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Anti-corruption self-assessment report

for the Parliament
of the Republic of Moldova

June 2016





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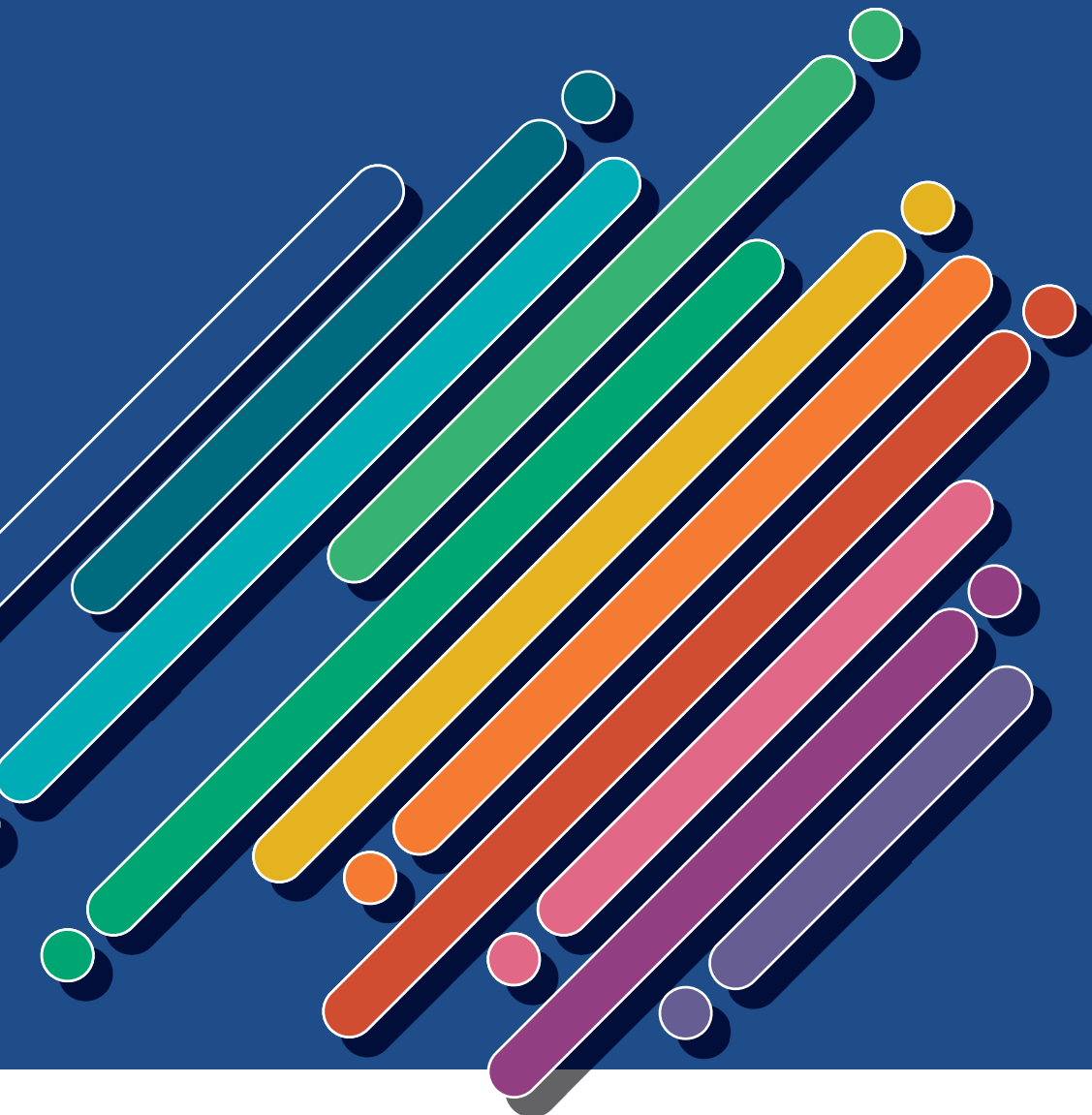
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Acronyms

BASS	National Social Insurance Fund/Budget
CAPC	Centre for Analysis and Prevention of Corruption
CEC	Central Election Commission
CoA	Court of Accounts
CoCE	Code of Conduct and Ethics
CoE	Council of Europe
CSO	Civil Society Organization
EaP	European Union Eastern Partnership
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EU	European Union
FAOAM	Mandatory Health Insurance Fund/Budget
FOI	Freedom of Information
GOPAC	Global Organization of Parliamentarians Against Corruption
GRECO	Group of States against Corruption
GTFs	Global Task Forces
IPU	Inter-Parliamentary Union
MDL	Moldovan national currency - leu
MIA	Ministry of Internal Affairs
MoJ	Ministry of Justice
MP	Member of Parliament
NAC	National Anti-corruption Centre
NAS	National Anti-Corruption Strategy
NBM	National Bank of Moldova
NGO	Non-governmental organisation
NIC	National Integrity Commission
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organisation of Economic Cooperation and Development
OSCE	Organisation for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
RoP	Rules of Procedure
SIDA	Swedish International Development Cooperation Agency
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme

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Executive Summary

The anti-corruption self-assessment report for the Parliament of Moldova has been drafted against the background of sharply increasing interest and political developments at the highest level, reflecting the need to combat corruption in all sectors of public and political life.

Over the last years, Moldova has introduced a number of anti-corruption laws and policies. Moldova has ratified and is a party to the United Nations Convention against Corruption (UNCAC). The Parliament of Moldova has a major role in overseeing that integrity, transparency and anti-corruption policies and legislation are effectively implemented. As such, UNDP Moldova commissioned the current anti-corruption parliamentary self-assessment report, in consultation with the Parliament Committee on National Security, Defence and Rule of Law. The report is based upon the Anti-corruption Assessment Toolkit, issued by UNDP and the Global Organization of Parliamentarians Against Corruption (GOPAC).

The first chapter of the Study discusses the National Anti-Corruption Strategy 2011-2015, the role of the National Anti-Corruption Centre and of the National Integrity Commission, and the Parliament's role in the implementation of anti-corruption policies. The report discusses the monitoring framework of the anti-corruption strategy and proposals to reform the National Integrity Commission.

The second chapter of the Study discusses the legislative role of the Parliament of Moldova in terms of anti-corruption. The Study examines the anti-corruption "proofing" of draft legislation and analyzes one recently adopted piece of legislation relevant to anti-corruption, the law on political parties, in detail. The report also discusses the Strategy for Justice Sector Reform 2011-2016 and the pending legislation required in this area.

The third chapter of the Study discusses the oversight role of the Parliament of Moldova in terms of anti-corruption. The Study examines the procedural instruments for Parliamentary oversight and how they can be used to strengthen oversight on the implementation of anti-corruption policies and legislation. The report touches upon how Parliament uses these procedural oversight instruments in practice and to what extent the Parliament exercises oversight through the information available from reports of public authorities.

The fourth chapter of the Study discusses the budget role of the Parliament of Moldova in terms of anti-corruption. The Study examines the approval of the budget by the parliament and its oversight role on the implementation of the budget, in particular through the reports of the Court of Account (CoA). The report addresses the role of the Committee on Budget, Finance and Economy.

The fifth chapter of the Study discusses the transparency and communication practices of the Parliament of Moldova. The Study examines five specific issues: the policy questions on Parliamentary openness and open data, the legal framework on Parliament's openness and communication in Moldova, the availability of information on the Parliament of Moldova, the social media use in the Parliament of Moldova, and the Moldova e-Parliament project, aimed at overcoming a number of gaps and challenges.

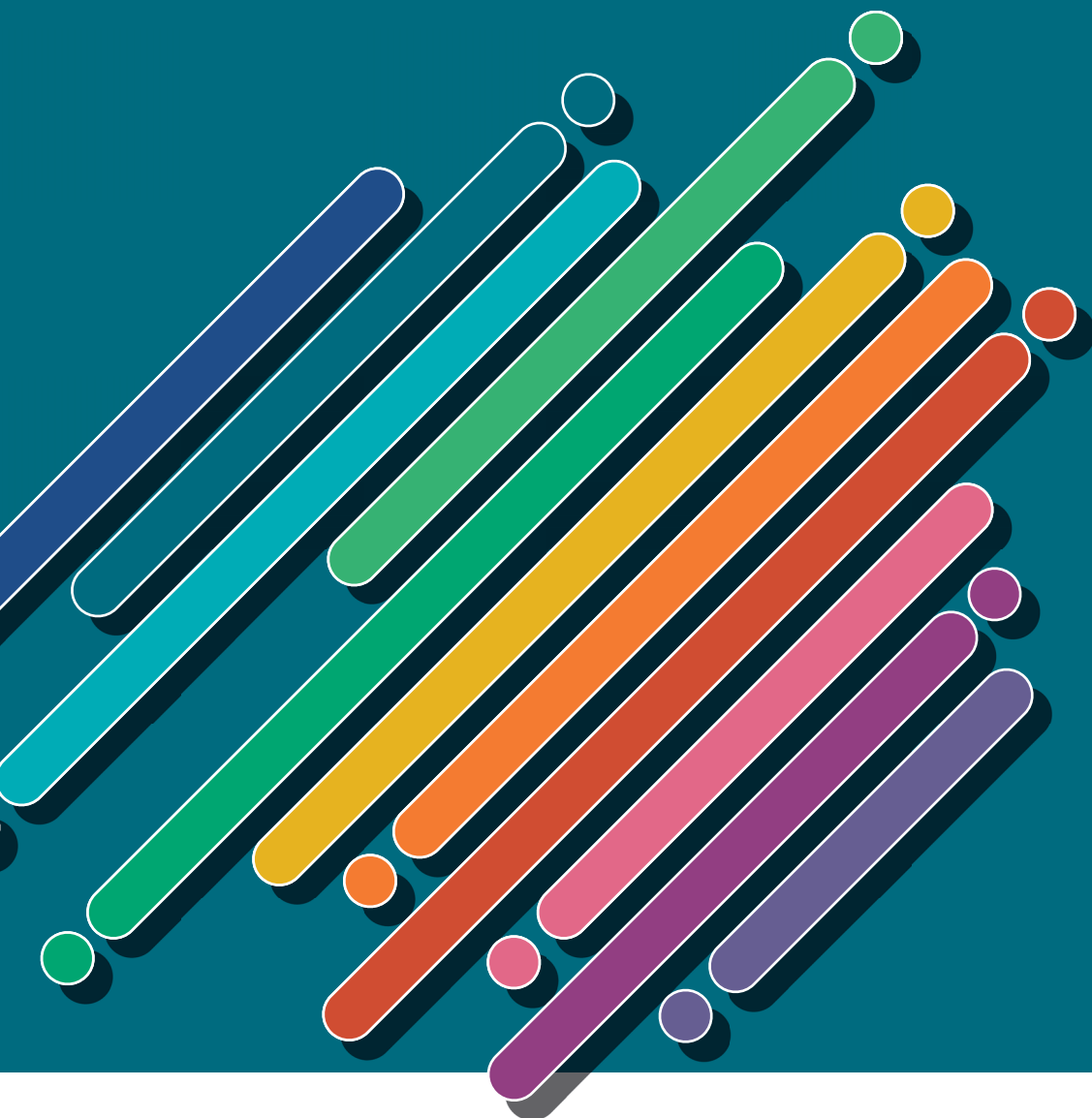
The sixth chapter of the Study discusses the ethics framework of the Parliament of Moldova. The Study examines the content and need for a Code of Conduct and Ethics (CoCE) for Members of Parliament and for all staff working in the parliament. The information in this chapter is the basis for the comprehensive proposal for a Code of Conduct and Ethics for Members of Parliament. This Code has been submitted as a separate document and is an attachment to this report.

The seventh chapter of the Study discusses the international framework for the Parliament's role in anti-corruption. The Study examines the role of the Moldova Parliament towards UNCAC, discusses the interaction between the Moldova Parliament, Council of Europe, GRECO and PACE, and assesses the anti-corruption dimension of the EU Association Agenda.

The concluding chapter of the Study recommends the establishment of the GOPAC Chapter for Moldova. The chapter describes what are GOPAC National Chapters, their structure, membership and objectives, and the needed steps to creating a National Chapter of GOPAC.

To put the anti-corruption self-assessment report in an operational framework, an "Action Plan" has been drafted with the aim to strengthen parliament's anti-corruption impact and capacity. The "Action Plan" builds upon the recommendations included in the different chapters of the report.

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“In Moldova, corruption is endemic and systemic, entrenched in the full range of government institutions and at every level and includes state capture of key institutions to benefit private interests. (...) In 13 fields in which Moldovans were surveyed for Transparency International’s 2013 Global Corruption Barometer, just one field (religious bodies) was rated on the “clean” side of the scale. The police, judiciary, public officials, and political parties are all considered extremely corrupt, with ratings ranging from 3.9 to 4.3 on a scale on which 5 is the most corrupt. In the same survey, 53 percent of respondents found corruption to be worsening.”¹

A. Current context in Moldova

This strongly worded assessment was expressed by Moldova’s Development Partners in early 2015. The breathtaking developments in Moldova in recent weeks seems to indicate that fighting corruption has become the first challenge and task for the institutions of the Republic of Moldova. Today’s challenge provides an opportunity for the Parliament of Moldova to review its own role in policy setting and oversight over the actual implementation of anti-corruption legislation.

In an effort to combat corruption over the last years, a number of anti-corruption laws and policies have been introduced, including asset disclosure by public officials, successive national strategies for preventing and fighting corruption, a law on conflicts of interest, a code of conduct for civil servants, a law on transparency in the decision-making process, a law on the National Integrity Commission, and stricter sanctions for corruption and illicit enrichment. Despite these raft of initiatives, most of the new regulations have remained largely ineffective, due to the lack of clear sanctions for non-com-

pliance or as a result of limited political will to enforce them.

Parliaments and Parliamentarians have an important role to play in combating corruption. They have responsibility for the quality and effectiveness of legislation; for approving the national budget and all government revenues and expenditure; for the oversight of the executive; and for representing the interests and views of constituents and non-governmental actors in the framing of national policy. All these functions of a Parliament are highly relevant in the fight against corruption.

Therefore, the Parliament of Moldova has a major challenge ahead, to establish itself as the first public institution of trust that ensures and oversees that the integrity, transparency and anti-corruption policies and legislation are effectively implemented. The Parliament of Moldova is not on its own in this major challenge. There is a comprehensive set of international policies, which can provide guidance, starting with the *United Nations Convention against Corruption* (UNCAC)². There are also established partners to rely on, such as UNDP and the Global Organization of Parliamentarians Against Corruption (GOPAC). UNDP and GOPAC published the *Anti-corruption Assessment Toolkit for Parliaments*,³ with the aim to support Parliaments for an in-depth baseline assessment as they deepen their engagement against corruption.

The GOPAC-UNDP Anti-corruption Assessment Toolkit mentions that parliaments and MPs can

(1) <https://openknowledge.worldbank.org/bitstream/handle/10986/21798/952500WP00PUBL0BriefingBook0english.pdf?sequence=1&isAllowed=y>

(2) *The United Nations Convention against Corruption* (UNCAC) is the first legally binding universal anti-corruption instrument that provides States with a set of standards, measures and rules to prevent and combat corruption. It came into force in December 2005, and has achieved near universal ratification. UNCAC requires States Parties to align their anti-corruption policies, procedures and legislation with the UNCAC articles, subject to the principles of their own legal systems where appropriate. The Convention foresees in prevention measures, criminalization and law enforcement measures, international cooperation, asset recovery, technical assistance and information exchange. United Nations Office on Drugs and Crime, *United Nations Convention against Corruption*, New York, 2004 https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

(3) *Anti-Corruption Assessment Tool for Parliamentarians*, UNDP and GOPAC, 2013, New York, 48 p.

(1.) play an active role in the design and implementation of a national anti-corruption strategy, the establishment and strengthening of relevant national anti-corruption body/bodies, and in framing and reviewing relevant legislation; (2.) promote the UNCAC and play an important oversight role in the monitoring and review of national efforts to implement and domesticate the Convention (including by identifying gaps in the implementation of its provisions); (3.) collaborate with the executive in strengthening anti-corruption policies and procedures; and (4.) assist in developing coalitions of civil society organisations and other stakeholders to support full compliance with UNCAC.

B. Conducting the assessment

In July 2015, UNDP Moldova and the Parliament Committee on National Security, Defence and Rule of Law commissioned a Parliamentary assessment on anti-corruption, based on the UNDP-GOPAC Anti-corruption Assessment Tool. As a parliamentary development expert, I have been asked to lead the assessment exercise.

The report has been structured in a way that addresses all issues covered by the different chapters of the UNCAC. Hence, the report focuses on the Parliament's role in: (1.) anti-corruption planning and monitoring, including cooperation with the main anti-corruption agencies; (2.) the legislative and oversight role of Parliament, including oversight on the execution of the budget; (3.) Parliamentary accessibility, transparency and availability of information; (4.) the ethics framework, leading to the development of a Code of Conduct and Ethics for Members of the Parliament.

The report was drafted based on a variety of sources. It has been drafted based on (1.) an extensive review of relevant legal and policy documents; (2.) the insights provided during the in-country mission in July 2015, by Members of Parliament, staff of Parliament, government of-

officials, anti-corruption officials, civil society and international experts. The list of 46 interviews has been put in the annex; (3.) the responses of Members of Parliament to the Questionnaires prepared for this assessment.

The assessment has thus implemented a specific methodology. Based upon the GOPAC-UNDP Anti-corruption Assessment Toolkit, we developed four different Questionnaires: on anti-corruption policies and institutions, on financial oversight, on parliament transparency and communication, and on the ethics framework. The content of the four questionnaires includes all content of the UNCAC and was further fine-tuned based on the specificity of the institutions in Moldova, the country's interaction with the Council of Europe and GRECO, and the recent developments in the process of Association with the EU. The findings of this report will be relevant in light of the commitments made by Moldova under UNCAC and the EU –Moldova Association Agreement.

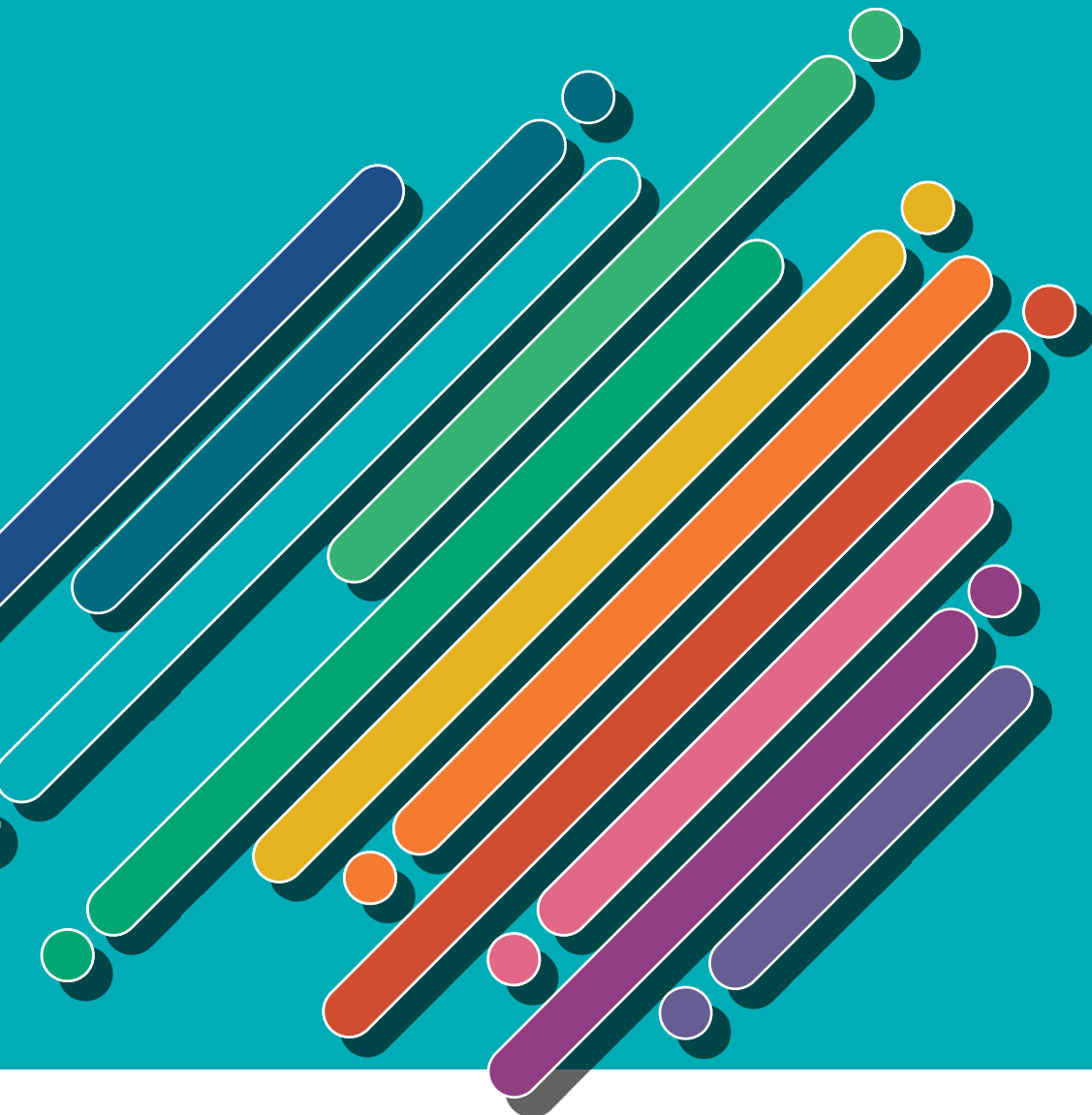
To put the current anti-corruption self-assessment report in an operational framework, we have drafted an Action Plan to strengthen parliament's anti-corruption impact and capacity. In addition, we have drafted a 'Code of Conduct and Ethics' for Members of Parliament, accompanied by a best practices comparative analysis report.

We are confident that these documents will be a valuable contribution in order for the Parliament of Moldova to address the current challenge of shaping and overseeing anti-corruption policies in Moldova.

Finally, I would like to express our appreciation to the Members and staff of the Parliament of Moldova, anti-corruption organizations and civil society for the kind discussions held and insights provided. The support provided prior to, during and after the in-country mission by the UNDP parliamentary project is much appreciated.

Franklin De Vrieze.

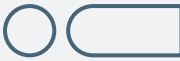
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1. The institutional framework

■ In this section of the report, we will discuss the National Anti-Corruption Strategy, the role of the National Anti-Corruption Centre and of the National Integrity Commission, and the Parliament's role in the implementation of anti-corruption policies. Referring to our Questionnaire on anti-corruption policies, this section of the report will also discuss the monitoring framework for the anti-corruption strategy 2011-2015 and whether the Parliament has discussed the progress in implementation of the anti-corruption strategy, the role of the Parliament in safeguarding the independence of the National Anti-Corruption Centre and National Integrity Commission. This section of the report is related to the chapter "Anti-corruption planning and monitoring" in the GOPAC-UNDP Anti-corruption Toolkit (p. 12-16) and UNCAC articles 5, 6, 10, 36.

