious obligations for civil servants to profit from at least 40 hours of continuous professional development activities each year.¹³⁸ While these objectives still need to be achieved in practice, the situation is improving. In 2021, 53% of institutions¹³⁹ reached the target, and the level of achievement increased to 69% in 2022.¹⁴⁰ The legislation also sets the mandatory minimum expenditure threshold for decentralised training at 2% of the salary fund of a public authority's annual budget¹⁴¹, but no data is available to verify how much is actually spent in practice.

Individual civil service performance appraisals are largely being implemented, and recent developments have made the whole system more consistent.¹⁴² Moldova's performance appraisal methodology meets basic requirements, except for senior civil service positions.¹⁴³

However, performance appraisals still need to fulfil their purpose of differentiating between good and poor performers. In 2022, less than 1% of performance appraisals fell into the lower half of the distribution of results (the "satisfactory" or "non-satisfactory" level). The performance of all other civil servants was appraised as "good" or "very good" (Figure 9). This inflation of grades makes appraisal procedures useless as a tool for awarding bonuses and promotions.

¹³⁶ According to the training regulation (GD 201/2009, Annex 10, point 34), the State Chancellery is supposed to generalise training proposals and prepare an annual integrated external training programme that includes central training and programmes offered by development partners, but not those organised by individual public entities.

¹³⁷ According to GD 201/2009, Annex 10, TNAs should be prepared at the individual civil servant, subdivision and entire public authority levels (Section III). This regulation also specifies the TNA methodology. Nevertheless, our analysis of state orders containing central training programmes and plans in five selected institutions did not provide evidence of being based on TNAs.

¹³⁸ GD 201, Annex 10, point 5. This regulation also sets mandatory training targets for senior managers and debutant civil servants.

¹³⁹ State Chancellery (2021), Annual Report on the Public Function and Status of the Civil Servant, p. 20.

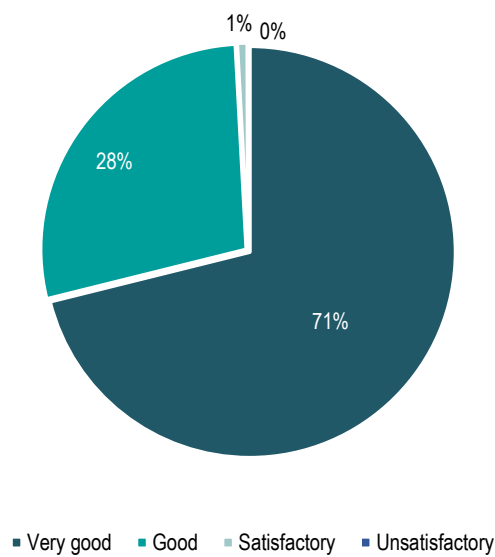
¹⁴⁰ Data provided by the State Chancellery during fact-finding meetings in May 2023.

¹⁴¹ GD 201, Annex 10, point 21.

¹⁴² Double regulations on performance appraisals existed for some time, one based on the LPF and the other on the Salary Law. This situation was remedied January 2023 with the addition of Articles 3³ and 6 to Regulation No. HG 1231/2018 on the Implementation of Provisions of Law No. 270/2018 of 12 December 2018 on the Unitary Payroll System in the Budget Sector, Annex 3 (which clarifies that only the performance appraisal methodology based on the LPF should apply to civil servants), with amendments.

¹⁴³ The LPF, Article 35, and GD 201/2009, Annex 8, Section 4, regulate performance appraisals for senior civil servants. They emphasise formal, document-based evaluation and do not require mandatory appraisal interviews. An assessment commission specific to senior civil service positions evaluates performance based on reports prepared by the appraiser and the appraisee. Interviews take place with the special commission instead of the appraiser, but only if substantial differences are detected between the two reports. The Secretariat of the special commission, overseen by the State Chancellery, seeks to establish professional and harmonised standards for appraising senior civil servants, for example by developing model objectives and key performance indicators to assess the work of secretaries general, and standard job descriptions for these positions.

Figure 9. The share of performance appraisals getting the higher results is excessive



Source: The State Chancellery.

Promotions are frequently used to fill vacant positions (Figure 10). They are not competitive, nor do they require the formal checking of candidates' merits beyond verifying their eligibility and examining their performance appraisals, which is clearly insufficient. Furthermore, promotion decisions are made by political appointees (heads of public bodies), leading us to conclude that legislation does not support merit-based promotions and creates a risk of subjective, politically motivated promotion decisions.

Moreover, while the LPF states that competitions must be organised if more than one civil servant meets the promotion conditions¹⁴⁴, it also regulates open competitions only.¹⁴⁵ Thus, only open competitions are organised in practice when there is more than one candidate for promotion, reducing opportunities for internal career advancement. Furthermore, LPF provisions are not consistent with the Integrity Law, which requires competition-based promotion of all public servants.¹⁴⁶

Transfers are the second most frequently used non-competitive method of filling vacancies, and they are comprehensively regulated in the LPF. Despite legal provisions for transfer vacancies to be advertised¹⁴⁷, these provisions are not used in practice, limiting the transparency of horizontal mobility.¹⁴⁸

¹⁴⁴ LPF, Article 45, paragraph 5.

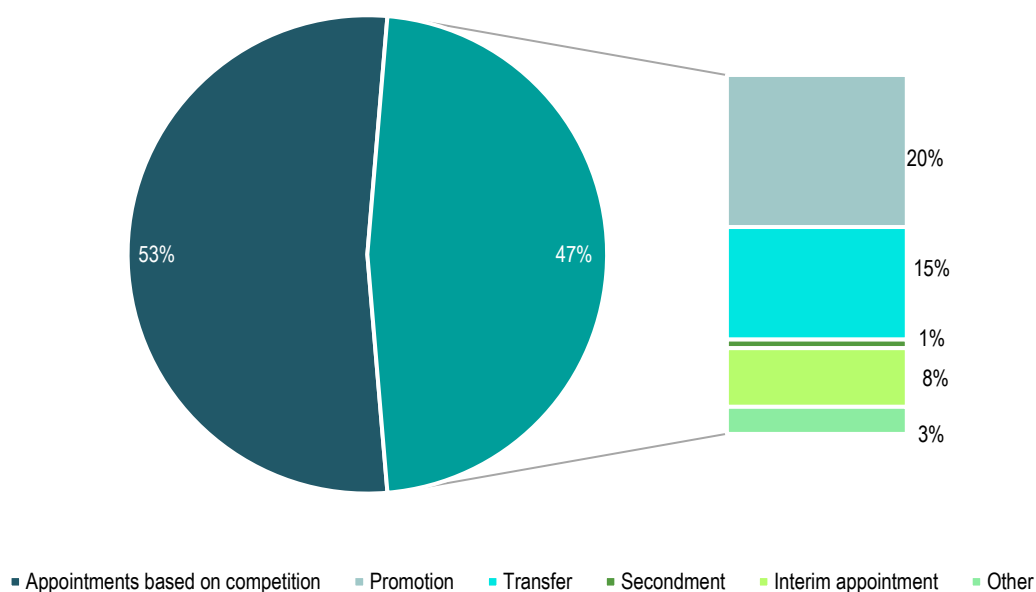
¹⁴⁵ LPF, Article 29, paragraph 1, establishes the principle of open competition.

¹⁴⁶ The Integrity Law, Article 11, paragraph 1.

¹⁴⁷ LPF, Article 48, paragraph 8.

¹⁴⁸ All HR representatives interviewed from the five selected public bodies confirmed that this provision is not used in practice.

Figure 10. Internal mobility without competition is heavily used to fill vacancies in the civil service



Note: Data refers to the central government administration and other state bodies within the scope of the LPF.

Source: The State Chancellery (2022), Annual Report Regarding the Public Office and the Status of the Public Official.

Notwithstanding these shortcomings, however, public servants mostly agree that they can succeed if they work hard.¹⁴⁹

Conclusion

While central training is well regulated and implemented in practice, there is insufficient data to assess the functioning of decentralised training in the civil service. Overall, performance appraisal procedures meet basic requirements, but the excessive share of results in the highest rating categories does not permit good performers to be differentiated from poor ones. Although this does not provide a strong foundation for objective promotion decisions, public servants' perception of merit-based career opportunities in the public sector is positive.

¹⁴⁹ SIGMA public opinion survey 2023. On a scale of 1 (completely disagree) to 10 (strongly agree), the average response from people working in the public sector was 7.2.

Principle 7: Measures for promoting integrity, preventing corruption and ensuring discipline in the public service are in place

Overall, the value of the indicator “Quality of disciplinary procedures for civil servants” is 4, reflecting sound regulation with only minor shortcomings.

Indicator 3.7.1. Quality of disciplinary procedures for civil servants						
This indicator measures the extent to which the legal framework and the organisation of disciplinary procedures support individual accountability, professionalism and integrity of civil servants and safeguard civil servants against unfair and arbitrary disciplinary cases.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of disciplinary system						
1. The adequacy of civil service legislation to uphold basic principles related to disciplinary procedures						4/4
2. Compliance between disciplinary procedures and essential procedural principles						6/6
3. Time limits for the administration to initiate disciplinary action and/or punish misbehaviour						0.5/2
4. Legislative safeguards for suspension of civil servants from duty						2/2
Performance of the disciplinary procedures						
5. Disciplinary decisions confirmed by the courts (%)						2/4
Total						14.5/18

Disciplinary procedures for civil servants are well regulated, with the exception that time limits for initiating and concluding disciplinary procedures are too short. The legislation does not differentiate between minor and serious violations, and the maximum time allowed from the committing of a violation to initiation of a disciplinary procedure is less than six months regardless of the gravity of the offence.¹⁵⁰ This creates the risk of certain misbehaviours going unpunished. Additionally, centralised data on disciplinary procedures by type of offence and sanction imposed are not available, which shows an absence of monitoring in this area.

¹⁵⁰ LPF, Article 59.2.

Overall, the value of the indicator “Integrity of public servants” is 3. The regulatory framework of integrity is comprehensive, but the indicator value is negatively affected by the high level of bribery perceived by citizens and the limited number of examples provided to demonstrate the use of investigations in practice. In contrast with citizens’ views, businesses perceive bribery as unproblematic.

Indicator 3.7.2. Integrity of public servants						
This indicator measures the extent to which legislation, policies and organisational structures promote public sector integrity, whether these measures are applied in practice and how the public perceives the level of corruption in the public service.						
The indicator does not address the internal administrative proceedings related to integrity, as that is covered by a separate indicator on disciplinary procedures.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of public sector integrity						
1. Completeness of the legal framework for public sector integrity						5/5
2. Existence of a comprehensive public sector integrity policy and action plan						3/4
3. Implementation of public sector integrity policy						1/3
Public sector integrity and public perceptions						
4. Use of investigations in practice						1/4*
5. Perceived level of bribery in the public sector by businesses (%)						3/4
6. Bribery in the public sector experienced by the population (%)						0/4
Total						13/24

Note: *Data not available or not provided.

The integrity system for public servants is comprehensively regulated. It encompasses the general Integrity Law, which governs the general integrity system, conflicts of interest, secondary employment, post-employment and reception of gifts. The LPF also regulates certain issues, for example some aspects of conflict of interest, secondary employment and disclosure of assets. Specific legislation regulates gifts¹⁵¹, asset declarations¹⁵² and protection of whistle-blowers.¹⁵³ In addition, Parliament has adopted a Code of Conduct for public servants¹⁵⁴, and the Penal Code regulates fraud, deception and corruption offences perpetrated by public officials.¹⁵⁵

Nevertheless, as explained in the Principle 5 analysis, the LPF and the Salary Law contain a long list of exceptions to the general rules on secondary employment, which allows civil servants to find other sources of additional income without establishing clear limits in some cases.

Meanwhile, the National Integrity and Anti-corruption Strategy for 2017-2023 covers the wider public service. An Action Plan accompanies the strategy, but in many cases it fails to define actions in a concrete, measurable way. In addition, the actions have not been costed.

¹⁵¹ Government Decision No. HG115/2020 of 26 February 2020 on the Legal Regime for Gifts, with amendments.

¹⁵² Law No. LP133/2016 of 17 June 2016 on Declarations of Wealth and Personal Interests, with amendments, offers detailed provisions.

¹⁵³ Law No. LP122/2018 of 12 July 2018 on Whistle-Blowers.

¹⁵⁴ Law No. LP25/2008 of 22 February 2008 on the Code of Conduct of Public Officials, with amendments.

¹⁵⁵ Penal Code No. CP985/2002 of 18 April 2022, with amendments.

Two main institutions are responsible for anti-corruption and integrity in the public service. The National Anti-Corruption Centre (NACC) is the national authority specialised in the prevention, identification, investigation and suppression of offenses and crimes in the form of acts of corruption, acts related to them, and acts of corruptive behaviour.¹⁵⁶ The NACC is a legal entity under public law and has organisational, functional and operational independence; its director is appointed by the Parliament.¹⁵⁷ It is also responsible for the Anti-corruption Strategy.

The National Integrity Authority (NIA) focuses on preventing corruption and ensuring integrity in public functions (civil service) and public dignity (political) positions. It contributes to the National Integrity and Anti-corruption Strategy and is responsible for, among other things, issuing integrity certificates for civil servants, carrying out controls of asset declarations, and ensuring the implementation of legislation on conflicts of interest, incompatibilities, and other restrictions in public function and public dignity positions. The NIA is an independent public authority that develops, approves and administers its budget; its staff limits are decided by the Parliament¹⁵⁸, and its chairman is appointed by the President on proposal of the Integrity Council.¹⁵⁹

Regarding asset declarations, developments in recent years have been significant. In 2018 an e-integrity system for electronic submission of individual declarations was created, and reporting on cryptocurrencies was introduced to asset declaration forms. NIA conducts in-depth verifications of around 4 000 asset declarations per year based on risk assessments. Plus, the e-integrity system is interoperable with relevant databases (Cadastre, Tax Inspectorate, insurance company systems, the population registry, registries of legal entities, the customs agency, border police, social security, etc.).

Nevertheless, the analysis of integrity-related legislation and its application in practice revealed certain shortfalls. First, although limitations related to post-employment are in place, there are no mechanisms for monitoring their implementation. In addition, the legal system is not fully consistent, for example regarding the regulation of promotions in the Integrity Law and in the LPF, already mentioned in the Principle 6 analysis.

Corruption perception by business organisations is rather low (16.2%)¹⁶⁰, whereas the share of citizens who declare having paid a bribe to a public institution representative is high (more than 9%). Moldova ranks 91 out of 180 countries on the Corruption Perceptions Index.¹⁶¹

Conclusion

While the legislative framework related to public servant integrity is comprehensive, the Anti-corruption Strategy fails to define concrete, measurable actions. In some areas, such as restrictions to secondary employment, the legislation allows for several exceptions without clear limits, and implementation is not ensured due to the lack of effective control and monitoring systems. Disciplinary procedures are well regulated, with the exception that time limits for starting and completing disciplinary procedures are too short. Centralised data to monitor implementation of the disciplinary regime does not exist.

¹⁵⁶ Law No. 1104 on the National Anticorruption Center, adopted on 6 June 2022, with amendments, Article 4.

¹⁵⁷ Law No. 1104 of 6 June 2022 on the National Anti-Corruption Centre, Article 1, paragraphs 2 and 4, and Article 8, with amendments.

¹⁵⁸ Law No. 132 of 17 June 2016 on the National Integrity Authority, Article 2, paragraph 1; Article 3, paragraph 3; Article 8, paragraph 2; with amendments.

¹⁵⁹ Law No. 132 on the National Integrity Authority, Article 12. The Integrity Council consists of seven members: one appointed by Parliament, one by the Government, one by the Superior Council of Magistrates, one by the Superior Council of Prosecutors, one by the Congress of Local Authorities of Moldova, and two members represent civil society.

¹⁶⁰ SIGMA business opinion survey 2023: 7% of respondents answered "tend to agree" and 9.2% answered "strongly agree" to a question about the prevalence of irregular payments to public officials.

¹⁶¹ Transparency International, Corruption Perceptions Index 2022.

Accountability

Summary and recommendations

Five principles measure accountability. Table 5 provides an overview of Moldova's performance in the accountability area.

Table 5. Overall indicator values for accountability, 2023

	Principles	2023 overall indicator values
Principle 1	The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.	2
Principle 2	The right to access public information is enacted in legislation and consistently applied in practice.	4
Principle 3	Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.	2
Principle 4	Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.	3
Principle 5	The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.	1

While a good system of access to information is already in place, ensuring effective public administration accountability remains a challenge because internal mechanisms for results-oriented performance management and for steering and monitoring are weak, and the external oversight system has not reached full maturity. The Government formed in 2021 has prioritised judicial reform, but it is too early to record any positive results of its efforts. It is evident, however, that little is being done to ensure that access to justice and efficiency of the courts are being maintained. Backlogs are expanding rapidly and there is a serious risk of breakdown in first-instance courts due to the outflow of judges related to the upcoming vetting process.

The State Chancellery does not ensure rigorous control over developments in the public administration's organisational architecture. Although "public institutions" is a dominant organisational category, they are not included in the general legal framework for supervision and accountability, merit-based and open recruitment, or the budgeting and salary regime. Regulatory authorities, which have a similar level of autonomy, are additionally detached from the executive, with no instruments ensuring alignment of their activities with Government policies. Results-oriented performance management of public agencies, or the fostering of managerial accountability through a rational model for delegating decision-making powers, is not in place. The recently adopted public administration reform (PAR) Strategy fails to provide a clear path to address all these challenges.

With adoption of the new Law on Access to Information, **prospects to further enhance public institution transparency are good, particularly to promote proactive transparency and streamline judicial review.** Citizen and business perceptions of communication with public authorities is positive overall,

especially regarding the quality and timeliness of information provided by the administration, but effective monitoring is needed to sustain and consolidate this trend towards greater transparency. Currently, even the basic mechanisms for data collection and compliance control are not in place.

Low responsiveness of public authorities to recommendations of the oversight bodies (the People's Advocate, the CoA), as well as poor visibility of these bodies, undermines the effectiveness of independent Executive oversight. The overall performance of the People's Advocate (the ombudsperson institution) is of particular concern, as the number of recommendations issued by the ombudsperson dropped by one-third in 2022, and no mechanisms for monitoring the implementation of its recommendations exist. In 2022, the People's Advocate also failed to use one of the most important mechanisms for enhancing the protection of human rights, i.e. launching a constitutional review of legislation. A longstanding crisis of trust in the judiciary has not yet been tackled effectively through judicial reform, and some elements of the recently adopted Law on the Supreme Court of Justice provoke concern, particularly the rules of composition of the Court and its powers.

Access to administrative justice is deteriorating due to a combination of procedural and organisational flaws, but primarily because of poor management of the judicial workload. The average wait time for a ruling in the first instance increased significantly in 2022. Increased backlogs and delays in handling cases are being caused by an outflow of judges related to the upcoming vetting process and organisational overhaul. This problem has not been sufficiently addressed, partly because the Superior Council of Magistrates (SCM) (the key body responsible for governance of the system) has not been operational for more than a year.

Flaws in the legislative framework have led to problems in implementing constitutional guarantees of compensation for unlawful administrative actions and omissions. The Administrative Code does not explicitly safeguard liability for damages caused by the illegal inactivity of public bodies, and there are no clear rules for calculating compensation. Assessment of this practice is hindered by a lack of monitoring of administrative and judicial activity.

Short-term recommendations (1-2 years)

1. The Government should comprehensively review the organisational and legislative framework for central administration to incorporate the so-called "public institutions" and regulatory authorities into a general accountability, employment, salary and financial management regime, and to strengthen ministerial control over numerous bodies currently subordinated to the whole Government.
2. The Government, supported by the State Chancellery and the MoJ, should develop an action plan to effectively implement new legislation on access to public information, concentrating on providing training for information providers and technical support for those applying proactive transparency measures, and on establishing a mechanism for collecting and reporting on data on administrative and judicial practices.
3. The Ombudsperson should develop a mechanism to monitor implementation of its recommendations and adopt a strategy to improve its visibility by addressing public authorities more actively with recommendations and utilising other instruments within its mandate, especially the right to launch constitutional reviews of legislation.
4. The SCM, in co-operation with the MoJ, should rapidly implement an action plan securing access to justice to counteract deteriorating efficiency rates in administrative cases. Filling vacancies in first-instance courts and actively monitoring and managing workloads (e.g. through temporary transfers of judges and administrative support) should be prioritised.

Medium-term recommendations (3-5 years)

5. The Government should promote results-oriented performance management of agencies by revising regulations on performance planning and reporting, and by providing portfolio ministries methodological assistance in steering subordinated bodies.
6. The MoJ should consider making organisational and procedural improvements to the administrative justice system, particularly by narrowing the scope of review of judicial decisions

made by the Supreme Court of Justice, and by revisiting the idea of establishing a specialised administrative court.

7. The Government, supported by the MoJ, should propose revision of the Administrative Code and the Civil Code regarding procedures for seeking compensation for unlawful administrative actions, and should begin monitoring administrative and judicial practices in this field.

Analysis

Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

Overall, the value of the indicator “Accountability and organisation of central government” is 2. This reflects major deficiencies in the public administration’s organisational architecture, resulting from a flawed legislative framework as well as the absence of clear policy direction and ownership.

Indicator 4.1.1. Accountability and organisation of central government						
This indicator measures the extent to which the governance model of central government upholds lines of accountability and contributes to increasing the state’s capacity, which is defined as the ability of the administrative apparatus of the state to implement policies, deliver services to citizens and support decision makers with policy advice. This includes assessing the legal and institutional framework for overall organisation of central government, as well as its implementation in practice.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Policy and legal framework for central government organisation						
1. Clarity and comprehensiveness of official typology of central government bodies						1/5
2. Adequacy of the policy and regulatory framework to manage central government institutions						3/5
3. Strength of basic accountability mechanisms between ministries and subordinated bodies						1/5
4. Managerial accountability mechanisms in the regulatory framework						4/5
Central government’s organisation and accountability mechanisms in practice						
5. Consistency between practice and policy in government reorganisation						3/4
6. Number of public bodies subordinated to the parliament						2/4
7. Accountability in reporting between central government bodies and parent ministry						0/4
8. Effectiveness of basic managerial accountability mechanisms for central government bodies						0/4
9. Delegation of decision-making authority within ministries						0/4
Total						14/40

The typology of administrative bodies established by Law No. 98/2012 on the Specialised Central Administration provides a governance and accountability scheme for ministries, administrative authorities under ministries, and central administrative authorities reporting to the Government.¹⁶² However, it also provides an escape route from the general framework of subordination and accountability and the civil service regime of employment, as well as from the rigors of public financial management regulations, including salary rules. The formula of so-called public institutions envisaged by this law is being used extensively to create bodies exempted from these standards. In practice, public institutions are set up even in violation of Law No. 98/2012. For example, the prominent Public Service Agency, responsible mainly for

¹⁶² Law No. 98 of 4 May 2012 on the Specialized Central Administration, Official Gazette No. 160-164/2012.

issuing various documents (passports, ID cards, etc.), obtained this status even though it should be restricted to bodies not entrusted with any public powers.

Table 6. Non-ministerial public administration bodies according to the official typology established by Law No. 98/2012

Type of body	Key features	Number
Administrative authority	<ul style="list-style-type: none"> Established, reorganised and dissolved by the Government, at the instigation of the portfolio minister Subordinated to the respective portfolio ministry Responsible for implementing laws and policies in the relevant ministry's area of responsibility 	50
Central administrative authority	<ul style="list-style-type: none"> Established, reorganised and dissolved by the Government, upon instigation of the Prime Minister Subordinated to the Government Responsible for implementing state policy in areas that do not fall under the direct competence of a ministry or cover domains of various ministries 	13
Public institution	<ul style="list-style-type: none"> Established, reorganised and dissolved by the Government, upon instigation of the minister or the head of the central administrative authority The minister or central administrative authority performs the functions of founder, established individually for each body Responsible for performing functions that do not involve exercising public power 	73

Source: State Chancellery data, and analysis of Law No. 98/2012.

In addition to this, several bodies operate in a governance vacuum, i.e. with no accountability for results and without instruments ensuring alignment of their activities with Government policies:

- 13 bodies reporting to the Government instead of portfolio ministries. This group consists mainly of single-sector bodies¹⁶³, which brings into question the rationale for their subordination to the whole Government. Furthermore, within the State Chancellery there is no scheme for supervising and monitoring the performance of such bodies on behalf of the Government.
- Four regulatory authorities¹⁶⁴ formally affiliated with the Parliament, but in practice operating as self-governing bodies without any stewardship, neither from the Legislature nor the Government. According to EU-Moldova Association Project analysis, they are also exempt from general rules on employment and salaries, enjoying nearly full autonomy in these spheres, resulting in much higher salaries than in ministries responsible for the same policy areas.¹⁶⁵

¹⁶³ The single-sector bodies are: the Medicines and Medical Devices Agency, the National Agency for Food Safety, the National Social Insurance House, the National Medical Insurance Company, the Transport Accident and Incident Investigation Bureau, the Agency for Investments, the Land and Cadastre Agency of the Republic of Moldova, and the Public Property Agency.

¹⁶⁴ The Competition Council, the National Agency for Energy Regulation, the Audiovisual Council and the National Commission of Financial Market.

¹⁶⁵ EU-Moldova Association Project, *Assessment of the Organizational Setup of Agencies Regulated by the EU Law in Moldova*, September-December 2021.

Comprehensive and clear policies on the institutional development of public administration and promoting governance modernisation do not exist. No progress has been made regarding SIGMA's previous recommendation to introduce mechanisms to assess the requirements and expenses involved in setting up new institutions and to regularly review the cost effectiveness and efficiency of current administrative structures.¹⁶⁶ The PAR Strategy¹⁶⁷ declares general commitments to reorganise public administration and strengthen ministerial steering of subordinated bodies, but it does not define concrete measures or results. Neither does the recently adopted Program for Implementation of the PAR Strategy provide clear solutions or targets specific to these problems.¹⁶⁸ While the Government has prioritised much-needed salary reforms to ensure more competitive compensation in the public administration, as well as sporadic reorganisational steps in ministries to enhance their policy development capacities, links with the equally necessary comprehensive rationalisation of public administration are missing.

Regarding ministry-agency relations, there is no evidence for results-oriented performance management. Annual plans of agencies list numerous activities rather than describing specific objectives accompanied by measurable targets. Ministries are not formally obligated to establish performance targets or actively participate in setting them for subordinated bodies, and they do not provide them with performance feedback in a structured manner. Even application of the classical bureaucratic controls is problematic, as ministries do not inspect the legality of subordinated bodies' operations.

Internal ministry management is hampered by the overburdening of ministers with managerial responsibilities (e.g. for staff recruitment, training and annual leave) and by unclear division of roles between state secretaries and secretaries general. The latter, as top civil servants, could potentially assume human resource management (HRM), financial and procurement management responsibilities, but the legislation does not establish a clear, strong mandate for secretaries general, leaving the distribution of tasks between state secretaries and secretaries general to the minister's discretion. This results in inconsistent governance arrangements across ministries.¹⁶⁹

Conclusion

The legislative and policy framework allows for the mushrooming of public administration bodies exempted from general, merit-based employment, salary and financial management rules. There is little evidence Moldova is transitioning towards results-oriented performance management and promoting managerial accountability.