1.1. National Anti-Corruption Strategy 2011-2015

The general framework for Moldova's anti-corruption policies is provided for in the "National Anti-Corruption Strategy 2011-2015". Its stated goal is to reduce the level of corruption in the public and private sectors in the Republic of Moldova. The Strategy's general objectives are "transforming corruption from a low-risk activity with benefits into an inconvenient and high-risk activity" and "contributing to the creation of a zero-tolerance environment towards corruption in Moldova." The expected results of the implementation of the Strategy are (amongst others) that the national regulatory framework is adjusted to the international anti-corruption standards, and that national legislation on anti-corruption is functional and applicable for the prevention and effective fight against corruption. The Strategy includes the research component, the legislative component, the institutional component, and the educational and public communication component. The Strategy includes a system of monitoring of its imple-

mentation, regular action plans, and the financial contribution from each institution's budget.

In reference to one of the questions in our Questionnaire, it appears that parliamentarians have not been involved in preparing the Strategy. However, during the legislative process MPs were involved in the debates and the Strategy was approved by the Parliament, following the positive advice of the Legal Department of the Parliament.

The Strategy assigns specific responsibilities for its implementation to different institutions, and establishes performance indicators. The previous Strategy for 2004-2010 had no performance indicators and no clear action plans, where as the current Strategy for 2011-2015 does have an action plan and relevant performance indicators. The previous Strategy was also hampered by an apparent lack of political will to adopt the required anti-corruption legislation and a lack of separate funding for the implementation of the measures foreseen in the Strategy. During the time of the current strategy, several key pieces of legislation have been adopted. However, the issue of lack of separate funding remains.⁴ The Ministry of Finance considers that the beneficiary institutions of anti-corruption policies should come up with the financial means to implement the proposed actions themselves. Although, there is a considerable risk that, if an institution has no interest in implementing specific actions, it will state that there are no sufficient financial means. In the absence of financial resources specifically assigned from the Moldova state budget, a new UNDP project will assist the National Anti-corruption Centre (NAC) in drafting legislation and will provide additional advice. A new EC twinning project with the NAC will provide technical input as well as much needed infrastructure investments.

(4) "Evaluation Report on Implementation of the National Anti-corruption Strategy for the years 2011-2015 (2011-2013)," in: Moldova Report, East Europe Foundation, www.eef.md/media/files/files/nas_evaluation_report__2012_-_2013__997936.pdf

Over the past five years, the approval of the Action Plans for the Anti-Corruption Strategy in Parliament took considerable time (delays were due to elections or the ongoing political negotiations). As a result, only 3.5 years of the five-year implementation period were covered by Action Plans. It would thus make sense to extend the timeline of the current Anti-Corruption Strategy until the end of 2017. Such an extended period of time for implementation will coincide well with the agenda of the EU-Moldova Association Agreement.

Over the past years, the implementation of the current Strategy was mainly focussed on central-level institutions based in Chisinau, with little outreach beyond the capital. It will be important to ensure that the Anti-Corruption Strategy be better implemented throughout the country, for instance by developing regional / local anti-corruption strategies and adopting regional / local integrity plans.

In reference to one of the questions in our Questionnaire the Parliament of Moldova has determined that the Committee on National Security, Defence and Rule of Law is responsible for the parliamentary oversight over the Anti-Corruption Strategy. Over the last couple of years, the Committee received an annual report on the implementation of the Strategy, but the reports have not been discussed in the plenary session of Parliament and no feedback has been provided to the Anti-Corruption Centre on the content of the reports.

During the previous Anti-Corruption Strategy 2004-2010, there existed a High level Anti-Corruption Council, chaired by the President of the Republic, that brought together the Prime Minister, the Speaker of Parliament and other senior level officials. Its objective was to resolve any issues at the highest political level, however in practice the Council only met very sporadically. Under the current Anti-Corruption Strategy 2011-2015, a Monitoring Group for the Anti-Corruption Strategy was created, including a

representative from the Office of the President of the Republic, the Parliamentary committee, the Court of Accounts, the Superior Council of Magistracy, the National bank, the Secretary General of the Government, the Deputy Ministers of Justice and Finance, CSOs, and others. The Monitoring Group has met on quarterly basis to review the progress in implementing the Strategy. The Member of the Parliamentary Committee did not raise any specific questions. The former Member was usually delegating one of his advisers to participate, so the involvement was pro-forma and limited.

The Parliament of Moldova receives annual, semi-annual and quarterly progress reports on the Strategy implementation from the Secretariat of the Monitoring Group . It is also informed on the work of the NAC as one of the MPs who is member of the same Parliamentary Commission for National Security, Defence and Public Order is also the member of the National Anti-Corruption Centre's Board. So, at its quarterly meetings every member receives the Report on the NAC's activity from the previous time period (quarter, semester, year).

In 2015, in order to support Parliamentary control over the implementation of anti-corruption legislation and the National Anti-corruption Strategy for 2011-2015, the NAC informed the Parliamentary Committee for National Security, Defence and Public Order on the monitoring report conducted by the Monitoring Group of the NAS, regarding the normative acts to be adopted, amended or supplemented, referring to actions to be undertaken by NAC. The NAC Board was informed on the implementation of the international anti-corruption instruments and improvement of the legislative framework aimed at creating important administrative tools for preventing corruption.

Recommendations:

- It is recommended that the Parliament adopts a Law to extend the timeline of the current Anti-Corruption Strategy to December 2017, and that the Parliament adopts a new Anti-corruption Action Plan 2016-2017.
- It is recommended that the Parliament ensure that the state budget foresees in separate budget lines for the specific measures foreseen for the implementation of the Anti-Corruption Strategy. These budget lines can be financed by a percentage of the money gained from confiscated assets in the fight against corruption.
- It is recommended that the Committee on National Security, Defence and Rule of Law reviews a progress report on the implementation of the Anti-Corruption Strategy every six months, report about it to the plenary two times a year, and proposes to Parliament the adoption of a motion in plenary session.
- It is recommended that a Member of Parliament, rather than an advisor, participates in the meetings of the Monitoring Group for the Anti-Corruption Strategy and communicates on a regular basis the findings and conclusions of the discussions in the Anti-Corruption Strategy Monitoring Group and NAC Board to all members of the Parliamentary Committee on National Security, Defence and Rule of Law and put the findings on the agenda of the Committee.

1.2. National Anti-corruption Centre (NAC)

Among the major achievements at the institutional level in the field of anti-corruption are the establishment and strengthening of several anti-corruption bodies. A major role in the prevention and combating of corruption is given to the National Anti-corruption Centre (NAC).

In 2012, the Centre for Combating Economic Crimes and Corruption - established in 2002 - was transformed into the NAC. Unlike its predecessor, the competences of NAC include preventing and fighting corruption, money laundering and terrorism funding, conducting anti-corruption expertise on draft laws, supervising and assisting public institutions in conducting internal corruption risk assessments, and elaborating integrity plans. The NAC also holds the position of Secretariat of the Working Group for Monitoring the Implementation of the National Anti-corruption Strategy.

In recent years, the NAC has gone through a number of institutional changes. In October 2012, the appointment of the Director of the NAC was made based on merit and the responsibility for the selection was assigned to the Parliament Committee for Legal Affairs, Appointments and Immunities. It was decided that the NAC budget would be directly approved by the Parliament. Later during the same month of October 2012, the Justice Reform Strategy was adopted. As a result, when the NAC wanted to open an investigation against a person, it had to notify the person in advance. This negatively affected the fight against corruption, and in July 2014, that decision was reversed. In early 2013, NAC investigations against high state officials (such as the Head of the Tax Administration, Deputy Secretary General of the Government and the Minister of Health) contributed to a political crisis and the government was dismissed in March 2013. In May 2013, the new government brought the NAC back under government supervision, contrary to the provisions in the Visa Liberalization Ac-

tion Plan agreed with the EC. The appointment procedure for the Director of the NAC changed. It switched from a recruitment based on merit, to an appointed position decided by the President of the country upon the recommendation of the Prime Minister. In addition, the criteria for dismissal were removed, allowing for possible arbitrary dismissal. However, the Parliament Committee for Legal Affairs, Appointments and Immunities still needs to conduct the selection procedure before the Prime Minister can nominate a candidate to the President. It was also decided that the NAC budget be part of the government budget.

In 2016, it is expected that the institutional set-up of the NAC will be changed again. The EU-Moldova Association Agreement Agenda lists the required changes to guarantee the independency of the NAC. It is recommended that, by 31 March 2016, the Parliament will adopt legislation to confirm the public contest for the Director position, to restate the grounds for appointment and dismissal of the Director, and to re-assign the responsibility for approving the budget of the NAC to the Parliament. Parliament approval of the budget implies that the proposed budget is analyzed and discussed in public and with representatives of different political parties present within the Committee on Budget, Finance and Economy.

Recommendations:

- It is recommended that the Parliament adopt legislation to strengthen the independency of the NAC by establishing the public contest and merit-based procedure for the selection of the Director, restating the grounds for appointment and dismissal of the Director, and re-assigning to the Parliament the responsibility for approving the budget of the NAC.

1.3. National Integrity Commission (NIC)

The other important institutional pillar of Moldova's anti-corruption system is the National Integrity Commission (NIC), set up in December 2012. The competences of the NIC include supervising and enforcing the implementation of three policies aiming at preventing corruption in the public service declaration and control of incomes and assets, conflict of interests, and incompatibilities.⁵ Once a year, all Moldovan officials have to submit two declarations to the NIC: a declaration of incomes and assets, and a declaration of interests. The officials have to submit these declarations within 15 days of taking up their position and when leaving the position. Currently, there are around 65,000 public officials in Moldova, which means that the NIC receives around 130,000 declarations annually.

In 2014, the NIC initiated 354 controls (as compared to 120 in 2013). Amongst others, the NIC verified the declarations of 5 Members of Parliament and 19 Ministers and Deputy Ministers in the government. In 2013-2014, the NIC identified 54 cases of violations of the provisions of the declaration of incomes and property, 50 cases of violations of the provisions of conflict of interest, and 18 cases of violations of the provisions of incompatibilities (6 of whom were Ministers). A total of 57 cases have been reported to the General Prosecutor's Office and 56 cases to the NAC.⁶ However, there are very few actual prosecutions of the cases sent to court.

The NIC is a collegial institution consisting of five members appointed by Parliament for a mandate of five years. Three members are proposed by the Parliamentary majority, one member by the Parliamentary opposition and one by

(5) Law no 16/2008 on conflicts of interests and Law no 1264/2002 on declaration and control of income and property of public officials, judges, prosecutors, public servants and persons with the management positions.

(6) National Integrity Commission, *Annual Activity Report*, Chisinau, 2014, 34 p.

civil society. The NIC is chaired by a president appointed by the Parliament among members of the NIC and is assisted by a deputy.

An essential weakness of the NIC is the fact that the Law on the NIC does not clearly specify the duties of NIC' members. On the one hand, the Parliament offers an equal mandate for all members of the NIC. On the other hand, the Parliament appoints a Chairperson among members of the NIC. The President has powers established by law, while there are no such provisions for the members. NIC members are high officials, but without clear executive powers. Such ambiguity of mandates and responsibilities has caused problems in recent times. The NIC has been undermined by internal conflicts almost permanently, which affected its image and credibility in the society. It seems that these conflicts are inherent to the legal framework and are not caused primarily by the current persons at the NIC. In other words, if the law is not changed these conflicts are likely to re-appear, even with newly appointed members and Chairperson.

A particular challenge for the NIC is providing a justification for its decisions. Due to the collegiality status of the institution, and because decisions are taken by majority vote of NIC's members, in several cases the sole reasoning for a decision was the outcome of the vote. There is need for a clear rationale of decisions based upon the findings on wealth, conflicts of interest or incompatibilities. The NIC credibility is undermined when the members' appointments are based on political criteria as it has been proven to be problematic for people who are politically appointed to overlook violations of people of their own political orientation. The NIC efficiency is undermined due to the limited access to the databases of other state bodies and the lack of efficient control of assets of public servants abroad.

In view of these challenges and in order to enable the NIC to perform its duties better, in

October 2014 the Ministry of Justice created a working group, which drafted a legislative package on the reform of the NIC and the mechanism of the declaration of assets, conflicts of interests of the public officials.⁷ The package comprised three draft laws, namely: (1.) the draft Law on the declaration of assets (wealth) and personal interests (2.) the draft Law on the National Integrity Centre (3.) the draft Law on the amendments of certain legislative acts. The following is a summary of the three draft laws, which Parliament is expected to approve, once these draft laws are tabled in Parliament.

(1.) The draft Law on the declaration of assets (wealth) and personal interests would systematize provisions of the Law on conflicts of interests and the Law on declaration and control of income and property in a single legislative act. It provides for a unique form of declaration of assets and personal interests, moving beyond the duplication of declarations that officials are obliged to submit each year by 31 March. The draft law extends the number of the goods that are subject to declaration, foresees in an on-line system of submission of the declarations of assets and personal interests, and defines more clearly the concept of conflict of interests. The draft law establishes that the declaration of conflict of interest should be a written declaration, that is registered in a special public register⁸. The draft law regulates the procedure of solving the conflicts of interests of the President of Republic of Moldova, Prime Minister, members of the Government, members of the Parliament, Prosecutor General, and Chairman of the Superior Council of Magistrates and su-

(7) Reference Actions 4, 5, 6 and 23 of the Action Plan for the period 2014-2015 on the implementation of the 2011-2015 Anti-Corruption Strategy.

(8) For the declarations to be publicly accessible, there is need to distinguish between two levels. The first level of information can be accessible to CSOs, media and interested individuals (taking into account the need to respect privacy). The second level of information (including all info) should be accessible to law enforcement agencies. There is need to engage CSOs in the debates for the design of the database, and how it should work, which sources of information should be included, to which sources it should be connected (e.g. there might be a database of the Mol).

perior Council of Prosecutors etc. Finally, the draft law establishes certain categories of sanctions such as warning, reprimand, and severe reprimand in cases when the subject of declaration committed a violation of the legal regime of the conflicts of interests.

(2.) *The draft Law on the National Integrity Centre* proposes the reorganization of the current National Integrity Commission into the National Integrity Centre with the aim to provide the institutional and operational independence and excluding direct political control. In this respect, the management of the National Integrity Centre will be ensured by a chairperson and a deputy chairperson, appointed by the President of the Republic of Moldova, after being selected following a competitive process. The competition for selecting the chairperson and the deputy chairperson is organized by the Integrity Council consisting of seven members. Hence, the proposed new law retains the collegial body prescribed by the legislation in force today, but changes its role, procedure of functioning and appointment. The Integrity Council is transformed into a body that oversees the integrity policies implemented by the NIC, but without having any involvement in control procedures. The members of the Integrity Council will include journalists, civil society and persons that are not and have not been, for the past two years, members of a political party.

The draft law brings a significant improvement in the procedure for electing the management of the NIC, by making this process competitive, transparent and open to all. It eliminates any source of controversy concerning possible political influence in the procedure of control, but simultaneously ensures a checks and balances system required for an effective operation of the NIC.⁹ Moreover, in order to ensure legitima-

(9) The Integrity Council will operate basically as an interface between NIC and the political world of the Republic of Moldova, being similar to the system implemented in Romania and highlighted by the EU Commission as a best practice at European level in the first report on anti-corruption policies in EU member states.

cy to the Integrity Council, its members will be appointed by the Parliament.

The draft law creates a new public official position called an “integrity inspector”. It is envisaged that there will be 30 integrity inspectors¹⁰, responsible for the controls of assets, wealth, conflicts of interests, incompatibilities and restrictions. The integrity inspectors are selected through a competitive and transparent procedure, and will have functional independence in handling cases similar to other civil servants with control powers in other public institutions.

The draft law establishes new competences: the competence to apply contravention sanctions and the competence to require the courts to seize the unjustified assets of public officials in cases when the integrity inspector establishes that there is an unjustified difference between the declared property and obtained revenues of the official. The draft law gives up on the idea of strict verification of declarations of assets by extending the scope of control to control over the existing wealth (assets) of the public officials obtained during the exercise of the public office. The draft law also establishes the rule that if the person under review is married, in concubine, or financially dependent on the person under review, the verification of the wealth will be extended to wealth of his / her spouse, concubine / concubine and, where appropriate, the financially dependent person.

(3.) *The draft law on the amendment of certain legislative acts* aims to bring all existing legislation into line with the provisions of the draft Law on the declaration of assets and personal interests and the draft Law on the National Integrity Centre and to ensure the realization of

http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf and http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_romania_chapter_en.pdf.

(10) Currently, the NIC has 50 staff persons of which 26 persons do content-related work.

international commitments assumed by Moldova in regard to the EU (when referring to the procedure for civil forfeiture of unjustified wealth). It will be an organic law amending 47 current laws, including, amongst others, amendments aiming at ensuring the National Integrity Centre's free access to databases/registers held by other authorities and which are necessary to achieve NIC's tasks in the field verifying assets and conflicts of interest.

These three new draft laws have been prepared under the previous government. They are pending formal submission to the Parliament by the current government. In April 2015, the EC and CoE made a positive assessment of these draft laws, pointing to some highly effective features, such as the online submission of and online public access to declarations, access to banking data to facilitate the verifying of declarations, the obligation of all natural or legal person to provide data within a given time-limit relevant for the verification within a given time-limit, and sanctions for wrongful declarations.¹¹

Recommendations:

- Following the submission of these three draft laws to Parliament by the new government, it is recommended that the parliament committee conduct a public hearing with institutional stakeholders, CSOs, think tanks, national and international experts on these three draft laws, thus further highlighting their importance and increasing public awareness and support.
- It is recommended that the Parliament adopt these three draft laws with a view to enable the establishment of the National Integrity Centre in 2016.
- It is recommended to foresee in a detailed briefing and related training sessions for MPs (and senior Parliamentary staff) on how to efficiently fill in the new declaration form in the on-line format.
- It is recommended that the Parliament elect the seven members of the National Integrity Council without undue delay after adopting the law on the National Integrity Centre.

(11) CoE/EU Eastern Partnership Programmatic Co-operation Framework (PCF), *Assessment of Three Draft Laws: "On the declaration of wealth, personal interests, conflicts of interest and gifts", "On the National Centre for Integrity", "Amending and Supplementing Certain Legislative Acts"*; Drafted by Dr. Tilman Hoppe, reviewed by Vera Devine, and input provided by Valts Kalnins, Council of Europe experts, April 2015, 88 p.

1.4. Parliament's role in implementation of anti-corruption policies

Over the last years, the Parliament of Moldova has adopted anti-corruption legislation, which establishes different agencies and institutions which each have their own specific responsibilities. However, the Parliament still has a role to play once the law has been voted on. Often the Parliament has a responsibility for the implementation of specific aspects of the anti-corruption legislation and policies. This is particularly the case in terms of the appointment of senior staff of the agencies or in terms of safeguarding their independence.

As mentioned above, the National Anti-corruption Centre in 2013 was brought under government supervision, the appointment procedure for the Director of the NAC changed and the NAC budget became part of the government budget. Additionally, it was recommended above that the Parliament change the applicable legislation to change these provisions and thus strengthen the independency of the NAC. As regards to other institutions, Parliament has a key role to play in ensuring their functionality and independency. As mentioned above, the Central Election Commission has an important role in the oversight of the implementation of the new political party legislation. It is thus important that the Commission is given sufficient financial and human resources to execute their responsibilities.

In a similar way, the Parliament of Moldova has a specific responsibility towards the National Centre for Personal Data Protection, which we will discuss in some more detail in the following paragraphs.

Moldova is a party to the international "Convention for the protection of individuals with regard to automatic processing of personal data" (Strasbourg, 28.01.1981). The Convention stipulates that each Party shall designate one or more authorities to implement this convention.¹² In the same way, the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data,¹³ stipulates that each Member State of the EU shall provide that one or more public authorities are responsible for monitoring the application of the provisions within its territory adopted by the Member States pursuant to the Directive. Both the Additional Protocol to the above mentioned Convention and the Directive 95/46/EC establish explicitly that these authorities shall act with complete independence in exercising the functions entrusted to them.

In this context, according to the Law Nr. 17-XVI of 15.02.2007 on personal data protection, the authority responsible for the control over the compliance of personal data processing with the present law provisions in the Republic of Moldova is the *National Centre for Personal Data Protection*. For the implementation of this law, the Law Nr. 182-XVI of 10.07.2008 regarding the approval of the Statute, structure, staff-limit and financial arrangements of the National Centre for Personal Data Protection was adopted. On the basis of these laws, the Centre obtained the status of an autonomous public authority, independent of other public authorities, natural persons and legal entities.

(12) The Additional Protocol to the Convention for the protection of individuals with regard to automatic processing of personal data, regarding supervisory authorities and trans-border data flows (Strasbourg, 08.11.2001) says that each Party shall provide for one or more authorities to be responsible for ensuring compliance with the measures in its domestic law giving effect to the principles stated in Chapters II and III of the Convention (dealing with basic principles for data protection and trans-border data flows) and in this Protocol.

(13) http://www.datepersonale.md/file/Directiva_95_46_en.pdf

The Centre's aim is to protect the fundamental freedoms and rights of natural persons, especially the right for private life regarding the processing and trans-border transfer of personal data.

The staff of the Centre consists of public servants and contracted employees, employed through a contest within the provisions of the legislation in force. In the fulfilment of their duties, the officials of the Centre are allowed to have free access to the premises and territory of personal data holders and to the necessary documents, except for the documents that contain information qualified as a state secret. With the view of consulting and assisting the Centre, the Consultative Council of the Centre is created on a voluntary basis. The Chairman of the Consultative Council is the Director of the Centre.

The Centre is led by a Director appointed for a 5 year mandate by the Parliament by the majority of votes of the elected deputies. A candidate for Director can be nominated by the Chairman of the Parliament, a parliamentary fraction or at least 15 deputies. The person appointed as Director may not hold this post for more than two consecutive mandates. The Director is assisted by a Deputy Director, appointed by the Parliament, on the proposal of the Director of the Centre, for a 5 year mandate. During the absence of the Director of the Centre, the Deputy Director temporarily carries out the duties of the Director.

Through the Parliament Decision 233 of 13.11.2008, Mr. Vitalie Panish was appointed as Director of the National Centre for Personal Data Protection and through the Parliament Decision Nr. 08 of 03.02.2009, Mr. Vasile Foltea was appointed as Deputy Director of the National Centre for Personal Data Protection.¹⁴

At the end of his five-years mandate, Mr. Vasile Foltea has resigned as deputy director of the Centre, on his own will. Mr. Vitalie Panis still holds the position of director of the Centre, though his mandate expired on 13.11.2013. Parliament has not appointed any another person to the positions of director and deputy director of the centre. This is a considerable burden to the functioning of the Centre.

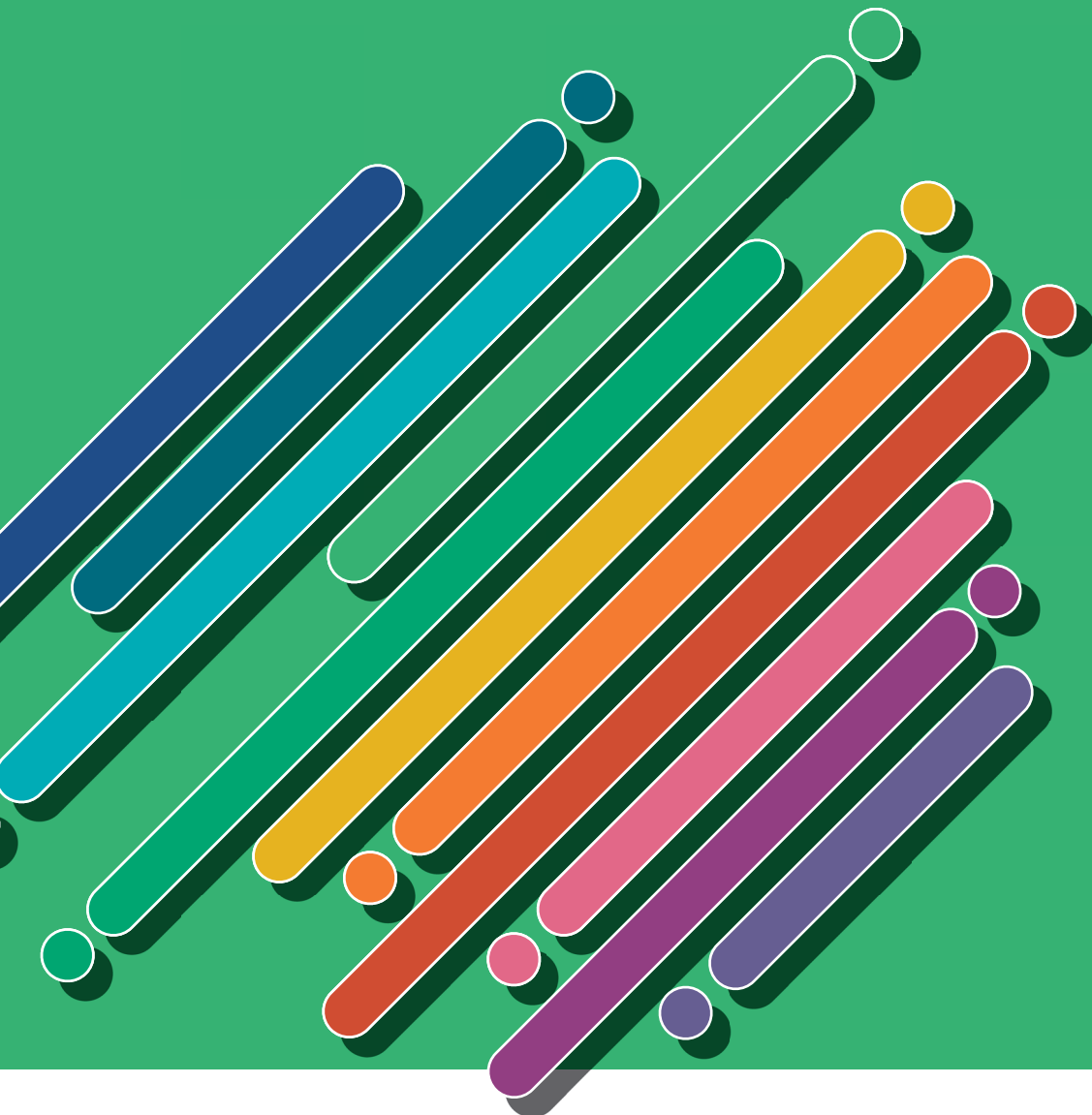
Recommendations:

- We recommend that the Parliament legal Committee on Immunities and Appointments select the new Director and Deputy Director of the *National Centre for Personal Data Protection* as soon as possible.
- We recommend that the Parliament guarantee the functioning and independence of the *National Centre for Personal Data Protection* through the allocation of sufficient budget and staffing structure.
- As Parliament has adopted the new law on political parties funding and campaign financing (April 2015), it is recommended that, within the next two years (before the end of 2017), an external, independent expert review be conducted on the compliance of the new law with OSCE/ODHIR and GRECO recommendations as well as on the level of enforcement of the law. The findings of this expert review can be taken on board in the framework of the policy dialogue between Moldova and the EU related to the EU-Moldova Association Agreement.

(14) Organizational chart of the Centre: <http://www.datepersonale.md/en/organigrama/> ; Internal regulations of the Centre: <http://www.datepersonale.md/en/interne/>

- It is recommended that the Parliament's Committee for Legal Affairs, Appointments and Immunities discusses, at least once a year, the report of the Central Elections Commission covering initiatives taken to implement and enforce the new law on political parties funding and campaign financing.
- Following the adoption of the new law on the National Integrity Centre, it is recommended that the Parliament elect the seven members of the National Integrity Council without delay.

2 Legislative role of Parliament



EXECUTIVE SUMMARY



INTRODUCTION



THE INSTITUTIONAL FRAMEWORK



LEGISLATIVE ROLE OF PARLIAMENT



OVERSIGHT ROLE OF PARLIAMENT



BUDGET ROLE OF PARLIAMENT



PARLIAMENT'S TRANSPARENCY AND COMMUNICATION



ETHICS FRAMEWORK



THE INTERNATIONAL ANTI-CORRUPTION FRAMEWORK



CONCLUSION: GOPAC CHAPTER FOR MOLDOVA



ANNEXES



2. Legislative role of Parliament

■ In this section of the report, we will discuss the legislative role of the Parliament of Moldova in terms of anti-corruption. We will discuss the anti-corruption “proofing” of draft legislation. We will analyze in detail one recently adopted piece of legislation relevant to anti-corruption, the law on political parties. Referring to the Questionnaire on Anti-corruption policies (Question: Which legislation relevant to anti-corruption has not yet been approved?), this section of the report will also discuss the Strategy for Justice Sector Reform 2011–2016 and the legislation required in this area. This section of the report is related to the chapter “Anti-corruption planning and monitoring” in the GOPAC-UNDP Anti-corruption Toolkit (p. 12-16) and UNCAC articles 5, 10, 63).

2.1. Anti-corruption “proofing” of draft legislation

As part of the country’s anti-corruption strategy, a policy for anti-corruption “proofing” of draft legislation has been adopted. This proofing represents the process of assessing the compliance of the contents of draft laws with national and international anti-corruption standards, with the purpose to identify corruptibility factors and to develop recommendations to exclude them or reduce their effects.¹⁵ The NAC is mandated to prepare an anti-corruption proofing of draft legislation prior to the government’s final approval of the draft law and prior to it being forwarded to the Parliament. The objectives of the NAC proofing of draft legislation are to identify provisions which contradict or do not adequately comply with the national and international anti-corruption standards, to

identify provisions which are likely to generate or to favour corruption and related acts and/or acts of corruptive behaviour, and to provide recommendations to exclude or reduce the eventual effects of the corruptibility of the legal provisions.¹⁶ The NAC has developed its specific methodology for anti-corruption proofing of legislation, with specific attention to its regulatory impact, the economic-financial justification of the draft law, and the promotion or impairment on group or individual interests.¹⁷

Civil society conducts its own anti-corruption proofing of draft legislation. The Centre for Analysis and Prevention of Corruption (CAPC) conducts anti-corruption proofing when draft laws are submitted to Parliament and are subsequently posted on the Parliament’s website. The CAPC has developed its own tested methodology, roster of national and foreign experts, and electronic template.

The Parliament Rules of Procedure require that all draft laws registered in Parliament, including private Member bills, need to have anti-corruption proofing conducted by the NAC. The NAC report on any draft law is part of the documents, which all MPs receive when voting on the legislation. The Parliament’s Legal Directorate makes a general assessment of the draft law, reviewing its constitutionality, compatibility with EU legislation, international commitments, compliance with the legislative procedure, gender considerations and anti-corruption proofing, based upon the reports of the NAC and CAPC. In other words, the review of draft legislation on corruption risks is part of an overall assessment of the proposed legislation; there is no specific or separate anti-corruption proofing by the Par-

(15) “Corruptibility” represents the eventual capacity of the legal provisions to generate or favour, upon enforcement, corruption and related acts and/or acts of corruptive behaviour. “Factors of corruptibility” are the normative constructions and solutions, including omissions, which, upon enforcement, generate or enhance the risk of the occurrence of corruption and related acts and/or acts of corruptive behaviour.

(16) The factors of corruptibility may be conventionally divided as follows: ambiguous linguistic formulation, conflict between legal provisions, inside and outside reference provisions, excessive discretion of public authorities, excessive requirements for exercising the rights of persons, limited access to information and lack of transparency, lack/insufficiency of control mechanisms, inadequate responsibility and sanctions.

(17) National Anti-corruption Centre, *Methodology on Conducting Anti-Corruption Proofing of Draft Normative Acts*, Ordinance 62, Chisinau, 19 April 2013, 7 p.

liament administration. Within the legislative process in Parliament, the committees provide a formal, political endorsement of the draft law. The Legal Directorate sends its consolidated overview of all aspects of analysis, including the EC Acquis compliance table, and recommended solutions to resolve identified issues to the relevant reporting committee.

According to the NAC, in 2013 the government took 143 decisions (including adopting draft laws); 85 were decisions requiring anti-corruption proofing, of which 80 were submitted to the NAC for anti-corruption proofing. NAC recommendations on government decisions were taken on board in 58 % of the cases (in 2013).

The NAC identified that some Parliament decisions are beneficial to private interests of key officials, through decisions on changing the destination of land, tax and customs duty exemptions on imports of goods, exemptions from the rules on trade, favouring budget of public institutions.¹⁸ While the NAC makes the anti-corruption proofing of draft legislation when considered by the government, prior to tabling in Parliament, there is currently no mandatory provision for requesting a second proofing of the legislation in case there is a substantial change to the content of the draft law at the Parliamentary stage.

A particular challenge to the legislative process in Parliament is the often-poor linguistic quality of the draft laws as submitted by the Government. When draft laws are tabled in Parliament, the Secretariat needs to conduct an editing review of the text. As long as no editing review has been done, draft laws cannot be sent for final vote in the plenary session. In exceptional cases, when there is very little time available for editing prior to final reading, the editing might happen after the law has been passed in plenary session. In such case, the Head of the Legal

Directorate is required to submit a Memo to the Speaker of Parliament.

Another challenge to the legislative process is the reintroduction of amendments, which have been discussed and rejected at the Committee stage in plenary session. When adopting these so-called “hidden amendments”, there are no reports or documentation (of the Legal Directorate) at hand as is the case for amendments approved in Committee stage. Reintroducing amendments at plenary session means introducing language, which might increase the risk for corruptible practices.

Recommendations:

- We recommend the development of a standard template for the Legal Department to prepare a structured report on each draft law, including the Anti-Corruption assessment, ref. article 54 of the Rules of Procedure. Such template will enable a computerized review of the extent to which Legal Department recommendations are taken on board by the Parliament.
- In case the Committee decides not to take on board a recommendation related to the anti-corruption proofing, we recommend that the Committee’s report to the plenary mentions this clearly and provides a justification for it; ref. article 56 of the Rules of Procedure.
- In cases when a draft law has been changed substantially during the Parliamentary review process, it is recommended that the Parliament’s Legal Department request a new anti-corruption proofing by the NAC, prior to the final vote in plenary session.
- We recommend enhanced training of staff of the Legal Department on anti-corruption policies, anti-corruption proofing and legal reviews.

(18) Interview with NAC senior officials, July 2015.

- In case a Member of Parliament reintroduces legislative amendments, which are similar to, amendments already discussed and dealt with at committee stage in plenary session the draft law needs to be reconsidered in Committee prior to any final vote in plenary.
- In case laws are edited after they were approved in plenary session with a view to make the law legally and linguistic compliant, there should be a final reading and vote on the law in plenary session, ref. article 71 of the Rules of Procedure.
- In case the draft laws as submitted by the government are of too poor quality in terms of legal and linguistic compliance, Parliament is advised to send the draft laws back to government, as stated in article 47 / 11 of the Rules of Procedure.

2.2. Example: law on political parties

In an effort to combat corruption in Moldova, a number of anti-corruption laws and policies have been introduced, including a law on political parties. Transparency in the financing of political parties has been on the political agenda of Moldova for many years. Civil society has regularly pointed out the limited scope of internal democracy within political parties. The lack of transparency in their financing exposes the fact that decision-making process are controlled by interest groups.¹⁹ Electoral campaigns have been marred by very high campaign expenditure, which enabled business people to be highly influential through a concealed role in politics. The need for legislation that should result in more transparency in party financing has been on the agenda of the Council of Europe Group of States against Corruption (GRECO) and, included in the Moldova Anti-Corruption Strategy.²⁰

The GRECO Third Round Evaluation Report for Moldova (2011)²¹ included an extensive section on political parties funding and campaign financing. The main GRECO recommendations were as follows:

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

(19) Sobjak, Anita (ed.), *Anti-corruption in Moldova and Ukraine. A V4 Handbook of Best Practices*, Published by: Polish Institute of International Affairs, Warsaw, June 2015, 124 p.

(20) Action 22 of the 2014-2015 Action Plan on the implementation of the 2011-2015 Anti-Corruption Strategy.

(21) Group of States Against Corruption (GRECO), *Third Evaluation Round. Evaluation report on Moldova "Transparency of party funding"*, Adopted by GRECO at its 50th Plenary Meeting, Strasbourg, 28 March - 1 April 2011, 27 p. [https://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2010\)8_Moldova_Two_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2010)8_Moldova_Two_EN.pdf)

2. require that all donations received by political parties outside election campaigns that exceed a given amount, as well as the identity of the donors, are disclosed to the supervisory authorities and are made public;
3. take appropriate measures to limit the risk that members' subscriptions received by parties may be used to circumvent the transparency rules applicable to donations;
4. take appropriate measures (i) to ensure that all donations and services provided to parties or candidates in kind or on advantageous terms are properly identified and recorded in full, at their market value, in both parties' annual reports and campaign funding reports; and (ii) to clarify the legal situation regarding loans;
5. promote the use of means of payment for donations to political parties and for political party spending involving, notably, recourse to the banking system in order to make them traceable;
6. explore the possibilities of consolidating political parties' annual reports and campaign funding reports so as to include entities which are directly or indirectly related to them or otherwise under their control;
7. introduce independent auditing of party accounts by certified experts;
8. mandate an independent central body, endowed with sufficient powers and resources and assisted by other authorities where necessary, so as to allow the exercise of effective supervision, the conduct of investigations and the implementation of the regulations on political funding;
9. ensure that (i) all infringements of the rules on party funding in general and financing of election campaigns are clearly defined and made subject to effective, proportionate and dissuasive sanctions, which can, if necessary, be imposed after the Constitutional

Court has validated the elections; and (ii) the limitation periods applicable to these offences are sufficiently long to allow the competent authorities effectively to supervise political funding.

In November 2011, the Moldova government set up a working group with the aim to draft amendments to the applicable legislation with a view to implement GRECO's recommendations.²² It resulted in a draft law, which contained amendments to eight pieces of legislation, notably the Electoral Code, the Law on Political Parties, the Criminal Code, the Code of Criminal Procedure, the Code on Minor Offences, the Broadcasting Code, the Tax Code and the Law on the Court of Account. In November 2012, the government informed GRECO on measures taken to implement its recommendations and outlined the draft law.

In its Compliance Report of March 2013²³, GRECO assessed the implementation of each recommendation contained in the Evaluation Report and provided an overall appraisal.²⁴ GRECO assessed that the draft law, if adopted as such, should address most of its recommendations. GRECO reiterated its call to ensure that the rules are applied in practice, notably by verifying that the supervisory mechanism – the Central Electoral Commission – has the necessary resources to implement substantive, proactive oversight of the financing of election campaigns and of political parties in general.

(22) This working group included representatives of the CEC, the Ministry of Justice, the Centre for Combating Economic Crime and Corruption, the Ministry of Finance, the Tax Inspectorate and the Court of Auditors, the head of the Moldovan delegation to GRECO, and representatives of the parties present in Parliament, NGOs and a number of international organizations.

(23) Group of States Against Corruption (GRECO), *Third Evaluation Round - Compliance report on Moldova - transparency of party funding*, Adopted by GRECO at its 59th Plenary Meeting, Strasbourg, 18-22 March 2013, 19 p. [https://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2013\)2_Moldova_EN.pdf](https://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2013)2_Moldova_EN.pdf)

(24) Similar observations can be found in: Venice Commission and OSCE/ODIHR, *Joint Opinion On Draft Legislation Of The Republic Of Moldova Pertaining To Financing Political Parties And Election Campaigns*, Adopted by the Council for Democratic Elections at its 44th meeting (Venice, 7 March 2013) and by the Venice Commission at its 94th Plenary Session (Venice, 8-9 March 2013), 18 p.

On 9 April 2015, the Parliament adopted the proposed amendments. Among the major changes are the prohibition of party financing from abroad and the criminalisation of campaign financing irregularities; Incomes and expenditures of parties or independent candidates have to be incurred through dedicated bank accounts. However, according to civil society²⁵, the content of the amendments has been diluted significantly, as compared to the original version of the text. Most importantly, the initially proposed cap of 20 average monthly salaries for donations by individuals and 40 by legal entities was augmented tenfold (to 200 and 400, respectively). This goes against the GRECO advice in its 2013 compliance report.²⁶ *“As a result, political parties will remain dependent on donations from a small number of sources, and will thus be exposed to continued oligarchisation”*²⁷ In addition, the capacity for enforcement of the provisions remains unclear. According to OSCE / ODIHR, the Central Election Commission of Moldova does not have sufficient human resources to monitor campaign financing.²⁸

While the April 2015 amendments seem to have considerably strengthened the mechanisms aimed at increasing transparency of political party financing, so far no independent, external assessment has been made to verify to what extent the OSCE/ODHIR and GRECO recommendations have been taken on board and to what extent mechanisms are in place to ensure the effective implementation of the new legal framework on political parties funding and campaign financing.

Recommendations:

- Following the adoption by Parliament of the new law on political parties funding and campaign financing (April 2015), it is recommended that, within the next two years (before the end of 2017), an external, independent expert review be conducted on the compliance of the new law with OSCE/ODHIR and GRECO recommendations as well as on the level of enforcement of the law. The findings of this expert review can be taken on board in the framework of the policy dialogue between Moldova and the EU related to the EU-Moldova Association Agreement.
- It is recommended that the Parliament's Committee for Legal Affairs, Appointments and Immunities discusses, at least once a year, the report of the Central Elections Commission covering initiatives taken to implement and enforce the new law on political parties funding and campaign financing.

(25) Interviews with CSO representatives and think-tanks in Moldova, July 2015.

(26) GRECO, *Third Evaluation round - compliance report on Moldova*, 2013, Paragraph 57, p. 12.

(27) Secrieuru, Stanislav and Sobjak, Anita, *Moldova's European Integration: on Sick Leave?*, Published by: Polish Institute of International Affairs, Warsaw, June 2015, 7 p.

(28) OSCE Office for Democratic Institutions and Human Rights, "Limited Election Observation Mission Republic of Moldova Local Elections, 14 June 2015. Interim Report 14–28 May," 1 June 2015, p. 6, <https://www.osce.org/odihr/elections/moldova/160886?%20download=true>

2.3. Strategy for Justice Sector Reform 2011–2016

As mentioned above, one part to the review of the legislative role of Parliament in terms of anti-corruption is the extent to which legislation relevant to anti-corruption has not yet been approved. Moldova has a large amount of legislation relevant to anti-corruption. There is a law on the protection of witnesses and other participants in criminal proceedings (2008), Law on the National Development Strategy of the Personal Data Protection (2013), Law on prevention and combating money laundering and terrorism financing (2007), etc.

However, the Moldova justice sector is in need of reform, as evidenced by the allegations brought against judges by the NAC and the fact that 80 per cent of citizens perceive the judiciary to be corrupt or extremely corrupt. To compound the problem, judicial self-regulatory bodies lack the capacity to effectively oversee the work of the judiciary. The Superior Council of Prosecutors, for example, does not have its own budget, auxiliary staff or premises.

Against this background, the Strategy for the Reformation of Justice Sector Reform 2011-2016²⁹ aims at addressing corruption in the judiciary system. A part of this Strategy, a comprehensive anti-corruption legislative package was adopted by the Parliament on 23 December 2013. The adoption of the laws was foreseen in the visa liberalization action plan with the EU and the laws have been adopted ahead of the Moldova-EU Association Agreement, signed in June 2014.

The package included amendments to the Criminal Code³⁰ (which provided for the special measure of extended confiscation), regulation

of the “illicit enrichment” offence, mandatory polygraph tests for candidates for judges and prosecutor positions, as well as stricter penalties for corruption offences.

The package included the law on professional integrity testing.³¹ The tests will be conducted by the NAC and the Security and Information Service. The recent decision by the Constitutional Court to limit the applicability of the Law on Professional Integrity Testing by excluding judges is seen by Moldova CSOs as a step back in Moldova’s anti-corruption reforms, though employees of the courts remain subject to the law.³²

The Council of Europe (CoE) reviewed the legislative package and highlighted the importance of stricter penalties for corruption offences. In the case of illicit enrichment, the CoE emphasised that, besides Ukraine, Moldova is the first country to introduce this offence. Moreover, “extended confiscation” has been seen in line with “the draft regulations as recently proposed by the EU and in line with the CoE standards.”³³ The Moldova Parliament adopted amendments on the “Organic Law on Judicial System, Law on Status of Judges”, “Law on National Institute of Justice” and the “Law on the Selection, Performance Appraisal and Career of Judges” following recommendations provided by the Council of Europe.³⁴

31 Law No. 325 from 23 December 2013 regarding professional integrity testing (published in *Monitorul Oficial* with No. 35-41/73 on 14 February 2014), <http://lex.justice.md/md/351535>.

32 Utica, Stella, *Moldova*, in: Sobjak, Anita (ed.), *Anti-corruption in Moldova and Ukraine. A V4 Handbook of Best Practices*, Published by: Polish Institute of International Affairs, Warsaw, June 2015, p. 17.

33 Council of Europe Secretariat General, Directorate General Human Rights and Rule of Law, “Opinion of Information Society and Action against Crime Directorate prepared on the basis of the expertise by Tilman HOPPE on Article III of Draft Law ‘On Amendment of Certain Laws’ and Draft Law ‘On Professional Integrity Testing’ of Moldova,” Strasbourg, 8 January 2013, p. 32, www.coe.md/images/stories/Articles/Expertises_and_reports/2013.01_eccu-bo-2_2012-moldova-th.pdf

34 Council of Europe, Action Plan to support democratic reforms in the Republic of Moldova 2013 – 2016. Preliminary results and programming outlook. draft document, 25 June 2015, p. 4.

(29) See: www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/srsj_pa_srsj/SRSJen.pdf

(30) Law no. 326 from 25 December 2013 regarding the amendment and supplement of certain legislative acts (published in *Monitorul Oficial* with No. 47-48-92 on 25 February 2014), <http://lex.justice.md/md/351753>.