¹⁶⁶ OECD (2015), *Baseline Measurement Report: The Principles of Public Administration, Moldova*, OECD, Paris, p. 72, sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf.

¹⁶⁷ Strategy for Public Administration Reform in the Republic of Moldova for 2023-2030, Government Decision No. 26/2023 of 15 March 2023, Official Gazette No. 130-133 of 18 April 2023.

¹⁶⁸ Program for Implementation of the Public Administration Reform Strategy for 2023-2026, Government Decision No. 352/2023 of 7 June 2023, Official Gazette No. 240-245 of 14 July 2023.

¹⁶⁹ For example, in some ministries, low-value contracts are signed by the minister, while in others by the secretary general. In some cases, the relevant decision-making powers for issues such as approving annual leave requests or training of staff are granted to both the secretary general and the state secretary.

Principle 2: The right to access public information is enacted in legislation and consistently applied in practice.

Overall, the value of the indicator “Accessibility of public information” is 4, illustrating positive developments in the legislative framework and relatively good accessibility to basic datasets on public institution websites. At the same time, mechanisms for monitoring and oversight in the field of transparency could be improved.

Indicator 4.2.1. Accessibility of public information						
This indicator measures the extent to which the legal and institutional framework regarding access to public information is established, promoting timely responses to public information requests free of charge or at a reasonable cost. It also covers the practical application of these legal requirements, with particular focus on proactive disclosure of public information and perceptions of availability of public information.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal and institutional framework for access to public information						
1. Adequacy of legislation on access to public information						10/10
2. Coverage of basic functions for implementing access to public information						0/5
Citizen's level of access						
3. Proactivity in disclosure of information by state administration bodies on websites (%)						4/5
4. Proactivity in disclosure of datasets by the central government (%)						5/5
5. Perceived accessibility of public information by the population (%)						1.5/2.5
6. Perceived accessibility of public information by businesses (%)						2.5/2.5
Total						23/30

Thanks to the June 2023 adoption of the new Law on Access to Public Information (which will enter into force in January 2024)¹⁷⁰, there is potential to enhance the transparency of public institutions and strengthen monitoring of compliance in this regard. This law emphasises proactive transparency obligations, providing an extended catalogue of information to be published on public authority websites. The procedure for accessing information upon request has been streamlined, with clearer regulations on forms of access and rules for imposing fees. Moreover, the new law facilitates judicial review: acts of information providers will be subject to direct appeal to a court, which will be required to consider cases through a simplified fast-track procedure (internal administrative appeals are not permitted). The new legislation also obligates courts handling appeals of acts of information providers to impose financial sanctions on the authorities violating citizens' rights of access to information.

Furthermore, the Law on Access to Information envisages a mechanism for monitoring its implementation, obligating information providers to record requests in a separate register. Aggregated data collected from them should be published by the State Chancellery, which will be the main body responsible for monitoring implementation of the new law. At present, however, the State Chancellery is not sufficiently prepared to undertake these new responsibilities, lacking capacities in this sphere. Already under the current legal framework, the State Chancellery is obligated to monitor public authority websites for compliance with requirements of the Government decision, but it has never performed this task.

When it comes to assessing current proactive transparency practices, public institution performance is judged as poor due to the weak guarantees of the old Law on Access to Information from 2000¹⁷¹,

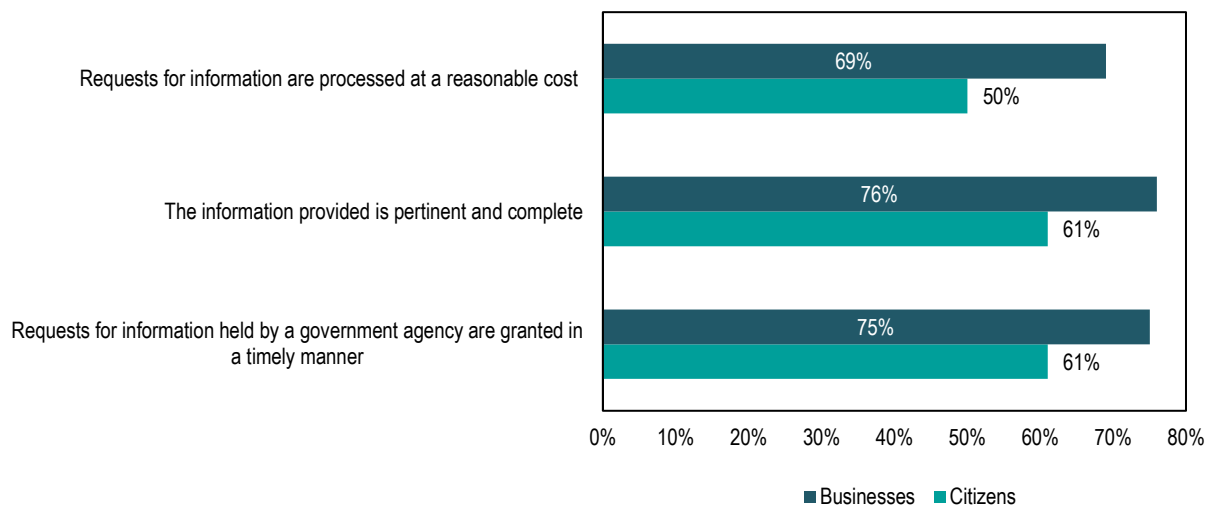
¹⁷⁰ Law No. 148 of 9 June 2023 on Access to Information of Public Interest, Official Gazette No. 234/2023.

¹⁷¹ Law No. 982 of 11 May 2000 on Access to Information, Official Gazette No. 88-90/2000.

combined with a lack of monitoring and supervision. According to the Freedom House's Freedom of Information Index, unavailability of information on public institution websites and lack of access to financial data upon request were key obstacles to effective implementation of the right to information. Furthermore, the mechanism for sanctioning violations of the right to information was also flawed, as the Criminal Code's penalties have never been applied in practice.¹⁷² Up to now, the administrative liability regime has relied on the police to enforce the Contravention Code's vaguely formulated provisions, which have been applied only rarely, mainly in cases of administrative silence.

In addition, as indicated above, there was no mechanism to collect statistical data on implementation of the transparency framework to identify key challenges in accessing information upon request. However, SIGMA's review of websites providing limited organisational data is more positive, reinforced by the assessment that business communication with public authorities is good (Figure 11).

Figure 11. Perception of transparency of public bodies among citizens and businesses



Note: The graph illustrates shares of respondents who "totally agree" or "tend to agree" with the statements.

Source: SIGMA public opinion and business opinion surveys 2023.

Regarding publicly available data, the National Integrity Authority's portal enabling access to public officials' declarations of assets and interests exemplifies a particularly progressive approach to government transparency. In addition, the regime for transparency in decision-making processes by public authorities (especially for legislation and policy development) is extensively regulated, requiring proactive disclosure of information and drafts.¹⁷³ Finally, state and municipal enterprises are obligated to publish annual reports containing basic organisational and financial data.¹⁷⁴

However, the good practice of proactively providing information and access to key databases is paired with weak compliance mechanisms, as there is no monitoring of adherence to the requirements and the old legal framework established in 2000 failed to secure sanctions for their violation.

¹⁷² Freedom House (2022), *Measuring Transparency of Public Institutions in Moldova. Freedom of Information Index*, 2022 Edition, p. 20.

¹⁷³ Government Decision No. 967 of 9 August 2016 on the Public Consultation Mechanism with Civil Society in the Decision-Making Process, Official Gazette No. 265-270/2016.

¹⁷⁴ Law No. 246 of 22 November 2017 on State and Municipal Enterprises, Article 18, Official Gazette No. 441-450/2017.

Conclusion

Both citizens and businesses recognise good practice in proactive provision of information on Government websites and access to databases. With the June 2023 adoption of the new Law on Access to Information (effective from January 2024), including measures to address the current absence of effective mechanisms for monitoring and enforcing the right to information, the government's legal framework for transparency has improved considerably.

Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.

Overall, the value of the indicator “Effectiveness of scrutiny of public authorities by independent oversight institutions” is 2. This score primarily reflects poor implementation of recommendations for independent oversight of public administration as well as low perceived independence and trust in oversight bodies and the judiciary.

Indicator 4.3.1. Effectiveness of scrutiny of public authorities by independent oversight institutions						
This indicator measures the extent to which there is a functioning system of oversight institutions providing independent and effective supervision over all state administration bodies. The strength of the legislative framework is assessed, as well as the effectiveness of oversight institutions in changing practices in the state administration and building trust among the population.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal and institutional framework for oversight institutions						
1. Legislative safeguards for the independence and adequate mandate of the ombudsman institution						8/10
2. Legislative safeguards for the independence and adequate mandate of the SAI						9/10
3. Legislative safeguards for the independence of courts and judges						9/10
Effectiveness of and public trust in oversight institutions						
4. Implementation of ombudsman recommendations (%)						0/8
5. Implementation of SAI recommendations (%)						0/8
6. Perceived independence of oversight institutions by the population (%)						1/5
7. Trust in oversight institutions by the population (%)						1/5
8. Perceived ability of oversight institutions and citizens to effectively hold the government accountable (%)						2/5
Total						30/61

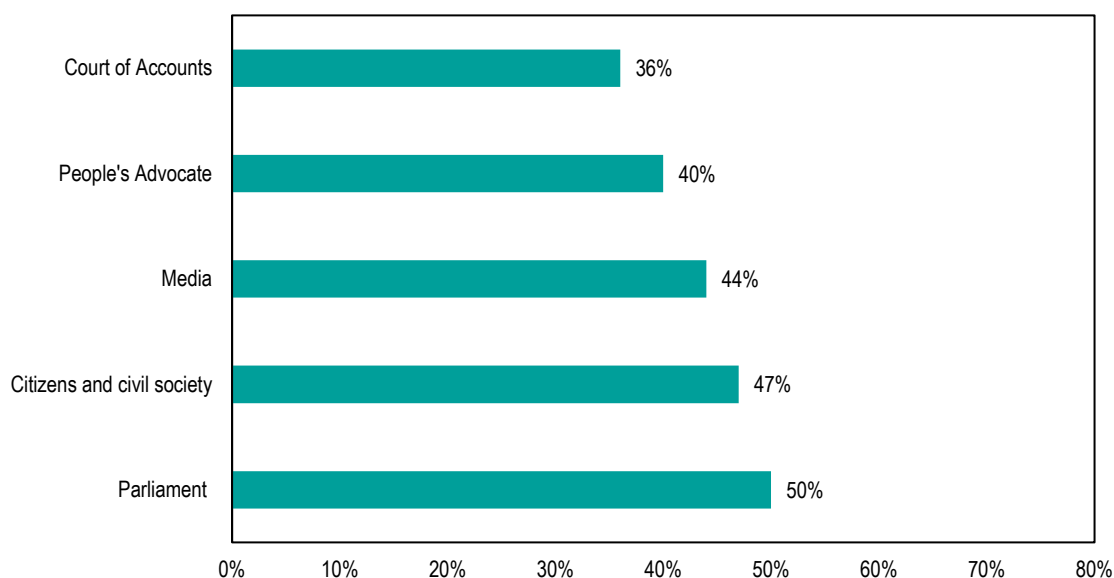
Independent oversight of public administration is dysfunctional, primarily due to poor responsiveness of public authorities to recommendations of the ombudsperson and supreme audit institution, combined with lack of a government-wide mechanism for monitoring and promoting implementation of these recommendations. In fact, the CoA has failed to implement even one-fifth of the recommendations.¹⁷⁵ While the People's Advocate does not systematically monitor compliance with its recommendations¹⁷⁶,

¹⁷⁵ According to the Supreme Audit Institution, of 1 215 recommendations, 235 were implemented and 725 remained unimplemented in 2022.

¹⁷⁶ SIGMA recommended introduction of such a mechanism in OECD (2015), *Baseline Measurement Report: The Principles of Public Administration, Moldova*, OECD, Paris, p. 72, sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf.

implementation is reportedly below 10%.¹⁷⁷ This may also explain why citizens demonstrate more trust in the oversight capabilities of the Parliament, civil society and the media than in the People's Advocate or the CoA (Figure 12).

Figure 12. Perceived effectiveness of oversight institutions to scrutinise the Government and make it accountable to citizens



Note: The graph illustrates shares of respondents who “totally agree” or “tend to agree” that the relevant institution can effectively scrutinise the Government and make it accountable to citizens.

Source: SIGMA public opinion survey 2023.

The results of the latest World Justice Project survey confirm the Population Survey’s findings, particularly on the strength of mechanisms to check the power of the Government and ensure its accountability. While Moldova scored 0.5 in 2022¹⁷⁸, which is 0.23 points below the EU-27 average (0.73), its score has been on an upward trajectory since 2012-2013, increasing from 0.43 to 0.50 (Table 7).

¹⁷⁷ Ombudsperson data.

¹⁷⁸ <https://worldjusticeproject.org/rule-of-law/index/country/2022/Moldova/Constraints%20on%20Government%20Powers/>

Table 7. Moldova's performance in the World Justice Project Rule of Law Index, Constraints on Government Powers criterion

	2022 score		Trend in total score 2012-2022, from 0-1																														
	Moldova	EU																															
Government powers are effectively limited by the legislature	0.63 (48)	0.73	<table><caption>Trend in total score 2012-2022, from 0-1</caption><thead><tr><th>Year</th><th>Moldova</th><th>EU</th></tr></thead><tbody><tr><td>2012-2013</td><td>0.43</td><td>0.73</td></tr><tr><td>2014</td><td>0.43</td><td>0.73</td></tr><tr><td>2015</td><td>0.45</td><td>0.73</td></tr><tr><td>2016</td><td>0.43</td><td>0.73</td></tr><tr><td>2017-2018</td><td>0.44</td><td>0.73</td></tr><tr><td>2019</td><td>0.43</td><td>0.73</td></tr><tr><td>2020</td><td>0.46</td><td>0.73</td></tr><tr><td>2021</td><td>0.47</td><td>0.73</td></tr><tr><td>2022</td><td>0.50</td><td>0.73</td></tr></tbody></table>	Year	Moldova	EU	2012-2013	0.43	0.73	2014	0.43	0.73	2015	0.45	0.73	2016	0.43	0.73	2017-2018	0.44	0.73	2019	0.43	0.73	2020	0.46	0.73	2021	0.47	0.73	2022	0.50	0.73
Year	Moldova	EU																															
2012-2013	0.43	0.73																															
2014	0.43	0.73																															
2015	0.45	0.73																															
2016	0.43	0.73																															
2017-2018	0.44	0.73																															
2019	0.43	0.73																															
2020	0.46	0.73																															
2021	0.47	0.73																															
2022	0.50	0.73																															
Government powers are effectively limited by the judiciary	0.42 (97)	0.69																															
Government powers are effectively limited by independent auditing and review institutions (ombudsperson, SAI)	0.48 (72)	0.72																															
Government officials are sanctioned for misconduct	0.35 (107)	0.64																															
Government powers are subject to non-governmental checks	0.51 (74)	0.74																															
Transition of power is subject to the law	0.58 (78)	0.84																															

Notes: SAI = Supreme Audit Institution. Global ranking positions are in brackets. EU benchmarks cover the average of 20 countries in 2012-2019 and 27 countries in 2021-2022.

Source: World Justice Project, <https://worldjusticeproject.org/rule-of-law-index/country/2020/Moldova/Constraints%20on%20Government%20Powers/> and <https://worldjusticeproject.org/rule-of-law-index/country/2020/Moldova/Constraints%20on%20Government%20Powers/>

Shortcomings in effective oversight by independent accountability institutions cannot be attributed to deficiencies in the legislative framework, as it generally meets basic international standards. Only the powers of the State Chancellery to formally review and approve the staffing lists of both oversight bodies, and the Government's decision on the rules of organisation of internal units, infringe on their organisational autonomy.¹⁷⁹ Both institutions also enjoy generally good co-operation with the Parliament. For example, following presentation of the annual People's Advocate report, the Parliament adopted a decision urging the Government to enhance implementation of the ombudsperson's recommendations.¹⁸⁰

The organisational maturity of the People's Advocate is of particular concern. In addition to lacking a mechanism to follow up on its recommendations, in 2022 it issued one-third fewer recommendations.¹⁸¹ No radical improvement in the observance of human rights that could justify this drop has been recorded in the Ombudsperson's report or in any other studies.¹⁸² The annual report of the People's Advocate also lacks any explanation for a change of such magnitude. Furthermore, in the 2022 assessment year the ombudsperson did not exercise one of its most important powers, the right to initiate constitutional review of legislation. Such a restrained approach will not raise the visibility of this institution: in fact, around 35% of citizens are unable to assess the independence and credibility of the ombudsperson, indicating what little presence this body has in public debates.

However, the longstanding crisis of citizens' lack of trust in the judiciary system, along with its extensive record of corruption scandals, led the Government to include judicial reform among its priorities after the

¹⁷⁹ Government Decision No. 201 of 11 March 2009 on Implementation of the Provisions of Law No. 158/2008 on the Public Office and the Status of Civil Servants, Official Gazette No. 55-56/2009.

¹⁸⁰ Parliament Decision No. 157 of 16 June 2022, Official Gazette No. 185/2022.

¹⁸¹ Only 233, from 340 in 2021 according to the People's Advocate.

¹⁸² E.g. Amnesty International (2023), *The State of the World's Human Rights Report 2022/23*, p. 254.

2021 parliamentary elections.¹⁸³ Following the constitutional reform that entered into force in April 2022, the process of creating a renewed SCM and its affiliated bodies (responsible for judges' selection, promotion and disciplinary liability) began with the vetting of candidates. Until enough new members began work in May 2023, the previous SCM composition had been deprived of its main functions by a Constitutional Court ruling of April 2022.¹⁸⁴ As a result, the main body governing the judicial system was not operational for more than one year.

While these judicial reform steps are welcome, the most recently adopted Law on the Supreme Court of Justice (SCJ)¹⁸⁵ raises concerns about the overall direction of the reform process.¹⁸⁶ In particular, the newly composed SCJ will rely to large extent on non-career judge members (9 non-career judges and 11 career judges). While allowing external candidates to apply for top judicial positions might be important to enhance the credibility of judicial reform, it could also reduce promotion opportunities for career judges in lower-instance courts. Furthermore, the new SCJ has the power to consider "actions in the interest of law", enabling it to issue official interpretations of laws.¹⁸⁷ The status of such rulings has not been clearly determined, but having this power may hinder the principle of the independence of judges in lower-instance courts, as well as challenge the constitutional principle of division of power.¹⁸⁸

Conclusion

While oversight institutions have been granted good guarantees of independence and broad mandates, they suffer from low visibility and ineffectiveness in pursuing their recommendations. Judicial reforms to restore public trust in courts are at an early stage of implementation, and the recently adopted legislative framework for the SCJ raises concerns about the overall direction of this process.

¹⁸³ Activity Programme of the Government, August 2021, https://gov.md/sites/default/files/document/attachments/programul_de_activitate_al_guvernului_moldova_vremurilor_bune.pdf.

¹⁸⁴ By Decision No. 9 of 7 April 2022, the Constitutional Court declared the unconstitutionality of the competence of the incomplete SCM (seven members, including six judges whose mandates had expired) to adopt decisions on appointments, transfers, secondments, promotions, and the application of disciplinary measures to judges.

¹⁸⁵ Law No. 64 of 30 March 2023 on the Supreme Court of Justice, Official Gazette No. 117-118/2023.

¹⁸⁶ Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on the Supreme Court of Justice, adopted by the Venice Commission at its 132nd Plenary Session (Venice, 21-22 October 2022), CDL-AD(2022)024-e.

¹⁸⁷ Law on the Supreme Court of Justice, Articles 4-5.

¹⁸⁸ As noted by the Venice Commission in the above-cited opinion, giving the SCJ power to issue binding decisions on interpretation of the law "may raise concern from the viewpoint of (internal and individual) independence of judges and the principle of separation of powers" (p. 6). While the final version of the law does not explicitly grant binding effect to such decisions, their unclear status will pose a challenge for judicial practice.

Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.

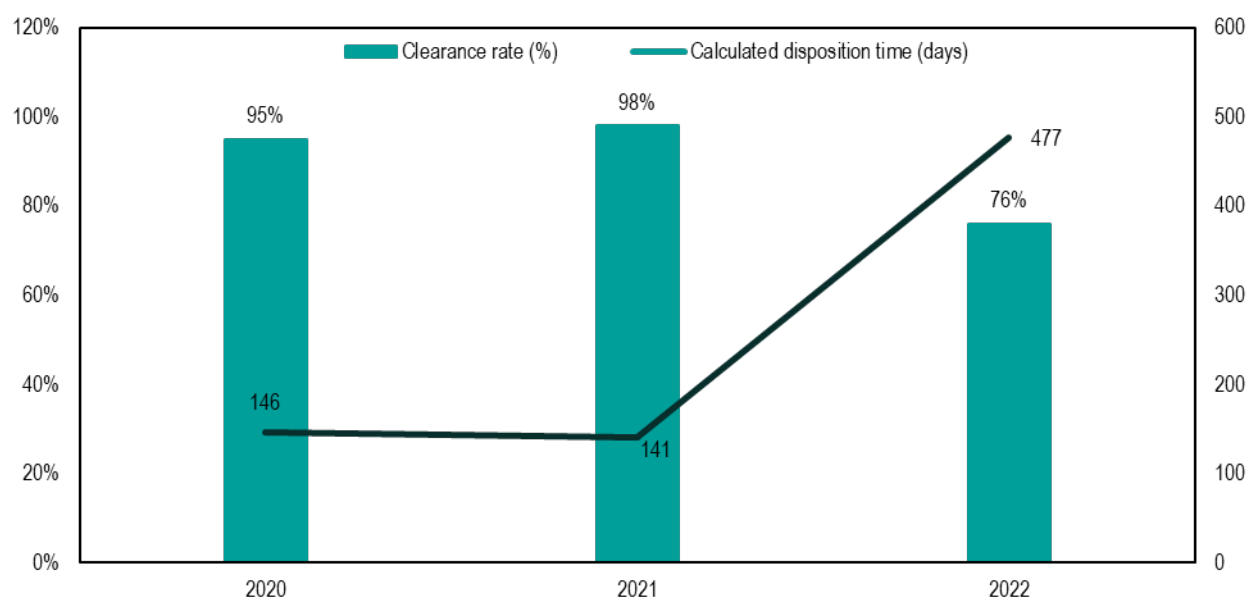
Overall, the value of the indicator “Fairness in handling of administrative judicial disputes” is 3. While formal guarantees of judicial review of administrative activities are in place, the courts face increasing imbalances between workload and capacity, hindering access to justice.

Indicator 4.4.1. Fairness in handling of administrative judicial disputes						
This indicator measures the extent to which the legal framework and the organisation of courts support fair treatment in administrative judicial disputes and the administrative judiciary is characterised by efficiency, quality (including accessibility) and independence. Outcomes in terms of case flow and public perceptions of independence are also measured.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework and organisation of judiciary						
1. Adequacy of the legislative framework for administrative justice						6/6
2. Accessibility of administrative justice						4/4
3. Effectiveness of remedies against excessive length of proceedings in administrative cases						2/2
4. Use of an electronic case management system						0/1
5. Public availability of court rulings						2/2
6. Organisation of judges handling administrative justice cases						4/5
7. Perceived independence of judicial system by the population (%)						2/5
8. Calculated disposition time of first instance administrative cases						2/5
9. Clearance rate in first instance administrative courts (%)						2/5
10. Cases returned for retrial by a higher court (%)						3/5
Total						27/40

In the advent to key stages of judicial reform, the situation in courts handling administrative cases is a major concern. The courts of first instance managed to dispose of only 76% of the influx of new cases in 2022, demonstrating significant deterioration from previous years. The average wait time for a ruling in first-instance courts exceeds 15 months, and around 10% of the backlog is cases that have been unresolved for more than two years. Further deterioration is expected, as the number of active judges dealing with administrative cases dropped by one-fifth from 2021 to 2022.¹⁸⁹

¹⁸⁹ Agency for Courts Administration data.

Figure 13. Key indicators of judicial performance in administrative matters in first-instance courts



Source: Agency of Courts Administration data.

The situation in the most important court dealing with administrative cases (Riscani Court in Chisinau) is particularly critical because only 9 of 15 judges are currently in place and, in addition to handling administrative matters, the bulk of misdemeanour cases has also been transferred to them.¹⁹⁰ While the SCM has started organising competitions to fill vacant judicial positions¹⁹¹, unless this effort is swift and successful, the backlog may continue to increase rapidly, as the estimated workload of individual judges in this court is already at 550-600 cases.¹⁹²

While it is expected that judicial reform (especially the vetting of judges) will have further negative impacts on the efficiency of courts and accessibility to justice, little has been done to reduce the risks. Suspended operations of the SCM, responsible for the main judicial system governance functions (i.e. judicial appointments, promotions and transfers), also contributed to emerging problems in access to administrative justice. In addition, in the judicial reform process so far, reactivating SCJ operations has been prioritised over resolving issues of the lowest-level courts. While this choice is logical, lengthening delays in the lowest-level courts may counteract any positive effects of the judicial reform and inhibit restoration of trust in the judiciary system.

Neither does the organisation of administrative justice help secure effective access to justice, as the case management system does not enable real-time monitoring of the judicial workload. Most of the first-instance courts (13 out of 20¹⁹³) have only one judge specialised in administrative cases, supported by judges that also handle other types of cases. This makes the mechanism of random allocation of cases to judges largely fictitious, but also creates a particular risk in the case of absence or resignation of the only

¹⁹⁰ SCM Decision No. 257/25 of 2 November 2021 regarding the modification of the SCM Decision No. 555/25 of 27 November 2018 on the specialisation of the Chisinau courthouses.

¹⁹¹ SCM Decision No. 153/9 of 11 May 2023 regarding the announcement of competitions to fill the vacant positions of judges in some courts.

¹⁹² Court of Riscani interview.

¹⁹³ SCM Decision No. 101/5 of 12 March 2019 on Revision of the Number of Judges Specialised in Administrative Matters.

specialised administrative judge in the court. The idea of addressing this problem by creating a specialised administrative court¹⁹⁴ is not being considered in the current strategy for judicial system reform.

From a procedural perspective, no significant barriers are preventing access to administrative justice. All administrative actions fall under the scope of judicial review and the courts have sufficient powers to redress unlawful administrative actions. Also, administrative cases fall under a general exemption from court fees.¹⁹⁵ However, this solution also indicates the absence of a basic mechanism to filter out erroneous complaints. A system of legal aid is in place, and parties affected by excessively long judicial proceedings may apply for compensation.