The reform of the judiciary has been ongoing for a long time and remains incomplete, in particular in the area of public prosecution.³⁵ In 2014, the Parliament of Moldova adopted a prosecution reform plan, as prepared by the Ministry of Justice of Moldova. A draft prosecution service law was elaborated³⁶ and then sent to the Venice Commission for review.³⁷ The draft plan on prosecution reform aims for the demilitarisation of this institution, the consolidation of the Prosecutor's Office's competences on criminal prosecution, new procedures for the selection and nomination of a General Prosecutor and clear regulation of cases when the prosecution is entitled to perform investigative acts.³⁸ The reform of the Prosecution Service is of critical importance in order to ensure its full independence from political interference and vested interests. The Prosecutor General is currently nominated by Parliament, at the recommendation of the Speaker. The new proposal would give this task to the President of Moldova, who would act upon a recommendation by a Council of Prosecutors. This proposal was put forward by the "*Moldova National Integrity System assessment*" as a measure to reduce the politicisation of the appointment procedure.³⁹ For this proposal to take effect, the Constitution needs to be modified. However, until the time that the Constitution is changed, the Parliament might consider appointing the candidate proposed by

secret ballot by the Superior Council or General Assembly of Prosecutors.

Finally, it is worth mentioning that a National Security Strategy is currently being prepared, which will include a chapter on anti-corruption. It is expected that the General Prosecutor will regularly engage in discussions with the Parliamentary Committee on National Security, Defence and Rule of Law, in addition to sending a report to Parliament.

Recommendations:

- Following the first reading in May 2015, it is recommended that the Parliament adopts the new Law on Prosecutorial Reform and incorporates the recommendations of the Venice Commission, including provisions on consolidation of the Prosecutor's Office's competences on criminal prosecution, new procedures for the selection and nomination of a General Prosecutor, and clear regulation of cases when the prosecution is entitled to perform investigative acts.
- It is recommended that the Parliament adopt the reforms of the Constitutional Court according to the Justice Sector Reform Strategy provisions.
- It is recommended that the Parliamentary Committee on National Security, Defence and Rule of Law regularly discuss the progress in implementation of the antic-corruption measures in the new National Security Strategy.

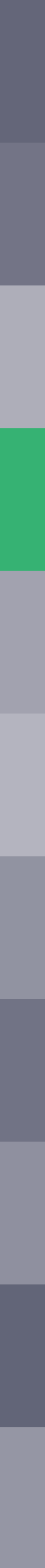
(35) "Implementation of the European Neighbourhood Policy in Moldova. Progress in 2014 and recommendations for action (joint working document)," European Commission, Brussels, 25 March 2015, p. 7, http://eeas.europa.eu/delegations/moldova/documents/press_corner/repulic-of-moldova-enp-report-2015_ro.pdf

(36) Utica, Stella, *Moldova*, in: Sobjak, Anita (ed.), *Anti-corruption in Moldova and Ukraine. A V4 Handbook of Best Practices*, Published by: Polish Institute of International Affairs, Warsaw, June 2015, p. 19.

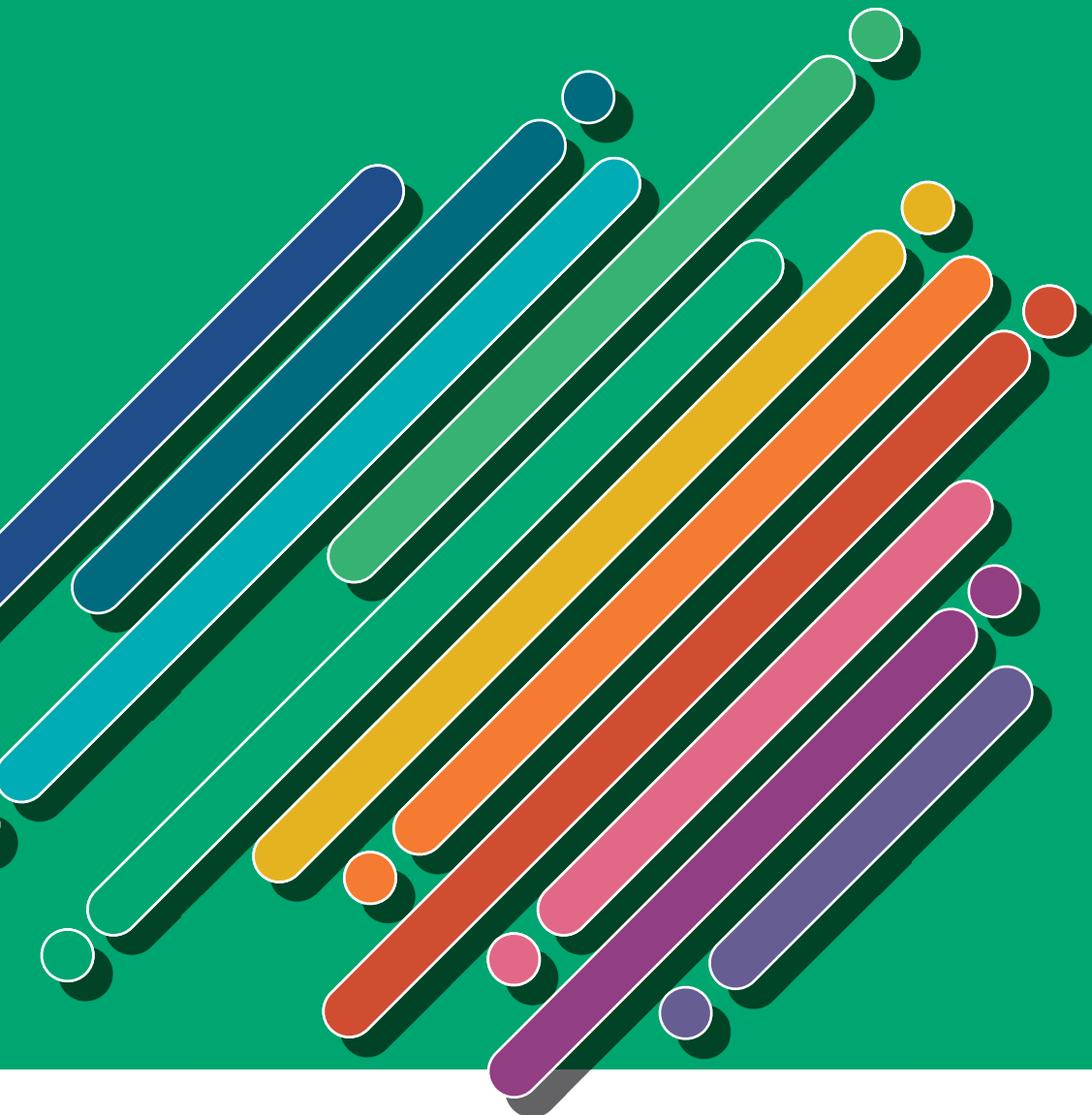
(37) Joint Opinion On The Draft Law On The Prosecution Service Of The Republic Of Moldova - Adopted By The Venice Commission At Its 102nd Plenary Session (Venice, 20-22 March 2015), Strasbourg / Warsaw, 23 March 2015, 29 p.

(38) Ministry of Justice, Concept on the reform of prosecution, Chisinau, November 2013, p. 11, www.justice.gov.md/public/files/concept.ref.procuratur.fin.06.11.2013.v.g._redactari_PG_11.11.2013_12.11.2013_final.pdf

(39) Ciubotaru, Maria (ed.), *National Integrity System Assessment Moldova 2014*, Published by: Transparency International Moldova, Chisinau, 2014, 268 p.



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3. Oversight role of the parliament of Moldova

■ In this section of the report, we will discuss the oversight role of the Parliament of Moldova in terms of anti-corruption. We will discuss the procedural instruments for Parliamentary oversight and how they can be used to strengthen oversight on the implementation of anti-corruption policies and legislation. Referring to our Questionnaire on Anti-corruption policies, this section of the report will discuss how Parliament uses in practice the procedural instruments for oversight and to what extent the Parliament exercises its oversight role through the information available from reports of public authorities. This section of the report is related to the chapter “Financial oversight” in the GOPAC-UNDP Anti-corruption Toolkit (p. 17-27) and UNCAC article 9 & 10.

3.1. Instruments for parliamentary oversight

The Parliamentary Rules of Procedures provide various instruments for Parliamentary oversight, including in the area of anti-corruption. There are for instance the weekly Parliamentary question times, interpellations, motions, hearings, and reports.

Art. 102.3 and Art. 122-124 of the RoP states that on Thursday, within the last hour of the activity of the Parliament, the questions raised by MPs shall be examined. The sitting from the last Thursday of the month, on the second half of the day, is devoted to hearing of interpellations (Art. 125 of the RoP). Questions and interpellations by MPs are a key instrument in raising awareness on anti-corruption matters and provide for the government’s accountability to Parliament on its anti-corruption policy. In practice, it is understood that very often deputy ministers and heads of departments answer to MPs questions and that the Prime Minister only in exceptional circumstances answers to Parliament. A weekly Prime Minister Question Time is not in practice.

The Art. 112 of the RoP sets out the rules for simple motions, through which the Parliament expresses its position regarding a certain problem of internal or external politics or, on the case, or issue that has been reflected in an interpellation. A simple motion can be initiated by at least 15 MPs. However, it is understood that this instrument is used very rarely and hence Parliament has no regular practice to express its opinion on a matter of high importance.

Art. 126 of the RoP sets out the practice of Parliamentary hearings. These are key for Parliamentary oversight, in particular for Committees. The “National Anti-Corruption Strategy 2011–2015” includes a number of key actions, which can be subject to committee oversight via the organization of committee hearings (actions 44-51; 57-60; 64-65; 83). For instance, the National Anti-Corruption Strategy details corruption risk assessment and integrity plans within central public authorities, healthcare system, penitentiary system, Border Police, National Army, Customs Service, diplomatic missions and consular services. Within the next year, the respective Committees should enhance their oversight role on the application of the corruption risk assessment and integrity plans and organize hearings with the related institutions.

The Parliamentary Rules project the possibility to establish inquiry committees, by vote of the majority of MPs present, at the request of a parliamentary faction or a group of MPs representing at least 5 per cent of the number of elected MPs.

3.2. Oversight on implementation of legislation

The role of Parliament in overseeing the implementation of legislation is one key policy area in the fight against corruption. Non-implementation of legislation, and insufficient Parliament oversight on the implementation of legislation, provides space for corruptible practices. According to Art. 111 of the parliamentary Rules of Procedure, Parliamentary committees need to present recommendations to the Government, other public authorities and Parliament reports on enforcement of the laws, usually within 6 months from entering into force of the respective law. According to Legislative acts law (law 780), after 2 years the ministry needs to submit a report to Parliament on the implementation of the law. In practice, Parliament does not seem to pay a lot of attention to its oversight role on the implementation of legislation. We consider this as an important aspect in the fight against corruption and to regain public trust in the democratic authorities. At the same time, there seems to be a need for more systematic training to the staff of the Parliament Legal Department and Committee staff on the issue of post-legislative scrutiny.

3.3. Reports of public authorities

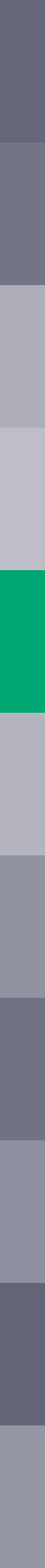
The Art. 128 of the RoP mentions Parliament receiving the annual reports of public authorities, and including into the agenda of the plenary session the hearing of respective reports. The report of the NAC on the implementation of the Anti-Corruption Strategy can be considered a report for discussion at the level of the Parliamentary Committee on National Security, Defence and Rule of Law, followed by a debate and motion in plenary session.

If considered useful, this can be done on every six months (2 times per year). In the same way, reports of law enforcement agencies, prosecution and judicial authorities regarding the combating of corruption can be discussed in Committee, followed by possible hearings, and a debate and adoption of simple motion in plenary session.

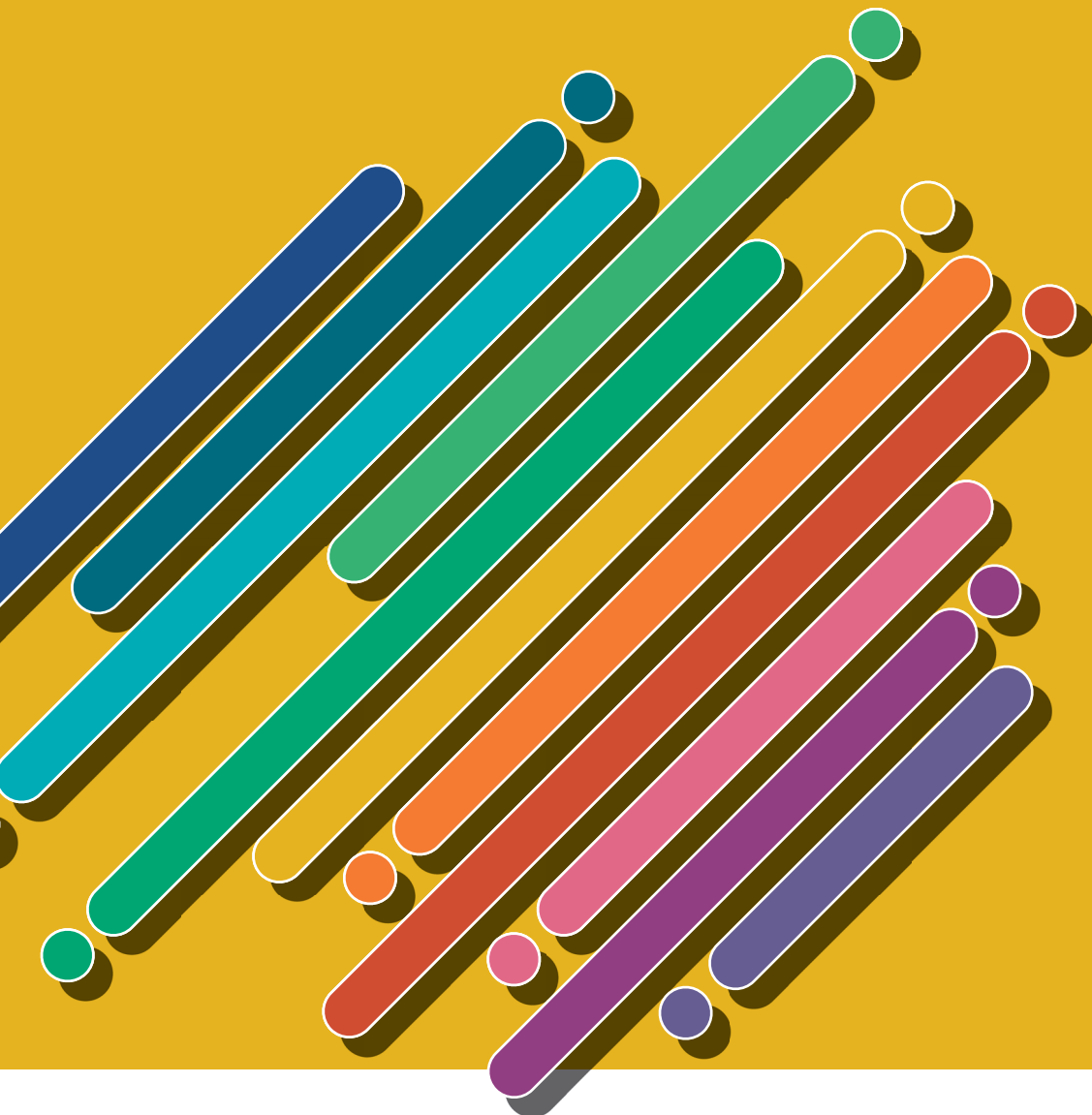
Recommendations:

- To strengthen oversight practices, it is recommended to specify in the RoP that only the Prime Minister and Ministers answer parliamentary questions. A deputy minister can answer on behalf of a minister in exceptional circumstances (when a Minister is ill or abroad). Civil servants cannot respond to Parliamentary questions on behalf of the government.
- It is recommended that the Parliament start applying the instrument of a simple motion more frequently in particular on issues of anti-corruption. It is recommended that the Administration of Parliament organize a briefing and training session for MPs on the procedural and practical aspects of motions.

- It is recommended that Parliament start applying Committee oversight (consultations, hearings) on corruption risk assessment and integrity plans within central public authorities, healthcare system, penitentiary system, Border Police, National Army, Customs Service, diplomatic missions and consular services (NAS 44-51)
- It is recommended that Parliament start applying Committee oversight on the application of the Code of Conduct for Customs Service Officer, medical and pharmaceutical worker; teacher-coach of physical education and sports, sportsman (NAS 57-60).
- It is recommended that Parliament start applying Committee oversight on the application of internal regulations on whistle-blowers by the public authorities (NAS 63).
- It is recommended that Parliament start applying Committee oversight on the application of corruption prevention mechanisms in pre-University Education and school Olympics, and on admission in higher education institutions (NAS 64-65; 83).
- We recommend that the Parliament start a two-years pilot project of systematic review of the implementation of key pieces of legislation by one or two committees of Parliament
- We recommend more systematic training for the staff of the Parliament Legal Department and Committee staff on the issue of post-legislative scrutiny.
- It is recommended that Parliament discuss the report of the NAC on the implementation of the Anti-Corruption Strategy at the level of the Parliamentary Committee on National Security, Defence and Rule of Law, possibly every six months, followed by a debate and motion in plenary session.
- It is recommended that Parliament discuss (in Committee; possible hearings; conclusion for motion in plenary) on reports of law enforcement agencies, prosecution and judicial authorities regarding the combating of corruption (NAC 16)
- It is recommended that Parliament discuss in plenary debate the implementation of anti-corruption legislation, thus strengthening Parliamentary control (NAC 26).



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4. Budget role of the parliament of Moldova

■ In this section of the report, we will discuss the budget role of the Parliament of Moldova in terms of anti-corruption. We will discuss the approval of the budget by the Parliament and its oversight role on the implementation of the budget, in particular through the reports of the Court of Account (CoA). This section of the report will address the role of the Committee on Budget, Finance and Economy. The MPs' answers to our Questionnaire have been the main source of information. This section of the report is related to the chapter "Financial oversight" in the GO-PAC-UNDP Anti-corruption Toolkit (p. 17-27) and UNCAC article 9.

4.1. Budget process

In general terms, Parliaments can be distinguished in terms of the extent of their budget policy impact. The most powerful Parliaments are those that have the ability to write the budget. Budget making legislatures have the capacity to amend or reject the budget proposal of the executive, and the capacity to formulate and substitute a budget of their own (e.g. US Congress). Budget influencing legislatures have the capacity to amend or reject the budget proposal of the executive, but lack the capacity to formulate and substitute a budget of their own. Legislatures with little or no budgetary effect lack the capacity to amend or reject the budget proposal of the executive, and to formulate and substitute a budget of their own. They confine themselves to assenting to the budget as it is placed before them.

The Parliament of Moldova has the ability to influence the budgetary process through the procedures of developing, passing and freezing expenditures, rectifying, executing and reporting on executions as stipulated in Law 847, of 24 May 1996. In analyzing its powers to authorize revenues and expenditures, it seems that

the Parliament of Moldova has limited power to amend the Appropriations Bill. Parliament has the power to send back the budget to the government for review but this has never been exercised. After the budget has been tabled in Parliament, very few changes to the budget are approved.

In addition, it is important to look at the impact of Parliament's role on budget outcomes. Public expenditure management theory identifies three interrelated objectives: the maintenance of fiscal discipline, the prioritization of funds in accordance with policy and program effectiveness, and operational efficiency in budget implementation.

In Moldova, the Parliamentary Budget, Finance and Economy Committee has the main responsibility in overseeing the state budget. The Committee meets regularly. When necessary, the Committee can initiate independent investigations into financial irregularities. The ability of MPs to obtain non-financial (i.e. performance) information related to expenditures seems to be limited.

MPs do have the authority to conduct public hearings in relation to the budget. In practice, some public hearings on the budget are organized where the testimony from the government and other stakeholders affected by departmental activities is heard. However, the process for the participation of citizens or CSOs in the budget process seems not to be well documented and hardly an integral part of the communication strategy of the Parliament. Members of the Budget, Finance and Economy Committee consider it the task of the Ministry of Finance and Economy to organize hearings with all official stakeholders, prior to submitting the budget in Parliament.

In reference to one of the questions in our Questionnaire, it was confirmed that executive decrees on public finances require subsequent Parliamentary review and approval and this is also respected in practice. It was confirmed that

there exist standards for reporting to Parliament on actual revenues, expenditures and results. However, in practice a well-functioning system of performance reporting to the Parliament to show what has been achieved with the funds expended by departments doesn't seem to be in place.

In analysing the Parliamentary capacity for financial analysis, there exists no independent Parliamentary Budget Office which would have the technical capacity to interpret budget and economic data, and provide Parliamentarians with objective, timely and independent analysis. There is a separate Unit of seven staff persons for the Budget, Finance and Economy Committee, however, which conducts research on the budget. The staff has the power to call for information and documents from Government Departments. However, MPs do not consider that Parliament has sufficient human capacity to monitor government financial practices. MPs do not consider that the parliamentary infrastructure and its technical equipment is adequate for MPs to be able to perform their financial oversight function effectively, e.g. electronic access to the Treasury.

During the years 1998-2000, there used to exist a Parliamentary Centre for Budgetary Research. However, due to the lack of qualified staff and unclear duties and responsibilities, the initiative was not considered successful. In recent time, a suggestion has been made to create an Audit Report Committee of MPs, with secretariat support, with the aim to call all public authorities to justify the spending of the state budget.

As the role of the Parliament of Moldova in budget oversight is limited and only few MPs have a good grasp in budgetary techniques and procedures, it is important that the Strategic Development Plan of Parliament establishes a new Unit for Impact Assessment. During our interviews, suggestions were made to establish a well-equipped Parliamentary Centre for Budgetary Studies, which would be able to rely on national and international advisors with expertise on economy, banking and budget.

4.2. Cooperation between the Court of Accounts and the Parliament of the Republic of Moldova

On 8 December 1994, the supreme external audit body, the Court of Accounts, was established with the aim to strengthen control over the use of public funds and public property management. Based upon Article 133 of the Constitution of the Republic of Moldova, the Court of Accounts exercised financial controls and external financial revisions through the procedures approved by the Law No.312-XIII from December 8, 1994 "On Court of Accounts".

On 5 December 2008, the Parliament adopted the Law No. 261, under which the Court of Accounts was identified as the only public state authority that controls the administration and use of the public resources and the administration of the public property through conducting external public audits. The key changes of the new Law highlights the transition from external financial control to external public audit. This change requires the CoA performing audits on Government reports regarding the execution of the State budget, the National Social Insurance Fund/Budget (BASS) and the Mandatory Health Insurance Fund/Budget (FAOAM) for the expired budgetary year. Similarly CoA audit teams conduct audits on regularity, performance, IT and other issues. These audit teams work in accordance with International Standards on Auditing. In recent years, the CoA has furthered its cooperation with international organizations such as INTOSAI and EUROSAI, becoming a member to both in 1994, as well as with SAIs from other countries under bilateral cooperation agreements.

The reports of the Court of Accounts are public as soon as they are issued by the CoA, and are available on the website of the Court of Account.⁴⁰ The reports published include the CoA

(40) <http://www.ccrm.md/>

annual reports on the administration and use of public funds and public property, the financial reports on CoA budget spending during the current budget, CoA Activity Reports, and CoA internal reports on regularity audit.