The Administrative Code¹⁹⁶ introduced special safeguards against the so-called ping-pong effect in judicial proceedings, i.e. it precludes the appeal court from returning cases for retrial by first-instance courts. At the same time, the procedure for appealing to the SCJ is ill-designed. Only basic formal requirements for the admissibility of appeals to the highest court exist¹⁹⁷, not limiting its jurisdiction to cases of major legal relevance only. This has effectively created an inefficient, three-tier model of judicial review for administrative cases, and the new Law on the Supreme Court of Justice failed to address this issue.

Conclusion

The administrative justice system is poorly prepared for the challenges associated with the recently launched judicial reform. With no comprehensive strategy for maintaining access to justice and judicial efficiency, especially in first-instance courts, the potential positive impacts of the reform might be at risk.

¹⁹⁴ Law No. 211 on Approval of the Strategy for Ensuring the Independence and Integrity of the Justice Sector for 2022–2025 and the Action Plan for its implementation, Official Gazette No. 325-333/2021.

¹⁹⁵ Law No. 1216 of 3 December 1992 on State Fees, Article 4, Official Gazette No. 12/1992.

¹⁹⁶ Law No. 116 of 19 July 2018 on the Administrative Code, Official Gazette No. 309-320/2018.

¹⁹⁷ Administrative Code, Article 246.

Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.

Overall, the value of the indicator “Functionality of public liability regime” is 1 as a result of flaws in the legislative framework for seeking compensation for public administration wrongdoing, combined with a lack of monitoring of administrative and judicial practices.

Indicator 4.5.1. Functionality of public liability regime						
This indicator measures the extent to which there is a functioning system guaranteeing redress or compensation for unlawful acts and omissions of public authorities. It examines the strength of the legislative framework for public liability and whether it is applied in practice. Wrongful acts of the state against civil servants are excluded						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework for public liability						
1. Comprehensiveness of the scope of public liability						1/1
2. Coverage of the public liability regime to all bodies exercising public authority						0/1
3. Non-discrimination in seeking the right to compensation						1/1
4. Efficiency and fairness of the procedure for seeking compensation						1/3
5. Application of the public liability mechanism in the courts in practice						0/3*
6. Payments made to entitled applicants (%)						0/3*
Total						3/12

Note: *Data not available or not provided.

The Constitution enshrines the right to compensation for damages caused by unlawful administrative actions, guaranteeing that persons affected by administrative acts, or by the non-resolution of claims within the legally established deadline, are entitled to obtain recognition of the claimed right, annulment of the act and reparation for damages.¹⁹⁸

However, the procedure for seeking compensation for administrative wrongdoing has important shortcomings. First of all, there are parallel procedural paths which are not fully aligned. According to the Administrative Code, the affected party should submit a request for compensation to the administrative authority that issued the administrative act subsequently deemed illegal. The authority is obligated to resolve the case by taking a decision on the compensation request. This procedure does not explicitly guarantee the right to compensation for illegal omissions: only damages caused by illegal administrative and normative acts, real acts, administrative contracts, and administrative operations fall under the scope of the liability regime. None of these categories, defined by the relevant provisions of the Administrative Code, explicitly refer to unlawful inactivity of public authorities. Liability for unlawful omissions is guaranteed by the Civil Code (along with liability for actions).¹⁹⁹ However, it is based on different procedure, i.e. civil litigation. It is not clear why parallel procedures of largely overlapping scope are in place, creating confusion about the mechanism for seeking compensation.

¹⁹⁸ Constitution of the Republic of Moldova of 29 July 1994, Article 53.1, Official Gazette No. 78/2016.

¹⁹⁹ Article 2006 of the Law No. 1107/2002 Civil Code, adopted on 6 June 2002, Official Gazette No. 82-86/2002.

Further, the public liability regime applies only to public authorities defined as bodies established by the law or other normative acts.²⁰⁰ Hence, the public liability regime does not cover private bodies performing public functions. Finally, the deadline for requesting compensation in the administrative procedure is short (30 days from finalisation of the court decision cancelling the illegal administrative act²⁰¹) and there are no clear rules for calculating compensation in public liability cases. It is also not specified whether compensation should cover both actual losses and expected profits.

Nevertheless, some evidence of application of the public liability regime in practice was provided, with several cases of payment reported by the Treasury. However, a previous SIGMA recommendation to introduce mechanisms for monitoring and analysing administrative and judicial practices in public liability cases²⁰² has not been implemented. These cases are not distinguished as a separate category in court statistics, and no reports are produced revealing and reviewing the most common types of administrative irregularities requiring the payment of compensation. As a result, data on public liability cases cannot be utilised to systematically identify and eliminate administrative wrongdoing.

Conclusion

The flawed and vague legislative framework compromises the effective application of constitutional guarantees of public liability. However, the actual situation in practice cannot be comprehensively assessed because administrative and judicial practices are not being reliably monitored.

²⁰⁰ Administrative Code, Article 10.

²⁰¹ Administrative Code, Article 60.

²⁰² OECD (2015), *Baseline Measurement Report: The Principles of Public Administration, Moldova*, OECD, Paris, p. 72, sigmaweb.org/publications/Baseline-Measurement-Moldova-2015.pdf.

Service delivery

Summary and recommendations

Four principles measure service delivery. Table 8 provides an overview of Moldova's performance in the service delivery area.

Table 8. Overall indicator values for service delivery, 2023

	Principles	2023 overall indicator values
Principle 1	Policy for citizen-oriented state administration is in place and applied.	4
Principle 2	Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.	3
Principle 3	Mechanisms for ensuring the quality of public service are in place.	2
Principle 4	The accessibility of public services is ensured.	3

The Government has made good progress in modernising administrative services thanks to a solid institutional setup and clear policy objectives. The Public Administration Reform (PAR) Strategy 2023-2030 focuses on de-bureaucratisation, digitalisation and better service delivery through a network of one-stop shops, and the State Chancellery is the main policymaker in the service delivery area. The recently amalgamated (February 2023) Ministry of Economic Development and Digitalisation (MEDD), for which a detailed role is currently being defined, deals with wider aspects of the digital society and economy. Three key executive agencies under the State Chancellery – the Public Services Agency (PSA), the Electronic Governance Agency (EGA) and the Information Technology and Cyber Security Service (ITCSS) – each have a clear role to play in service delivery modernisation.

Of the 714 services the Government has mapped for businesses and citizens (mid-August 2023), 283 are digitally available. Despite these positive developments, SD conditions are mixed: some services are of high quality (e.g. declaring and paying corporate income tax) while others still entail cumbersome procedures (e.g. applying for an ID card). When interviewed, 70% of citizens and 50% of businesses claimed to be completely or mostly satisfied with public services in general. Regarding digital services, 52% of citizens and 60% of businesses are satisfied.

The Administrative Code, which came into force in 2019, and the 2021 Law on Public Services, are crucial milestones in granting citizens and businesses the right to good administration. **Sixty-four percent of citizens perceive the administrative procedures in public institutions as efficient, and nearly 72% of businesses do not perceive permits and licences as obstacles to doing business.** By August 2022, 55 special laws had been harmonised with the Administrative Code. The Parliament also established a working group in 2022 for ex-post evaluation of administrative and judicial application of the Administrative Code, and it should offer suggestions for amendments later in 2023.

The Government has made significant efforts to enable high-quality administrative service delivery. Base registers are connected through the technical interoperability solution MConnect, the use of which is

growing quickly. In the year after MConnect's launch in 2019, about 18.5 million transactions were conducted, while in 2022 the number of transactions reached 665.7 million. The Government is planning to bring more state bodies and private entities into the MConnect system.

While data to monitor the performance of PSA services is more advanced, there is no government-wide methodology to produce and report on performance metrics. Mapping of state institution administrative services has been done through the designated register of public services, with the information being used to reengineer administrative services. E-signature is in place and there are 200 000 active users, mostly for businesses purposes, representing 9.8% of Moldova's adult population. A more user-friendly smart phone-based e-signature platform (MobiSign) is also being prepared. While user engagement and feedback instruments are being widely applied, no quality management policy is in place at the state level, so some state bodies are employing quality management tools at their own initiative.

Improving accessibility to administrative services has been a clear policy objective in recent years. The PSA network's 40 multifunctional centres in 31 districts and other 17 unified public service centres provide some of the most-used administrative services. The PSA has also begun to provide a front-office function for other government service providers, with two portals in use: servicii.gov.md is a comprehensive administrative services portal, while e-services.md offers PSA services only and is therefore quite limited in coverage. Although guidelines are in place, Government websites comply poorly with international accessibility standards. **When surveyed, 48% of respondents claimed to be satisfied with public services across the territory, and 63% are satisfied with accessibility to public services via digital channels. A legal and institutional framework enabling access for people with special needs is in place, but it is poorly implemented in practice.**

Short-term recommendations (1-2 years)

1. The Government should refine the approach to administrative service modernisation policy to seek for radical administrative simplification opportunities.
2. The Government should establish a standard approach for service re-design and automation which is based on life events and identifying legal, technological and organisational barriers across agencies, and aims to redesign the services driven by user convenience.
3. The Government should integrate the individual PSA portal "e-services" to the comprehensive government portal "servicii.gov" to encompass all services of all central government services into a single portal.
4. The State Chancellery should categorise digital services according to their maturity level and keep account of the services accordingly.
5. The Government, supported by the Ministry of Labour and Social Protection and in co-operation with non-governmental partner organisations, should prepare a policy for the improvement of accessibility of services for people with disabilities, with measurable targets and monitor the implementation.

Medium-term recommendations (3-5 years)

6. The Government should introduce a quality management policy with the purpose of installing continuous improvement culture and consequently tangible improvement actions to the administration, agree on the lead institution whose role would be the introduction and promotion of quality management approaches and tools within the administration alongside with facilitation of exchange of experiences for learning purposes.

Analysis

Principle 1: Policy for citizen-oriented state administration is in place and applied.

Overall, the value of the indicator “Citizen-oriented service delivery” is 4. While Moldova receives a high score for its policy framework for service delivery and digital service delivery, as well as for its policy on administrative simplification, it receives lower marks for several individual services, such as obtaining a commercial construction permit, registering a personal vehicle, and renewing a personal identification document. Nevertheless, its citizens perceive the quality of public service delivery as very good.

Indicator 5.1.1. Citizen-oriented service delivery						
This indicator measures the extent to which citizen-oriented service delivery is defined as a policy objective in legislation or official government plans and strategies. It furthermore measures the progress of implementation and evaluates the results achieved, focusing on citizens and businesses in the design and delivery of public services. Implementation and results are evaluated using a combination of quantitative and perception-based metrics.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Policy framework for citizen-oriented service delivery						
1. Existence and extent of application of policy on service delivery						8/8
2. Existence and extent of application of policy on digital service delivery						8/8
3. Central co-ordination for digital government projects						4/4
4. Established policy on administrative simplification						8/12
5. Perceived quality of public service delivery by the population (%)						6/6
6. Renewing a personal identification document						0/6
7. Registering a personal vehicle						1/6
8. Declaring and paying personal income taxes						4.5/6
9. Perceived quality of public service delivery and administrative burdens by businesses (%)						4/6
10. Starting a business						4.5/6
11. Obtaining a commercial construction permit						1/6
12. Declaring and paying corporate income taxes						6/6
13. Declaring and paying value-added taxes						3/6
Total						58/86

The strategic framework for service delivery consists of the PAR Strategy 2023-2030. Under the heading “De-bureaucratisation and the Development of Electronic Services”, it covers a general objective and three priority directions: 1) 100% modernised public services; 2) a well-established e-Government ecosystem; and 3) digitalised local public administration. Complementing the PAR Strategy is the Programme for Implementation of the PAR Strategy 2023-2026, consisting of specific objectives aligned with priority directions, activities and responsible bodies. In addition, the Law on Public Services²⁰³ has defined the principles of service delivery, responsibilities of service providers and requirements for the provision of

²⁰³ Law No. LP234/2021 of 23 December 2021 on Public Services, Official Gazette No. 34-38.

public services since the end of 2021. It also paves the way for life event-based service provision, requiring co-operation among government institutions.

While reducing administrative burdens is not an explicit objective, it is one purpose of the PSA's reengineering of public services. In addition to the PAR Strategy 2023-2030, MEDD has prepared a Digital Transformation Strategy 2023-2030 to develop a digital society and economy, but establishing an intelligent and transparent digital state is also one of its objectives. While the draft strategy emphasises principles and technological solutions for digital governance, it also overlaps with the PAR Strategy.

The State Chancellery is vested with policy leadership responsibility in the service delivery area, and its subordinate institutions (the PSA, the EGA and the ITCSS) handle execution. Each agency's responsibilities are quite clear. Until February 2023, the Deputy Prime Minister for Digitalisation assured co-ordination of all activities in the field of modernisation of public services and administrative processes. Since February 2023, however, incorporation of the position of Deputy Prime Minister for Digitalisation into MEDD has required extra attention to ensure that digitalisation efforts remain aligned with broader PAR Strategy objectives, and that accountability for results is clear.

While the PSA and EGA work jointly on reengineering and digitalising services, constant political support is needed to introduce more radical legal and redesign solutions to challenge existing practices by decisively eliminating unnecessary steps or entire services to make them more citizen-friendly. For example, some services, such as applying for a construction permit in the city of Chisinau, have been digitalised but only partially, resulting in a double burden for applicants who have to print out materials from a designated information system to get approval signatures from various authorities, then scan and upload the documents into the system again.

According to the World Bank's latest *Doing Business* report²⁰⁴, obtaining a commercial construction permit in Moldova takes 278 days on average, which far exceeds the Europe and Central Asia average of 170 days, and the number of procedures (21) is rather high compared with Europe and Central Asia (16 procedures). However, starting a business is relatively easy, consisting of three procedures that do not take more than four days to complete – a better result than the Europe and Central Asia average (12 days). The PSA functions as a one-stop shop for this service, taking care of tax registration as well as social and health insurance using a single application procedure.

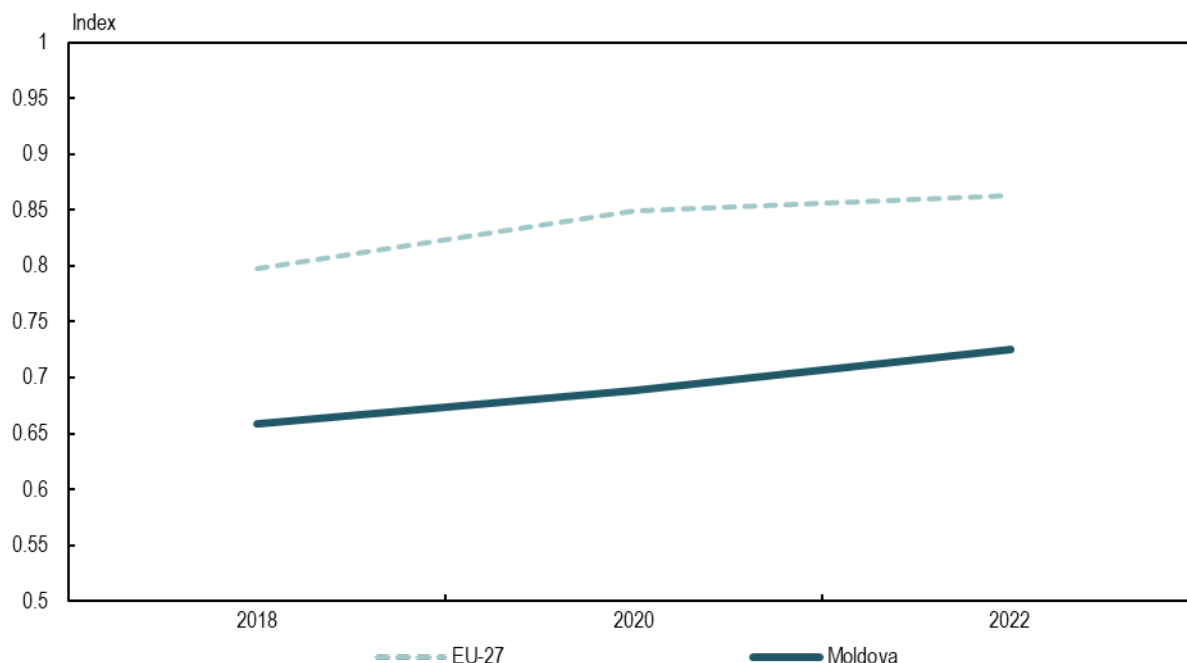
Approximately 38% of all services have been brought online. Of the 718 services currently listed in the register of public services, 276 e-services are available through the portal servicii.gov.md. While the country has legally defined what constitutes a service²⁰⁵ and a digital service, digitalisation of services is always considered in the context of broader service modernisation.

Moldova scored 0.72 out of 1 on the United Nations' 2022 E-Government Development Index, placing it 72nd out of 193 countries. While Moldova has made progress in recent years, it has not managed to close the gap with the EU average, as the difference in the 2022 index (about 15 percentage points) is similar to the difference in 2018. The country finds it particularly difficult to provide high-quality services to its citizens: in 2022, the score for service delivery provision was just 0.69.

²⁰⁴ World Bank (2020), *Doing Business*, https://archive.doingbusiness.org/en/data/exploreconomies/moldova#DB_dwcp.

²⁰⁵ Law No. LP234/2021 of 23 December 2021 on Public Services, Official Gazette No. 34-38.

Figure 14. E-Government Development Index, Moldova and EU-27, 2018-2022



Source: United Nations E-Government Development Indexes 2018, 2020, and 2022; United Nations E-Government Development Database (UNeGoVDD), <https://publicadministration.un.org/egovkb/en-us/Data-Center> (accessed 5 July 2023).

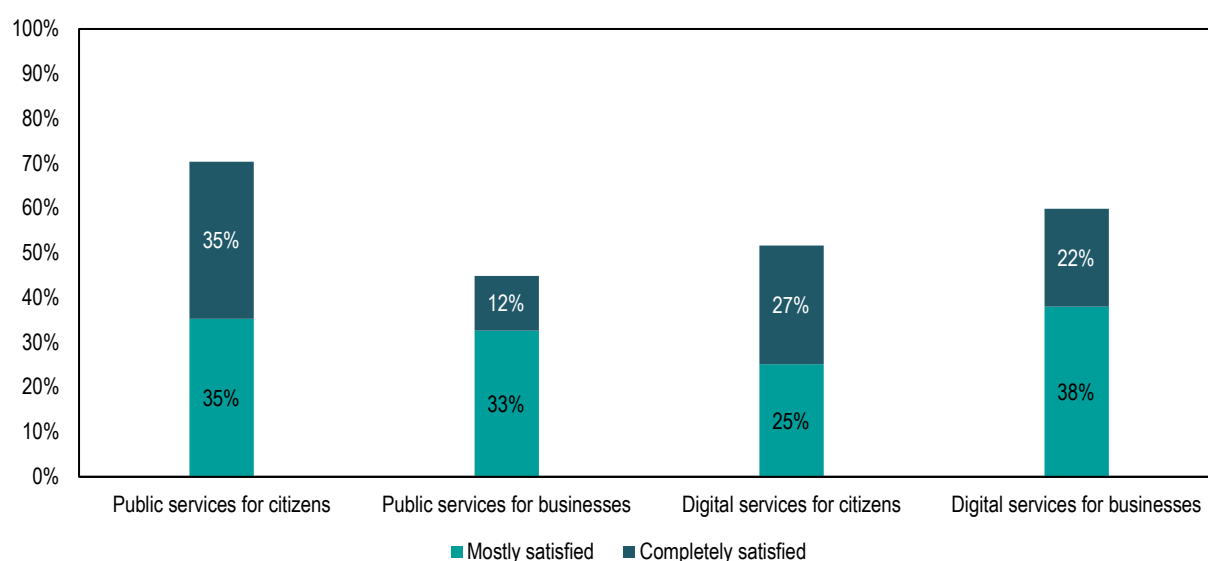
While several services have improved in recent years, those assessed in the SIGMA sample are of mixed quality. For instance, applying for an ID card requires two personal contacts, and the standard delivery time is rather long (20 working days), although speedier options are available for a higher fee (even same-day delivery is possible). Also, the PSA has developed a draft law to amend Law No. 273/1994 regarding identity documents obtained from the national passport system, which was sent to the State Chancellery on 16 August 2023 for approval and promotion. The draft law aims to increase the security of identity documents and promote digital public service use by putting into circulation a new national-level electronic identity card that largely meets the requirements of Regulation (EU) 2019/1157 as well as other European standards. It will be a safe and easy-to-use tool, making it possible to access online services that require authentication and/or the electronic signature of e-government and e-business services.

Meanwhile, changing the ownership of a personal vehicle requires 10 forms and 5 institutional contacts, making it a cumbersome service. For both services, appointments at a PSA office can be booked through the e-service portal, but fees cannot be paid prior to an in-person visit to save time. Although a digital payment option is available, it is not integrated into the service process. A group of deputies worked with the PSA and EGA to develop a bill for the modification of some normative acts in the field of vehicle registration, which is currently on the agenda in the Parliament (registered with no. 89 on 23.03.2022). As a result, it is suggested that the presentation of the inspection report and payment proof for road use tax at car registration services be excluded.

Ex ante analyses of regulatory proposals through regulatory impact assessments (RIAs) are based on RIA methodology from 2019. The State Chancellery serves the Working Group of the State Commission for the Regulation of Entrepreneurial Activity, which is tasked with overseeing draft regulations that contain rules on the regulation of economic activity. Indeed, RIAs are mandatory for draft primary and secondary legislation that contain rules regulating the activity of a business. However, there is not a similar provision for regulations that affect citizens.

Around 70% of citizens and a little less than half (45%) of businesses in Moldova who responded to the SIGMA surveys²⁰⁶ said they judged the quality of public service delivery to be high. Citizens in contact with central government services reported higher levels of satisfaction with administrative services than those not in contact, 77% compared with 67%. Furthermore, survey data suggest that businesses are more satisfied with digital services than with public services in general, while citizens reported lower satisfaction with digital public services than with public services in general. In 2023, 60% of businesses and 52% of citizens claimed to be “mostly satisfied” or “completely satisfied” with digital public services. Again, those citizens who have had contact with central government services in the last 12 months are more satisfied with digital services (63%) than those who have not (47%).²⁰⁷

Figure 15. Satisfaction with public services, 2022



Note: Percentages indicate the share of citizens “mostly satisfied” or “completely satisfied” with “administrative services” and “accessibility to public services via a digital channel”, and the share of businesses “mostly satisfied” or “completely satisfied” with “public services for businesses” and “digital services for businesses”. Only citizens who had a contract with central government services in the past year were included.

Source: SIGMA public opinion and business opinion surveys 2023, conducted in April 2023.

Business-related tax services, such as corporate income tax and value-added tax declarations and payments, are mandatorily conducted digitally.²⁰⁸ Thus, for the 2022 fiscal year, 81% of businesses declared corporate income taxes digitally, whereas only 10% of citizens obligated to file personal income tax declarations submitted them electronically. While citizens benefit from partially pre-filled tax declarations (this was the case already during the 2015 SIGMA assessment), the State Fiscal Service does not use all data available in state registers to free citizens completely from filing family status changes relevant for calculating tax benefits. Processes for declaring and paying corporate income tax fared very well in the assessment, but procedures for declaring and paying value-added tax could be improved.

²⁰⁶ SIGMA public opinion survey 2023, conducted in April 2023.

²⁰⁷ One-fifth (21%) of citizens surveyed did not know or refused to answer the question “How satisfied are you with the accessibility of public services via a digital channel?”.

²⁰⁸ Since 1 January 2023, legal entities must submit tax reports and returns electronically.

Conclusion

The Government has made substantial progress in setting up a strategic and institutional frameworks for citizen-oriented service delivery and administrative service modernisation. However, greater clarity is needed on MEDD's role compared with that of the State Chancellery, and service modernisation would benefit from a more rigorous approach to simplification. The RIA process is in place and new regulatory initiatives are being assessed consistently to gauge whether they add to the administrative burden of businesses. Despite these positive developments, service quality is mixed: some services are of high quality (e.g. corporate income tax declarations and payments) while others suffer from cumbersome procedures (e.g. ID card applications). Overall, over 70% of citizens and around 45% of businesses are satisfied with the quality of public service delivery, while 52% of citizens and 60% of business are satisfied with digital public services.

Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.

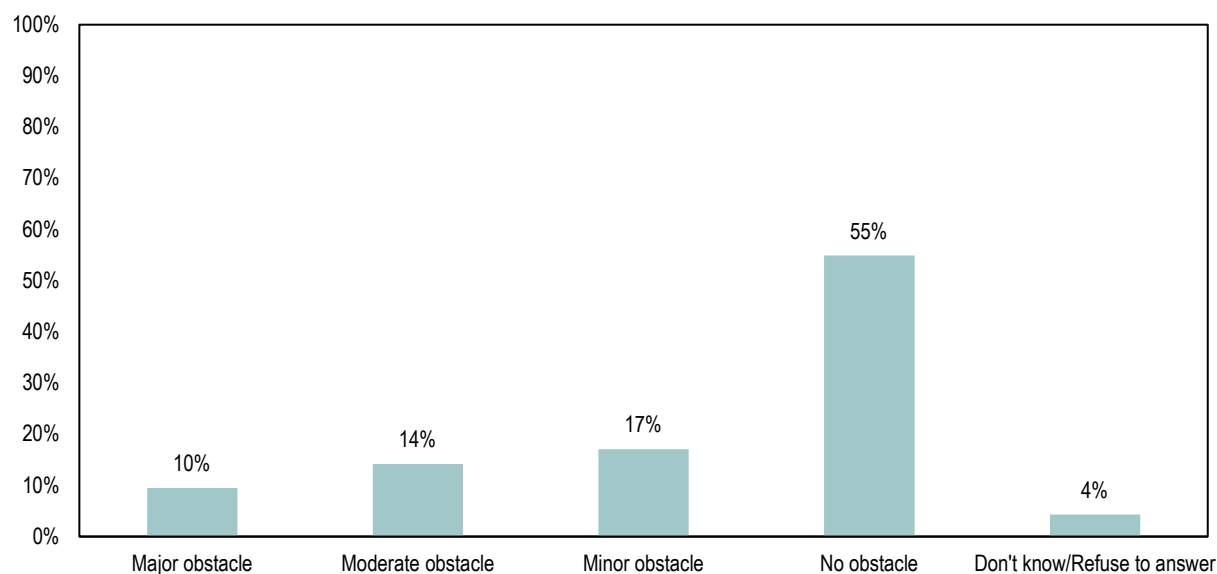
Overall, the value of the indicator “Fairness and efficiency of administrative procedures” is 3. Introduction of Moldova's Administrative Code in 2018 and adoption of the Law on Public Services in late 2021 are important landmarks, although some important legal shortcomings persist.

Indicator 5.2.1. Fairness and efficiency of administrative procedures						
The indicator measures the extent to which the regulation of administrative procedure is compatible with international standards of good administration and good administrative behaviour. This includes both the legal framework for administrative procedure and its practical applications.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legal framework for administrative procedure						
1.	Existence of legislation on administrative procedures of general application					3/3
2.	Adequacy of law(s) on administrative procedures to ensure good administration					5/7
Performance of citizen-oriented service delivery						
3.	Perceived efficiency of administrative procedures in public institutions by the population (%)					3/4
4.	Repeals of, or changes to, decisions of administrative bodies made by the administrative courts (%)					0/4
Total						11/18

The Administrative Code, which came into force in 2019, and the 2021 Law on Public Services, are crucial milestones in granting citizens and businesses the right to good administration. Indeed, 64% of citizens perceive administrative procedures in public institutions as efficient, and nearly 72% of businesses genuinely do not perceive permits and licences as obstacles to doing business.