However, the current practice of hearings in preparation for the annual report of the Court of Accounts on the budgetary year and the review of the level of implementation of the recommendations of the CoA seems to be unsatisfactory. The findings and recommendations of the CoA annual reports show a low degree of implementation, which points to the need for a more effective mechanism for the enforcement of CoA conclusions. Therefore, a joint effort of the Parliament of Moldova and the Court of Accounts to identify an efficient mechanism of cooperation between the Parliament and the Court of Accounts is necessary. This will enable enhanced accountability of local and central public institutions in the management of budget funds.

With respect to the relations between the CoA and the Moldova Parliament, the Law on the Court of Auditors no. 261 of 5 December 2008, Art. 11, 18 and 23 stipulate that the Parliament approve the budget of the CoA for the next year, the head of the CoA to be appointed by the Parliament for a 5-year term at the proposal of the Speaker, members of the CoA to be appointed by the Parliament at the suggestion of the Head of the CoA, and the number of staff of the CoA to be approved by the Parliament. In addition, the Parliament or Parliamentary factions may request the CoA to conduct audits. The audit may be requested without a decision of the Parliament, at the request of any Parliamentary faction every semester. Parliament is responsible for selecting an external audit for conducting the audits of the CoA financial reports.

Annually, the CoA submits the following to the Parliament: By March 15, financial report on own budget execution for the expired budgetary year; By October 10, report on administering

and use of the public financial resources part of the public heritage, to be examined within the commission and plenary session of the Parliament. If appropriate, the CoA submits other reports to the Parliament.

Currently the degree of cooperation between the Parliament and the CoA is rather basic. The senior staff of the CoA believe it is due to the fact that there is insufficient knowledge of the new responsibilities of the work of the CoA by the new MPs and the lack of clear regulatory procedures for cooperation between the two institutions.

The CoA invites the Parliament to all of its hearings with budget organizations. In 2013 the CoA had 44 hearings (and reports) and the Parliament's presence was limited to two committee staff attending two meetings. In 2014 there were 38 CoA meetings with only four Parliamentary staff present at the four meetings. The Committee on Social Protection occasionally participates at the CoA meeting when the report on the Health Care Insurance Fund is being examined. When Parliament staff attend a CoA hearing, they can only take notes and not speak on behalf of the Committee (which is the role of MPs). The involvement of Parliament in CoA hearings is thus very limited.

The first point of contact between Parliament and the CoA is the Committee on Economy, Budget and Finance. The CoA sends its reports to this Committee and sometimes also to other committees as considered useful. Senior staff of the CoA informed us that in 2013 there were only four (mandatory) reports of the CoA reviewed by Parliament and by the Committee on Budget, Finance and Economy. These were the financial report, the annual activity report, the audit report on state budget execution for 2012, and the report on administering and use of public finances and public heritage for 2012. In 2014 the Committee on EBF examined 4 CoA reports, the financial report, annual activity report, audit report on state budget execution for

2013, and the report on administering and use of public finances and public heritage for 2013. The Committee on Social Protection, Healthcare and Family examined one audit report with the participation of CoA representatives while in 2015 the Committee on Social, Healthcare and Family Protection examined 2 audit reports.

The current practice is that Parliament only looks at CoA reports when it has to do with the state budget, social and health budget and local authorities' budget. This means that the Parliament looks at CoA reports once a year, at committee level and in plenary. Committees don't examine CoA audits of entities or official budget organizations. Therefore, the CoA considers that currently its reports, observations and recommendations on the usage of public funds have no real impact on the preparations or approval of the next year's budget.

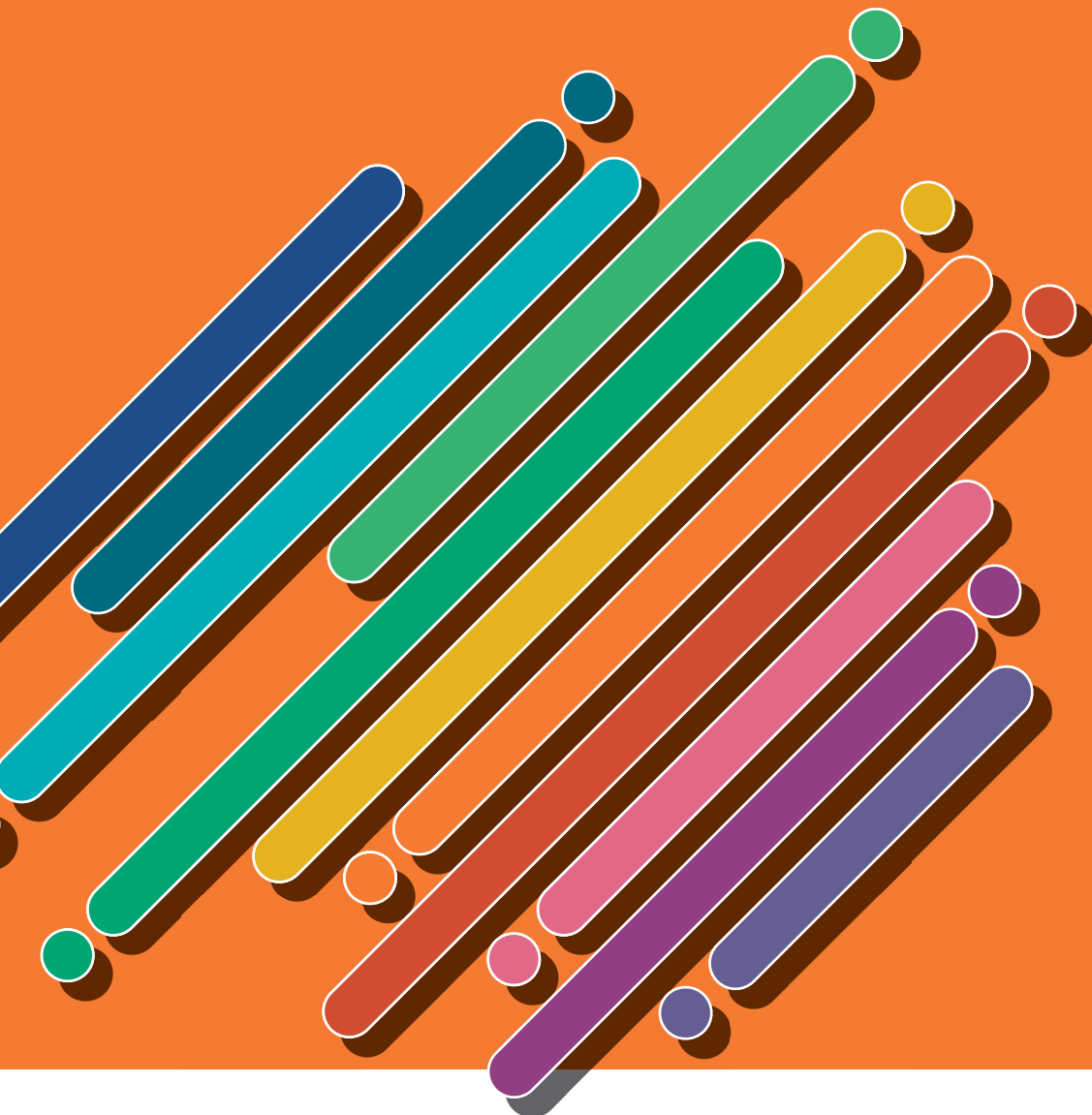
For the CoA to become a truly supreme, independent, objective and transparent audit institution responsible for the exercise of public company audits with conclusive evidence in the drafted reports, the Court of Accounts needs real independence and autonomy, including financial means to attract qualified private experts for carrying out specific audits.

The Action Plan for 2014-2015 on the implementation of the National Anticorruption Strategy for 2011-2015 sets out that the Parliament consider and adopt a draft law amending and supplementing the Law on the Court of Accounts, to provide for an efficient mechanism of cooperation, as well as to report and monitor the fulfilment of recommendations included in the audit reports of the CoA. The proposals currently being discussed in the framework of the EC-funded twinning project with the CoA mention the need for the establishment of a Parliamentary subcommittee to deal with all CoA reports, and amendments to the RoP of Parliament as currently the RoP does not stipulate that Parliament committees need to examine the CoA reports and oversee their follow-up.

Recommendations:

- In the framework of the further institutional development of Parliament over the next five years, we recommend the creation of a well-equipped Parliamentary Centre for Budgetary Studies, which is able to call upon national and international advisors with expertise on economy, banking, budget.
- We recommend establishing the instruments for enhanced cooperation between Parliament and the CoA, as identified in the Anti-Corruption Strategy, the establishment of a Parliamentary subcommittee to deal with all CoA reports, and amendments to the RoP of parliament as currently the RoP does not stipulate that Parliament committees need to examine the CoA reports and oversee their follow-up.
- We recommend that the Members of the Committee on Economy, Budget and Finance attend the hearings of the CoA in preparation of the CoA audit reports more frequently.
- We recommend that all Parliamentary Committees, not only the Committee on Economy, Budget and Finance, examine and follow up on the recommendations of the reports related to institutions and agencies within the area of responsibility of the Committees, including by organizing oversight hearings on measures taken by the budget organizations to address the issues reported by the CoA following its audit of the execution of the state budget, state social insurance budget and mandatory health insurance funds in the expired budgetary year. (NAS 77)

5 Parliament's transparency and communication



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5. Parliament's transparency and communication

■ In this section of the report, we will discuss the transparency and communication practices of the Parliament of Moldova. We will discuss five specific issues: the policy questions on Parliamentary openness and open data, the legal framework on Parliament's openness and communication in Moldova, the availability of information on the Parliament of Moldova, the social media use in the Parliament of Moldova, and the Moldova e-parliament project, aimed at overcoming a number of gaps and challenges. This section of the report is related to the chapter "Parliamentary accessibility and outreach" in the GOPAC-UNDP Anti-corruption Toolkit (p. 33-35) and UNCAC articles 10 & 13.

5.1. Parliamentary openness and "open data"

The area of Parliamentary transparency and open data is a rapidly evolving field in many countries⁴¹. The development of a "digital society" revolutionized the way in which Parliaments communicate with citizens, with a positive impact on the capacity of Parliaments to be truly representative.

Most Parliaments in Eastern Europe, including Moldova, have adopted comprehensive legislation on freedom of information (FOI). Yet, the concept of public ownership of Parliamentary (and government) information implies the obligation of public institutions to proactively disclose information. Making Parliamentary information transparent requires policies that ensure proactive publication of Parliamentary information, including its membership, functional bodies, work schedule, legislative and Parliamentary documents, budget of the Parliament, and structure and staff of the administra-

tion, transcripts, hansards, presence and voting records, and to publish it in a timely manner and in an open format.

Easing access to Parliamentary information requires ensuring that information is available through various channels of communication, free of charge and in an understandable language to a broad range of citizens. Ensuring electronic communication of Parliamentary information requires ensuring the release of such information online in an open and structured format that enables its use and re-use of the information. It is advised that the information is searchable and downloadable, provided in non-proprietary formats in free and open-source software. This will contribute to the technological usability of Parliamentary information.

The availability and accessibility of information through "Open Data" policies is now being analyzed more closely in many countries and the debate on "Open Data" policies is gaining momentum. An "Open data" policy has the potential to form a key part of anti-corruption policies in many countries.⁴² However, it is critical to distinguish between open government / open Parliament policy and "open data" policy. *Open parliament / government policy* means that - for instance - meetings in Parliament are accessible, documents are posted on-line and that there is rapid response to requests for information. As such, this is good.

"Open data" policy goes much further. It has three characteristics: the documents put online will be in re-usable, published in an open, machine readable format; documents are published free of charge; and documents are released automatically, without need for requests. In order to achieve "open data" policies, a number of issues will need to be addressed, such as the lack of a legal right to open data, failure to publish existing datasets held by public bod-

(41) Open Data Barometer website, <http://barometer.opendata-research.org/report/analysis/rankings.html>

(42) Goodrich, Steve, How Open Data can help tackle corruption, Published by: Transparency International, June 2015, London, 28 p.

ies, inconsistent data formatting and structuring, the inadequacy of disclosure requirements where they do exist, etc.

Moldova has moved towards “open data” at a much faster pace than any of its neighbours. The government launched its first open data portal in 2011. The Government of Moldova launched the Governance e-Transformation Agenda in 2011 and has built cutting edge digital platforms and developed an enabling environment for digital transformation across the public administration. Currently the Government is fully equipped with the digital platforms needed to enable the reengineering and digitization of sectorial public services. These platforms are: MCloud (data storage and management), MPass (authentication and access control), MSign (digital signature service), MConnect (data exchange and interoperability platform), MPay (electronic payment services), Enterprise Content Management Platform (platform for e-registries and e-permits), and Government Portal. These platforms are functional.⁴³ Moldova has passed legal reforms committing to making government data open by default.

Today, open data has made the Moldovan government more transparent, though some of the most crucial data is still not available.⁴⁴ Journalists and civil society activists use open government data to find instances of corruption, but often the right data is hard to find, and in many cases the data is considered to be “chaotic.”⁴⁵ Developing the capacity across ministries and government agencies remains one of the major challenges to become effective data managers. The Parliament committees have not yet developed a track record of using Open Data as tools for scrutiny over the government.

(43) <https://openknowledge.worldbank.org/bitstream/handle/10986/21798/952500WP00PUBL0BriefingBook0english.pdf?sequence=1&isAllowed=y>

(44) See Moldova country profile: <http://europeandcis.undp.org/blog/2015/08/05/moldova-small-country-big-data/>

(45) Open data in Moldova have helped activists to uncover corruption and led to new initiatives, such as RISE Moldova, who are promoting data driven journalism. These initiatives ensure that open government data does lead to more transparency.

5.2. Legal framework on Parliament's openness and communication in Moldova

Moldova's legal framework on Parliament's transparency and communication consists of several pieces of legislation. They ensure that the public can obtain timely and relevant information on the activities and the decision-making processes of Parliament. The first piece of legislation is Law 190 of 19 July 1994 on petitioning. It regulates the process, for the citizens of Moldova, in addressing petitions to state bodies, enterprises, institutions and organisations. The Moldovan Parliament receives hundreds of petitions a year, which it either answers itself or forwards to other competent state institutions. The second relevant piece of legislation is Law 982, of 11 May 2000, on access to information. The law regulates the principles, conditions and manner of exercising access to official information held by information providers, as well as the aspects of accessibility of personal information and aspects of protecting personal information. Thirdly, there is Law 239, of 13 November 2008, on the transparency of the decision-making process. It sets applicable requirements to ensure transparency in the decision-making process of the central and local public administration authorities. The transparency of the decision making process is further ensured by the Rules of Procedure of Parliament, which contains several provisions on the transparency of Parliament's activity. For example, within a maximum of five working days from the date of being included in the legislative procedure, draft bills, legislative proposals as well as other relevant and additional documents are posted on the Parliament's website. Parliamentary sessions are public, except in cases when - at the request of the Speaker of Parliament, a parliamentary faction, or a group of at least five MPs - it is decided by a majority vote of attending MPs that the meetings should be closed. The meetings of standing committees are also public. The decisions of committees are

usually taken by open vote. The meetings of the committees are recorded in minutes. Minutes can be made available to people other than the members of the committee only with the consent of the chairman of the committee, except minutes of public meetings. The standing committee has the power to organise public consultations on draft bills and legislative proposals by organising public debates and hearings, and other consulting procedures set by the Law on the Transparency of the Decision-Making Process. The committee controls what is posted on the Parliament's website. Often, a synthesis of recommendations received during public consultations is posted to ensure the transparency of the decision-making process. Public hearings are to be organised at least once a year by each Parliamentary standing committee to consult civil society organisations on matters included in the agenda of Parliament, or other matters of national interest.

A fourth document relevant to the transparency and communication of Parliament is the Concept of cooperation between Parliament and civil society, approved by Decision of Parliament 373-XVI, of 29 December 2005. This concept sets specific forms of cooperation such as expert advice, permanent consultations, ad-hoc meetings, public hearings, and annual conferences. Lastly, expert councils are to be established by the standing committees of Parliament from the representatives of civil society organisations.

5.3. Availability of information on the Parliament of Moldova

In many countries, websites have become an important window for citizens to learn about the activity of Parliament while also providing the opportunity to directly engage MPs through email and public comment or response forms. The website of the Moldova Parliament provides detailed content on the functions of Parliament and access to MPs.

The *Guidelines for Parliamentary Websites* (IPU and Global Centre for ICT in Parliament)⁴⁶ suggest that information should be available online to the public "as soon as [it] is available to members and officials." Best practice requires that, "If a document is available to citizens relatively quickly, e.g. within 24 hours after its preparation, this is an indication of greater openness of parliament; if they are available only after a considerable time has elapsed, and available to members well before the public, then openness declines."

In Moldova, there is clear transparency of plenary sittings of Parliament as they are broadcasted live by national radio stations and television channels in accordance with the Broadcasting Code of Moldova. They are then archived in video format. The access of the archived contents is limited to media accredited with the Parliament but it can be granted, where appropriate, to other applicants as well. The general public has access to the transcripts of the plenary sittings through the Parliament's website. The transcripts [of Parliament sittings placed on the Parliament's website indicate the number of votes each bill or decision is passed with. The Rules of Procedure contains provisions related to the public nature of the voting procedure.

The transparency of committee meetings is evident as the meetings of committees are public. In addition, the committee has to ensure public consultations for the draft bills and legislative proposals by organising public debates and hearings and other consulting procedures as set by the 'Law on the Transparency of the Decision-Making Process.' Public hearings are to be organised at least once a year by each Parliamentary standing committee to consult civil society organisations on matters included in the agenda of Parliament or other matters of national interest. However, according to the National Integrity System Assessment of Transpar-

(46) <http://www.ipu.org/PDF/publications/web-e.pdf>

ency International,⁴⁷ the public hearings are not used in a regular fashion, and the announcement of public consultations on some draft laws occurs irregularly and is not a regular practice.

The transparency of the legislative procedure can be seen through the fact that draft bills are posted on the website of Parliament. However, according to the National Integrity Study, there is a large number of documents unavailable to the public on the website, such as opinions of committees, opinions of the government, opinions of the General Legal Department of the Secretariat of parliament, and the reports of the committee and information notes. Related to this phenomenon is the speed with which Parliament adopts some of the draft laws without enabling sufficient time for public consultations (which is normally 15 working days). According to the National Integrity Study, between 27 September 2012 – 31 December 2012, the period of time allocated for consultations was not observed for 65 draft bills out of 102 passed; four draft bills were discussed and passed on the day of registration and four draft bills on the next calendar day following the date of registration. Between 1 January 2013–30 June 2013, out of 119 passed laws, the term for the consultations was not respected for 83 draft bills, from which 17 draft laws were discussed and passed on the day of registration and 12 draft laws on the next day after registration.

The transparency of information on the Members is evident from the fact that the Parliament makes the Members' statements of income and assets public on the Parliament's website once submitted to the National Integrity Council. Journalists can obtain the information on the Parliament spending by submitting a request for public access to public or official information. At the same time, the Parliament's budget is public and can be found on its website or in other sources where the legislation adopted by the Parliament is published.

(47) Ciubotaru, Maria (ed.), *National Integrity System Assessment Moldova 2014*, Published by: Transparency International Moldova, Chisinau, 2014, 268 p.

5.4. Social media policy of the Parliament of Moldova

Social media has become an increasingly central part of Parliamentary communication in many countries. Experience in other Parliaments has shown that it is important that the responsibility for social media is incorporated into the Parliament's overall management structure and linked to traditional communication and engagement strategies. This ensures that social media helps to solicit citizens' direct contributions to committees or inquiries, and to ensure that citizens have immediate access to information on Parliament.

To document best practices, the Inter-Parliamentary Union (IPU) published the *Social Media Guidelines for Parliaments* in 2013.⁴⁸ The objective of the Guidelines is to encourage more widespread, efficient and effective use of social media by Parliaments. The document provides innovative examples of Parliamentary practice around the world from using social media. There are examples of mobile phone applications to provide citizens with access to information on the Assembly, and examples of cross-pollination of networks.

The Parliament of Moldova is increasingly making use of social media in its official communication. The Parliament has a Facebook Page, which is updated (almost) every day, and currently has more than 12,000 followers. So far Parliament is not using social media to involve people in committee work and solicit direct contributions to inquiries. Using smart phone mobile applications to provide citizens with access to information on Parliament is foreseen as part of the new Parliament website, to be launched in 2015. The same applies to the possibility for citizens to download video and audio from the Parliamentary video channel or embed direct links to clips. The Parliament has a You-

(48) Andy Williamson, *Social Media Guidelines for Parliaments*, IPU, Geneva, March 2013, 37 p.

Tube channel but it has been used only occasionally due to a shortage in human resources. So far, Parliament does not yet provide citizens the option to subscribe to services so as to alert them to certain categories of Parliamentary activities, for instance through the use of email, SMS text messaging, or Twitter.

57.5. Moldova e-parliament project

In 2011, the Parliament of Moldova adopted the “Parliament’s Integrated Information Space - Strategic Development Plan 2011-2015”. It was the first strategy for ICT development of the Parliament over a five year period. Its aim was to plan and manage priorities for development and consolidation of an integrated information solution able to decisively modify the procedures in the activity of the Parliament in order to reduce the cost of legislative processes and to improve their quality and efficiency, in particular the Integrated Information Space of the Parliament of the Republic of Moldova (PIIS).

Currently, the Parliament of Moldova is starting to implement the project “e-Parliament”, which is considered as a continually evolving concept that is embedded in the institutional approach to modern technologies in the complex Parliamentary environment. Its objective is not just to employ new technologies, but also to integrate those technologies in the existing rules and procedures. The objectives of e-Parliament project are: to review and re-engineer existing processes; Improve transparency of legislative operations; Increase efficiency of legislative and technical parliamentary operations; Enable efficient, flexible, accessible and transparent procedures for citizens; Measure and monitor Parliament’s key performance indicators; Decrease of the costs of operations; Build a Legislation Database.

The core engine of the e-parliament system consists of the whole legislative procedure, Committee work and sessions, parliamentary sessions, additional information like minutes, recordings, audio and video recordings, and voting results. The e-Parliament system also should offer in the future, the option to implement additional modules according to the Parliaments’ needs, such as a revised Parliament public web portal, parliament TV, and social networking integration.

The expected benefits of the project are to substantially improve the effectiveness of Parliament in meeting the needs of its citizens, saving time and money in Parliament operations, and improving access to and the quality of services and communication, including spread of Wireless solutions within the buildings of the Parliament.

Finally, it is important to mention that an e-parliament project and the efforts to strengthen Parliamentary openness and open data policies can largely benefit from regional exchanges. It is important that the Parliament of Moldova is part of a Memorandum of Cooperation, signed between Members of Parliament of the region, at the Regional Parliamentary Anti-corruption Conference in Belgrade in May 2015.⁴⁹ This MoU aims to include concrete initiatives of sharing experiences and best practices in the area of Parliament transparency and anti-corruption. The MoU has been signed by Members of Parliament in Albania, Azerbaijan, Bosnia and Herzegovina, Georgia, Moldova, Montenegro and Serbia.