Parliament adopted the Law on Public Services on 23 December 2021.²⁰⁹ It enshrines the rights and duties of public service providers and beneficiaries, including once-only information provision by citizens, businesses and other organisations; creates a legal framework to ensure accessibility, quality and efficiency, including the possibility to request public services at any counter or centre regardless of one's place of residence; and enables proactive service provision, without additional requests or approaches from beneficiaries. The Law prioritises electronic service delivery (e-service by default) with simultaneous delivery through all other possible and reasonable channels, and it envisages secondary Government acts to organise and operate one-stop shops.

²⁰⁹ Law on Public Services No. 234/2021, Official Gazette No. 34-38/2022, Article 34.

Figure 16. Businesses' perception of obstacles to doing business

Note: Respondents were asked, "Can you tell us how problematic business licences and permits are for the operation and growth of your business?"

Source: SIGMA public business survey, 2023.

The Administrative Code²¹⁰ was published 17 August 2018 and entered into force 1 April 2019, establishing a general basic regulation for administrative procedures. While special laws may deviate from the code, they can only regulate matters differently when absolutely necessary, and the special regulations do not contradict the code's principles (Article 2.2). Having a general law for administrative procedures protects the rights of citizens and businesses, improves legal certainty and reduces the burden on citizens and businesses to know their rights and procedural steps when dealing with the public administration.

The code establishes the principles of legality, equality, impartiality, good faith and the rightful exercise of discretion (prohibition of arbitrariness) as mandatory guidance for the public administration. Moreover, the basic content of the right to good administration, as defined by the Jurisprudence of the European Court of Justice and regulated in Article 41 of the Charter of Fundamental Rights of the European Union (the right to be heard, the right to access files, the right to obtain a justified administrative decision, the right to an effective remedy, etc.) are also present in the Moldovan code. However, two flaws remain in the legislative framework. First, Article 83 of the Administrative Code permits authorities to disallow access to files if it "affects the regulatory performance of the public authority's tasks". Second, Article 89 does not grant the subjective right for a party to observe the actions of an expert or the oral hearing of witnesses, leaving this decision to the discretion of the public authority.

To align all special administrative procedures with the code, Article 257 mandated the government to develop proposals for harmonising special legislation with the code and present them to the Parliament. Individual ministries are responsible for amending secondary legislation. By August 2022, 55 special laws had been modified to harmonise with the Administrative Code. Meanwhile, the Academy of Public Administration provides training to foster practical implementation of the code and the Ministry of Justice identifies derogations from the Administrative Code during the preparation of draft legislation. In 2022, the Parliament established a working group for ex-post evaluation of the code's administrative and judicial application, with suggestions for amendments expected later in 2023.

Conclusion

²¹⁰ Administrative Code of the Republic of Moldova No. 116/2018, Official Gazette No. 309-320.

Adoption of the Administrative Code in 2019 was a positive step, as it established a uniform means to consistently apply the principles of good administrative behaviour and the right to good administration throughout the entire public administration system. The Government has made strong implementation efforts, not only by preparing amendments to 55 special pieces of legislation to harmonise them with the code, but also by providing civil servants with training and establishing the Ministry of Justice as an oversight institution to ensure that special administrative legislation respects the basic rights of citizens and businesses.

Principle 3: Mechanisms for ensuring the quality of public service are in place.

Overall, the value of the indicator “Existence of enablers for public service delivery” is 2. Interoperability infrastructure is solid, and the registers are interoperable far beyond the base registers. More than half of the state institutions scrutinised employ user engagement tools and techniques. However, there is no central monitoring of service delivery performance, and common standards for public service delivery are not in place. The same applies to the quality management policy.

Indicator 5.3.1. Existence of enablers for public service delivery						
The indicator measures the extent to which citizen-oriented service delivery is facilitated by enabling tools and technologies, such as public service inventories, interoperability frameworks, digital signatures and user feedback mechanisms. It evaluates how effective the central government is in establishing and using these tools and technologies to improve the design and delivery of public services.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Central and shared mechanisms to better enable public service provision are in place						
1. Central monitoring of service delivery performance						0/3
2. Adequacy of interoperability infrastructure						2/3
3. Existence of common standards for public service delivery						1/3
4. Legal recognition and affordability of electronic signatures						1/3
5. Use of quality-management tools and techniques						1/4
6. Adoption of user engagement tools and techniques						3/4
7. Interoperability of basic registers						4/4
Total						12/24

Chapter VI of Law No. 234/2021 on Public Services provides for the monitoring of service delivery and evaluation of the quality of public services. Since this Law entered into force in February 2023, the State Chancellery has been in the process of developing a methodological framework for monitoring public service delivery and evaluating its quality. Hence, Moldova does not yet have a solid basis for monitoring service delivery performance beyond counting how many and what types of services are rendered overall, confined to services delivered by the PSA.

In 2020, the Government approved several methodologies, such as the Methodology for Reengineering of Public Services, the Methodology for Evaluating Institutional Capacities of Public Service Providers and the Methodology for the Development, Implementation and Evaluation of the Performance Framework of Public Service Providers. The EGA, together with the State Chancellery, is working on the concept of a monitoring mechanism. The register of public services, established in 2021 and covering roughly 718 public services, serves as an information repository, with the EGA recording life events identified as

necessary for connecting with associated public services. There are no common service standards for either physical or digital services.

The Government has set up a well-functioning data exchange platform (MConnect) for interoperability purposes. Importantly, the Law on Data Exchange and Interoperability²¹¹ obligates government agencies to exchange data through the digital interoperability solution only, and sanctions are possible for violation of this law. Currently, 336 institutions (public and private) exchange data over the platform. Within a year of MConnect's launch in 2019, 18.5 million transactions had been conducted, while in 2022 the number of transactions reached 665.7 million.

The Law on Public Services sets forth the "once-only" principle of data collection from citizens. While all base registers are available in digital format and exchange data over the MConnect platform, certain legacy problems remain. For example, three authorities – the PSA, local public authorities and diplomatic missions – register requests for civil status acts. EGA and PSA jointly launched a new development project to improve the "Civil status documents" (SI ASC) system's functionality. The SI ASC, which will in the future integrate all data sources pertaining to civil status.

Only the PSA registers the requests in the designated information system, while the other two record them on paper and send them over to the PSA for registration in the information system.

The Government has established clear rules²¹² for information and communications technology (ICT) procurement, whereby EGA co-ordinates the ICT procurement plans of government bodies and evaluates their budget proposals in relation to ICT. To support this function, EGA was authorised to create a Public Procurement Co-ordination Methodology and supervise its implementation. Furthermore, all state information resources and systems have been registered in the Register of State Information Resources and Systems²¹³ to facilitate the reuse of existing technical solutions, increase the quality of information in state information systems, and help EGA channel investments into state information systems. Once services have been reengineered, EGA can decide whether data exchange could replace the service altogether or at least reduce the number of documents required of users.

No cross-governmental quality management policy exists, and the use of quality management tools is sporadic. Some institutions employ quality management tools at their own initiative (25% of the sample institutions). For example, the PSA applies three International Organization for Standardization (ISO) quality management systems: the ISO 9001 quality management system, the 27001 system for information security, and the 37001 anti-bribery system. Also, the National Bureau of Statistics applies a policy for quality based on the Quality Assurance Framework of the European Statistical System. By law²¹⁴, all service providers must prepare monitoring and evaluation reports on service quality, according to the respective methodology the State Chancellery is currently developing. This methodology does not mean, however, that service providers would have to apply a recognised quality management system.

While the use of tools to measure user satisfaction is widespread (7 out of 8 sample institutions apply them), user engagement measurement is not (2 out of 8). EGA has a protocol for testing digital services prior to their launch, but no users are engaged in the design phase. There are also examples to the contrary, with the telecommunications regulator involving postal communication providers in the testing of its information system on statistical reports in an early phase of its development. Plus, the PSA is introducing a customer feedback mechanism in its multifunctional service centres, as is the State Fiscal Service.

Certification authorities issue qualified, legally registered advanced digital certificates on secure technical devices (smart cards, USB tokens, e-ID cards). An electronic signature is considered equivalent to a

²¹¹ Law No. 142/2018 on Data Exchange and Interoperability, Official Gazette No. 295-308/2018, https://www.legis.md/cautare/getResults?doc_id=129134&lang=ro#.

²¹² Government Decision No. 544/2019 on Some Measures to Organise Public Procurement Processes in the Field of ICT.

²¹³ Government Decision No. 153/2021 on Approving the Information System "Concept Register of State Information Resources and Systems".

²¹⁴ Law No. LP234/2021 of 23 December 2021 on Public Services, Official Gazette No. 34-38.

handwritten one²¹⁵ and is available through the MSign platform, which has 200 000 active users, mostly businesses that are obligated to sign documents digitally for the State Fiscal Service. Citizens have to pay for both the digital signature certificate (annual cost of at least MDL 130, equivalent to EUR 6.5²¹⁶) and the token needed to carry it (a one-time fee of at least MDL 135, or EUR 6.7). In addition, the token can be obtained only from the ITCSS in person upon signing a contract. However, EGA is currently devising a mobile phone-based electronic signature that will be free for citizens, to boost its use. The Law on Electronic Identification and Trust Services partially transposes the EU eIDAS Regulation.

Overall, while Moldova continues to make promising service delivery transformation efforts, its ranking in the United Nations' E-Government Survey (although improved from 2016 to 2022 in absolute terms) has dropped from 65th to 72nd position. As Moldova is not yet part of the EU e-Government Benchmark study, data on the user-centricity of its electronic services compared with EU Member States are not available.

Conclusion

The Government has established several enablers to improve public service delivery, but the monitoring of service delivery does not yet function as envisaged by law. The well-functioning interoperability platform MConnect supports service simplification and digitalisation, and a large number of users, both private and public organisations, benefit from data exchanges that allow for effective application of the “once-only” principle. Control mechanisms for managing ICT investments are in place and the digital signature system is functional, but its uptake among citizens is low. Online payment through the MPay technical solution is possible, but the service has not yet been integrated into digital service provision. While the use of quality management in state administration is sporadic, user satisfaction is measured regularly.

²¹⁵ Law No. 124/2022 on Electronic Identification and Trust Services, Official Gazette No. 170-176/2022 (entered into force 10 December 2022), https://www.legis.md/cautare/getResults?doc_id=131642&lang=ro.

²¹⁶ EUR 1 = MDL 20.0922 according to the National Bank of Moldova official exchange rate of 13 July 2023, <https://www.bnm.md/en/content/official-exchange-rates>.

Principle 4: The accessibility of public services is ensured.

Overall, the value of the indicator “Accessibility of public services” is 3. Policies to make public services accessible are in place, except for people with disabilities. Guidelines for government websites have also been established, but the compliance of tested government websites with the Web Content Accessibility Guidelines (WCAG) 2.0 standard is poor. Perceived satisfaction with public services, as well as with the accessibility of digital public services, is good.

Indicator 5.4.1. Accessibility of public services						
The indicator measures the extent to which the access to public services is promoted in policy formulation and implementation. It evaluates whether this policy framework leads to measurably easier access for citizens, measures citizens' perceptions of accessibility to public services and tests the actual accessibility of government websites. Dimensions covered are territorial access, access for people with disabilities and access to digital services.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Policy framework for accessibility						
1. Existence of policy for the accessibility of public services						2/3
2. Availability of statistical data on accessibility to public services						3/3
3. Adequacy of policy framework for public service users with special needs						2/4
4. Existence of common guidelines for government websites						2/2
Government performance on accessibility						
5. Compliance of government websites with Web Content Accessibility Guidelines (WCAG)						0/3
6. Perceived satisfaction with public services across the territory by the population (%)						2/3
7. Perceived accessibility of digital public services by the population (%)						2/3
8. Perceived time and cost of accessing public services by the population (%)						2.5/3
Total						15.5/24

The Government's policy on improving accessibility to administrative services has not been articulated but has been consistent nevertheless thanks to the creation of conditions for good territorial coverage. The Law on Public Services makes it clear that, as a rule, there can no longer be domicile-based restrictions on where a person can apply for a service. The PSA, the main provider of administrative services, has 40 multifunctional centres in 31 districts, the last one created in 2019. Finally, there are 100 unified public service centres (all of them will be functional by the end of 2023) delivering public services and may provide e-service assistance.

The PSA delivers identity and citizenship documents; personal records; civil status documents; cadastral services; registration and licensing of legal entities; and vehicle registration and driver licensing. It also intends to extend its front-office function to other public authorities that do not have such an extensive network (cadastral services is an example of this type of co-operation). Its services can be accessed through its service portal e-services.md, while the overall government portal servicii.gov.md operates in parallel.

The Law on Public Services explicitly envisages an omni-channel character for public service provision.²¹⁷ Apart from the PSA network of one-stop shops, the State Tax Service effectively illustrates this principle in practice: it has a strong web presence (see Principle 1), but it is also represented in 27 districts. As its web presence increases, it regularly (every two years) overhauls its organisational structure to keep pace with changes in demand, resulting in fewer regional subdivisions overall. For example, its new counselling service for taxpayers (including accountants) is available at any office regardless of the user's place of

²¹⁷ Article 4 (i) of the Law on Public Services.

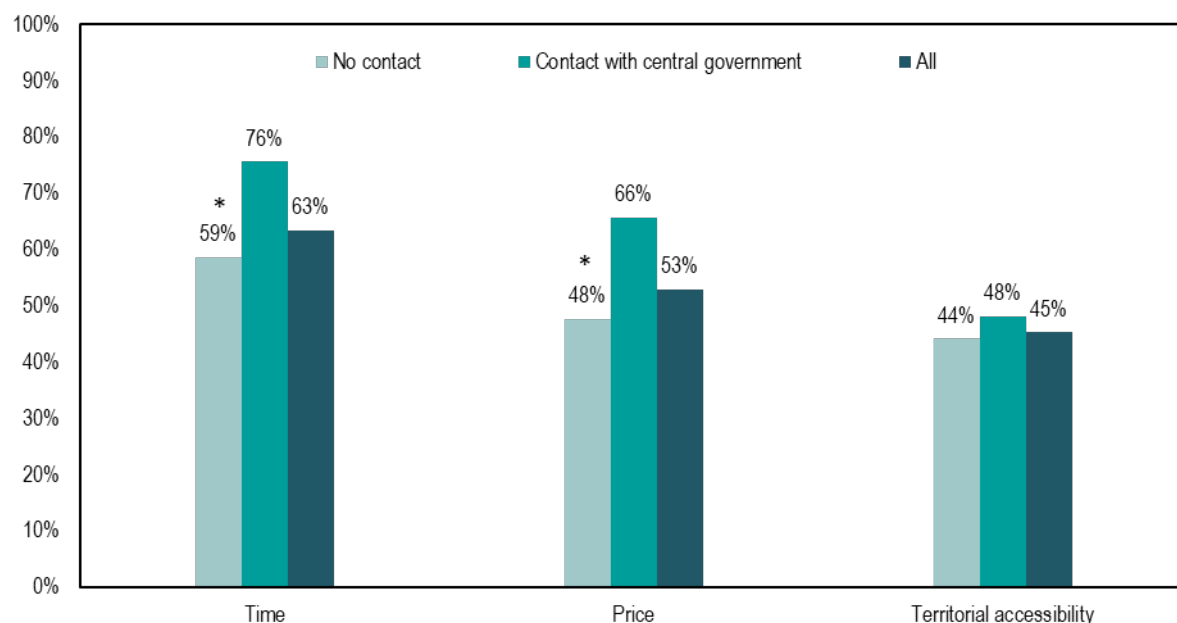
residence, and through the call centre. It also leverages its webpage for information provision by systematising tax practices into Frequently Asked Questions and hence reduces the need for in-person consultations.

Since expiration of the National Programme for People with Disabilities 2017-2022 last year, a new system has not yet been established. When the programme was evaluated in 2023, it was found to be ineffective in obtaining its objectives due to poor management, including weak co-ordination with sector policies and lack of a proper monitoring mechanism, as well as a lack of funding to make buildings accessible, to secure transportation, and to obtain information and means of communication, all affecting accessibility to administrative services.²¹⁸ Non-governmental institutions (NGOs) active in defending the rights of people with disabilities confirmed that the problems are not related just to access to public buildings, but to obtaining transportation. However, they also pointed out that for many public buildings, design blueprints do not take the needs of people with disabilities into account properly because no accessibility experts are contracted and no people with disabilities are consulted. Finally, it was found that sign language interpretation for the personal benefit of individual users is not being applied sufficiently and is completely absent on national television, even though broadcasting legislation has required it since 2023.

Although requirements exist for government websites, their quality is poorly measured against the WCAG 2.0 accessibility standard. On average, webpages have 45 errors and only one in the sample of 26 websites (servicii.gov.md) fared well (4 errors). The State Chancellery intends to revise the requirements by introducing a unified interface for all government entities' websites.

Citizens who have been in contact with the central government for administrative services are generally much more recognisant than the general population of the time and costs involved in receiving a service. The perception of access to public services across the territory is good for less than half of the respondents.

²¹⁸ National Programme for Social Inclusion of Persons with Disabilities and the Action Plan for 2017-2022. Final Evaluation Report 2023.

Figure 17. Citizen satisfaction with various aspects of accessibility to services

Notes: *Differences in means (in relation to contact with the central government) are statistically significant based on analysis of overlaps in confidence intervals. For the “time” element respondents were asked, “How would you grade the time required to obtain public services (police, health system, judiciary, township, etc.)?”; the graph illustrates the responses “very good” (4 on the scale) and “excellent” (5, maximum value). For “price”, respondents were asked, “How would you grade the price of public services (e.g. issuance of personal documents, judiciary costs, etc.)?”, with the graph representing responses of “very good” (4 on the scale) and “excellent” (5, maximum value). For “territorial accessibility” respondents were asked, “Could you please tell me how satisfied you are with public services in general in your place of living?” Assessors calculated the percentages of “mostly satisfied” and “completely satisfied” responses.

Source: SIGMA public opinion survey, 2023.

Conclusion

Government commitment to enlarging territorial access to administrative services has been demonstrated through its actions to improve service delivery through the network of PSA offices. While the PSA is intended to become a front office for an increasing number of government institutions, citizens do not yet have a strong awareness of the agency. For people with disabilities, access to administrative services is poor due to physical barriers at government offices and on websites, as well as to difficulties obtaining transportation to reach these offices. Government website compliance with WCAG 2.0 accessibility standards is poor even though general guidelines for government websites are in place.

Public financial management

Summary and recommendations

The 16 principles that measure public financial management (PFM) are divided into four sub-areas: budget management (5), internal control and audit (4), public procurement (5) and external audit (2). Table 9 provides an overview of Moldova's performance in the PFM area.

Table 9. Overall indicator values for public financial management, 2023

Principles		2023 overall indicator values
Budget management		
Principle 1	The government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.	2
Principle 2	The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.	2
Principle 3	The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.	5
Principle 4	There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected, and debt servicing costs are kept under control.	4
Principle 5	Transparent budget reporting and scrutiny are ensured.	3
Financial control and internal audit		
Principle 6	The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.	4
Principle 7	Each public organisation implements internal control in line with the overall internal control policy.	1
Principle 8	The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.	4
Principle 9	Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.	2
Public procurement		
Principle 10	Public procurement regulations (including public private partnerships and concessions) are aligned with the European Union acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.	4
Principle 11	There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.	3
Principle 12	The remedies system is aligned with the European Union acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.	4
Principle 13	Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making	2

	best use of modern procurement techniques and methods.	
Principle 14	Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.	4
External audit		
Principle 15	The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.	3
Principle 16	The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.	4

Budget management

In budget management, the Government has maintained fiscal discipline even though the country has faced significant budgetary pressures stemming from the COVID-19 pandemic, higher energy prices and regional instability due to Russia's war of aggression against Ukraine. The Government's use of conservative revenue estimates in budget planning and strong systems for cash management, commitment control and debt management have given the country relatively low budget deficits and a sustainable debt burden.

Budget planning is weak. Although the legal framework reflects many international good practices for preparing a medium-term budgetary framework (MTBF), these practices are to a large extent not observed in actual implementation. This hampers medium-term policy planning and reduces the predictability of annual budget allocations for spending agencies. Preparation of the annual budget is also affected by deviations from the calendar. While progress has been made in the regulation on capital expenditures, capacity constraints hamper implementation.

Budget documentation is comprehensive and easily accessible, but transparency is low. Annual budget documentation is complete and clearly published on government websites, budget classification is aligned with international standards, and fiscal risks are analysed. However, transparency is compromised by the non-disclosure of allocations for "general actions", which amount to more than half of the state budget. Another element limiting transparency is the non-reporting of own resources of self-managed entities in budget documents.

Reporting on execution of the budget is done frequently based on a solid treasury system. The annual report focuses on budget execution and includes some details on financial balance sheet items. The CoA audit of the central government is timely and is receiving increasing attention from the Parliament, but auditing of the state-owned enterprise (SOE) sector and local governments is not happening frequently enough and is insufficient to ensure accountability on the use of public funds.

Financial control and internal audit

The regulatory and operational frameworks for internal control and internal audit are largely established. However, effective implementation has not kept pace with development of the overall framework. Arrangements for and implementation of managerial accountability, delegation of responsibilities and risk management need further development, as basic accountability mechanisms between ministries and subordinated bodies are not operating effectively. The regulatory and operational framework for internal audit is largely complete, and broadly in line with international standards. However, internal audit implementation is adversely affected by significant resource issues within the responsible units, with most not staffed in line with legal requirements, and only 51% of internal auditor posts filled.

Public procurement

Transposition of the EU Public Procurement Directives into national legislation is high. Only specific gaps remain: the EU Defence and Security Procurement Directive has not been transposed, and the framework covering concessions and public-private partnerships (PPPs) is incoherent and requires modernisation. Additionally, the Law on Public Procurement requires further amendments regarding the scope of excluded contracts and grounds for exclusion.

The institutional framework is well established, but the performance of some institutions needs to be improved. The Ministry of Finance (MoF) has competence in developing public procurement policy,

drafting legislation and international co-operation, while the Public Procurement Agency (PPA) is tasked with monitoring, analysis, advisory and operational support, training and professionalisation. Delays in implementing certain essential institutional tasks, such as the adoption of secondary legislation, raise concerns. The National Programme for Development of the Public Procurement System for 2023-2026 has been approved by the Government. The monitoring capacity of the PPA is limited by technical deficiencies of the electronic procurement portal (MTender).

The review and remedies system is functioning well and independently. The National Agency for Solving Complaints (NASC) is an independent first-instance review body that handles public procurement complaints in an efficient, competent and rapid manner. However, the Law on Public Procurement requires further amendments to rectify some inconsistencies on time limits for submitting complaints.

Monitoring of the public procurement system and functioning of the e-procurement portal are unsatisfactory. Utility sector contracts and low-value contracts are not monitored, and the artificial splitting of contracts is a systemic problem. Meanwhile, the MTender system presents so many technical deficiencies that its use has become a burden for users rather facilitating efficient public procurement.

Practical guidance is available to contracting authorities and economic operators to help them navigate the public procurement cycle. Advisory support and training activities provided by the PPA are generally well regarded, subject to further improvements in scope of guidance offered, the availability of training materials and the provision of advice and assistance in a less formal and more practice-oriented manner. No progress has been made regarding certification of public procurement officers.

External audit

The CoA's independence, mandate and organisation are well defined in the audit law, but independence is not ensured in the Constitution, and the implementation of other laws undermines key elements of the CoA's organisational, functional and financial independence. Public appreciation of the CoA's independence is also low, with only 26% of the population indicating that the CoA is free of political influence. With respect to the effectiveness of the external audit system, implementation of the International Standards of Supreme Audit Institutions (ISSAIs) is well advanced in the CoA, but there is still room for improvement. While the Parliament uses CoA reports to scrutinise the Executive, the implementation rate of CoA recommendations by audited entities remains low, limiting the impact of its work.

Short-term recommendations (1-2 years)

Budget management

1. The MoF should apply the budget calendar strictly, as prescribed in the PFBFR Law.
2. The MoF should provide detailed estimates for "general actions" appropriations and include them in published budget documentation.
3. The Government should adopt a fiscal rule for its debt ceiling.

Financial control and internal audit

4. The MoF should define accountability arrangements that meet internal control requirements for public sector managers by requiring public sector bodies to include control statements or paragraphs on internal control in their annual reports.
5. The MoF should increase the country's capacity to conduct external internal audit quality assurances, incorporating information gathered from internal quality assessments and annual PIFC monitoring.
6. The MoF should address identified shortcomings in strategic and annual internal audit planning processes through training and awareness programmes to ensure that they are risk-based and prepared according to National Internal Audit Standards (NIAS) requirements.
7. The MoF should address capacity issues for internal audit units and encourage institutions to fill internal audit vacancies so that they can meet their audit obligations and enhance the effectiveness of internal audit.

Public procurement

8. The MoF should prepare necessary amendments to the Law on Public Procurement and legislation on concessions to ensure closer alignment with the EU directives. Secondary legislation and other implementing acts should be adopted in a timely manner, aligned with the primary law.
9. The Government should ensure that all institutions involved in public procurement and concessions at the central level have sufficient capacity to perform their functions. To this end, it should increase staffing of the PPA and the MoF's Public Procurement Department.
10. The Government/MoF should eliminate the technical shortcomings of the e-procurement system (MTender) to enable effective data collection, compilation and analysis and increase the efficiency of the procurement process.
11. The MoF and the PPA should collect reliable and processable data on the number and value of low-value purchases.

External audit

12. The Government should respect the status and independence of the CoA. It should amend and implement laws related to the budget, public service and salaries so that they no longer undermine key elements of the CoA's organisational, functional and financial independence, and limit its ability to organise and manage itself.

Medium-term recommendations (3-5 years)

Budget management

13. The Government should establish an independent entity, such as a fiscal council, to monitor compliance with fiscal rules.
14. The MoF should strengthen budget capacity at line ministries to ensure compliance with regulations on capital budgeting.
15. The MoF should develop a framework for accounting standards in line with the recommendations of OECD SIGMA Paper No. 65²¹⁹ on accounting reforms.
16. The MoF should incorporate the revenues of self-managed entities into the budgetary framework.

Financial control and internal audit

17. The MoF should explore ways to use existing internal audit resources more efficiently, considering solutions such as pooling internal audit staff to enable more efficient internal audit delivery, ensure effective internal quality control and allow for greater career progression.

Public procurement

18. The MoF should prepare a draft Law on Defence Procurement aligned with the EU Defence and Security Procurement Directive.
19. The Government should elaborate a coherent single framework for concessions and PPPs to avoid parallel application of several laws.
20. The PPA should develop additional guidelines and training materials covering all phases of the procurement process and containing practical information for contracting authorities and economic operators.
21. The MoF and the PPA should develop and implement a certification scheme for public procurement officers.