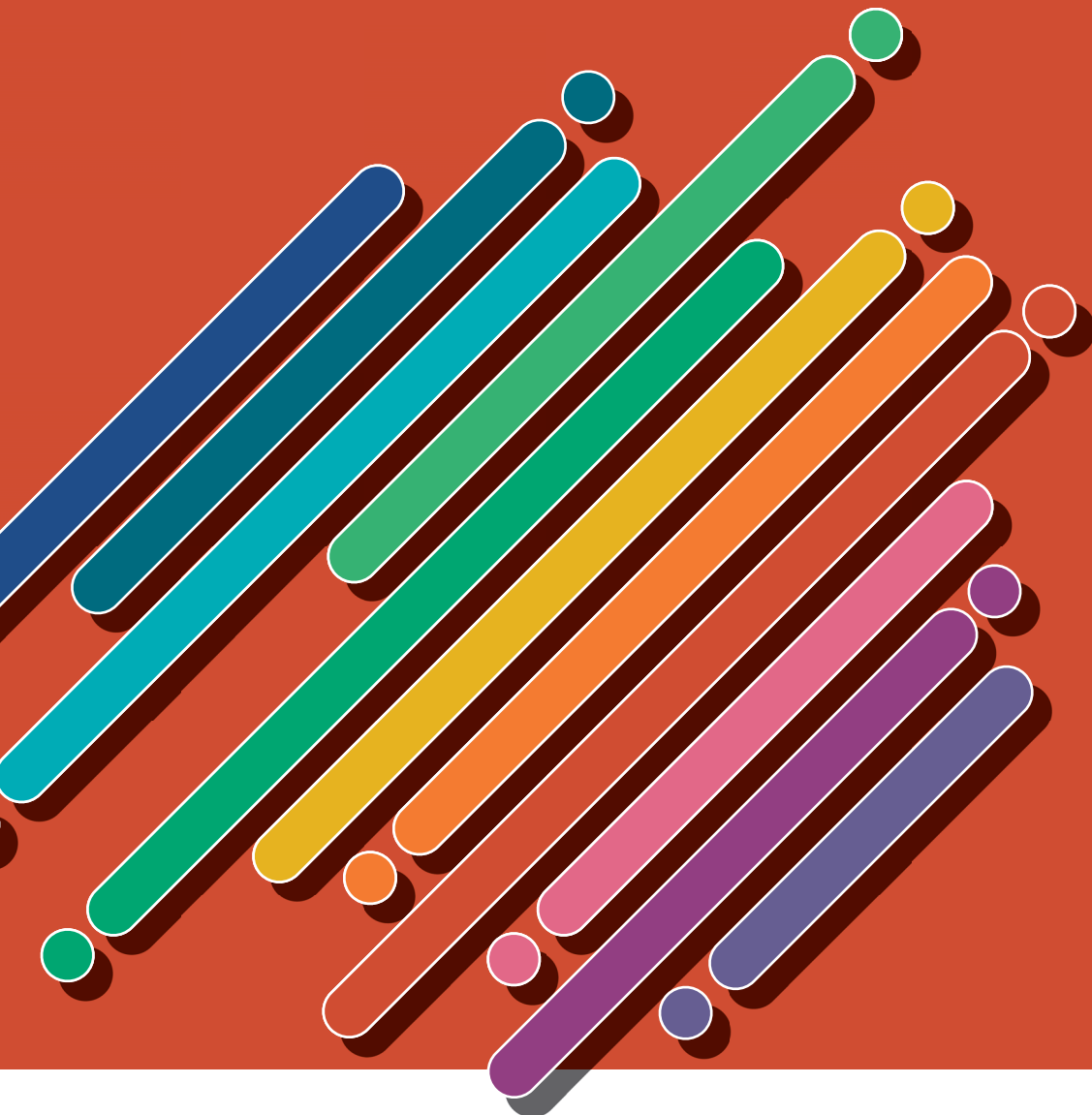
(49) http://www.parlament.rs/upload/documents/activities/Memorandum%20of%20Cooperation_GOPAC-Conference_21-22May_ENG_22May2015.docx

Recommendations:

- We recommend the Parliament of Moldova develop and adopt an 'Open Parliament Action Plan', similar to the Plan recently adopted by the Parliament of Georgia.⁵⁰ We recommend the Parliament of Moldova join the activities of the Legislative Openness Working Group of the Open Government Partnership (OGP).
- As its communication strategy 2011-2014 has expired, we suggest Parliament develop a new, comprehensive communication strategy, taking into account actions in the fields of Parliament outreach, social media as well as "Open data" policies.
- We recommend that Parliamentary information be released in an open and structured format, such as structured XML, that can be read and processed by computers, so that Parliamentary information can be easily re-used.
- We recommend that Parliament launch a smart phone mobile application to provide citizens with access to information on the Parliament and the option to comment on draft legislation.

(50) <https://idfi.ge/en/parliament-bureau-approved-opg-action-plan>

6 Ethics framework



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OVERSIGHT ROLE OF PARLIAMENT	<input type="checkbox"/>	<input type="checkbox"/>
BUDGET ROLE OF PARLIAMENT	<input type="checkbox"/>	<input type="checkbox"/>
PARLIAMENT'S TRANSPARENCY AND COMMUNICATION	<input type="checkbox"/>	<input type="checkbox"/>
ETHICS FRAMEWORK	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
THE INTERNATIONAL ANTI-CORRUPTION FRAMEWORK	<input type="checkbox"/>	<input type="checkbox"/>
CONCLUSION: GOPAC CHAPTER FOR MOLDOVA	<input type="checkbox"/>	<input type="checkbox"/>
ANNEXES	<input type="checkbox"/>	<input type="checkbox"/>

6. Ethics framework

■ In this section of the report, we will discuss the ethics framework of the Parliament of Moldova. We will analyze the question of a Code of Conduct and Ethics (CoCE) for Members of Parliament and for staff. The information relates to the issues included in the “Ethics Questionnaire” and the draft proposal for a Code of Conduct and Ethics for Members of Parliament, as prepared for this assignment. This section of the report is related to the chapter “Standards of Conduct” in the GOPAC-UNDP Anti-corruption Toolkit (p. 28-32) and UNCAC article 7.

6.1. Code of Conduct and Ethics for Members of Parliament

While there are certain provisions in different laws ensuring the integrity of MPs, there is no comprehensive framework in place. Currently, MPs do not have a Code of Ethics. In 2013, MP Tudor Deliu proposed a draft code though that document has not been approved so far. It is understood that the main contentious issues were related to the enforcement of the Code.

As part of this assignment, UNDP is proposing a comprehensive integrity framework of MPs' through a new Code of Conduct and Ethics (CoCE) for Members of Parliament. The proposed Code takes into account and builds upon the text proposed by MP Tudor Deliu, and expands and further develops the text. The proposed draft Code has been discussed with different Parliamentary institutions and Parliamentary experts, with a view to ensure that it is in line with best international and European practices.

The Following are the main issues identified, taking into account the discussions with various MPs of Moldova during our interviews in July 2015 and taking into account the insights from the background study published by the OSCE's

Office for Democratic Institutions and Human Rights (ODIHR).⁵¹

Prior to exploring the content of the Code, it is important to clarify why such a Code is important. Firstly, it is necessary to ensure that the conduct of MPs meets public expectations about how MPs should behave. Secondly, it is important to establish and regulate Parliamentary ethical standards as a way to raise the degree of professionalism into politics. Thirdly, it is essential that the public has confidence in the Parliament and that any apparent breaches of trust are investigated and, if necessary, punished. In many countries, pressures to reform Parliamentary standards or to introduce new rules often arise because of a scandal whereby an individual MP or a group of MPs is seen to have breached public trust. Reforms, however, are not always triggered by scandals. In younger democracies, reform of the rules around standards may be intended to transform a political culture. Finally, the need to protect Parliament's reputation is often mentioned explicitly in the Code. An additional reason to have a Code in Moldova is that it will strengthen the Parliamentary ethics framework, which will effectively serve Moldova's aspirations towards integration with the European Union where public officials' compliance with ethical norms is deemed to be one of the basic aspects of good governance.

The content of the Code needs to combine the main provisions of an ethics framework, based upon existing legislation as well as take into account new provisions. We would like to highlight the following issues, discussed during our meetings with Moldova MPs in July 2015.

One of the first questions raised was the Parliamentary immunity. Some MPs stressed the importance of a strong system of immunity to protect, in particular, the opposition MPs from any pressure from the governing institutions.

(51) David-Barrett, Elizabeth, *Background Study: Professional and Ethical Standards for Parliamentarians*, Published by: OSCE / ODIHR, Warsaw, 2012, 88 p. <http://www.osce.org/odihr/98924>

At the same time they also recognized the need to prevent that same Parliamentary immunity to be used as an argument to protect MPs in ways, which would be inappropriate from an accountability and anti-corruption point of view.⁵² Therefore it makes sense to ensure that MPs shall not take advantage of their immunity rights to abuse power and avoid prosecution for criminal actions, including corruption and abuse of office.⁵³

The general approach throughout most Codes of Conduct is that it is not appropriate to regulate the private behaviour and personal lives of MPs. Most Parliamentary Codes of Conduct include a section outlining what is expected from MPs in terms of their general conduct during plenary sessions, Committee meetings and meetings outside Parliament while on parliamentary duty. We propose to include, in the Moldova code, language which refers to a collegial approach during discussions, demonstrating respect and avoiding conflicts, and an absolute ban on violence and physical threats, insults and what is generally called ‘un-Parliamentary language’.

A central part of any Parliamentary CoCE is the provisions on conflict of interest; this is to ensure that private interests do not influence MPs’ judgement. In Moldova, the Law No. 16-XVI of 15.02.2008 regulates the issue of conflict of interests, and assigns the role of oversight and enforcement to the National Integrity Commission. Once a year, all Moldovan officials including Members of Parliament have to submit their declaration of interests to the National Integrity Commission. This must be done within 15 days of taking up their position and when leaving office. If an MP finds that they have a conflict of interest and fail to address the conflict

of interest, he/she should notify the National Integrity Commission in writing, as foreseen in the Law of 2008.

Most national Parliaments in Europe require their members to declare all outside financial interests. In Moldova, Law no 1264/2002 on “declaration and control of income and property of public officials, judges, prosecutors, public servants and persons with the management positions” regulates the issue of asset declaration, and provides the role of oversight and enforcement to the National Integrity Commission. Once a year, all Moldovan officials including MPs have to submit a declaration of assets to the National Integrity Commission. This must be done within 15 days of taking up their position and when leaving office. The Legal Committee on Appointments and Immunities verifies the Statements made by Members of Parliament on their income.

While confirming these provisions in the CoCE, we suggest to add a number of additional provisions. Firstly, we suggest to incorporate articles related to gender equality. It should be stated that an MP shall refrain from using any sexist language and will not resort to sexist stereotypes in the course of his/her Parliamentary activities and in speeches in Parliament. We also recommend including that an MP will attempt to integrate gender perspective into all Parliamentary committees, debates, action plans, commissions, reports, and legislation.

Secondly, it is useful that Codes of Conduct and Ethics also regulate the treatment of Parliamentary staff by MPs, imposing duties of respect and courtesy, above and beyond legal requirements, to avoid discrimination and harassment. Thirdly, there is the important and sensitive issue regarding the careers of MPs once they have left office; known as the so-called “post-public employment” or “post-parliament employment”. This is important as the MP’s plans for his or her future career can influence how he or she behaves while in Parliament. The “revolving

(52) OSCE Parliamentary Assembly Resolution on limiting immunity for parliamentarians in order to strengthen good governance, public integrity and the rule of law in the OSCE region, Adopted at the 15th Annual Session of the OSCE Parliamentary Assembly, Brussels, 2006.

(53) See: Development Partners Briefing Book, Chisinau, February 2015, p. 17.

door”, which refers to the practice of individuals moving between Parliament or government jobs and business roles in quick succession, raises several different risks of conflict of interest, including abuse of office, undue influence, profiteering, switching sides and regulatory capture. It is thus appropriate to stipulate in the CoCE that the MP will perform his/her Parliamentary duties without being influenced by potential future career opportunities in the private sector, or without being influenced by former colleagues-MPs to favour their new employer. It is thus suggested to stipulate in the CoCE that MPs will not seek employment with any private organisation or commercial company over which they had power of supervision or control or in favour of which s/he participated in decision-making to obtain state orders or financial assistance, during the year immediately prior to the end of his/her function as MP.

In terms of oversight and enforcement, Parliaments around the world have adopted different mechanisms. In general, there are three main models. The first is an entirely external regulation and enforcement, as per practices in the USA and Serbia. The second is to rely solely on regulation and enforcement within the Parliament itself, as practised in Ireland, Poland and in provinces of Canada. The third is to combine an external investigative commissioner with a Parliamentary committee to enforce sanctions, which is the system, adopted in -- for instance -- the UK. We recommend a mixed system, which details a role for a parliamentary Ethics Commissioner, the Legal Committee on Appointments and Immunities, and the plenary session of the Parliament of Moldova. The details of the selection, competencies and functioning of the Ethics Commissioner have been elaborated in further detail in the proposed Code of Conduct and Ethics for Members of the Parliament of Moldova.

Though a Code of Conduct sets out the enforcement mechanisms and sanctions, the intention of the Code should be to prevent as much as

punish. The Code must also include provision for the training and education of MPs, providing continuing advice and guidance on how to interpret and implement the rules. In addition, the Code of Conduct and Ethics needs to ensure the active support of the key Parliamentary actors to generate acceptance and understanding of the rules and principles. In this respect, the Speaker and Deputy Speakers play an important role in setting the tone within the Parliament. In terms of consulting and educating members, the role of Political parties will also be crucial. To encourage a culture of Parliamentary ethics at the Parliament of Moldova, a number of initiatives are suggested. These include ensuring that newly elected members receive induction in the Code of Conduct; Members acknowledge the Code of Conduct and Ethics; Members sign a pledge to abide by the Code’s provisions at the start of their Parliamentary mandate. The Legal Committee on Appointments and Immunities will keep the Code of Conduct and Ethics under review and make proposals for review when considered necessary, and hold, at least once a year, a consultative meeting with CSOs on the application of the Code and will call for CSO feed-back to the application of the Code.

Recommendations:

- We recommend that the Parliament of Moldova adopt a comprehensive Code of Conduct and Ethics for the Members of Parliament, in line with best international and European practices, covering all relevant issues: Parliamentary immunity, Official capacity versus private life, Conduct and language during Parliamentary meetings, Conduct in international relations, Use of Parliamentary resources, Gifts, Conflict of interest, Incompatibilities of MPs, Electronic voting, Assets, Attendance, Gender equality, Treatment of staff, Post-Parliament employment, and Lobbying.

- We recommend that the Code of Conduct and Ethics for Members of the Parliament of Moldova set out the establishment and functions of a Parliamentary Ethics Commissioner to conduct investigations on complaints on violations of the Code and makes recommendations to the Legal Committee on Appointments and Immunities on the enforcement of the Code.
- We recommend that the Code of Conduct and Ethics for Members of the Parliament of Moldova encourage a culture of Parliamentary ethics in a series of concrete proposals

6.2. Code of Conduct and Ethics for staff in parliament

The Parliament of Moldova does not have a Code of Conduct for its staff. There is a general Ethics Code for Civil Servants of Moldova (February 2008). The goal of this Code is to establish norms of conduct for civil service and inform the citizens about the conduct the civil servants shall have for the purpose of improving the quality of the civil service; ensuring a better administration in promoting the public interest; contributing to prevention and elimination of bureaucracy and corruption in the public administration, as well as creating an environment that would enhance citizens' trust in the public authority.

The text of the Code has a number of specific provisions related to the duty of civil servants to ensure the citizens' access to information, the proper use of public resources, the conduct in international relations, provisions on gifts and favours, conflict of interests, and the obligations of the civil servant holding a management position.

From our meetings with senior staff of the Parliament of Moldova, we understand that the general Ethics Code for Civil Servants of Moldova is insufficient, as it does not cover the con-

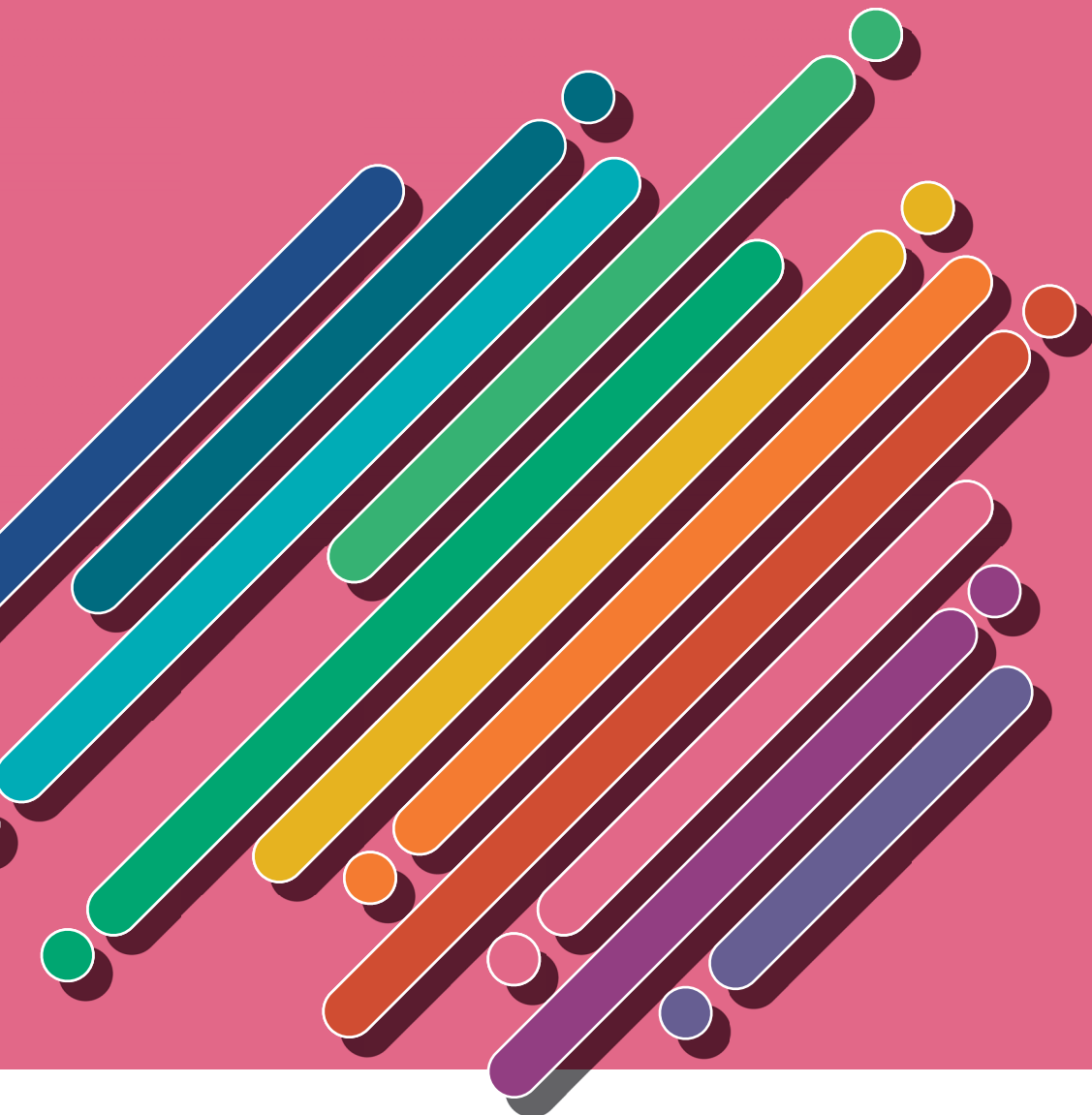
duct of the assistants to the Members of Parliament and the conduct of other types of staff such as part-time and non-paid staff. As far as assistants to MPs are concerned, there exists a Law on "staff working in offices of official dignitaries", but this law only covers their recruitment and does not address their conduct. The Human Resources Department of the Secretariat of Parliament has prepared a draft Code of Conduct for all staff working in the Parliament of Moldova, but this document hasn't been adopted yet. During our discussions with staff of the Parliament, we learned that here exists no specific policy framework or rules on dealing with questions of sexual harassment.

The Human Resources Department informed us that trainings on ethics for staff, based upon the provisions of the Code for Civil Servants, is part of the annual training action plan. It is conducted together with the Public Administration Academy (last time it occurred was in May 2015). The UNDP has assisted in training for the new staff of the regional constituency offices.

Recommendations:

- Taking into account the above information, we recommended the Parliament of Moldova prepare and adopt a Code of Conduct and Ethics for all staff working in and with the Parliament, including assistants to the Members of Parliament, part-time and non-paid staff.

7 The international anti-corruption framework



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BUDGET ROLE OF PARLIAMENT	<input type="checkbox"/>	<input type="checkbox"/>
PARLIAMENT'S TRANSPARENCY AND COMMUNICATION	<input type="checkbox"/>	<input type="checkbox"/>
ETHICS FRAMEWORK	<input type="checkbox"/>	<input type="checkbox"/>
THE INTERNATIONAL ANTI-CORRUPTION FRAMEWORK	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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ANNEXES	<input type="checkbox"/>	<input checked="" type="checkbox"/>

7. The international anti-corruption framework

■ In this section of the report, we will discuss the international framework for the Parliament's role in anti-corruption. We will analyze the role of the Moldovan Parliament towards UNCAC, discuss the interaction between the Moldova Parliament, Council of Europe, GRECO and PACE, and assess the anti-corruption dimension of the EU Association Agenda. This section of the report is related to the chapter "Anti-corruption planning and monitoring" in the GOPAC-UNDP Anti-corruption Toolkit (p. 12) and UNCAC articles 5, 10, 63.

7.1. Moldovan Parliament and UNCAC

Moldova signed the United Nations Convention against Corruption (UNCAC) on 28 September 2004. The Law no. 158 on UNCAC was passed on 6 July 2007; and the Convention was thus officially ratified in 2007. Being party to UNCAC, the Republic of Moldova is required to align its anti-corruption policies, procedures and legislation with the measures prescribed in UNCAC articles.

UNCAC is the first legally binding global instrument against corruption that provides States Parties with a set of standards, measures and rules that they are required to apply in their respective countries. The UNCAC review processes encourage multi-stakeholder engagement at the national level, including with civil society and Parliamentarians.

While it is the executive branches of governments that sign the UNCAC, it is countries' Parliaments that are responsible for enacting legislation necessary to meet treaty obligations. Once a national anti-corruption authority is established, it is the national Parliaments that must monitor the authority and the implementation of anti-corruption laws. The Convention

includes provisions for member States to report their progress to the international community, and for the international community to share the monitoring of States' progress. Parliaments are expected to play a robust role in this reporting and monitoring cycle.

States Parties to the Convention have committed themselves to a peer review process in order to evaluate the implementation of UNCAC provisions. The mechanism specifies that each State party will review, and be reviewed by its peers, once every five years. The first review cycle, which started in 2010 and ended in 2014, covered Chapters III and IV of the Convention (criminalization and law enforcement, and international cooperation). The second review cycle, which started in 2014, reviews the remaining two chapters: Chapter II (prevention measures) and Chapter V (asset recovery).