²¹⁹ Swarbrick, A. and F. Pot (2022), "Public accounting reforms in the Western Balkans and European Neighbourhood: Guidance for SIGMA Partners", *SIGMA Papers*, No. 65, OECD Publishing, Paris, <https://doi.org/10.1787/505f903e-en>.

External audit

22. The CoA should engage with relevant institutions to initiate changes to the legislative framework so that the Constitution adequately addresses CoA independence and status.

Analysis

Budget management

Principle 1: The government publishes a medium-term budgetary framework on a general government basis that is founded on credible forecasts and covers a minimum period of three years; all budget organisations operate within it.

Overall, the value of the indicator “Quality of the medium-term budgetary framework” is 2. While the MTBF is relatively strong, it is not consistently implemented and was not updated in two of the last four years. Actual use of the instrument is limited due to wide deviation of actual spending from the plan. However, accurate medium-term planning has been hampered by macroeconomic instability caused by the COVID-19 pandemic and Russian aggression in Ukraine.

Indicator 6.1.1. Quality of the medium-term budgetary framework						
This indicator measures how well the medium-term budgetary framework (MTBF) is established as a fiscal plan of the government, focusing on the process of budget preparation and four areas that influence the quality of the budget documents. A good MTBF should increase transparency in budget planning, contribute more credible forecasts and ultimately lead to a better general government budget balance.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Strength of the medium-term budgetary framework						9/12
2. Strength of the fiscal rules						0/5
3. Credibility of medium-term revenue plans (%)						0/4
4. Credibility of medium-term expenditure plans (%)						0/4
Total						9/25

The PFBFR Law, adopted in 2014, is the basis for all processes encompassing the budget cycle. It provides a clear framework that is closely aligned with international good practice.

In conjunction with Order of the Ministry of Finance (OMF) No. 209 of 2015, the PFBFR Law includes a calendar that allows first-level budget organisations to submit their medium-term budget needs as part of the process to prepare the MTBF. In 2022 and 2023, the MoF issued a circular on this subject in the first quarter, largely in line with the calendar.

However, MTBFs are not yet being prepared regularly, with none drawn up in two of the last four fiscal years.²²⁰ An MTBF was produced in 2022 for 2023-2025, but the Government only adopted it in October, whereas the Budget Calendar stipulates adoption before 1 June. Consequently, in 2022 the MTBF was adopted only after issuance of the Budget Circular guiding preparation of the annual budget.²²¹

²²⁰ No MTBF was prepared in 2019 for 2020-2022 or in 2021 for 2022-2024.

²²¹ Government Decision No. 692 of 5 October 2022.

The PFBFR Law includes a fiscal rule for national public budget deficits, but no fiscal rule exists for public debt. According to Article 15.1, the deficit is not allowed to surpass 2.5% of gross domestic product (GDP). This fiscal rule was not breached in 2021, with an actual budget deficit of 1.9%, but it was violated in 2022 with an actual deficit of 3.3%.²²² The fiscal rules are also estimated to not be met in the MTBF 2023-2025, which includes deficit projections of 6% in 2023, 4.9% in 2024 and 4% in 2025. Such deviations from the fiscal rule are permissible, however, as the PFBFR Law includes a derogation clause for 1) natural disasters/national security emergencies; 2) declining economic activity or higher-than-expected inflation; and 3) financial sector crises. The Government argues that regional instability following Russia's war of aggression against Ukraine provides such justification, but Moldova has not established an independent institution (such as a fiscal council or Parliamentary Budget Office) to discuss the validity of such arguments and to advise on adherence to the fiscal rule.

In line with good practice, the MTBF provides projections for aggregate expenditures for three fiscal years. These projections are interpreted as a hard ceiling for the next year and indicative for the two following years. Ceilings in the MTBF are presented only at the sectoral level and not for first-level budget organisations, for which only the Budget Circular details ceilings. As there is no clear link between sector ceilings in the MTBF and ceilings for budget organisations, the MTBF's effectiveness for predictability and policy planning for line ministries is limited.

The MTBF's effectiveness in providing a predictable budgetary framework in the medium term is also compromised by a lack of projection accuracy. In fact, MTBF projections deviate from actual aggregate revenues and expenditures by around 30%, failing to meet minimum standards for the credibility of budgetary documents (Table 10). Uncertainty stemming from the COVID-19 pandemic in 2020, when the MTBF 2021-2023 was adopted, is part of the explanation and justified a conservative forecast for 2022. The fact that revenue projections were lower than actual returns reflects the Government's adherence to fiscal discipline.

Table 10. Deviation between the MTBF and actual State Budget expenditures and revenues

	Projection for 2022 as per the MTBF 2021-2023 (in million MLD)	Actual 2022 (in million MLD)	Deviation
Revenues	45 372	59 248	31 %
Expenditures	53 421	68 573	28 %

Sources: MTBF 2021-2023 and Annual Report on Execution of the State Budget 2022.

Conclusion

Moldova's legal framework reflects many international good practices for MTBF preparation. However, these practices are to a large extent not observed in actual implementation. Although the framework upholds fiscal discipline by employing conservative revenue estimates, it cannot yet be considered a support tool for medium-term policy planning due to its projection inaccuracies and wide deviations from actual spending.

²²² Annual Report on Execution of the State Budget for 2022, p. 4, <https://mf.gov.md/ro/download/file/fid/25919>.

Principle 2: The budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.

Overall, the value of the indicator “Quality of the annual budget process and budget credibility” is 2. Moldova performs well in budget proposal transparency, but there are weaknesses in the credibility of both its revenue and expenditure plans. Also, its strong performance on budget transparency is compromised by factors not captured by the indicator framework (see explanation below).

Indicator 6.2.1. Quality of the annual budget process and budget credibility -						
This indicator analyses the process of budget preparation and the level of transparency and quality of the budget documents. Quality parameters include the link between the multiannual and annual budget, the budget preparation process, selection of priorities for new expenditures, comprehensiveness and transparency of budget documentation, scrutiny and oversight of the budget proposal and rules for in-year budget adjustment.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Operational alignment between the MTBF and the annual budget process						2/4
2. Reliability of the budget calendar						1/4
3. Transparency of the budget proposal before its adoption in parliament						5/8
4. Quality in the budgeting of capital investment projects						2/5
5. Parliamentary scrutiny of the annual budget						1/5
6. Transparency and predictability of procedures for in-year budget adjustments						1/4
7. Credibility of revenue plans in the annual budget (%)						0/4
8. Credibility of expenditure plans in the annual budget (%)						2/4
Total						14/38

The PFBFR Law defines the composition of the public sector and components of the National Public Budget, which covers the general government (the central government as well as local governments). The central level includes the budget organisations covered by the State Budget, the State Social Insurance Budget (SSIB) and the Compulsory Health Insurance Fund (CHIF).

Annual National Public Budget documentation is comprehensive and clearly published on the MoF website. The package for the 2023 state budget included a draft state budget law for 2023 and 10 annexes to the draft law. Among other items, it includes an explanatory note describing macro-fiscal developments, policies underlying the National Public Budget and relationships among the different components of the budgets. It presents the budget by administrative, economic (GFS standard) and functional classification (COFOG standard), and the second volume of the 2023 state budget package also applied a programme classification (it provides 213 programme performance budgets). The second volume is not voted on by the Parliament but is prepared for informational and internal management purposes.

The administrative budget classification system has some anomalies. First, it distinguishes 49 first-level budget organisations, while the number of line ministries and constitutional bodies is only 21. Second, it classifies a large amount of expenditure as simply “general actions”. This line of the budget is considered a “virtual ministry”, with the MoF planning and executing its expenditures. The MoF states that this budget line primarily involves transfers to local governments and to the two funds for social security and health, but budget documents (for both planning and execution) provide no concrete information on the type and

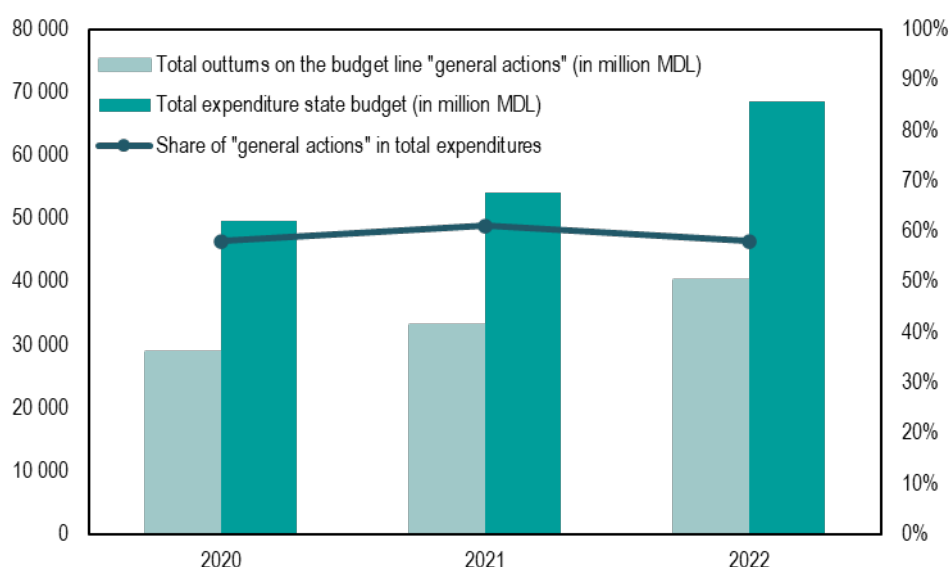
amount of these expenditures.²²³ Given the size of the budget line, this significantly reduces budget transparency (Table 11).

Table 11. Spending on “general actions” and share in total State Budget expenditures

	Total outturns on the budget line “general actions” (in million MDL)	Total state budget expenditures (in million MDL)	Share of “general actions” in total expenditures
2020	28 843	49 635	58%
2021	33 125	54 117	61%
2022	40 126	68 573	58%

Source: Annual Budget Law/ and Report on Execution of the State Budget for 2020, 2021 and 2022

Figure 18. Share of “general actions” in total State Budget expenditure outturns



Source: Annual Budget Law/ and Report on Execution of the State Budget for 2020, 2021 and 2022

Extra-budgetary revenues and expenditures also reduce budget transparency. Subordinated to ministries and central public authorities are numerous self-managed institutions, which receive funds through fees and charges that are not reported in budget documents. The Public Expenditure and Financial Accountability (PEFA) report estimates these flows to be equivalent to roughly 6% of the total state budget.²²⁴

Regarding the budget preparation process, the budget calendar included in the PFBFR Law in conjunction with OMF No. 209/2015 allows budget organisations 30 days to prepare their submissions – from 1 June (issuance of the Budget Circular) until 1 July – but in 2022 the calendar was not complied with, and the

²²³ Only Annex 3/Form 3 of the Annual Budget Law/Report on the Execution of the State Budget only provides information on the breakdown of the allocations from the “general actions” by functions.

²²⁴ PEFA performance assessment report, May 2022, www.PEFA.org.

Circular was not issued until 14 September. As budget proposals for 2023 were to be submitted by 30 September 2022, this gave budget organisations just two weeks to prepare their proposals.

A similar pattern of non-observance of the Calendar is seen in the Parliament's scrutiny of the budget. According to the Budget Calendar, Parliament should be given six weeks to scrutinise the budget, but in 2022 it had only two weeks, receiving the draft budget on 7 December 2022 and adopting it on 22 December 2022.

Budget credibility can be measured as the difference between estimates and outturns (Table 12). In 2022, revenue estimates were conservative, leading to an 18.3% over-collection of revenues. This resulted from higher collections on corporate income tax and on value-added tax (VAT) on imported goods, as well as from a significant surplus in grants Moldova received from international organisations.²²⁵

Table 12. Deviation between budget plans (expenditures and revenues) and outturns

	Planned 2022 (in million MDL)	Actual 2022 (in million MDL)	Deviation
Revenues	50 067	59 248	18.3 %
Expenditures	65 203	68 573	5.2 %

Regarding expenditures, the credibility of aggregate expenditures is reasonable, with a deviation of 5.2% for the 2022 fiscal year, and the PEFA report for 2018-2020 also confirms decent performance on the aggregate credibility of expenditures. At the disaggregated level, however, variations per administrative heading are considerable: for six ministries, outturns were more than 10% higher than planned.

Table 13. Deviations from original budget appropriations, 2022 fiscal year

	Planned in million MDL	Outturns in million MDL	Deviation	
			Absolute	Relative
Ministry of Internal Affairs	3 487	4 435	948	27%
Ministry of Labour and Social Protection	1 526	3 089	1 563	102%
Ministry of Defence	860	992	132	15%
Ministry of the Environment	467	568	101	22%
Ministry of Foreign Affairs and European Integration	453	567	114	25%
Ministry of Economy	193	666	473	246%

A final observation regarding budget credibility relates to the planning of capital projects. Figures for 2021 and 2022 demonstrate that, at the aggregate level, the original budget was to a large extent executed. However, the Government decided in both years to adopt supplementary budgets in the fourth quarter of the fiscal year. Supplementary budgets are normally used to align appropriations with actuals, but the

²²⁵ It received MDL 3 296 million in grants from international organisations in 2022 – MDL 2 084 million (172%) more than estimated. In total, external grants amount to 5.6% of total revenues.

execution rate of the capital budget decreased by more than 25% in 2021 and more than 10% in 2022 because of additional allocations approved by the end of the fiscal year (Table 14).

Table 14. Budget execution rates for capital expenditures (2021 and 2022 fiscal years)

	Original budget (in million MDL)	Revised budget (in million MDL)	Outturn (in million MDL)	Execution rate against original budget	Execution rate against revised budget
2021	1 648	2 257 ²²⁶	1 665	101%	74%
2022	2 662	3 181 ²²⁷	2 241	84%	70%

Aggregate figures for execution of the capital budget mask variations at the disaggregate level. Many investment projects are not adequately prepared before being included in the budget documents, resulting in low execution rates. A new regulation requiring stricter project appraisal procedures was recently adopted to address this shortcoming²²⁸, but capacity constraints in budget organisations' financial and policy functions are hampering its implementation.²²⁹

Conclusion

The budget is prepared using conservative estimates for revenues, which benefits fiscal discipline but reduces the budget's credibility as a reliable policy implementation guide. The non-observance of Budget Calendar deadlines also undermines the credibility of the budget planning process. Although budget documentation is comprehensive and easily accessible, unclear allocations in the "general actions" budget line and the non-reporting of revenues of self-managed entities jeopardise transparency. Progress has been made in regulating capital budgeting, but capacity constraints hinder implementation.

²²⁶ There were three other supplementary budgets in 2021, but the largest capital budget revisions were adopted by Law No. 135 of 14 October 2021.

²²⁷ Law No. 205 of 28 December 2022.

²²⁸ Government Decision No. 684 of 29 September 2022.

²²⁹ According to information from the EU-funded EU TA Project Preparation Facility project.

Principle 3: The ministry of finance (or authorised central treasury authority) centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

Overall, the value of the indicator “Reliability of budget execution and accounting practices” is 5. Strong performance in this principle reflects the proper establishment of – and strict adherence to – a Treasury Single Account (TSA), cash management practices and commitment controls, resulting in only a negligible amount of payment arrears.

Indicator 6.3.1. Reliability of budget execution and accounting practices -						
<p>This indicator measures the quality of cash and commitment management, controls in budget execution and accounting practices. These aspects ensure reliable information on government spending and thus a foundation for management decisions on government funds.</p> <p>Effective cash flow and planning, monitoring, and management of commitments by the treasury facilitate predictability of the availability of funds for budgetary units. Reliable accounting practices that include constant checking and verification of the recording practices of accountants are important to ensure good information for management.</p>						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Presence of a treasury single account (TSA)						2/2
2. Frequency of revenue transfer to the TSA						1/1
3. Frequency of cash consolidation						1/1
4. Credibility of cash flow planning						1.5/2
5. Budget classification and chart of accounts						2/2
6. Frequency of bank-account reconciliation for all central government bank accounts						2/2
7. Availability of data on the stock of expenditure arrears						2/2
8. Expenditure arrears (%)						3/3
Total						14.5/15

The PFBFR Law (Article 62), in conjunction with OMF No. 215/2015, provides the regulatory framework for cash management.²³⁰ This law established a TSA at the National Bank of Moldova, with sub-accounts for budget organisations operating under the National Public Budget (the State Budget, local budgets, the State Social Insurance Budget, and the Mandatory Health Insurance Fund) as well as self-managed public institutions. The MoF has real-time access to the consolidated position of TSA funds. Budget organisations and self-managed institutions are prohibited from opening bank accounts in financial institutions.

To forecast cash needs, the Treasury requires each budget organisation to submit its spending and revenue projections for the full year, broken down by month, within 30 days of approval of the annual budget. At the end of each month, the annual forecast (broken down by month) is updated according to execution of the budget.

Based on the annually approved Budget Law, the MoF releases a budget for the entire year and does not impose any apportionment limits. The MoF enters allocation ceilings into the Treasury system for all budget organisations, which can then plan their expenditures for the whole year. Budget organisations are required to enter commitments into the system and can monitor remaining balances available for new commitments online throughout the year, but the Treasury will not permit a budget organisation to incur a new

²³⁰ OMF No.215/2015 on the Approval of Methodological Norms on the Cash Execution of Component Budgets of the National Public Budget and Extra-Budgetary Funds Through the Single Treasury Account of the Ministry of Finance.

commitment that exceeds the remaining balance of the annual budget appropriation. Non-compliance can be penalised through the Financial Inspectorate.

Moldova generally complies with applicable regulations governing commitment control.²³¹ While the CoA does not highlight regular breaches of commitment controls, the country's low level of payment arrears indicates that commitment controls are being strictly applied. Based on OMF No. 121/2016, information on expired payables (arrears) of the state budget and local budgets is generated monthly. The annual budget execution reports for 2021 and 2022 indicate that the share of overdue debts (arrears) is less than 1% of total non-financial assets and expenditures.^{232, 233}

Conclusion

Through the MoF's Treasury Department, the Government performs well in making funds available to execute the approved budget and in ensuring that no unfunded commitments are made. A legal framework for the various sub-processes is in place and there is no evidence that the applicable regulations are not being followed. As a result, the Government has avoided accumulating expenditure arrears in recent years.

Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected, and debt servicing costs are kept under control.

Overall, the value of the indicator "Quality of public debt management" is 4. Debt planning and reporting are done regularly, and although the debt target was not met, the overall debt level is sustainable. As a small country in an unstable region, with an only partially developed capital market for public securities, Moldova's debt portfolio is exposed to certain risks.

Indicator 6.4.1. Quality of public debt management -						
This indicator measures the procedures and organisation established for the management of public debt and the outcomes achieved, in terms of debt risk mitigation practices, the share of public debt to gross domestic product (GDP), and the difference between public sector debt outturn and target.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Existence of requirements and limitations for borrowing in the legal framework						3/3
2. Existence and minimum content of a public debt management strategy						4/4
3. Clarity of reporting on public debt						4/4
4. Risk mitigation in the stock of public debt						2/6
5. Difference between public sector debt outturn from target (%)						3/3
6. Public debt as a share of GDP (%)						2/2
Total						18/22

The PFBFR Law and Law No. 419/2006 on Public Sector Debt, Government Guarantees and Government Recrediting constitute the legal framework for debt management. This framework authorises the MoF to manage public debt, with ministries and other central government authorities submitting any loan requests

²³¹ PFBFR Law, Article 66, and OMF No. 215/2015, Chapter IV.

²³² 2021 Report on Execution of the State Budget, p. 109, <https://www.mf.gov.md/ro/trezorerie/rapoarte-privind-executarea-bugetului/rapoarte-anuale>.

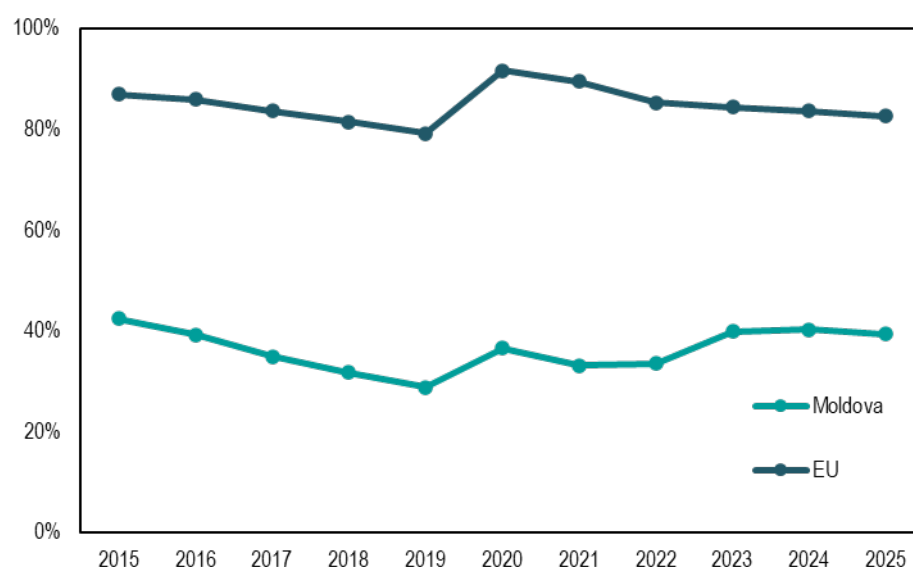
²³³ The PEFA report arrived at the same conclusion for the 2019 and 2020 fiscal years.

to the MoF, which acts as the borrower.²³⁴ The Budget Law imposes limits on the internal state debt, the external state debt, and on the balances of external and internal guarantees of the state.

Every year, the Department of Public Debt prepares a debt management strategy as a Programme on Public Debt for three years on a rolling basis.²³⁵ The programme focuses on “general government” or “state debt” and covers central government, local government (territorial administrative units) and social security funds. The Programme on Public Debt does not set a target for general government or state debt but presents different scenarios for the forthcoming three years, and it includes objectives for various risk parameters only, such as the share of floating-rate debt.

Meanwhile, the MTBF sets aims for general government debt as a share of GDP and for the annual Budget Law in the form of estimates. The target for general government debt in the 2022 Budget Law was exceeded by just 8.4% in the actuals.²³⁶ Indeed, an overview of Moldova’s public debt development since 2015 shows that general government debt has been relatively stable and well below the Maastricht norm of 60% (Figure 19).²³⁷

Figure 19. Development of general government debt, 2015-2023



Annual debt reports, which are prepared within three months of the end of the fiscal year, provide further information on debt development.²³⁸ Coverage of the debt report is broader than the debt programme and includes not only state debt but also National Bank of Moldova and public enterprise debt.

Regarding the fiscal risks of debt liabilities, the MoF closely monitors the debt of local governments (administrative-territorial units) and SOEs. While local governments and SOEs can borrow without prior

²³⁴ The MoF’s Department of Public Debt is mandated to implement the legal framework.

²³⁵ The latest programme was adopted by Government Decision No. 10 of 11 January 2023 on Approval of the Medium-Term State Public Debt Management Programme 2023-2025.

²³⁶ Estimated state debt for 2022 was MDL 103 310 million, and the actual outturn was MDL 94 660 million.

²³⁷ Maastricht debt also covers certain parts of debt owed by SOEs, depending on the nature of the SOE. The Government does not appear apply this definition, as no SOE debt is included in general government debt.

²³⁸ Report on the Situation in the Field of Public Sector Debt, State Guarantees and State Re-credit for the Year 2022, March 2023.

permission of the Government²³⁹, Government Decision No. 1136/2007 requires that both report their debt on a quarterly basis for inclusion in the annual debt management report.

The Department of Public Debt also monitors the risk profile of the debt portfolio, with its annual report including the realised values of various risk parameters and variations from debt programme targets. Comparing Moldova's debt portfolio against good-practice norms reveals that the risk level of its profile exceeds what is considered to be prudent (Table 15). This reflects the country's geographical and macroeconomic situation, much of which is outside of Government control, but another factor is its low domestic capital market development, which limits its capacity to issue MDL-denominated securities. Moldova does not yet issue debt in foreign currency.

Table 15. Risk profile of Moldova's debt portfolio

Risk factor	Good-practice benchmark	Debt programme target
Share of public debt that will mature in one year in total debt	10 %	27.1%
Share of public debt in foreign currency without being hedged	10 %	61.7% ²⁴⁰
Share of floating-rate debt in total debt	10 %	50.3%

Source: Ministry of Finance, Debt Management report, 2022.

Conclusion

Debt is well managed. Moldova has a clear legal framework and complies with it, and the MoF has established an annual programming and reporting cycle that covers general government debt and public debt. Overall debt levels are sustainable and fiscal policy is prudent. However, the debt portfolio profile's risk level is high, due partly to the immaturity of the country's capital markets, which limits options to issue domestic debt securities.

²³⁹ Based on Law No. 419/2006 on Public Sector Debt, State Guarantees and State Re-crediting, and on Law No. 397/2003 on Local Public Finances, administrative-territorial units are allowed to incur debt, but they can contract external loans solely from international financial institutions.

²⁴⁰ The Department of Public Debt does not apply hedging, so this figure represents all external loans.

Principle 5: Transparent budget reporting and scrutiny are ensured.

Overall, the value of the indicator “Transparency and comprehensiveness of budget reporting and scrutiny” is 3. The sub-indicators demonstrate strong performance on in-year budget reports as well as timely preparation of the annual budget execution report and its submission to Parliament. However, shortcomings are observed in the reporting and auditing of SOEs and territorial administrative units (local governments).

Indicator 6.5.1. Transparency and comprehensiveness of budget reporting and scrutiny						
This indicator measures the extent to which the government facilitates external monitoring of the execution of the budget through the publication of relevant information, as well as the credibility of that information and whether it is used effectively to ensure accountability. The degree of budget scrutiny on the basis of the published information is also assessed.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Comprehensiveness of published information						
1. Quality of in-year reports of government revenue, expenditure and borrowing						5.5/7
2. Quality of the annual financial report of the government						3/7
3. Quality of annual reports of state-owned enterprises, extra-budgetary funds and local government						1/5
4. Clarity of national accounting standards and consistency with international standards						1/4
5. Existence of reporting on fiscal risks identified in the budget						1/1
Scrutiny and oversight using published information						
6. Quality of the annual financial reporting on the use of public finances						3/3
7. Timeliness of submission of the SAI report to parliament						2/2
8. Timeliness of parliamentary discussion on the report of the SAI						3/3
Total						19.5/32

Note: *Data not available or not provided.

Budget execution is reported in monthly, semi-annual and annual reports.²⁴¹ Monthly reports present budget execution for the various components of the public sector (the national public budget, the central consolidated budget, the state budget, and SSIB, CHIF and local budgets) according to various classifications. They are generated from the treasury system and present execution figures and deviations from the budget in the current year as well as comparisons with budget execution in the previous year. However, monthly reports do not include commitments and do not analyse deviations from planned execution levels.