The Moldova Ministry of Foreign Affairs informed us that the UNCAC reporting requires an extensive process of preparation that lasted for several months last year. The process included sending out a questionnaire to all ministries, receiving comments of the line ministries, sending the consolidated draft to the line ministries and conducting public consultations. Each ministry has one integrity expert who is responsible for compiling information within the ministry and who must follow all steps of the UNCAC reporting process. As a result, by for example, the Government of Moldova has provided information to the sixth meeting of the Working Group on Prevention, established by the Conference of States Parties to the United Nations Convention against Corruption in its resolution 3/2 entitled "Preventive Measures". This information is related to measures taken on integrity in public procurement processes and transparency and accountability in the management of public finances, in relation to measures to promote transparency and accountability in the management of public finances, and in relation to civil and administrative measures to preserve the integrity of accounting books, records, fi-

nancial statements or other documents related to public expenditure and revenue to prevent the falsification of such documents. This government-submitted information has been published on the UNODC website.⁵⁴

The Parliamentary acknowledged the UNCAC when the Convention was ratified and the Law no. 158 of 6 July 2007 was passed. Responses to our questionnaire indicate that a briefing or training of MPs and Parliamentary staff on UNCAC was only conducted in a limited fashion. As the government implemented the mandatory UNCAC self-assessment checklist on compliance with the Convention, it appears that Parliamentarians were not directly engaged in this process. However, responses to our questionnaire state that the Committee on Foreign Policy and European Integration and the Committee on National Security, Defence and Public Order have been invited to take part in monitoring the implementation of UNCAC; however no specific information has been received on the level of detail which Parliament was informed on the results of this process. In addition, no specific information has been received if the parliament has received and distributed among its Members the documents which the Ministry of Foreign Affairs submits to the United Nations on UNCAC compliance.

7.2. Moldova Parliament, Council of Europe, GRECO and PACE

Following its accession to the Council of Europe in 1995, Moldova accepted the statutory obligations and entered into a number of specific commitments as laid out in the PACE Opinion 188 (1995) on Moldova's application for membership of the Council of Europe. The present *Action Plan to support democratic reforms in Moldova 2013-2016* was adopted in 2013 to fur-

ther support the country in the fulfilment of its outstanding statutory and accession commitments.⁵⁵ The Action Plan is geared towards supporting the Moldovan authorities in meeting key national reform objectives: in the functioning of democratic institutions with a particular focus on co-operation in constitutional and electoral matters; the fight against corruption; reform of the justice sector and independence of the judiciary bodies; protection and promotion of human rights, including the fight against trafficking and anti-discrimination, freedom and pluralism of media as well as local democracy and decentralisation. A package of actions has been designed to bring the country's legislative and regulatory frameworks, institutions, and practice further in line with European standards and closer to strategic priorities set out in national policy documents such as the Strategy for Justice Sector Reform (SJSR) 2011-2016, the National Human Rights Action Plan 2011-2014, the National Decentralisation Strategy and other sectorial strategies. To support the implementation of the Action Plan, a Steering Committee has been created, which includes representatives of the CoE, EU, national anti-corruption institutions, government and Parliament. Responses to our questionnaire seems to indicate that Members of Parliament are not aware of the work of the Steering Committee and the Parliament's input.

The Group of States against Corruption (GRECO) was established in 1999 by the Council of Europe to monitor States' compliance with the organisation's anti-corruption standards. GRECO monitors all its members on an equal basis, through a dynamic process of mutual evaluation and peer pressure. GRECO monitoring comprises, firstly, of a "horizontal" evaluation procedure (all members are evaluated within an Evaluation Round) leading to recommendations aimed at furthering the necessary legis-

(54) https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2015-August-31-to-September-2/Contributions_NV/Contribution_-_Moldova.pdf

(55) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802ed0b5>

lative, institutional and practical reforms; and, secondly, a compliance procedure designed to assess the measures taken by its members to implement the recommendations.

GRECO works in cycles: *evaluation rounds*, each covering specific themes. GRECO's *first evaluation round* (2000–2002) dealt with the independence, specialisation and means of national bodies engaged in the prevention and fight against corruption. It also dealt with the extent and scope of immunities of public officials from arrest, prosecution. The *second evaluation round* (2003–2006) focused on the identification, seizure and confiscation of corruption proceeds, the prevention and detection of corruption in public administration, and the prevention of legal persons (corporations, etc) from being used as shields for corruption. The *third evaluation round* (launched in January 2007) addresses the incriminations provided for in the Criminal Law Convention on Corruption and the transparency of party funding.

In addition to the initiatives taken by the Moldova Government, the Moldovan Parliament adopted specific legislation related to GRECO evaluation reports and compliance reports. As a follow-up to the first evaluation round, the Moldovan Parliament adopted legislation on a code of conduct for public servants.⁵⁶ As follow-up to the second evaluation round, the Moldovan Parliament adopted legislation on anti-money laundering and on conflicts of interest for public officials.⁵⁷ In the third evaluation round, in 2015 the Moldovan Parliament adopted amendments to the legislation on funding of political parties and election campaigns (as discussed above).⁵⁸ The impact of the GRECO reports on the policy environment in Moldova and the

specific legislation adopted by the Moldovan Parliament is clear. However, responses to our questionnaire seems to indicate that Members of Parliament are not aware of the specific GRECO progress reports on Moldova nor that they have not been discussed in Parliament.

The Parliamentary Assembly of the Council of Europe (PACE) established its own anti-corruption platform in April 2014. It is intended as a space for dialogue on corruption, and helps to promote transparency and honesty in public life. It brings together elected representatives from the Parliaments of the 47 member States of the Council of Europe and of non-member states, with experts and other stakeholders in order to share information, spread good practices, and debate on how to deal with new forms of corruption. A series of seminars and workshops – with a regional or national focus – were already organised or are planned on topics such as: Mechanisms available to national Parliaments to counter corruption; a Code of conduct for Parliamentarians; the integrity of Parliamentary staff; judicial corruption.

The Moldovan Parliament has participated in the activities of the anti-corruption platform of the Parliamentary Assembly of the Council of Europe (PACE) through its delegation to the PACE, most recently in the June 2015 summer session of the PACE in Strasbourg.

7.3. Moldovan Parliament and anti-corruption aspect of the EU Association Agenda

In discussing the international framework for the Parliament's role in anti-corruption, we will now assess the anti-corruption dimension of the EU Association Agenda. Corruption is the challenge most commonly singled out in EU officials' declarations on Moldova's relations with the EU.

(56) [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoRC1\(2005\)4_Add_Moldova_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round1/GrecoRC1(2005)4_Add_Moldova_EN.pdf)

(57) [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC2\(2008\)8_Add_Moldova_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round2/GrecoRC2(2008)8_Add_Moldova_EN.pdf)

(58) [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/2nd%20RC3/Greco%20RC3\(2015\)3_Moldova_2ndRC_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/2nd%20RC3/Greco%20RC3(2015)3_Moldova_2ndRC_EN.pdf)

On 27 June 2014 the Association Agreement between the EU and the Republic of Moldova and the DCFTA were signed. The Agreement was ratified by Moldova on 2 July 2014 and by the European Parliament on 13 November 2014. The Association Agreement establishes a new legal framework for the advancement of relations between Moldova and the EU at a higher level – political association and economic integration with the EU.

The National Implementation Plan of the EU-Moldova Association Agreement includes key priorities for cooperation in order to ensure political association and economic integration with the EU and represents the basic tool for internal monitoring of the European integration process during 2014–2016. In this context, the National Plan includes necessary actions to be undertaken by the responsible institutions under each article/provision and Annexes of the Association Agreement, including the part of the Deep and Comprehensive Free Trade Agreement within the period specified and the stipulation of the necessary financial resources. The 2014–2016 National Action Plan for the implementation of the EU - Moldova Association Agreement⁵⁹ was approved at the meeting of the Government on 25 June 2014.

The reports on monitoring the implementation of the 2014–2015 Action Plan under the Association Agreement with the EU are submitted every December following the National Anti-corruption Conference. Following the 2014 elections, the Report on monitoring the implementation of the 2014–2015 Action Plan for the implementation of the 2011–2015 (2014) National Anticorruption Strategy was submitted electronically. As a result, the questionnaire findings seem to suggest that MPs were not aware of the report. It was reported that the anti-corruption issues included in the agenda of the Association

Agreement with the EU had not been discussed at plenary sittings of the Parliament.

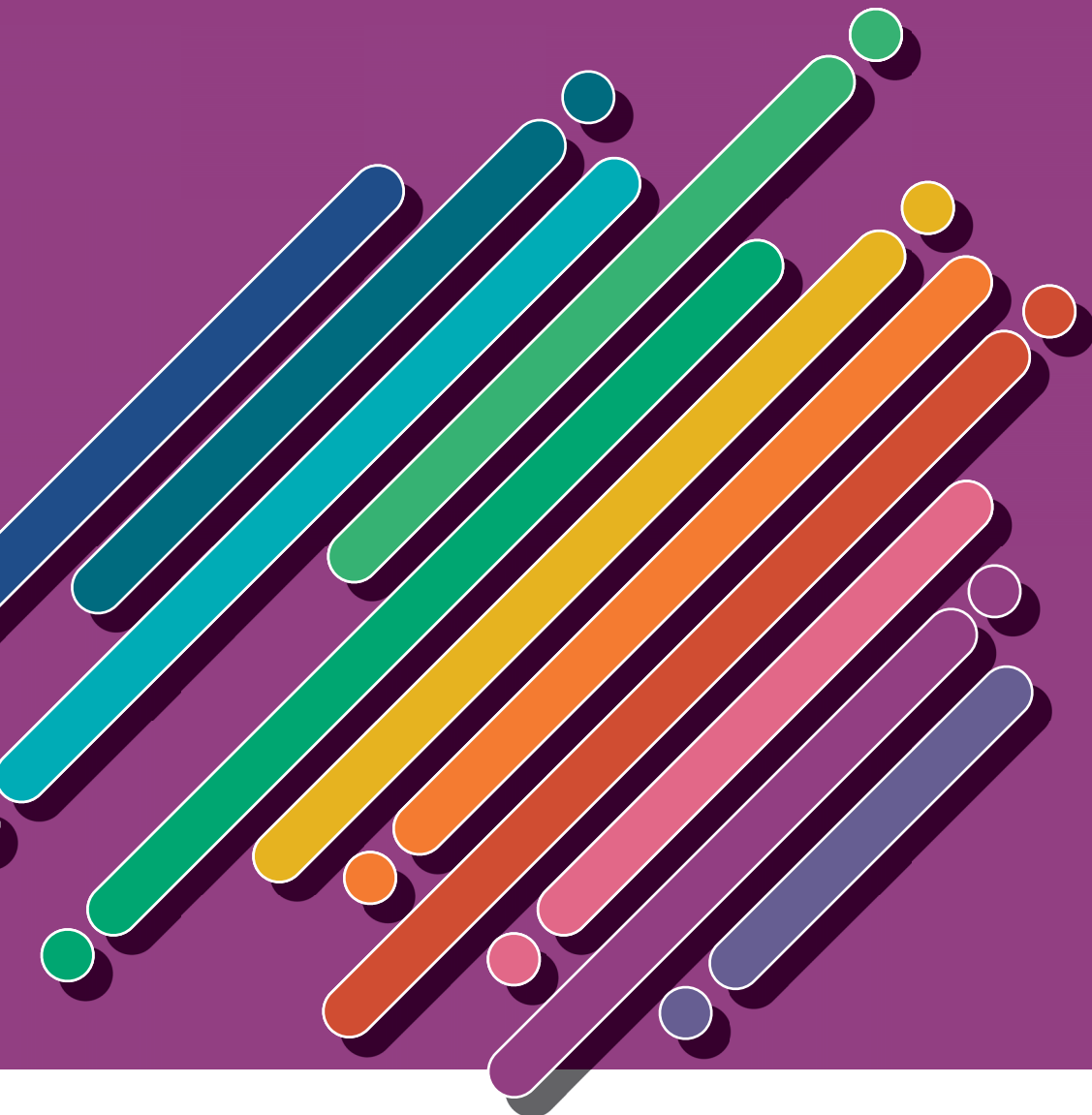
Several MPs noted that in January 2015, an informative note was received from the development partners of Moldova. Moldova was called upon to intensify its fight against corruption at all levels, in particular by ensuring the full functioning and independence of the National Anti-Corruption Centre, by putting in place a favourable legal framework for the National Integrity Commission, by preventing improper influence of business interest in any sectors, including the judiciary, and by ensuring transparency of public procurement and privatization.

Recommendations:

- We recommend that the Parliament share the periodical reports of the Ministry of Foreign Affairs on UNCAC compliance with all Members of Parliament.
- We recommend that the Parliament share the relevant information of the on-going work of the Steering Committee for the *Action Plan to support democratic reforms in Moldova 2013–2016* and the Parliament's input in the Steering Committee with all Members of Parliament.
- We recommend that the Parliament share the GRECO assessment and compliance reports on Moldova with all Members of Parliament; and that these reports as such are discussed in Parliament as soon as GRECO releases a new report.
- We recommend that the Parliament share the reports on monitoring the implementation of the 2014–2015 Action Plan under the Association Agreement with the EU with all Members of Parliament.

(59) <http://dcfta.md/eng/national-action-plan>

8 Conclusion: GOPAC Chapter for Moldova



EXECUTIVE SUMMARY



INTRODUCTION



THE INSTITUTIONAL FRAMEWORK



LEGISLATIVE ROLE OF PARLIAMENT



OVERSIGHT ROLE OF PARLIAMENT



BUDGET ROLE OF PARLIAMENT



PARLIAMENT'S TRANSPARENCY AND COMMUNICATION



ETHICS FRAMEWORK



THE INTERNATIONAL ANTI-CORRUPTION FRAMEWORK



CONCLUSION: GOPAC CHAPTER FOR MOLDOVA



ANNEXES



8. Conclusion: GOPAC Chapter for Moldova

Based upon the content of the current assessment report and taking into account the experiences in other countries, we recommend the establishment of the GOPAC Chapter for Moldova. The proposed GOPAC chapter can assist the Parliament of Moldova in a new and strong drive in the area of anti-corruption. It will also enable Moldova in joining a global trend of effective initiatives to support the Parliament's leading role in anti-corruption.⁶⁰

What are the GOPAC National Chapters?

The GOPAC (global) "Development Package" explains that a National Chapter is a registered non-profit organisation with the main objective of bringing together Parliamentarians and others within the country to combat corruption. This includes anti-money laundering and the promotion of transparency and accountability in order to ensure high standards of integrity in public transactions. National Chapters also collaborate with other National Chapters of GOPAC within the Regional Chapter and globally.

GOPAC's National Chapters hold a special position in helping individual members of Parliament within their own countries to combat corruption. National Chapters are particularly effective in implementing change and producing results due to their ability to focus on specific areas of concern. Activities within GOPAC's National Chapters have included: introducing bills in the legislature related to fighting corruption and ensuring they are passed and implemented by the current government; obtaining significant public visibility and political significance; serving as a professional development support for its members; and engaging civil society in anti-corruption efforts.

(60) <http://gopacnetwork.org/>

Structure and Membership

The National Chapter is composed of National Chapter members and an Executive Committee consisting of a Chair, Vice-Chair, Secretary and Treasurer. A National Chapter can also establish a Secretariat if required and if funding is available.

Full membership shall be available to legislators and former legislators at the national and sub national level, as well as legislators who have been denied their right to take office. The Regional Chapter has the right to reject a membership application if deemed not to be in GOPAC's interest. Additionally, upon application, the following shall be members with observer status: institutions, individual donors, NGOs, Supreme Audit Institutions, and other organizations that support similar objectives of the National Chapter or provide funding for its activities.

Objectives

The objectives of a National Chapter of GOPAC are:

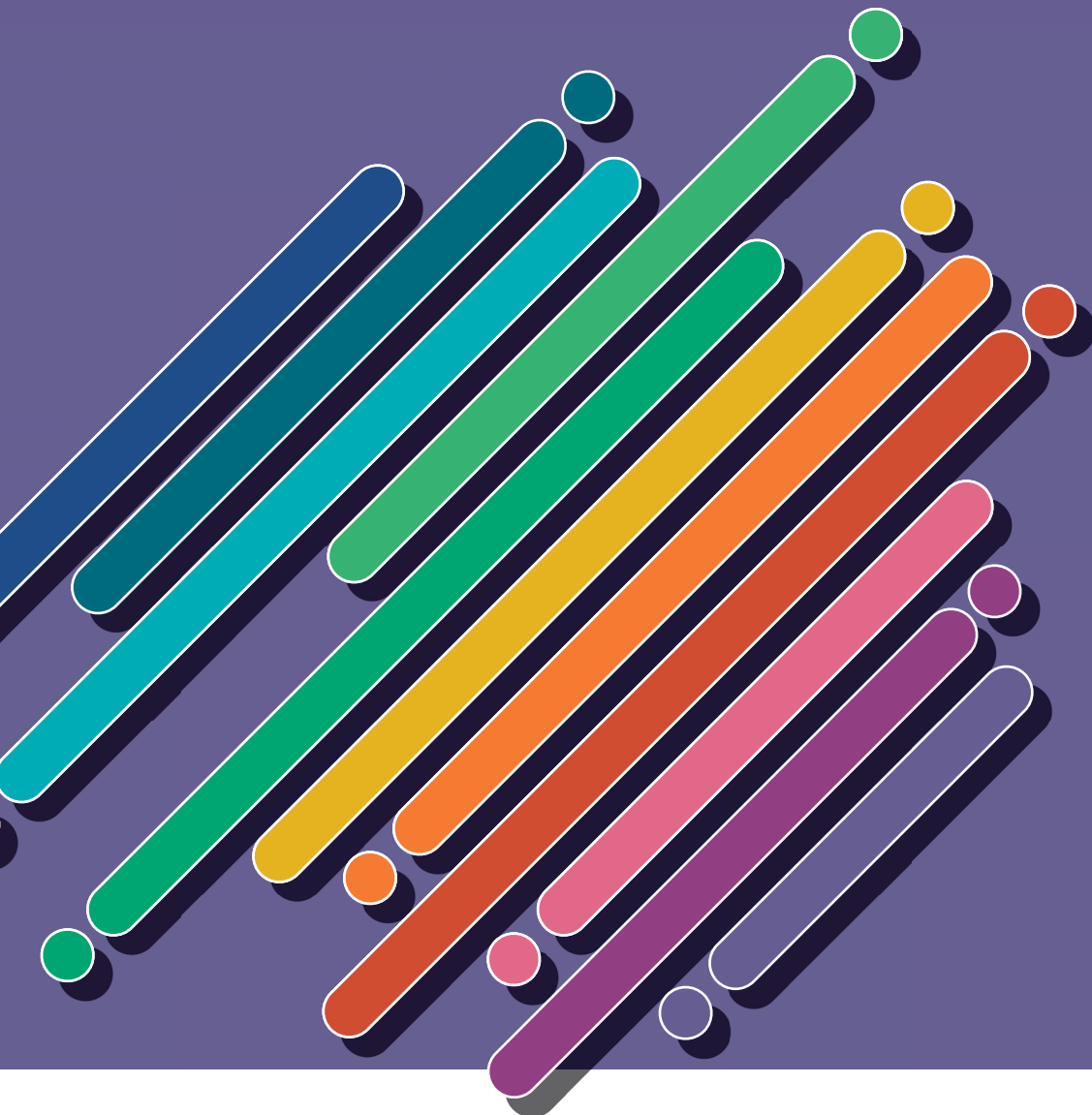
- a. To develop the capacity of Parliamentarians within the country to oversee the activities of the government and other public institutions thereby making them more accountable.
- b. To promote measures within the Parliament aimed at effectively dealing with corruption and to raise awareness on the issues of corruption at all levels of society.
- c. To share and inform on lessons learned and best practices on anti-corruption measures.
- d. To work with national and regional bodies in the mobilization of resources for anticorruption programs, including:

- i. Sponsoring anti-corruption workshops for its members on Global Task Force agendas;
 - ii. Supporting the activities of National Chapters and similar organizations within the Regional Chapter and the global organisation;
 - iii. Contributing to online resources, newsletters, social media, etc.;
 - iv. Liaising and cooperating with international organisations, Parliamentary institutions, civil society, and other organisations on all matters aimed at improving governance, transparency and accountability;
 - v. Conducting research and disseminating information on best practices; and
 - vi. Promoting the causes of members in furtherance of the aims and objectives of the organization.
- e. To advocate for the inclusion of anti-corruption measures in all government programs and work for the improvement of the capacities of national and regional institutions to effectively deal with corruption.
 - f. To promote the rule of law and accountability of state institutions.
 - g. To fulfil the objectives of GOPAC within the country for the establishment of standards of conduct designed to promote transparency, accountability and good governance.
 - h. To address all other issues incidental or conducive to supporting and promoting the realisation of any of these objectives, including the ability to raise money from public or private sources.

Seven Steps to Creating a National Chapter of GOPAC

1. Three or four Parliamentarians representing all or most parties in Parliament deciding it would be beneficial to create a chapter of GOPAC within their Parliament. They become the Interim Steering Committee.
2. Advise the Regional Chapter and GOPAC Global Secretariat in Ottawa (by providing names and contact information of members) of their existence. Continue to maintain regular communications to ensure their success as well as to stay informed of GOPAC initiatives.
3. Each member of the Steering Committee commit to finding four or five more Parliamentarians to participate to have around twenty in total
4. The twenty or so Parliamentarians hold a meeting and constitute themselves as the founding members and adopt the constitution of the National Chapter.
5. Elect an Executive Committee in accordance with the constitution.
6. Try to identify an NGO that is willing to act as the Secretariat of the Chapter (e.g. Transparency International). Reach out to the local offices of the official donor community and to civil society. Inform the Speaker and political parties of their existence as a non-partisan entity.
7. Adopt a work plan from the Global Task Forces (GTFs) or from a local agenda in consultation with local representatives of donor organisations, civil society and the Regional Secretariat or Global Secretariat.