Analysis is more comprehensive in the semi-annual reports on execution of the National Public Budget, as these reports contain recent macroeconomic developments and factors requiring budget amendment. In addition to addressing economic and functional classifications, semi-annual reports present analytical details by administrative classification. The 2022 report was prepared by 6 September.

²⁴¹ Reports are accessible through the government website, <https://mf.gov.md/ro/trezorerie/rapoarte-privind-executarea-bugetului>.

The annual Report on Execution of the State Budget (RoESB) is prepared in accordance with the Law on the State Budget for the applicable fiscal year and OMF No. 216/2015 and OMF 44/2018.²⁴² While Moldova has not adopted international accounting standards and does not explain deviations from any of those standards, the annual RoESB provides detailed information on budget execution in cash terms. The balance sheet is less comprehensive, as it includes entries on financial assets but no explanatory notes.

As part of the budget execution reports, budget organisations also prepare programme performance summaries using key performance indicators. While this information is used to inform the narrative report on budget execution and next year's budget proposals, these reports are not published as part of the annual RoESB. Instead, line ministries are responsible for publishing them on their respective websites, although it is not common practice across all ministries. While information on progress in capital projects could be derived from these reports, no single document offers comprehensive oversight in this area.

The CoA audits the annual RoESB, and the audit process complies strictly with the time requirements of the PFBFR Law. The MoF submits the annual report to the CoA before 16 April, and the CoA prepares and submits its audit report by 1 June.²⁴³ In 2022, for the first time, the CoA report was presented (by a CoA board member) at the same plenary session of the Parliament as the annual RoESB.

The regulation on auditing the annual financial statements of Moldova's numerous SOEs is not strictly complied with. Law No. 19/2020 requires that annual financial statements of all SOEs be subject to mandatory external audit.²⁴⁴ Copies of the audit report should be submitted to the Public Property Agency, which maintains the Register of Public Ownership, and the MoF, which monitors the fiscal risks of the SOE sector. However, the latest MoF report on financial monitoring of SOE economic-financial activity (as of the first trimester of 2022) shows that no audited financial statements are available for many SOEs.²⁴⁵ For 2021, from a total of 178 fully state-owned enterprises, the MoF received only 19 audited financial statements. From the 58 joint stock companies in which the state has at least a 51% majority share, the MoF received 24 audit reports.

Local governments are not obligated to prepare annual financial statements. Instead, they report on budget execution to the MoF for the first semester, nine months and annually to the MoF.²⁴⁶ The legislation does not require these reports to be audited, but the CoA is mandated to audit territorial administrative units and their reports on budget execution.²⁴⁷ However, capacity constraints of the CoA restrict its coverage. For instance, in 2022 the CoA audited only 18 local authorities out of 896 tier-1 administrative-territorial units (villages, communes, cities and municipalities) and 35 tier-2 units (regional).

Conclusion

The Treasury system publishes budget execution reports for all components of the National Public Budget monthly, and a more analytical report on budget execution semi-annually. The annual report focuses on budget execution and includes details on financial balance sheet items. Meanwhile, CoA audits of the central government are prepared in a timely manner and are receiving increasing attention by the

²⁴² OMF No. 216/2015 on the Chart of Accounts in the Budgetary System and Methodological Norms on Accounting and Financial Reporting in the Budgetary System.

OMF No. 44/2018 on Structure, components and the format of forms to Annual report of execution of state budget.

²⁴³ The CoA received the annual report for the 2021 fiscal year on 15 April 2022 and the annual report for the 2022 fiscal year on 14 April 2023. The CoA report on the 31 December 2021 RoESB was published on 30 May 2022.

²⁴⁴ Law No. 19 of 20 February 2020 is an amendment of Law No. 246 of 22 November 2017 on the State Enterprise and Municipal Enterprise.

²⁴⁵

<https://mf.gov.md/sites/default/files/documente%20relevante/Nota%20monit%20sem.%20I%202022%20Stiharu.pdf>

²⁴⁶ Based on Article 74 of the PFBFR Law, Article 31 of Law 397/2003 on local public finances, administrative-territorial units and Article 38 of Law No. 113/2007 on accountancy.

²⁴⁷ Based on Law 260/2017 on the organisation and functioning of the Court of Accounts of Republic of Moldova.

Parliament. However, audits of the SOE sector and local government are not carried out frequently and are insufficient to ensure accountability on the use of public funds.

Internal control and audit

Principle 6: The operational framework for internal control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and the public administration in general.

Overall, the value of the indicator “Adequacy of the operational framework for internal control” is 4. The legal framework, regulations and supplementary guidance for implementing and maintaining systems of internal control are adequate. Additionally, an Action Plan for Internal Control Development 2023-2026 has been prepared to address weaknesses highlighted in the PFM Strategy 2023-2030, but the action plan was just developed in 2023 and has not yet been formally approved.

Indicator 6.6.1. Adequacy of the operational framework for internal control						
This indicator measures the extent to which the operational framework for internal control (financial management and control) is established, in terms of policy and strategic content, the regulatory framework, and adequate review and reporting mechanisms.						
A separate indicator measures the implementation of the operational framework for internal control.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Existence of policy for the development of internal control						3/6
2. Completeness of the regulatory framework for internal control						4/5
3. Comprehensiveness and regularity of the annual review and reporting on internal control						5/5
Total						12/16

Note: SIGMA has revised the 2019 Methodological Framework and removed the sub-indicator on alignment between national budget management and control systems and those for EU-funded programmes.

The Law on Public Internal Financial Control (PIFC) sets out the legal requirements for decentralised managerial accountability and for implementing and maintaining internal control systems within public sector entities.²⁴⁸ This legislation applies to managers of all general government organisations, including local self-government, responsible for implementing and maintaining systems of internal control in line with the National Standards on Internal Control²⁴⁹ (NSIC). The PIFC Law and the NSIC are consistent with internationally recognised frameworks for internal control, and they both include specific provisions for delegating decision-making authority in central government organisations. Implementing and co-ordinating internal control development is the responsibility of the MoF’s PIFC Policy Division (the CHU), which also issued a manual for managers of public entities on implementing internal control, taking the NSIC into account.²⁵⁰

The regulatory framework at the primary and secondary levels is adequate. However, the CHU does not conduct further analysis on legal provisions or reforms that might affect the implementation and development of internal control.

²⁴⁸ Law No. 229 of 23 September 2010 on Public Internal Financial Control.

²⁴⁹ OMF No. 189 of 5 November 2015 on the Approval of National Standards on Internal Control in the Public Sector.

²⁵⁰ PIFC Policy Division (2020), Manual on Managerial Internal Control, Chisinau.

While no strategy or detailed action plan for internal control development was in place in 2022, policy in this area is now guided by the PFM Reform Strategy 2023-2030, which contains medium- and long-term priorities and objectives to strengthen internal control.²⁵¹ Based on shortcomings in current internal control arrangements, the Strategy's priorities and objectives offer a clear pathway for further policy development and targeted interventions in internal control. The focus is on strengthening delegated managerial accountability as well as risk management arrangements, monitoring and reporting, and on increasing internal control skills, competences and awareness among managers and civil servants. The CHU has further detailed the Strategy's managerial objectives for internal control in an action plan, the PIFC Programme for 2023-2026. While this programme is aligned with the Strategy's general objectives, it has not yet been formally approved.

The CHU also provides the Government with a comprehensive annual review of internal control implementation in the annual Consolidated Report on Public Internal Financial Control, which is based on reports provided by all public sector institutions obligated to do so (these reports present information on NSIC compliance). The Government issues conclusions and decisions based on the Consolidated Report and communicates them transparently by publishing them on its website and in the Official Gazette.²⁵² Public sector institutions are required to take appropriate action based on the Government's conclusions and decisions.

Conclusion

The legislative framework for internal control is clear and complete, although no analysis has been conducted of other laws that might affect the development of internal control. Provisions for internal control in the PIFC Law, the NSIC and related guidance align with internationally recognised frameworks, and a strategy is also in place to address weaknesses in internal control, although the supporting action plan has not yet been approved.

²⁵¹ PFM Reform Strategy 2023-2030, Component 4, Public Internal Financial Control.

²⁵² Government Decision No. 97 of 28 June 2023 on the Consolidated Annual Report on Public Internal Financial Control for 2022, Article 549, Official Gazette No. 220-222 of 29 June 2023.

Principle 7: Each public organisation implements internal control in line with the overall internal control policy.

Overall, the value of the indicator “Functioning of internal control” is 1. Implementation of delegated managerial accountability and risk management arrangements has been limited, and low managerial awareness as well as a lack of capacity and commitment also hamper the implementation of internal control arrangements.

Indicator 6.7.1. Functioning of internal control						
This indicator measures the extent to which internal control systems are implemented in practice within the budget organisations and between ministries and their subordinate organisations, and the immediate results in terms of improved managerial accountability and governance arrangements between ministries and subordinated bodies.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Number of first-level budget organisations that are neither ministries nor constitutional bodies						1/3
2. Alignment between management and budget structures (%)						3/3
3. Credibility of controls for avoiding commitments above the expenditure ceilings						2/2
4. Availability of reporting of total cost and physical progress of major investment projects						1/2
5. Effectiveness of basic managerial accountability mechanisms for central government bodies						0/4
6. Delegation of decision-making authority within ministries						0/4
7. Regularity and completeness of risk management practices						0/3
8. Existence of reporting on irregularities						0/2
Total						7/23

Several fundamental aspects of internal control are in place. Allocation of the budget to first- and second-line management levels is logical and structured, and credible controls have been introduced to avoid commitments above established expenditure ceilings.²⁵³ However, in several areas the implementation of internal control is not in line with requirements of the PIFC Law or the NSIC, nor with EU good practices. The internal control deficiencies identified match those mentioned in the public administration reform (PAR) Strategy 2023-2030.

Key to adequate implementation of internal control is delegated managerial accountability. Basic managerial accountability mechanisms for subordinated government bodies that report to parent ministries are functioning poorly, with limited co-ordination of planning, monitoring and reporting. Mechanisms for systematic performance monitoring and reporting on measurable outcome objectives are often not in place and the emphasis is on output indicators in annual plans and reports, instead of on gathering and analysing information on outcomes and performance linked to specified, measurable objectives. Delegation of decision making within public sector entities is also limited. Operational decisions that could easily be delegated to lower-level management often need ministerial approval (e.g. business trips and annual leaves).

Risk management within public sector entities is another key area in which performance is inadequate for effective implementation of internal control, as it is not yet common practice to embed risk identification, risk assessments and risk responses into managerial processes. When risks are registered or documented, and risk mitigation plans developed and maintained, it is mostly done by a designated unit such as the planning department. Regular updating of risk registers and risk mitigation plans, involving all

²⁵³ The 2022 PEFA performance assessment report gives Moldova an “A” for effectiveness of expenditure commitment controls (PI-25, II).

management levels and connecting risk management process outputs to reporting and managerial decision making, is not yet common practice. The absence of clear, measurable objectives and related performance indicators, as well as poor understanding of risk management by public sector managers, hampers the development of effective risk management arrangements.

Public sector entities do not have their own specific regulations or procedures in place to deal with reporting on irregularities. Most agencies in the assessment's sample group refer to the overarching government regulation on examination procedures and internal reporting on irregularities.

Interviews conducted with representatives of five sample public entities revealed that limited capacity, high staff turnover, low motivation and lack of awareness and commitment adversely affect implementation of the requirements set by national legislation and regulations. Also, interviews clarified that key second-line processes such as planning, budgeting, control and monitoring often operate with limited horizontal co-ordination and co-operation.

Conclusion

Although legislation for internal control is well developed, implementation is lagging. Key aspects for adequate functioning of internal control – such as delegation of decision making and risk management – are deficient. Irregularity management and reporting are also weak, as no clear procedures are in place for public sector entities. Furthermore, limited capacity awareness and commitment hamper the implementation of efficient internal control systems.

Principle 8: The operational framework for internal audit reflects international standards, and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

Overall, the value of the indicator “Adequacy of the operational framework for internal audit” is 4, as Moldova’s regulatory framework and NIAS are aligned with international standards. However, internal audit units have significant staffing shortages and no approved action plan is in place to develop the internal audit system.

Indicator 6.8.1. Adequacy of the operational framework for internal control						
This indicator measures the extent to which the operational framework for internal audit (IA) has been established, assessing the adequacy of the regulatory framework, the institutional set-up, and co-ordination and quality assurance mechanisms.						
A separate indicator measures the implementation of the framework and the results achieved.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Adequacy of the regulatory framework for internal audit						5/5
2. Organisational capacity for internal audit						3/5
3. Co-ordination, development and guidance of the internal audit system						4/5
4. Existence of a system for quality assurance for internal audit						1/3
Total						13/18

The PIFC Law contains general requirements for establishing the internal audit function in the public sector, stating that internal audit units must be introduced in central government ministries, the National Office of Social Insurance, the National Company for Medical Insurance and some local public authorities (district councils).²⁵⁴ While public entities subordinate to ministries are not required to establish an internal audit

²⁵⁴ PIFC Law article 19(1)

unit²⁵⁵ they are required to have internal audit performed by their own internal audit unit or the unit of the higher hierarchical body (the ministry).²⁵⁶ The PIFC law also outlines the CHU's internal audit role and asserts that managers of public sector entities are responsible for establishing internal audit units in line with the NIAS. PIFC Law and NIAS requirements conform with internationally accepted Institute of Internal Auditors standards.²⁵⁷

Furthermore, the PIFC Law and the NIAS cover internal audit fundamentals such as independence and objectivity, reporting arrangements, organisational and performance requirements, and a Code of Ethics. In addition, a certification process for the professional development of internal auditors is in place and functioning. Based on the NIAS, the CHU has provided internal auditors further guidance in the form of an internal audit manual.

However, while internal audit units have been set up in all public sector entities as required by the PIFC Law, only 76 of the 131 central and local-level units that have or should have been established and operating are actually functional.

Also, while all internal audit units have developed an entity-specific audit charter describing their key fundamental audit roles and responsibilities in relation to the organisation, these units are severely understaffed. According to the PIFC Law, internal audit units at the central government level should have at least three filled positions, and for local government entities there should be two. Only 33% of central government agencies and 9% of local government bodies currently comply with these requirements. Additionally, several units have no staff at all. Overall, just 51% of internal audit posts are filled, with government-wide restructuring in 2017-2018 and low internal auditor salaries being blamed for the inadequate number of internal auditors.

Table 16. Internal audit unit staffing

	Public entities with internal audit established as per legal requirements	Number of internal auditors according to systematisation	Actual number of internal auditors 31 December 2022	Percentage of internal audit positions filled	Percentage of national minimum staffing requirement 31 December 2022
Ministries and other central bodies	100	207	113	55%	33%
Local government authorities	31	55	21	38%	9%

Source: Consolidated Report on Public Internal Financial Control, 2022.

At the end of 2022, roughly one-third of active internal auditors were in possession of a national MoF-issued certificate. The CHU has developed an extensive training programme that is offered annually, and an internal and external quality assurance system is in place, with corresponding guidance. The CHU also carries out external quality assessments, but due to its limited capacity only three were conducted in 2022.

In 2023, the PFM Reform Strategy 2023-2030 became the guide for internal audit development policy.²⁵⁸ Its medium- and long-term priorities and objectives to strengthen the internal audit system reflect current functional shortcomings and trace a clear pathway for further development of internal audit capacity, skills and quality.

²⁵⁵ PIFC Law article 19(2)

²⁵⁶ PIFC Law article 19(7)

²⁵⁷ The Institute of Internal Auditors' mandatory international standards for internal audits consist of statements of basic requirements for the professional practice of internal auditing and for evaluating the effectiveness of its performance.

²⁵⁸ PFM Reform Strategy 2023-2030, Component 4, Public Internal Financial Control.

The PIFC Programme for 2023-2026, developed by the CHU, further specifies internal audit strategy objectives. This programme aligns with the Strategy's general objectives, although it has not yet been formally approved.

The CHU also provides the Government with a comprehensive annual review of internal audit in the annual Consolidated Report on Public Internal Financial Control, which consolidate data from the reports of all public sector institutions required to have internal auditing in place, as well as information on NIAS compliance. The Government issues conclusions and decisions based on the Consolidated Report and communicates them transparently by publishing them on the Government website and in the Official Gazette. Again, public sector institutions are required to take appropriate action according to government conclusions and decisions.

Conclusion

The legislative framework for internal audits is well defined. National Internal Audit Standards are in place and aligned with internationally recognised (Institute of Internal Auditors) standards, and related guidance and training have been developed to support internal audit implementation. However, internal audit units are significantly understaffed. Additionally, the CHU undertakes only a limited number of external quality assessments and only one-third of active internal auditors are certified.

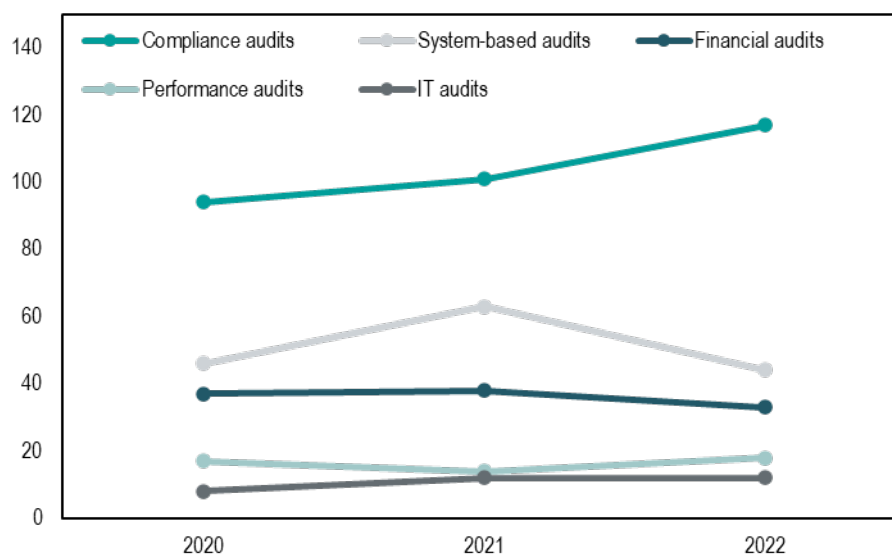
Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents, as appropriate to the organisation.

Overall, the value of the indicator "Functioning of internal audit" is 2. The quality of audit reports is reasonable, but audit planning is weak. Additionally, the low implementation rate of recommendations limits the impact of internal audits.

Indicator 6.9.1. Functioning of internal audit						
This indicator measures the extent to which internal audit is implemented and whether activities effectively contribute to improved management of public finances within the budget organisations.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Strength of planning of internal audit in budget organisations						0/7
2. Quality of audit reports						5/6
3. Follow-up and implementation of audit recommendations (%)						2/3
Total						7/16

Regarding strategic and annual planning by internal audit units, only 38% of operational units supplied the CHU with a strategic audit plan at the end of 2022 and only 70% provided an annual plan. The quality of both these plans varies significantly depending on the entity: while some are well elaborated and accompanied by a comprehensive risk analysis, others are very limited and contain just a shortlist of planned audits for the upcoming year, with little or no additional information. Audits included in the strategic and/or annual plans of the public entities sampled were mainly (45%) compliance-orientated in 2022 (Figure 20).

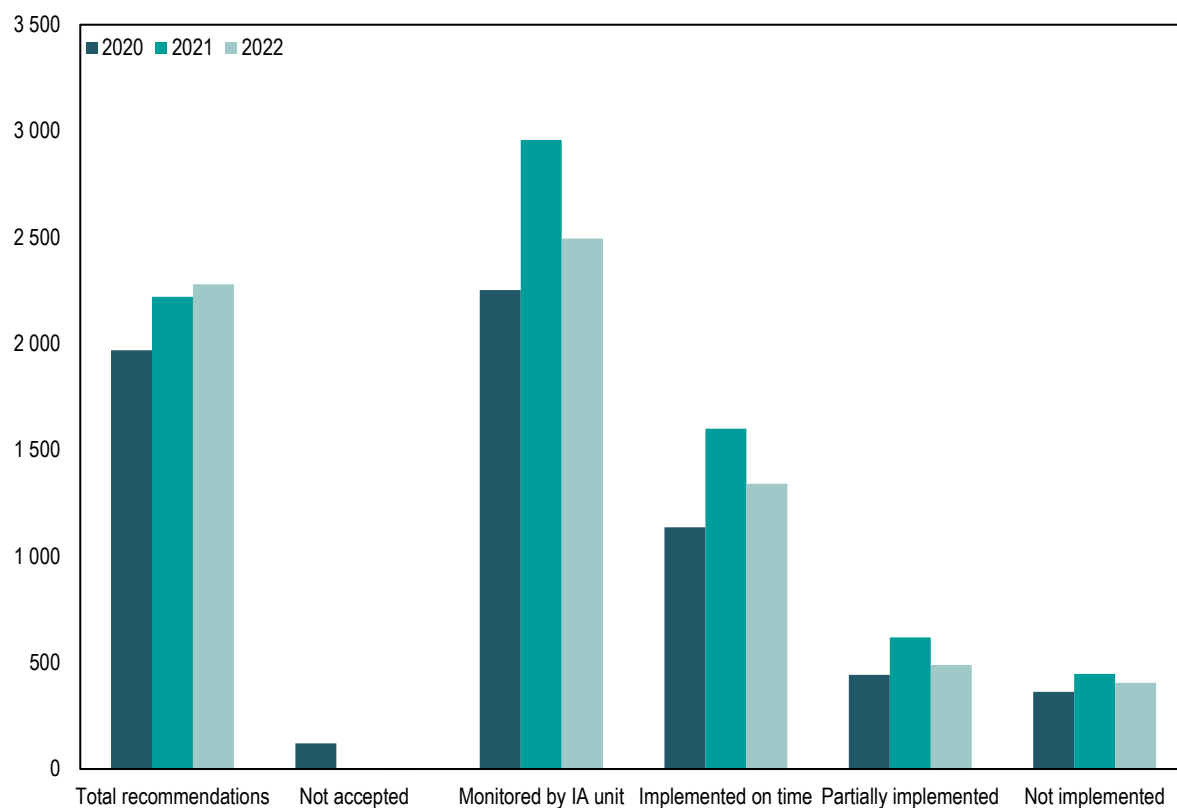
Figure 20. Types of audits undertaken, 2020-2022



Source: Consolidated Report on Public Internal Financial Control, 2022.

The quality of internal audit reports reviewed for this assessment was generally sufficient, with most of the sample reports being horizontal audits of government integrity. They were part of the first government-wide horizontal internal audit to be undertaken, following up on a risk assessment and discussions with senior management. Experts from the Dutch Ministry of Finance Academy offered support, and the audits followed a fixed format in approach and reporting. Reports from this horizontal audit, as well as the other audits we assessed, were aligned with NIAS requirements and CHU guidance. All the reports contain recommendations addressing management responsibilities.

Arrangements to follow up on internal audit recommendations are generally in place, and all functional internal audit units verified implementation of their recommendations. Around 55% of recommendations were implemented in the year in which they were reported (Figure 21).

Figure 21. Audit recommendation implementation, 2020-2022

Note: IA = internal audit.

Source: Consolidated Report on Public Internal Financial Control, 2022.

Due to understaffing, internal audit units are able to cover only a limited portion of an entity's potential audit areas. This reduces the impact of the internal audit function in public sector entities, as does the focus on compliance audits and the overall insufficient number of performance audits conducted.

Conclusion

Internal audit units' strategic and annual planning do not meet NIAS requirements. The completeness and quality of strategic and annual plans are inadequate and not always based on solid risk analysis. While the quality of audit reporting is reasonable, the implementation of recommendations is still relatively low. Understaffing also reduces the impact of the internal audit function.

Public procurement

Principle 10: Public procurement regulations (including public private partnerships and concessions) are aligned with the European Union *acquis*, include additional areas not covered by the *acquis*, are harmonised with corresponding regulations in other fields, and are duly enforced.

Overall, the value of the indicator “Quality of legislative framework for public procurement and PPPs/concessions” is 4. This high score is mainly based on strong alignment of Moldova’s national legislation with EU Public Procurement Directives²⁵⁹ (EU Directives), except for the EU Defence and Security Procurement Directive.²⁶⁰ There were significant delays in adopting secondary legislation and establishing a key institution, however.

Indicator 6.10.1. Quality of legislative framework for public procurement and PPPs/concessions						
This indicator measures the quality of the legislative framework for public procurement and public-private partnerships (PPPs)/concessions, above and below EU thresholds. Opportunities for participation of small and medium-sized enterprises (SMEs) in public procurement are assessed, as well as whether practical measures are taken to allow proper implementation of the legislation. The other indicators in the public procurement area analyse the actual implementation of laws and regulations and the results thereof.						
2023 indicator value	0	1	2	3	4	5
Compliance of public procurement legislation with the <i>acquis</i> above EU thresholds						
1. Level of alignment of public procurement legislation with the EU Directives					3/6	
2. Scope of public procurement legislation					4/6	
3. Public procurement procedures					4/4	
4. Publication and transparency					5/5	
5. Choice of participants and award of contracts					3/5	
6. Availability of procedural options					4/4	
Public procurement procedures below EU thresholds						
7. Advertising of public procurement procedures					3/3	
8. Contract award procedures					7/7	
Opportunities for participation of SMEs in public procurement						
9. Opportunities for participation of SMEs in public procurement					4/5*	
Availability of measures for the practical application of the legislative framework						
10. Availability of measures for the practical application of the legislative framework					1/5	
Quality of legislation concerning PPPs/concessions						
11. Coverage of legislation on PPPs/concessions					2/2	
12. Value for money, free competition, transparency, equal treatment, mutual recognition and proportionality for PPPs/concessions					6/8	
Total					46/60	

Note: *Data not available or not provided.

²⁵⁹ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement and Repealing Directive 2004/18/EC and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on Procurement by Entities Operating in the Water, Energy, Transport and Postal Services Sectors and Repealing Directive 2004/17/EC.

²⁶⁰ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the Co-ordination of Procedures for the Award of Certain Works Contracts, Supply Contracts and Service Contracts by Contracting Authorities or Entities in the Fields of Defence and Security, and Amending Directives 2004/17/EC and 2004/18/EC.

Legislation in the field of public procurement consists of two laws²⁶¹ and more than 20 acts of secondary and tertiary legislation. Procurement legislation reflects the fundamental principles of transparency, non-discrimination and equal treatment. It aims to transpose the EU Directives in both the public and utilities sectors and, except for some minor deviations, displays a high level of compliance with the EU *acquis*.

The scope of the legislation is defined in accordance with relevant provisions of the EU Directives and covers the awarding of contracts both above and below the EU thresholds. All procurement procedures and tools for electronic and aggregated procurement provided for in the EU Directives are adequately regulated. The legislation also includes specific provisions for preventing corruption and conflicts of interest. Contracting authorities and entities publish all notices and tender documentation in the electronic MTender system²⁶²/Public Procurement Bulletin.²⁶³ Exclusion grounds and selection criteria are largely aligned with those of the EU Directives. The choice of most economically advantageous tender as the contract award criterion also conforms with EU legislation.

However, some inconsistencies with the EU *acquis* persist. For instance, the list of excluded contracts under Law No. 131/2015 on Public Procurement (the PPL) exceeds the exclusions allowed by Directive 2014/24/EU, and it exempts contracts awarded by the National Bank for printing banknotes and stamping coins, contracts for printing ballot papers and other election materials, and contracts for purchasing drugs and para-pharmaceuticals for university pharmacies.

Furthermore, the “list of banned economic operators” overlaps with other grounds for exclusion and may generate an automatic exclusion effect for some economic operators, which is generally prohibited by EU law. Some exclusion grounds foreseen in the EU Directives, such as those referring to situations in which “the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract” or has been “guilty of serious misrepresentation in supplying the information” have not been properly transposed into national legislation and therefore allow excessively broad application of the exclusion criteria.

Although primary legislation requires the timely adoption of implementing legislation and the establishment of relevant institutions, significant delays have occurred in practice. In fact, adoption of some acts of secondary legislation has been delayed for several years²⁶⁴ or is even still pending.²⁶⁵ Although the government decision establishing the NASC²⁶⁶ was published eight months after the PPL entered into force, the NASC became operational only much later.²⁶⁷

²⁶¹ Law No. 131 of 3 July 2015 on Public Procurement, Official Gazette No. 197-205, 31 July 2015, with later amendments (in force from April 2016); and Law No. 74 of 21 May 2020 on Procurement in the Energy, Water, Transport and Postal Services Sectors, Official Gazette No. 153-258, 26 June 2020, with later amendments (in force from June 2021).

²⁶² Operated by the Centre for Information Technologies in Finance (the information systems operator in the MoF’s field of public finance), <https://mtender.gov.md/tenders>.

²⁶³ Part of MTender and also published by the PPA on its website in the BAP Archive, <https://tender.gov.md/ro/bap>.

²⁶⁴ E.g. Government Decision No. 778/2020 on Approval of the Regulation Regarding the Drawing Up and Keeping of the Public Procurement File; Government Decision No. 694/2020 on Approval of the Regulation on the Framework Agreement, as a Special Method of Awarding Public Procurement Contracts; MoF Order No. 105/2020 on Approval of the Instruction Regarding the Manner, Conditions and Procedure for Organising and Conducting the Market Consultation in Order to Prepare the Public Procurement.

²⁶⁵ E.g. government decisions for establishing the manner of conducting public procurement through restricted procedures, competitive dialogue and innovation partnership.

²⁶⁶ Government Decision No. 271 of 15 December 2016 on the Establishment, Organisation and Functioning of the National Agency for Solving Complaints, Official Gazette No. 478-490, 31 December 2016, with later amendments (in force from December 2016).

²⁶⁷ September 2017.

Furthermore, the EU Defence and Security Procurement Directive has not been transposed and, except for some specific cases, the relevant contracting authorities must apply the general regime of the PPL.

The awarding of concessions and PPPs is governed by two separate laws²⁶⁸ that overlap and therefore create confusion regarding their respective scope of application. Even though the laws reflect the general principles of transparency, equal treatment and non-discrimination, they do not cover entities in the utilities sector and do not transpose some crucial requirements of the EU Concessions Directive²⁶⁹ on estimated value, mixed concessions, the use of Common Procurement Vocabulary and the obligation to inform tenderers of the contracting authority's grounds for decisions.

Conclusion

The legal framework for public procurement is largely aligned with EU Directives, but harmonisation with the *acquis* is not yet complete and requires further action. The legal framework for concessions and PPPs requires modernisation to ensure full alignment with the EU Concessions Directive, and the EU Defence and Security Procurement Directive remains to be transposed. Secondary legislation and relevant central institutions are in place, although there have been implementation delays.

²⁶⁸ Law No. 121 of 5 July 2018 on Works and Services Concessions, Official Gazette No. 309-320, 17 July 2018, with later amendments (in force from January 2019), which aims to transpose Directive 2014/23/EU; and Law No. 179 of 10 July 2008 on Public-Private Partnerships, Official Gazette No. 165-166, 2 September 2008 as recently amended by the Law No. 193 of 14 July 2023.

²⁶⁹ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the Award of Concession Contracts.

Principle 11: There is central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

Overall, the value of the indicator “Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently” is 3. The institutional framework is well established, but the performance of key institutions raises concerns. A new strategy to develop the public procurement system has been approved. The quality of public procurement data monitoring is affected by limitations and technical shortcomings of the electronic MTender system.

Indicator 6.11.1. Central institutional and administrative capacity to develop, implement and monitor public procurement policy effectively and efficiently						
This indicator measures to what extent public procurement policy is systematically developed, implemented and monitored, how central public procurement functions are distributed and regulated, and to what extent the preparation and implementation of policies is open and transparent.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Quality of the policy framework for public procurement						
1. Quality of the strategy for development of public procurement and PPPs/concessions						3/5
2. Quality of the operational action plan						5/5
3. Implementation of the strategy and the action plan (%)						0/5
4. Monitoring of strategy implementation						0/5
Capability of central procurement institutions and their performance						
5. Adequacy of the legal framework to ensure capable institutions						10/10
6. Clarity in definition and distribution of central procurement functions in the legislation						10/10
7. Performance of the institutions involved, their capacity and resources						8/20
Capability of central procurement institutions and their performance						
8. Presence and quality of monitoring and data collection						0/10
9. Accessibility of public procurement data						4/10
Total						40/80

The MoF's Public Procurement Directorate is responsible for defining public procurement policy, drafting legislative acts and co-operating with international institutions, including co-ordination with the EU.

While the previous public procurement Strategy (2016-2020) expired three years ago, the MoF has launched an initiative to develop a new strategy. The National Programme for Development of the Public Procurement System for 2023-2026 and its Action Plan²⁷⁰ were approved by the Government in August 2023.²⁷¹

Another key institution is the PPA, entrusted with monitoring, analysis, advisory and operational support, training and professionalisation activities. Moreover, the PPA maintains the official public procurement

²⁷⁰ Based on the general description of a number of mid- and long-term priority directions, provided in Component 6 of the Strategy for the Development of Public Finance Management for 2023-2030, approved by the Government in February 2023.

²⁷¹ Government Decision No. 625 of 30 August 2023 on Approval of the National Programme for Development of the Public Procurement System for 2023-2026

website, including publication of the Public Procurement Bulletin. Due to the lack of an appropriate legal basis in the legislation, the PPA has no power to monitor procurement procedures in the utilities sector, and no other institution is vested with this competence. For public sector procurement, the PPA checks just a very small number of procedures and may issue recommendations only to correct irregularities. Low-value contracts are not monitored.²⁷²

Although Public Procurement Directorate and PPA attributions are generally well defined, both institutions are understaffed. In the Public Procurement Directorate, only 6 of 12 positions are occupied.²⁷³ Similarly, following high staff turnover in recent years, the PPA has lost qualified employees and is having trouble hiring others with appropriate skills.²⁷⁴ Currently, only 17 of the 25 positions in its organisational chart are filled, impairing the PPA's efficiency in activities such as monitoring and professionalisation.

In the area of concessions/PPPs, the Ministry of Economy is responsible for policy regulation and implementation, while the Public Property Agency approves feasibility studies and carries out consultancy and publication activities. In 2022, no concessions/PPP contracts were awarded.

Indicative notices for potential procurement procedures and contract and award notices are published on the electronic MTender system. MTender's Public Procurement Bulletin allows procurement procedures to be identified based on several queries, including Common Procurement Vocabulary and unique organisation ID.²⁷⁵ However, MTender does not allow for the publication of annual procurement plans. Contracting authorities must publish them on their own websites, but it is difficult to monitor how well they comply with this obligation.

Meanwhile, the PPA publishes the titles, values and dates of concluded contracts, the names of the contracting authorities and contractors, and modifications to contracts, when applicable.²⁷⁶

Although some improvements have been made to the MTender site, users do not perceive it as a user-friendly electronic system.²⁷⁷ The mechanism for collecting information for publication is complicated and does not contain features for generating templates (e.g. for contract and award notices or intermediary and final reports of procurement procedures). Contracting authorities must prepare all documents manually, then upload them into the system. Since many documents downloaded from MTender are not machine readable, the PPA must process the data manually for collection purposes and to produce its annual monitoring reports. Moreover, since MTender cannot generate all suitable types of statistical reports, the PPA must use its own internal software to do so.

Conclusion

While the central institutions are functional, their capacity is weak, and adoption of the new strategy for the public procurement system has been significantly delayed. The MTender system has increased public procurement transparency, but its technical shortcomings do not allow for easy data collection and instead create additional burdens for the PPA and contracting authorities.

²⁷² The new Government Decision No. 870 of 14 December 2022 for the approval of the Regulation on low-value public procurement provides the PPA with the task to monitor low value contracts, but it has entered into force only in July 2023

²⁷³ Data provided by the MoF.

²⁷⁴ Data provided by the PPA.

²⁷⁵ <https://mtender.gov.md/tenders>.

²⁷⁶ <https://tender.gov.md/ro/contracte-atribuite>.

²⁷⁷ According to SIGMA interviews, May 2023.

Principle 12: The remedies system is aligned with the European Union *acquis* standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

Overall, the value of the indicator “Independence, timeliness and competence of the complaints handling system” is 4. This score results mainly from the high level of alignment of Moldova’s legislation with the EU Remedies Directives²⁷⁸ and strong NASC capacity to deal with appeals. However, time limits for submitting appeals are not fully harmonised with the EU *acquis* and no legal provisions grant the right to claim damages in the event of illegal actions of contracting authorities/entities.

Indicator 6.12.1. Independence, timeliness and competence of the complaints handling system						
This indicator measures the effectiveness of the system for handling complaints on public procurement. First, the quality of the legislative and regulatory framework is assessed, specifically in terms of compliance with EU Directives. Then, the strength of the institutional set-up for handling complaints is analysed. Next, the actual performance of the review system is measured. Finally, the performance of the remedies system for PPPs/concessions is evaluated.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Legislative mechanisms for handling complaints in compliance with EU Directives						
1. Right to challenge public procurement decisions						3/5
2. Time limit for challenging decisions taken by contracting authorities/entities						0/2
3. Transposition of mechanisms to avoid ineffectiveness of contracts and impose penalties						3/3
4. Mechanisms to ensure implementation of the review body’s resolutions						2/2
5. Right to challenge decisions of the review body						3/3
Institutional set-up for handling complaints						
6. Legal provisions ensure the independence of the review body and its members						7/7
7. Adequacy of the organisational set-up and procedures of the review body						4/4
8. Public availability and timeliness of data on the review system						3/4
Performance of the review system						
9. Fairness of fee rates for initiating review procedures						3/3
10. Actual processing time of complaints						3/3
11. Complaint submission in practice						4/4
12. Quality of decision making by the review body						4/4
13. Cases changed or returned after verification by the court (%)						2/2
Performance of the remedies system in PPPs/concessions						
14. Right to challenge lawfulness of actions/omissions in PPP/concessions procedures						3/5
15. Legal provisions ensure independence of the review body for PPPs/concessions and its members						5/5
16. Timeliness and effectiveness of complaints handling system for PPPs/concessions						2/5*
Total						51/61

Note: *Data not available or not provided.

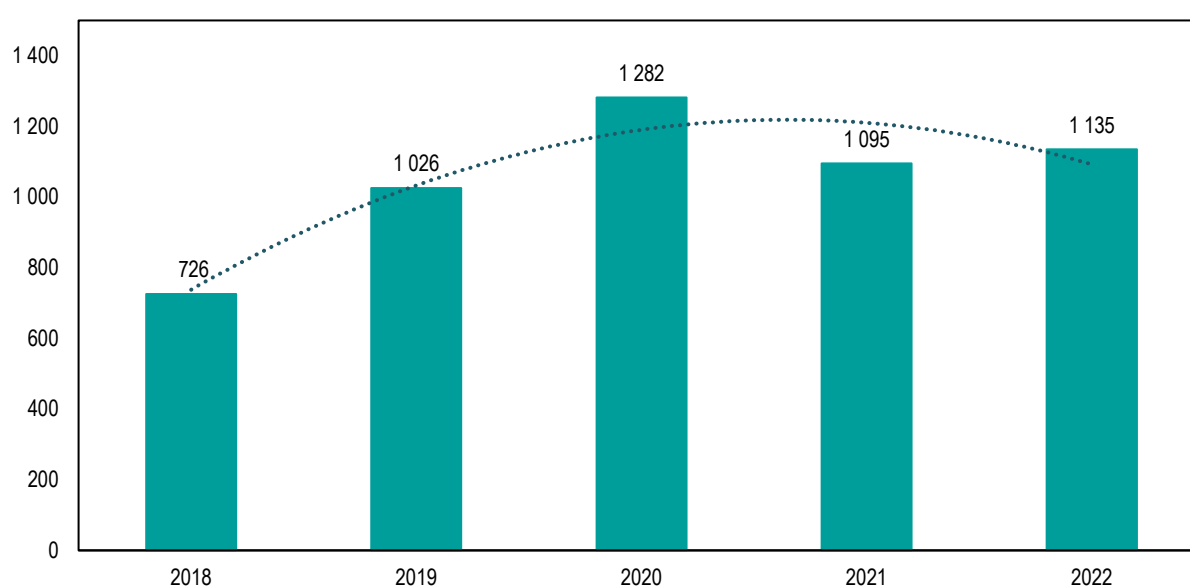
²⁷⁸ Directive 89/665/EEC on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Review Procedures to the Award of Public Supply and Public Works Contracts [1989] OJ L395/33, as amended; and Directive 92/13 on the Co-ordination of the Laws, Regulations and Administrative Provisions Relating to the Application of Community Rules on the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Telecommunications Sectors [1992] OJ L76/7, as amended.

Review procedures are regulated in Chapter X of the PPL (also applicable for procurement in the utilities sector) and Chapter VI of Law No. 121/2018 on Works and Services Concessions.

All economic operators having or having had an interest in obtaining a contract, regardless of its value²⁷⁹ and type of procedure, have the legal right to challenge decisions taken by contracting authorities/entities. For high-value contracts²⁸⁰, the time limit for challenging decisions is, as a rule, ten days from the moment the circumstances justifying the appeal become known. However, an appeal relating to acts of a contracting authority/entity prior to tender-opening cannot be submitted after the deadline for submission of tenders. Consequently, for clarifications regarding tender documentation, the time limit may sometimes be shorter than that required by the EU Remedies Directives.

Economic operators can submit appeals online²⁸¹, and no fees are required to initiate review proceedings.

Figure 22. Number of complaints submitted by economic operators, 2018-2022



Source: 2022 NASC Report, p. 6.

The standstill period and the mechanisms for ensuring the ineffectiveness of contracts as well as alternative penalties align with the requirements of EU law. However, although Moldovan law ensures the review body's right to suspend the public procurement procedure until conclusion of the review process²⁸², it does not specify the right to claim damages for illegal actions of contracting authorities/entities.

NASC is a first-instance review body for both procurement and concessions procedures. It has legal personality and a separate budget, is independent from the Government and accountable only to the Parliament. It consists of seven members, including a General Director. The Parliament appoints all NASC members for a seven-year non-renewable term, with their selection based on open and transparent

²⁷⁹ Above the national thresholds. For instance, Law No. 131/2015, Article 2, paragraph (1), sets the national thresholds at ~EUR 10 500 for supplies and services, and ~EUR 13 000 for works.

²⁸⁰ Law No. 131/2015 on Public Procurement, Article 2 (3).

²⁸¹ https://www.ansc.md/ro/depunere_contestatie.

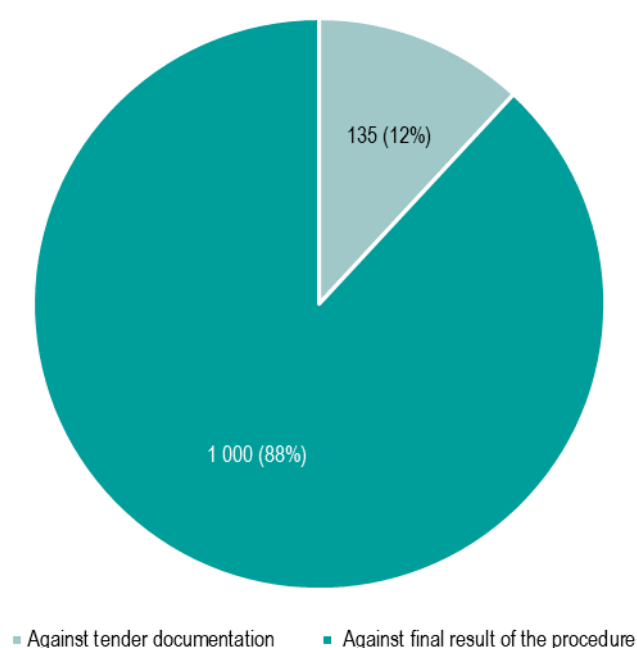
²⁸² In practice, the requirement to simultaneously enact a suspension through MTender hinders suspension of an awarding procedure, as this MTender system intervention can only be done manually at present, and only if the contracting authority expressly requests it of the MoF.

competitions organised by the Parliamentary Committee for Economy, Budget and Finance. Qualification requirements include specified levels of education and a minimum of three years' work experience in public procurement.

The PPL contains an exhaustive list of grounds for NASC employee dismissal (upon employee request; retirement/death; final conviction for a criminal offence; non-compliance with the law's mandatory qualification requirements; and performance of activities incompatible with the function), and Parliament must approve all dismissals. NASC members cannot carry out other professional activities, except those related to teaching, scientific research and literary/artistic creation.

NASC has 23 support staff. Currently, only 5 positions for NASC members²⁸³ and 19 for support staff are occupied.

Figure 23. Number of appeals by stage of the procedure, 2022



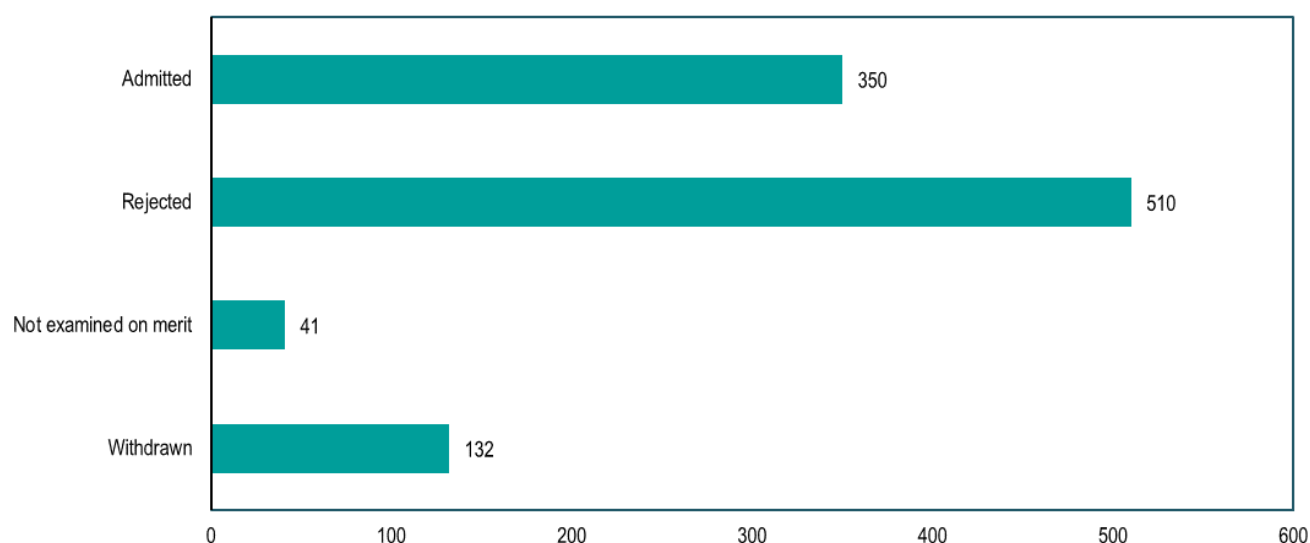
Source: 2022 NASC Report, p. 9.

The Law requires that NASC make its decisions within 20-30 working days of receiving an appeal. In 2022, the median length of the review procedure was 20 days, and there is no evidence of delays in practice. NASC's final decisions are made by three-member panels, and in 2022 it resolved 901 appeals, equal to the number resolved in 2021 (900 cases).²⁸⁴ Most of the appeals were lodged against the final results of procedures, as opposed to challenging the tender documentation, with 132 appeals being withdrawn.

²⁸³ The General Director position is temporarily being filled by one of the members, <https://www.ansc.md/ro/content/interimatul-functiei-de-director-general-al-ansc-va-fi-asigurat-de-dna-angela-nani>.

²⁸⁴ 2022 NASC Performance Report, p. 24.

Figure 24. Results of appeals, 2022



Source: 2022 NASC Report, pp. 21 and 25.

NASC decisions are binding for the parties, and the contract is considered null and void if the contracting authority/entity does not comply with the decision. Contracting authorities/entities must report the remedy measures adopted.

Although NASC decisions can be challenged before a court, SIGMA's analysis of a sample of decisions indicates that they are based on clear rationale and applicable laws, and they reflect the general principles of public procurement. Thus, of the 33 court-appealed decisions in 2022, only 5 were changed or returned.²⁸⁵

All decisions issued by NASC are published promptly on its website. While the website's search engine includes several methods for searching for individual decisions²⁸⁶, no free text-search function is available.

Conclusion

The remedies system aligns largely with the EU *acquis*, except for a few inconsistencies regarding time limits for submitting appeals, and no specific barriers to initiating review proceedings have been identified. NASC is an independent review institution, and its decisions are of good quality. The number of appeals has remained stable over the last two years.

²⁸⁵ 2022 NASC Performance Report, p. 30.

²⁸⁶ E.g. by appellant; contracting authority; type of decision; object of appeal, <https://www.ansc.md/ro/content/decizii-2023>.

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

Overall, the value of the indicator “Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations” is 2. Although Moldova has publication requirements and gives preference to competitive procedures, its procurement market does not appear to be very attractive to the business sector. Unlawful splitting of high-value contracts into low-value ones is a systemic problem, and poor contract management is a weak link in the procurement cycle.

Indicator 6.13.1. Efficiency, non-discrimination, transparency and equal treatment practiced in public procurement operations						
This indicator measures the extent to which public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring most efficient use of public funds. It measures performance in the planning and preparation of public procurement, the transparency and competitiveness of the procedures used, the extent to which modern approaches and tools are applied, and how the contracts are managed once they have been concluded.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Planning and preparation of the public procurement procedure						
1. Due attention is given to the planning process						2/5
2. Presence and use of cost estimation methods and budgeting						1/2
3. Perceived quality of tender documentation by contracting authorities and economic operators (%)						3/4
Competitiveness and transparency of conducted procedures						
4. Perceived fairness of procedures by businesses (%)						2/4
5. Contracts awarded by competitive procedures (%)						4/5
6. Contracts awarded based on acquisition price only (%)						0/5*
7. Average number of tenders submitted per competitive procedure						1/3
8. Contracts awarded when one tenderer submitted a tender (%)						1/2
Use of modern procurement methods						
9. Adequacy of regulatory framework for and use of framework agreements						2/5
10. Adequacy of regulatory and institutional framework and use of centralised purchasing						5/5
11. Penetration of e-procurement within the procurement system						4/5
Contract management and performance monitoring						
12. Presence of mechanisms requiring and enabling contract management						2/6
13. Contracts amended after award (%)						1/4
14 Use of ex post evaluation of the procurement process and of contract performance						0/6
Risk management for preserving the integrity of the public procurement system						
15. Existence of basic integrity tools						4/4
Total						32/65

Note: *Data not available or not provided.

In 2022, contracting authorities organised 6 758 procurement procedures, almost twice as many as in 2021.²⁸⁷

The total value of awarded contracts (including subsequent modifications) was approximately EUR 740 million, representing 5% of Moldova's GDP.²⁸⁸ These figures are incomplete, however, as they reflect only contracts that fall within the scope of the PPL. Contracts awarded in the utilities sector are not monitored and are therefore not included in the statistics. Likewise, the number and volume of low-value contracts (i.e. falling below the national thresholds²⁸⁹) are unknown because they are not monitored. Artificial splitting of contracts to keep them below the value thresholds is a systemic problem that remains unaddressed.²⁹⁰

In 2022, there were 6 283 competitive procedures with values exceeding the national thresholds (93% of the total number of procurement procedures), while negotiated procedures without prior publication amounted to 475 (7%).²⁹¹ In practice, only two types of competitive procedures are used: open procedures and requests for price quotes. MTender's technical features do not currently enable the use of other procurement procedures specified in the PPL.

²⁸⁷ 2022 PPA Report, p. 18.

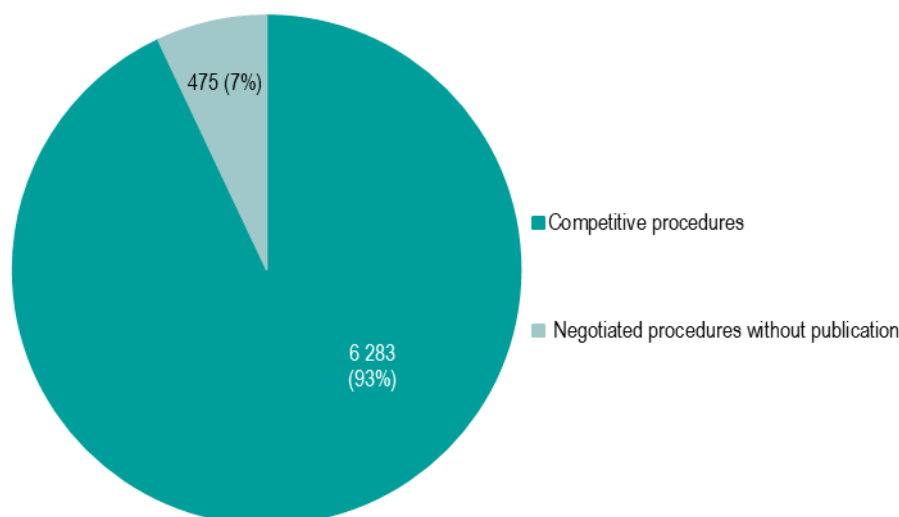
²⁸⁸ 2022 PPA Report, p. 20.

²⁸⁹ Law No. 131/2015, Article 2, paragraph (1), sets the national thresholds at ~EUR 10 500 for supplies and services and ~EUR 13 000 for works.

²⁹⁰ 2022 Report of the National Anticorruption Centre, p.13; 2021 Report of the Court of Accounts, pp.133, 147-148; World Bank (2022), Public Expenditure and Financial Accountability (PEFA) Assessment of the Republic of Moldova, pp. 131-134.

²⁹¹ 2022 PPA Report, p. 55.

Figure 25. Competitive procedures vs procedures without publication for contracts exceeding national thresholds, 2022



Source: 2022 PPA Report, p.55.