Annexes



EXECUTIVE SUMMARY	<input type="radio"/>	<input type="checkbox"/>
INTRODUCTION	<input type="radio"/>	<input type="checkbox"/>
THE INSTITUTIONAL FRAMEWORK	<input type="radio"/>	<input type="checkbox"/>
LEGISLATIVE ROLE OF PARLIAMENT	<input type="radio"/>	<input type="checkbox"/>
OVERSIGHT ROLE OF PARLIAMENT	<input type="radio"/>	<input type="checkbox"/>
BUDGET ROLE OF PARLIAMENT	<input type="radio"/>	<input type="checkbox"/>
PARLIAMENT'S TRANSPARENCY AND COMMUNICATION	<input type="radio"/>	<input type="checkbox"/>
ETHICS FRAMEWORK	<input type="radio"/>	<input type="checkbox"/>
THE INTERNATIONAL ANTI-CORRUPTION FRAMEWORK	<input type="radio"/>	<input type="checkbox"/>
CONCLUSION: GOPAC CHAPTER FOR MOLDOVA	<input type="radio"/>	<input type="checkbox"/>
ANNEXES	<input checked="" type="radio"/>	<input checked="" type="checkbox"/>

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1. Boțan, Igor, *Moldova in the Eastern Neighbourhood Policy: 2005-2014*, Published by: Association for Participatory Democracy ADEPT & Independent Think-Tank EXPERT-GRUP, Chisinau, June 2015, 62 p.
2. Ciubotaru, Maria (ed.), *National Integrity System Assessment Moldova 2014*, Published by: Transparency International Moldova, Chisinau, 2014, 268 p.
3. Ciurea, Corneliu, *Towards EU disengagement in Moldova?*, Published by: European Council on Foreign Relations, Brussels, July 2015, 2 p.
4. Development Partners Briefing Book, Chisinau, February 2015, 76 p.
5. Gamurari Ludmila and Ghinea Cristan, *It has only begun: EU and anticorruption institutions in Moldova*, Published by: European Policy Centre, EPC Policy Brief, 1 August 2014, 4 p.
6. Lovitt, Jeff, *European Integration Index 2014 for Eastern Partnership Countries*, Published by: Eastern Partnership Civil Society Forum, Open Society European Policy Institute, International Renaissance Foundation, PASOS (Policy Association for an Open Society), February 2015, 112 p.
7. McDevitt, Andrew, *The State Of Corruption: Armenia, Azerbaijan, Georgia, Moldova And Ukraine*, Published by: Transparency International, 2015, 31 p.
8. Ministry of Justice, Concept on the reform of prosecution, Chisinau, November 2013, 20 p.
9. National Anti-corruption Centre, *Methodology on Conducting Anti-Corruption Proofing of Draft Normative Acts*, Ordinance 62, Chisinau, 19 April 2013, 7 p.
10. National Integrity Commission, *Annual Activity Report*, Chisinau, 2014, 34 p.
11. Octavian, Cosmin-Ioan, *Legal Challenges to Moldova's Accession to the European Union, Master thesis submitted as part of the final examination for the Master of Laws (LL.M.) degree*, Katholieke Universiteit Leuven - Faculty Of Law, May 2015, 60 p.
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13. Secrieuru, Stanislav and Sobjak, Anita, *Moldova's European Integration: on Sick Leave?*, Published by: Polish Institute of International Affairs, Warsaw, June 2015, 7 p.
14. Secrieuru, Stanislav and Sobjak, Anita, *Reforms Wanted: A To-Do List for a Future Moldovan Government*, Published by: Polish Institute of International Affairs, Warsaw, December 2014, 10 p.
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16. Soloviev Vladimir, *Moldova: The Failing Champion of European Integration*, Published by: Legatum Institute and Institute of Modern Russia, London, July 2014, 20 p.

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4. Brown, Greg (ed.), *Common Ethical Principles for Members of Parliament - draft document*, Published by: Open Government Partnership's Legislative Openness Working Group, Washington DC, July 2015, 8 p.
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6. David-Barrett, Elizabeth, *Background Study: Professional and Ethical Standards for Parliamentarians*, Published by: OSCE / ODIHR, Warsaw, 2012, 88 p.
7. *Declaration on Parliamentary Openness - Provision Commentary*, Published by: OpeningParliament.org, August 2012, 52 p.
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12. Stapenhurst, Rick and Pelizzo, Riccardo, *Legislative Ethics and Codes of Conduct*, Published by: World Bank Institute, Washington DC, 2004, 25 p.
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14. Williamson, Andy, *Social Media Guidelines for Parliaments*, IPU, Geneva, March 2013, 37 p.

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1. CoE/EU Eastern Partnership Programmatic Co-operation Framework (PCF), *Assessment of Three Draft Laws: "On the declaration of wealth, personal interests, conflicts of interest and gifts", "On the National Centre for Integrity", "Amending and Supplementing Certain Legislative Acts"*; Drafted by Dr. Tilman Hoppe, reviewed by Vera Devine, and input provided by Valts Kalnins, Council of Europe experts, April 2015, 88 p.
2. Council of Europe Secretariat General, Directorate General Human Rights and Rule of Law, "Opinion of Information Society and Action against Crime Directorate prepared on the basis of the expertise by Tilman HOPPE on Article III of Draft Law 'On Amendment of Certain Laws' and Draft Law 'On Professional Integrity Testing' of Moldova," Strasbourg, 8 January 2013, 40 p.
3. Council of Europe, Action Plan to support democratic reforms in the Republic of Moldova 2013 – 2016. Preliminary results and programming outlook. draft document, 25 June 2015, p. 4.

4. GRECO, *Third Evaluation Round. Evaluation report on Moldova "Transparency of party funding"*, Adopted by GRECO at its 50th Plenary Meeting, Strasbourg, 28 March - 1 April 2011, 27 p.
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6. Implementation of European Neighbourhood Policy in Moldova. Progress in 2014 and recommendations for action (joint working document), European Commission, Brussels, 25 March 2015, 7 p.
7. Joint Opinion On The Draft Law On The Prosecution Service Of The Republic Of Moldova - Adopted By The Venice Commission At Its 102nd Plenary Session (Venice, 20-22 March 2015), Strasbourg / Warsaw, 23 March 2015, 29 p.
8. OSCE Office for Democratic Institutions and Human Rights, "Limited Election Observation Mission Republic of Moldova Local Elections, 14 June 2015. Interim Report 14-28 May," 1 June 2015, 20 p.
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Annex 2: Mission agenda and list of persons interviewed

13 July, 2015	
1. Oskars Kastens, Victoria Muntean	UNDP Democracy Programme/ Parliament
2. Lilia Carasciuc	Transparency International (TI)
14 July, 2015	
1. Galina Bostan	Centre for Analysis and Prevention of Corruption (CAPC)
2. Igor Corman	Committee on Foreign Policy and European Integration
3. Ludmila Lupu	Strengthening capacity of NIC UNDP project
4. Olga Bitca	Anticorruption Alliance (AAC)
5. Laura Stefan, Nadejda Hriptievshi	Legal Resources Centre from Moldova (LRM)
6. Niklas Kossow	Open Data Consultant, UNDP Istanbul Regional Hub
15 July, 2015	
1. Stefan Creanga	Committee on Economy, Finance and Budget
2. Svetlana Ursu	Head of Communications Depart.
3. Alexandru Coica	East Europe Foundation Moldova
4. Arcadie Barbarosie	Institute for Public Policy (IPP)
16 July, 2015	
1. Gheorghe Ursoi	Strategic development department
2. Vadim Ventila	Staff at the Internal Audit Office
3. Vrenea	Party of Communists of the R.M.
4. Valentina Buliga	PD
5. Elena Bodnarenco	Committee on Public Administration and Regional Development
17 July 2015	
1. Ion Creanga	Head of Legal Department
2. Ion Solonaru	Security and integrity service
3. Igor Fondos	Committee for national security, defense and public order
4. Angela Enciu, Aliona Galaicu	Parliament Secretariat
20 July 2015	
1. Oskars Kastens, Victoria Muntean	UNDP Democracy Programme/ Parliament
2. Raisa Apolschi, Apolschii	Committee for Appointments and Immunities (DP)
3. Alina Iacub	Head of Human Resources
4. Ala Popescu	Secretary General
5. Anatolie Donciu	National Integrity Commission
21 July 2015	
1. Corina Calugarul	Ministry of Foreign Affairs and European Integration
2. LP Delegation	Ion Casian, Ion Apostol, Lilian Carp and Mihai Pascovschi
3. Saghin	Adviser of the Speaker

22 July 2015	
1. Ion Creanga	Head of Legal Department
2. Andrei Vrabie	EEAS-CHISINAU
3. Tudor Deliu	LDP Delegation
4. Cristina Țărnă	Deputy director. National Anti-Corruption Centre
23 July 2015	
1. Rusu Victor	Head of Analytical and Informational Department
2. Oskars Kastens, Victoria Muntean	UNDP Democracy Programme/ Parliament
3. Jose Luis Herrero	Council of Europe SKYTOWER, 4 floor
4. Igor Fondos and Vitalie Lungu	Committee for national security, defense and public order
5. Adrian Popenco	Anti-corruption Prosecutor Office
6. Veaceslav Untila	Head of Commity for national security, defence and public order
7. Inga Savin	Centre of European Policies, Moldovan Branch of the Romanian Centre for European Policies
24 July 2015	
1. Iurire Cernean, Sergiu Lupusor, Sv. Sagaidac	Committee on Economy, Finance and Budget
2. Mihai Pascovschi	PL Delegation
3. Nicolae Sandu	LDP Delegation
4. Angela Pascaru	Court of Account of Moldova
5. Ala Dolinta	SP Delegation
6. Jose Luis Herrero	Council of Europe

Information Note to the draft Decision for the approval of the Anti-Corruption Action Plan of the Parliament of Moldova 2016-2018

The Anti-Corruption Action Plan of the Parliament of Moldova 2016-2018 was developed by Franklin De Vrieze, an adviser employed by the “Improving democracy in Moldova through parliamentary and electoral support” programme, implemented by United Nations Development Programme (UNDP).

The content of the Action Plan is based upon the findings and recommendations of the Anti-Corruption Self-Assessment Report for the Parliament of Moldova, developed by Franklin De Vrieze under the “Improving democracy in Moldova through parliamentary and electoral support” programme, implemented by UNDP, the National Anti-Corruption Strategy 2011-2015 and the evaluation and compliance reports of GRECO (Group of States against Corruption).

The purpose of this Action Plan is to provide practical guidance on which initiatives require action, specifying those in charge, progress indicators, the expected result and the time-frame needed for the implementation of these actions.

The Action Plan has been designed for three years because such a time-frame seems realistic and achievable for all initiatives listed in this document.

The sections of the Action Plan follow the main chapters of the Anti-Corruption Self-Assessment Report for the Parliament of Moldova. Hence, the Action Plan has eight sections, dedicated to these issues:

Section 1
Anti-corruption institutional framework
Section 2
Legislative role of parliament
Section 3
Oversight role of parliament
Section 4
Budget role of parliament
Section 5
Parliament's transparency and communication
Section 6
Ethics framework
Section 7
International anti-corruption framework
Section 8
GOPAC Chapter for Moldova

Costs related to carrying out the actions included in the plan are to be included in the Parliament's budget allocations for the corresponding years.

Annex: Anti-Corruption Action Plan of the Parliament of Moldova 2016-2018

No.	Action	Deadline / frequency	Responsible for implementation	Reference document	Progress indicators	Expected result
1. The institutional framework for anti-corruption						
1.1.	Extend timeline of National Anti-Corruption Strategy in a way to be implemented also during 2016 and adopt Anti-corruption Action Plan 2016	April-May 2016	Committee on National Security, Defence and Public Order	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Decisions on extension National Anti-Corruption Strategy and adoption Action Plan	Implementation of actions from plans adopted
1.2.	Examine and adopt draft state budget with separate budget lines for specific measures foreseen in National Anti-Corruption Strategy	Annually	Committee on Economy, Budget and Finance	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Separate budget lines identified in state budget	Secured financial means for anti-corruption actions
1.3.	Review progress/activity report on implementation of the National Anti-Corruption Strategy; organize plenary session debates and adopt a decision	Annually	Committee on National Security, Defence and Public Order	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Conducted debates Decision adopted	Increased awareness on Anti-Corruption National Strategy and anti-corruption policies
1.4.	Member of Parliament to participate in the Monitoring Group for implementation of National Anti-Corruption Strategy and in NAC Board and inform all Members of the Committee on National Security, Defence and Public Order on the work of these working bodies	Ongoing	Committee on National Security, Defence and Public Order	Minutes prepared by the Monitoring Group and NAC Board	Number of meetings which MPs attended	Participation of the stakeholders in decision making process
1.5.	Adopt in plenary session the draft laws on National Integrity Commission and on declaration of assets	Semester I 2016	Legal Committee on Appointments and Immunities	Anti-Corruption National Strategy	Draft laws adopted	Adjusted legal framework to integrate anti-corruption standards
1.6.	Conduct briefing and training sessions for MPs and Parliament Secretariat's staff on how to efficiently fill in the new declaration form on-line	After amendment of the law in force, thereafter, annually	Human Resources Division	Anti-Corruption National Strategy	Number of trainings Number of participants	Legal provisions effectively implemented
1.7.	Elect the members of the National Integrity Commission	After adoption of Law on National Integrity Centre	Legal Committee on Appointments and Immunities	Anti-Corruption National Strategy	Selection procedure completed	Management, role and functioning of National Integrity Centre guaranteed
1.8.	Examine allocation, according to the draft law on state budget, of sufficient budget funds, including ensuring adequate staffing structure for the National Center for Personal Data Protection	Annually	Committee on Economy, Budget and Finance	Law No 133 of 8 July 2011 on Personal Data Protection	Budget needs of the National Center for Personal Data Protection identified and allocated	Financial and human resources of the National Center for Personal Data Protection guaranteed
2. Legislative function of the Parliament						
2.1.	Finalize the methodology of standard endorsement of draft laws	September 2016	General Legal Division of the Parliament Secretariat	Parliament's Standing Rules	Methodology agreed and implemented	Higher efficiency in the endorsement process of draft laws

No.	Action	Deadline / frequency	Responsible for implementation	Reference document	Progress indicators	Expected result
2.2.	Develop electronic template to standardize draft laws opinions	December 2016	General Legal Division of the Parliament Secretariat	Anti-Corruption Self-Assessment Report	Template agreed and implemented	Increased effectiveness in legislative process
2.3.	Mandatory section in Reports on Draft Law highlights recommendations from anti-corruption expert review report not upheld by the Committee	Ongoing	Standing Committees	Anti-Corruption Self-Assessment Report	Number of reports	Higher efficiency in anti-corruption assessment process
2.4.	Request a new anti-corruption expert review by the National Anti-Corruption Centre, in cases when a draft law was changed substantially during review process	Prior to final vote in plenary session	Standing Committees	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Number of requests	Corruption risks clearly identified
2.5.	Return the draft law to the Committee when amendments are (re)introduced without supporting materials	Ongoing	Speaker of the Parliament	Anti-Corruption Self-Assessment Report	Number of draft laws returned	Corruption risks reduced
2.6.	Return to the author any draft law which is of too poor quality in terms of legal and linguistic compliance	Ongoing	Speaker of the Parliament General Directorate of Parliamentary Documentation	Parliament's Standing Rules	Number of draft laws returned	Higher efficiency in anti-corruption assessment process
2.7.	Discuss the report of the Central Electoral Commission	Annually	Legal Committee on Appointments and Immunities	Anti-Corruption National Strategy	Report of the Central Electoral Commission analysed and recommendations implemented	Increased effectiveness in implementation of legislation
2.8.	Discuss progress in implementation of the anti-corruption measures in the new National Security Strategy 2017-2020	2016 onwards	Committee on National Security, Defence and Public Order	Anti-Corruption Self-Assessment Report	Number of implemented measures identified	Participation in decision making process by stakeholders
3. Oversight role of parliament						
3.1.	Modify the Parliament's Standing Rules so that only the Prime Minister and Ministers answer MPs questions and fully implement and monitor these provisions of the Parliament's Standing Rules	2016	General Legal Division	Parliament's Standing Rules	Revision to Parliament's Standing Rules adopted	Instruments for accountability more operational
3.2.	Apply decisions on issues of anti-corruption more frequently	Ongoing	Committee for National Security, Defence and Public Order	Parliament's Standing Rules	Number of decisions adopted	Instruments for accountability more operational
3.3.	Organize training sessions for MPs and staff of parliamentary committees secretariats on parliamentary oversight in the area of anti-corruption	Annually, as needed	Human Resources Division Service for Security and Integrity	Anti-Corruption Self-Assessment Report	Number of MPs participating	Parliament's Standing Rules effectively implemented

No.	Action	Deadline / frequency	Responsible for implementation	Reference document	Progress indicators	Expected result
3.4.	Conduct parliamentary oversight (consultations, hearings) on corruption risk assessment and integrity plans within central public authorities, healthcare system, penitentiary system, border police, national army, customs service, diplomatic missions and consular services	Ongoing	Respective Standing Committees	Anti-Corruption National Strategy Parliament's Standing Rules	Number of corruption risk assessments and integrity plans reviewed; Number of participants in oversight hearings; Number of recommendations identified	Corruption risks identified and diminished by implementing integrity plans; Instruments for accountability more operational
3.5.	Conduct parliamentary oversight (consultations, hearings) on the application of the Code of Conduct for Customs Service Officer, medical and pharmaceutical worker; teacher-coach of physical education and sports, sportsman	Ongoing	Respective Standing Committees	Anti-Corruption National Strategy Parliament's Standing Rules	Number of Codes of Conduct reviewed; Number of recommendations identified	Norms of conduct established and implemented
3.6.	Conduct parliamentary oversight (consultations, hearings) on the application of internal regulations on whistle-blowers by the public authorities	Ongoing	Legal Committee on Appointments and Immunities	Anti-Corruption National Strategy Parliament's Standing Rules	Number of participants in hearings Number of recommendations	Norms of conduct established and implemented
3.7.	Ongoing monitoring of the implementation of corruption prevention mechanisms in the education system at all levels	Ongoing	Committee on Culture, Education, Research, Youth, Sports and Media	Anti-Corruption National Strategy Parliament's Standing Rules	Number of participants in hearings Number of recommendations	Corruption risks identified and diminished
3.8.	Launch pilot project for systematic review of implementation of key pieces of legislation acts	2016-2017	Committee on National Security, Defence and Public Order Legal Committee on Appointments and Immunities Legal Division of the Parliament Secretariat	Anti-Corruption National Strategy Parliament's Standing Rules	Pilot project agreed Recommendations adopted	Increased effectiveness in implementation of legislation
3.9.	Ensure training for staff of Parliament Legal Directorate and staff of secretariats of Standing Committees on the methodology of post-legislative scrutiny	2016	Human Resources Division	Parliament's Standing Rules	Number of staff trained	Increased skills and knowledge on post-legislative scrutiny
3.10.	Discuss the reports of law enforcement agencies and criminal prosecution authorities on combating corruption, and adopt a resolution in plenary session	2016-2018	Committee on National Security, Defence and Public Order	Anti-Corruption National Strategy	Number of reports discussed Number of decisions adopted	Instruments for accountability more operational
4. Role of Parliament in the budget process						
4.1.	Examine the opportunity to establish a well-equipped Parliamentary Centre for Budgetary Studies	2017	Secretary General	Law No 181 of 25 July 2014 on Public Finance and the Budgetary and Fiscal Accountability Anti-Corruption Self-Assessment Report	Concept Note & Centre agreed	Increased skills and knowledge

No.	Action	Deadline / frequency	Responsible for implementation	Reference document	Progress indicators	Expected result
4.2.	Establish a Parliamentary subcommittee to manage CoA reports	2015-2016	Committee on Economy, Budget and Finance	Law No 261-XVI of 5 December 2008 on Court of Accounts Anti-Corruption National Strategy	Decision on the subcommittee taken	Higher efficiency in review of CoA reports
4.3.	Adopt amendments to the Parliament's Standing Rules to stipulate that Parliament committees need to examine the CoA reports and oversee their follow-up	2016	Committee on Economy, Budget and Finance	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Amendments discussed and approved	Higher efficiency in review of CoA reports
4.4.	Attend more frequently the hearings of the CoA in preparation of the CoA audit reports	2015-2018	Committee on Economy, Budget and Finance	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Number of CoA hearings attended by MPs	Effective cooperation between the Parliament and CoA
4.5.	Organize hearings in the context of parliamentary scrutiny on measures taken by the budget spenders to address issues reported by the Court of Accounts	Ongoing	Standing Committees	Anti-Corruption National Strategy Anti-Corruption Self-Assessment Report	Number of budget spenders issues addressed	Enhanced accountability
5. Parliament's transparency and communication						
5.1.	Join the activities of the Legislative Openness Working Group of the Open Government Partnership.	2016-2018	Communications Department	Anti-Corruption Self-Assessment Report	Number of activities attended	Exposure to international standards
5.2.	Develop a new, comprehensive communication strategy, including actions in the area of Parliament competence, social media and „Open data” policies	2016	Communications Department	IPU Guidelines on parliamentary websites, on social media	Communication strategy adopted, monitored and implemented	Agreed priorities and resources for an openness Parliament
5.3.	Systemic and operational update of the website of the Parliament with information developed by the Communications Department	ongoing	Communications Department, ICT Department	Law No 982-XIV of 11 May 2000 on Access to Information	Amount of information published	Transparency guaranteed
5.4.	Launch a smart phone mobile application to provide citizens with access to information on the Parliament activity and the option to comment on selected draft laws	2017-2018	Communications Department, ICT Department	Law No 982-XIV of 11 May 2000 on Access to Information	Number of applications downloaded Number of comments	Improved means for citizens' input to parliament
6. Ethics framework						
6.1.	Adopt a comprehensive Code of Conduct and Ethics for MPs in line with best international and European practices	First half of 2016	Legal Committee on Appointments and Immunities	4th round of GRECO evaluation OSCE Parliamentary Assembly Resolution 2006	Code adopted and published	Stronger integrity and respect for MPs & Parliament
6.2.	Establish the position of Parliamentary Ethics Commissioner to conduct investigations of violations of the Code and make recommendations on the enforcement of the Code	Second half of 2016	Legal Committee on Appointments and Immunities	Anti-Corruption Self-Assessment Report	Ethics Commissioner recruited and fully operational	Norms of conduct established and implemented
6.3.	MPs acknowledge/approval of the Code of Conduct and Ethics and sign a pledge to abide by the Code's provisions	when Code enters into force; when new MPs take office	Speaker of the Parliament	Anti-Corruption Self-Assessment Report	100% signatures to Code pledge	Stronger commitment to integrity and norms of conduct

No.	Action	Deadline / frequency	Responsible for implementation	Reference document	Progress indicators	Expected result
6.4.	Adopt a Code of Conduct and Ethics for the Parliament Secretariat's staff, including MPs assistants/councillors	2016	Human Resources Division Service for Security and Integrity	Law No 25-XVI of 22 February 2008 on the Civil Servants' Code of Conduct	Code for all staff approved and published	Stronger integrity and protection for Parliament staff
6.5.	Organize and conduct a training course for Parliament Secretariat's staff on anti-corruption policies, corruption expertise, corruption risk assessment and management	Annually	Human Resources Division Service for Security and Integrity	Anti-Corruption National Strategy Government Decision No 906 of 28 July 2008	Number of participants	Effective implementation of risk management process ensured Enhanced skills, knowledge of corruption issues
7. International anti-corruption framework						
7.1.	Share the periodical reports of the Ministry of Foreign Affairs on UNCAC compliance with all MPs	Ongoing	Parliament Secretariat	UNCAC 2nd review cycle	Number of reports received, shared	- increased skills and knowledge; - participation in decision making process by stakeholders;
7.2.	Share the GRECO assessment and compliance reports on Moldova with all MPs	2016-2018	Parliament Secretariat	GRECO reports, 3rd and 4th round	Number of documents shared	- instruments for accountability more operational; - exposure to international standards
7.3.	Share with all MPs reports on monitoring implementation of 2014-2015 Action Plan under Association Agreement with EU	Ongoing	Parliament Secretariat	EU Association Agreement & DCFTA	Number of documents shared	
8. GOPAC Chapter for Moldova						
8.1.	Establish the GOPAC Chapter for Moldova in line with the GOPAC HQ Guidelines for National Chapters	2016	MPs from all parliamentary groups	GOPAC HQ Guidelines	GOPAC statutes agreed by MPs	Coordination of parliamentary anti-corruption work
8.2.	Cooperate with other GOPAC chapters as per the MoU signed at regional GOPAC-UNDP conference (May 2015)	Ongoing	MPs from all parliamentary groups	MoU with other GOPAC chapters	Number of GOPAC meetings attended	Exposure to international standards