Sixty-six percent of contracting authorities confirmed that inputs from market consultations and applicable budgetary constraints are used to prepare tender documentation.²⁹² While there are no official statistics on how frequently the criterion of “most economically advantageous tender” is used to award contracts, in practice this criterion could hardly be applied because MTender is structured primarily to consider lowest price as the only criterion.²⁹³

An average of 3.34 tenders were submitted per competitive procedure in 2022. Although publication rules are extensive and preference is given to competitive procedures, in more than 10% of the procurement procedures no tenders were submitted by economic operators, and in 24% of the cases only one tender was received.²⁹⁴

While Moldova’s legislation provides for the use of framework agreements without any specific restrictions, in practice only six were concluded in 2022. Although contracting authorities are interested in using framework agreements, MTender’s technical limitations do not allow easy application of this tool. Legislation also permits contracting authorities to resort to a central procurement authority to prepare and administer procurement procedures. Within this framework, the Centre for Centralised Public Procurement in Health (CAPCS), established in 2016, conducts procurement procedures to obtain medications, other medical products and medical devices for numerous medical-sanitary institutions and budgetary institutions providing medical and social services. In 2022, CAPCS awarded MLD 1.3 billion worth in contracts (more than 9% of the total value of procurement contracts in the country).²⁹⁵

E-submission of tenders is used in all competitive procedures. MTender enables requests for price quotes only by organising an e-auction session, as the first phase of the procedure. Legislation includes provisions

²⁹² SIGMA public procurement survey of contracting authorities, conducted in March 2023.

²⁹³ Contracting authorities can view the technical proposals and give scores to quality criteria only if they ‘simulate’ in MTender a (temporary) rejection of each tender.

²⁹⁴ 2022 PPA Report, p. 59.

²⁹⁵ 2022 CAPCS Report, p. 22.

for dynamic purchasing systems and electronic catalogues, but MTender does not provide the technical facilities necessary to use such tools in practice. There is no evidence of systematic *ex-post* evaluation of the procurement process or a common/standard approach to review and learn from problems arising during contract execution. Contract management therefore requires further improvement.²⁹⁶

Conclusion

Electronic publication of notices and tender documents is mandatory, and the share of procedures negotiated without publication is low. The main criterion for awarding contracts is lowest price, and the use of framework agreements remains very limited. Further concerns are unlawful contract-splitting and poor contract execution. Although the procurement market is open, a high share of procedures receive just one tender or none at all.

²⁹⁶ The 2021 Court of Accounts Report found in many audited cases that monitoring for compliance in the execution of public procurement contracts (for delays in execution/delivery, deviations from the project, etc.) is not properly ensured.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

Overall, the value of the indicator “Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations” is 4. The PPA publishes key materials on its website to help contracting authorities comply with procedural rules, but the information does not cover all stages of the procurement process in depth. The PPA provides consultations through its help desk as well as training for contracting authorities and economic operators, but this assistance focuses more on legal compliance than on practical aspects.

Indicator 6.14.1. Availability and quality of support to contracting authorities and economic operators to strengthen professionalisation of procurement operations						
This indicator measures the availability and quality of support given to contracting authorities and economic operators to develop and improve the knowledge and professional skills of procurement officers and to advise them in preparing, conducting and managing public procurement operations. This support is usually provided by a central procurement institution.						
This indicator does not directly measure the capacity of contracting authorities and entities. The assessment is of the scope of the support (whether all important stages of the procurement cycle are covered), its extent, and its quality and relevance for practitioners (whether it provides useful, practical guidance and examples). Surveys of contracting authorities and economic operators are used to gauge the relevance and practical applicability of the support.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
Availability and quality of manuals, guidelines, standard tender documents and other operational tools						
1. Availability and quality of manuals and guidelines						3/5
2. Availability and quality of standard tender documents, standard forms and standard contract models						4/5
Availability and quality of training and advisory support						
3. Access to quality training for procurement staff						3/5
4. Availability of advice and support for contracting authorities and economic operators						4/5
Procurement procedures cancelled						
5. Procurement procedures cancelled (%)						3/5
Total						17/25

In Moldova, secondary and tertiary legislation normally provide methodological guidance to contracting authorities and economic operators. A significant number of regulations²⁹⁷ and instructions²⁹⁸ cover procurement procedure preparation (e.g. procurement planning and market consultations) and the award phase, with a focus on open, negotiated and price-quote procedures. No regulations govern the conduct of restricted procedures, competitive dialogue or innovative partnerships. Special regulations/instructions have been issued for the use of framework agreements, the Common Procurement Vocabulary and the European Single Procurement Document.

The PPA website publishes standard documentation for supplies, services and works, covering the most important elements of the procurement procedure, and its models generally provide reliable explanations and examples.²⁹⁹ Plus, the Guide for Technical Specifications contains examples for 54 items, such as models of technical specifications for several products used in the health sector (e.g. syringes, medical

²⁹⁷ Approved by Government Decisions.

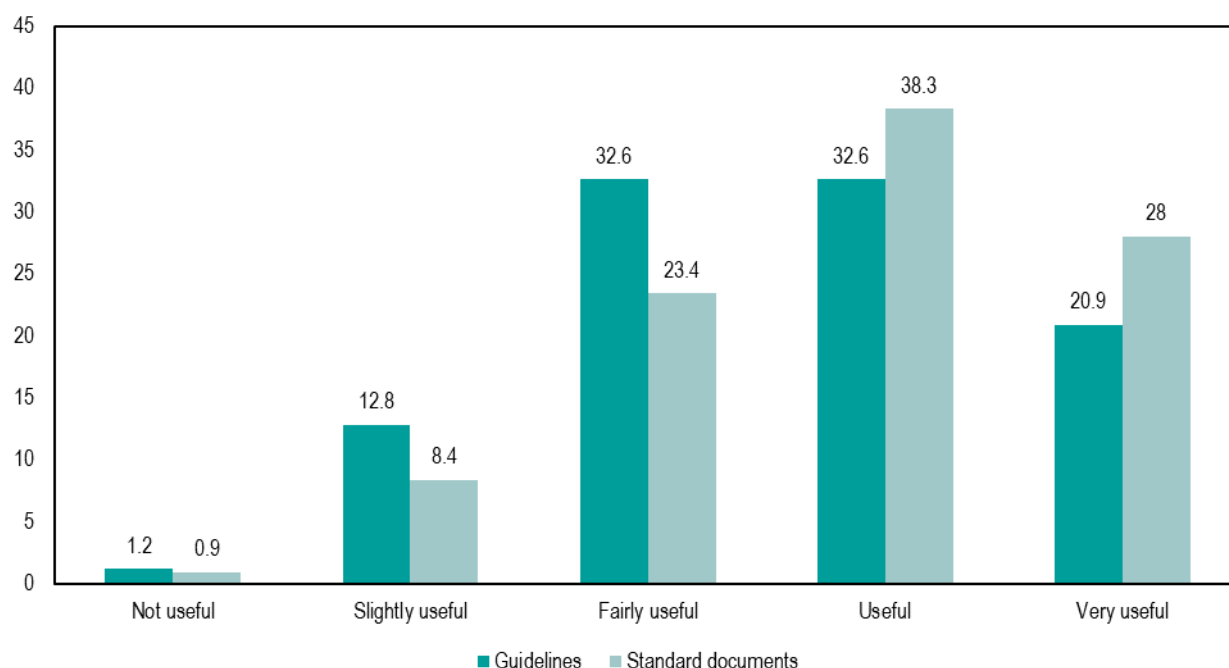
²⁹⁸ Approved by MoF Orders.

²⁹⁹ <https://tender.gov.md/ro/documente/modele-de-documente-achizitii-publice>.

gloves, gowns, masks, medical cotton wool) and the IT sector (e.g. computers, laptops, modems). However, no instructions/guidelines exist for the post-award phase of the procurement process, particularly regarding contract management.

End-user satisfaction with the content of available guidance instruments is average, signalling that there is room for improvement. Meanwhile, the percentage of contracting authorities/entities and economic operators that find the guidelines and standard documents useful or very useful varies from 57% to 59% (arithmetic means).³⁰⁰

Figure 26. Contracting authorities' satisfaction with available guidelines and standard documents



Source: SIGMA procurement survey of contracting authorities, conducted March-April 2023.

The PPA is responsible for providing training and advisory support to contracting authorities and economic operators. In 2022, it organised 30 training sessions (almost all online), with 4 of them intended for economic operators. In all, 2 646 procurement officers and 56 representatives of economic operators have been trained.

Satisfaction with training is generally high: 61.4% of contracting authorities/entities and 72.7% of economic operators have found the training useful or very useful (67.1% average).³⁰¹ However, the PPA has not endorsed or published any official training materials.

³⁰⁰ According to the SIGMA procurement survey of contracting authorities and SIGMA business opinion survey 2023, conducted March-April 2023, 53.5% of contracting authorities and 60.7% of businesses found the guidelines "useful" or "very useful" (the arithmetic mean is 57.1%). 66.3% of contracting authorities and 51.5% of businesses found the standard forms and/or models "useful" or "very useful" (the arithmetic mean is 58.9%).

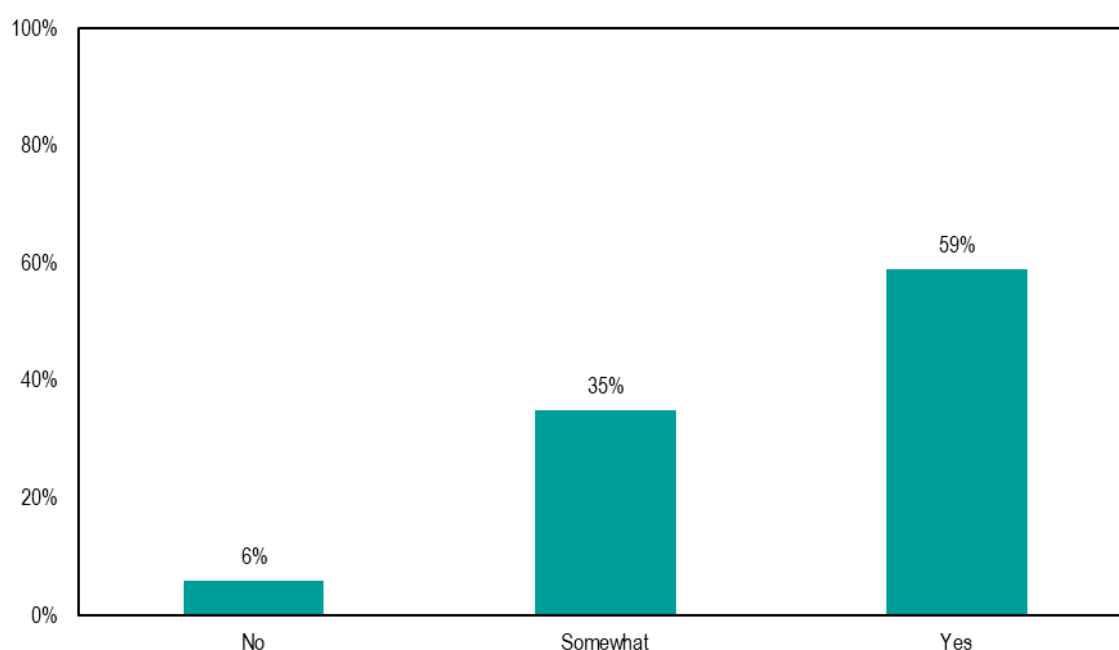
³⁰¹ SIGMA procurement survey of contracting authorities and SIGMA business opinion survey 2023, conducted March-April 2023.

According to the PPL, the PPA should develop and implement mechanisms to certify representatives of contracting authorities and “procurement service providers”.³⁰² Although the PPA launched this process in 2021, no tangible progress has yet been achieved.

The PPA provides advisory and operational support through a help-desk unit, issuing written opinions and oral consultations for both economic operators and contracting authorities. In 2022, it dealt with 6 097 telephone calls (24 calls per day on average) and issued 653 written opinions on various matters.

While 59% of contracting authorities and economic operators are satisfied with PPA advice and support³⁰³, they signalled difficulty obtaining clarification on practical issues, with replies being focused mainly on legal provisions and formal compliance.

Figure 27. Usefulness of PPA help desk answers



Source: SIGMA procurement survey of contracting authorities and SIGMA business opinion survey 2023, conducted March-April 2023.

The PPA also provides an FAQ section on its website³⁰⁴, as well as a list of the most common mistakes.³⁰⁵

In 2022, contracting authorities cancelled 892 procurement procedures³⁰⁶, representing more than 13% of the total number of procedures. The main reasons were an absence of tenders and the submission of non-compliant tenders, which could reflect some weaknesses in procurement planning, particularly for estimating a contract’s value and developing technical specifications.

³⁰² Law No. 131/2015, Article 10(e).

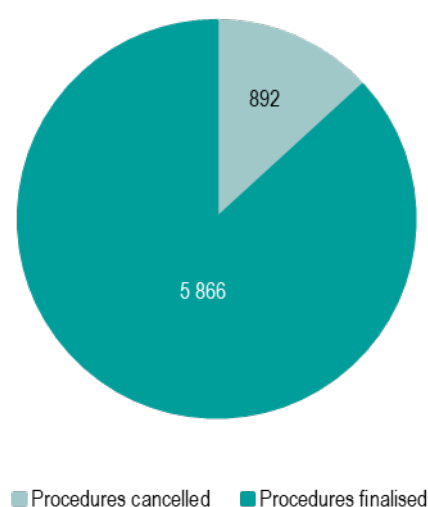
³⁰³ SIGMA procurement survey of contracting authorities and SIGMA business opinion survey 2023, conducted March-April 2023.

³⁰⁴ <https://tender.gov.md/ro/content/intrebari-adresate-frecvent>.

³⁰⁵ <https://tender.gov.md/ro/content/greseli-frecvente-ale-autoritatilor-contractante>.

³⁰⁶ 2022 PPA Report, p. 38.

Figure 28. Cancelled vs finalised procedures



Source: 2022 PPA Report, p. 39.

Conclusion

Regulations, instructions and standard documents are available to contracting authorities, but they are focusing primarily on the tender evaluation stage. Although no relevant manuals/guidelines cover contract management, the PPA provides advice and support for interpreting legal provisions, and training activities are available for both contracting authorities and economic operators. A mechanism to certify representatives of contracting authorities and procurement service providers has not yet been implemented.

External audit

Principle 15: The independence, mandate and organisation of the supreme audit institution are established, protected by the constitutional and legal frameworks and respected in practice.

Overall, the value of the indicator “Independence of the supreme audit institution” is 3. While the CoA’s independence is adequately provided for in the Law on the Organisation and Functioning of the Court of Accounts, it is not appropriately addressed in the Constitution. Additionally, key elements of its independence are not respected in practice and the general population perceives CoA independence as low.

Indicator 6.15.1. Independence of the supreme audit institution						
This indicator measures the extent to which external audit by the supreme audit institution (SAI) is conducted independently, and the internationally recognised conditions for the effective functioning of the SAI are found in law and practice.						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Constitutional and legal independence of the SAI						2/4
2. Organisational and managerial independence of the SAI						3/5
3. Adequacy of the SAI mandate and alignment with International Standards of Supreme Audit Institutions (ISSAIs)						3/3
4. Access to information and premises						1/1
5. Perceived independence of the SAI by the population (%)						0/3
Total						9/16

The Constitution addresses the role of the CoA, its structure and appointment of the president.³⁰⁷ However, it does not specifically indicate that the CoA is an independent institution and the country’s supreme audit institution (SAI).

The Law on the Organisation and Functioning of the Court of Accounts³⁰⁸ (the Audit Law) defines the CoA’s independence, mandate and organisation. It indicates that the CoA is the SAI of Moldova and that it is functionally, financially and operationally independent and exercises its functions independently from any other body or authority.³⁰⁹ The Audit Law also provides for the independence of CoA members.³¹⁰

The CoA implements its budget and performs its statutory functions independently and is free from undue direction or interference from the legislature or the Executive in its audit work and certain aspects of its office management, such as individual recruitment decisions. However, the implementation of other laws, particularly those relating to the budget, the public service and salaries, effectively undermine key elements of the CoA’s organisational, functional and financial independence because the MoF and State Chancellery have significant influence in establishing the budget and organising the CoA.

The Constitution and the Audit Law clearly set out the procedure and criteria for appointing and dismissing the CoA president, but there have been no attempts to remove the president or members from office. While the legal framework does not specifically provide Supreme Court protection for the CoA’s independence

³⁰⁷ Constitution of the Republic of Moldova Article 133

³⁰⁸ Law No. 260 of 17 December 2017 on the Organisation and Functioning of the Court of Accounts of the Republic of Moldova (subsequently amended in 26 April 2018, 27 July 2018, 20 September 2019, 6 February 2020, 11 September 2020 and 12 February 2021), https://www.legis.md/cautare/getResults?doc_id=118293&lang=ru.

³⁰⁹ Audit Law, Article 5

³¹⁰ Audit Law, Article 19

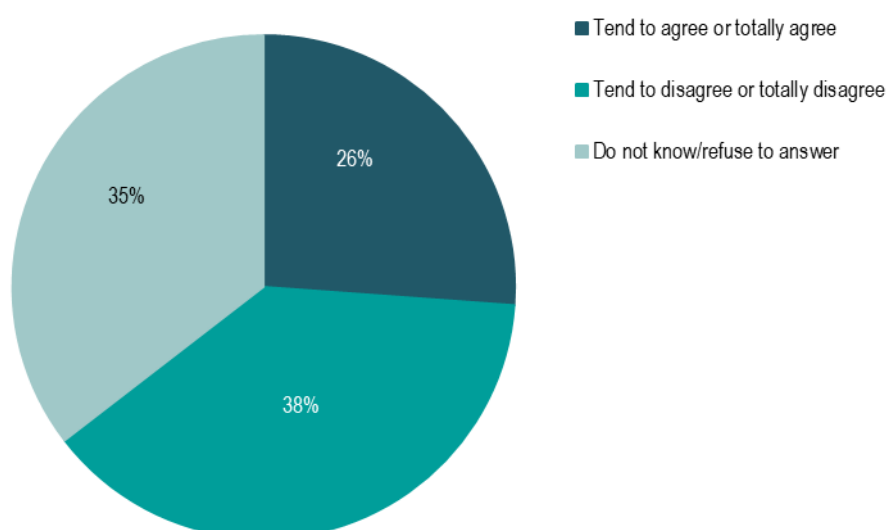
and audit mandate, a Constitutional Court decision striking down a Parliament decision on the removal of CoA members clearly established CoA independence and demonstrated that it has protection.³¹¹

The Audit Law gives the CoA a broad mandate to carry out financial, compliance and performance audits³¹² in compliance with the ISSAIs³¹³, and to audit all public entities and resources including all public sector institutions, state and municipal enterprises, commercial companies for which the share capital is wholly owned by the state or an administrative-territorial unit, and commercial companies in which the state, administrative-territorial units, or the state and municipal enterprises hold, separately or together, at least half of the share capital.³¹⁴

The Audit Law also grants the CoA unrestricted access to all information, explanations and premises it deems necessary for audit purposes, and our interviews confirmed that there had been no restrictions in practice.³¹⁵

Nevertheless, only one-quarter of the population is under the impression that the SAI is independent of political influence (Figure 29). Furthermore, 35% of citizens surveyed refused to answer or did not know which response would indicate the CoA's limited role in public debate.

Figure 29. General population perception of supreme audit institution independence



Note: Respondents were asked, "Do you agree that the supreme audit institution is independent of political influence?" and could answer on a 4-point scale from totally disagree (1) to totally agree (4). They could also choose "Do not know/refuse to answer".

Source: SIGMA population survey, 2023.

³¹¹ Constitutional Court Decision No. HCC27/2013 of 20 September 2013 on the Constitutionality of Parliament Decision No. 183 of 12 July 2013 on the Release of a Member and of the Vice-President of the Court of Accounts from Their Positions.

³¹² Audit Law, Article 31.

³¹³ Audit Law, Article 5.

³¹⁴ Audit Law, Article 32.

³¹⁵ Audit Law, Articles 7, 29 and 32.

Conclusion

The Audit Law regulates the CoA's independence and mandate in line with the INTOSAI Framework of Professional Pronouncements, but the Constitution does not adequately address CoA independence and status. The CoA has a broad mandate, which it fulfils without restrictions or undue legislature or Executive interference. However, the implementation of other laws effectively undermines key elements of the CoA's organisational, functional and financial independence, limiting its ability to organise and manage itself effectively. The public perception of CoA independence is low.

Principle 16: The supreme audit institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impacts on the functioning of the public sector.

Overall, the value of the indicator "Effectiveness of the external audit system" is 4. Application of the ISSAIs, including quality management arrangements, is well advanced, but the implementation rate of CoA recommendations is low.

Indicator 6.16.1. Effectiveness of the external audit system						
This indicator measures the extent to which external audits contribute to improved management of public finances and how the supreme audit institution applies standards to ensure high-quality audits (e.g. through its manuals and quality assurance system).						
2023 indicator value	0	1	2	3	4	5
						Points 2023
1. Coverage of mandate by external audit						5/6
2. Compliance of audit methodology with ISSAIs						6/6
3. Quality control and quality assurance of audits						6/6
4. Implementation of SAI recommendations (%)						0/6
5. Use of SAI reports by the legislature						5/6
Total						22/30

The Audit Law obligates the CoA to carry out annual statutory financial audits of the Government's RoESB, the state social insurance budget, the CHIF budget and the ministries' consolidated financial reports.³¹⁶ In 2022, the CoA was performing all mandatory audits for the fiscal year ended 31 December 2021.

In total, the CoA performed and reported on 26 financial audits in 2022, including the 20 mandatory audits. Although the CoA has no mandatory compliance or performance audit requirements, it also reported on 19 compliance and 4 performance audits in 2022. The four performance audit reports were in the policy areas of justice, health, infrastructure and public administration. It published all audit reports on its website.³¹⁷

In November 2020 the CoA approved a financial audit manual developed with EU technical assistance, and a revision was approved in January 2022. The CoA also approved a revised performance audit manual in February 2023, and in March 2023 it adopted a revised compliance audit manual, both also developed with EU support and currently being tested. While SIGMA's review of the manuals indicated they all broadly aligned with ISSAI requirements, the performance and compliance audit manuals are not currently embedded in CoA work, as they are still in the testing phase.

³¹⁶ Audit Law, Article 32.

³¹⁷ <https://www.ccrm.md/ro/decisions>.

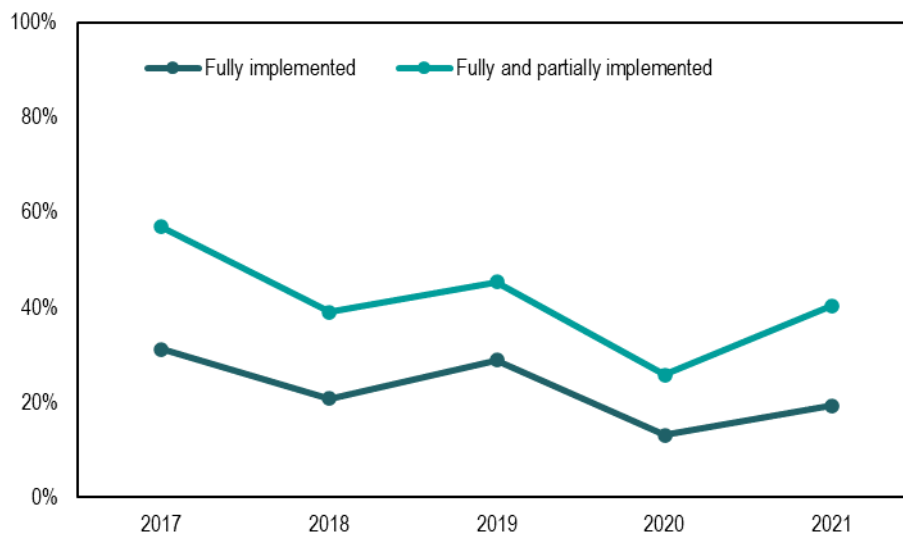
The CoA has developed quality management arrangements covering all aspects of its work and protecting the reputation and credibility of the SAI³¹⁸; they are detailed in a revised Quality Management Guide approved by the CoA in February 2023, and in the audit manuals and other relevant guidance. Its system is compatible with ISQC1 and ISSAI 140 requirements, and key policy and procedural elements such as ethics management, engagement quality control (i.e. hot file) reviews and monitoring (i.e. cold file) reviews appear to be operating effectively. However, features of the updated Quality Management Guide are being tested and other procedures to support quality management have yet to be implemented. In 2022 the CoA undertook 24 hot reviews, 20 for mandatory financial audits and 2 each for performance and compliance audits. It also undertook two cold reviews of compliance audits. These financial compliance audit reviews indicated that while there were some areas for improvement, the audits had been conducted in accordance with auditing standards and their results were consistent with the audit evidence.

Formal mechanisms for handling CoA reports in the Parliament are in place, with the Public Financial Control Committee (PFCC) formally dedicated to managing them. An agreement on CoA-PFCC co-operation has been prepared, though it has never been formally approved. As soon as the CoA has formally approved audit reports, it sends them to the Parliament, with 49 reports being submitted in 2022. In 2020, the PFCC held more than 5 hearings and reviewed 45 audit reports, including the mandatory financial audit reports, several other financial and compliance audit reports at both the central and local government levels, and 4 performance audits. A few reports have also been considered by other parliamentary committees, and the Plenary examines CoA reports twice a year. Following its deliberations, the PFCC produces a decision/report, and the implementation of recommendations is discussed at PFCC meetings.

The CoA has arrangements in place to monitor the implementation of recommendations, including recently updated guidelines³¹⁹ that set out the monitoring process along with the roles and responsibilities of the various parties involved. Furthermore, all audited entities can access the Audit CCRM online monitoring system to chart their progress in addressing recommendations. Despite these measures, the implementation of the CoA's recommendations by audited bodies is low, with only 40% of recommendations either partially or fully implemented in 2021 (Figure 30). In fact, the implementation rate throughout 2017-2022 has been consistently low, limiting the impact of CoA work.

³¹⁸ SIGMA Peer Review of the CoA, reported in 2022.

³¹⁹ Regulation on Monitoring the Implementation of Recommendations of the External Public Audit, approved in a new version on 17 February 2023 by Decision No. 2.

Figure 30. Implementation rate of CoA audit recommendations

Source: CoA Audit CCRM system data.

Conclusion

The CoA generally meets its audit mandate, undertaking all compulsory audits. While it does carry out performance audits, the number of policy areas and their coverage are rather limited. Its updated audit manuals and quality management arrangements comply broadly with the ISSAIs, although some of them are still in the initial implementation phase. While a Parliamentary committee uses CoA audit reports to scrutinise the Executive and follow up on application of recommendations, the implementation rate of CoA recommendations is low.

Public administration in the Republic of Moldova

October 2023

SIGMA Monitoring Reports analyse the performance of public administrations through a set of standard indicators based on the Principles of Public Administration. They assess both the preconditions for a good public administration (good laws, policies, institutional capacity, and procedures) and how an administration performs in practice.



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